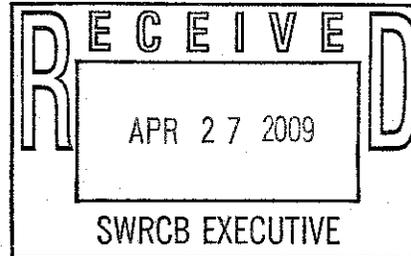




Via Electronic Mail & U.S. Mail

Charles R. Hoppin, Chair and Members
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



ATTN: Jeanine Townsend, Clerk to the Board
commentletters@waterboards.ca.gov

RE: ***Proposed Draft General Discharge Requirements for Landscape Irrigation
Uses of Municipal Recycled Water ("General Permit")***

Dear Chair Hoppin and Members of the Board:

Thank you for the opportunity to comment on the proposed ***Draft General Discharge Requirements for Landscape Irrigation Uses of Municipal Recycled Water ("General Permit")***. The City of San Jose is the lead agency responsible for South Bay Water Recycling, our regional recycled water program that currently serves over 10,000 acre-feet of water per year to nearly 600 customers in northern California's Silicon Valley. As explained in detail in the attached comments, based on our experience it is our judgment that the prohibitions, specifications and provisions of the proposed Draft Requirements will inhibit the ability of permitted agencies to supply recycled water. Furthermore, as we noted in our letter of June 26, 2008, to the extent that the proposed General Permit discourages the use of recycled water its impact would appear to require additional evaluation under CEQA prior to its adoption.

On a related note, the City of San Jose also endorses the comments submitted by the Bay Area Clean Water Agencies (BACWA) and the WaterReuse Association and we urge you to consider them as well. Should you have any questions please contact me at 408.363.4721 or email eric.rosenblum@sanjoseca.gov.

Sincerely,

A handwritten signature in black ink that reads "Eric Rosenblum".

Eric Rosenblum
Division Manager, South Bay Water Recycling
City of San Jose Environmental Services Department

cc: Ms. Michele Plá, Bay Area Clean Water Agencies
Ms. Mary Grace Pawson, P.E., WaterReuse Association

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Participating Agencies
City of San Jose
City of Santa Clara
City of Milpitas
West Valley
Sanitation District
Burbank Sanitary District
Cupertino Sanitary District
Sunnyvale Sanitary District
County Sanitation
District No. 2-3
San Jose Water Company
Great Oaks Water Company
Santa Clara Valley
Water District
United States Bureau of
Reclamation

**Comments on the City of San José on the
Draft General Waste Discharge Requirements for
Landscape Irrigation Uses of Municipal Recycled Water (General Permit)
April 27, 2009**

General Permit Findings

General Comments:

The tone of the Findings section would make **it more difficult for agencies to connect recycled water customers** because it describes its use in terms of potential problems than demonstrated benefits. If the purpose of the Findings is to establish the basis for the jurisdictional authority to regulate the activity, it should more narrowly define the problems the regulations are designed to prevent.

1. The effect of the list in Finding 3 (page 1) in the context of findings is to suggest that uses not included are not considered landscape irrigation and therefore may not be “viable strategies to reduce potable demand.” If the purpose of the list is to define the term “landscape irrigation” it should be included in Attachment A, “Definitions.” Alternately, if the purpose is to identify those applications covered by the General Permit, it should be included in the appropriate provision describing Permit scope.
2. Finding 4 (page 2) does not appear to be a finding, per se, but rather a provision regarding the applicability of the General Permit. As such, it should be included with appropriate provisions. The finding also does not appear to allow privately-owned utilities that supply recycled water to customers for landscape irrigation to apply for the General Permit as a Distributor of recycled water. **If this is not the intention of this finding it should be clarified.**
3. Finding 5 (page 2) has the overall effect of presenting recycled water as a hazardous substance whose use must be carefully controlled. While this characterization may be appropriate language for an NPDES permit to discharge treated wastewater, its presence in this General Permit (which must be reviewed by all prospective recycled water customers) will have the effect of warning them away from any involvement with what is, according to the Department of Public Health, “a safe alternative to potable water ...” Moreover, the specific findings with respect to salinity (5b) suggests that all use of recycled water results in salinity accumulations that “adversely affect the beneficial uses of groundwater.” **In our judgment these findings serve no purpose in clarifying the purpose, applicability or implementation of the General Permit and should be deleted.**
4. Findings No. 14-20 (pages 4 and 5) describe in detail the many problems posed by excessive levels of salinity in soil and groundwater, and provide some recommendations for its managements. Taken together, the findings convey the strong impression that all recycled water supplied for irrigation is dangerously high in

salt and poses a threat to irrigated landscape. This impression is incorrect and will discourage potential customers from connecting to recycled water systems. These findings should be deleted and, to the extent that a discussion of salinity is necessary, should be replaced with the more balanced language found in the Recycled Water Policy.

5. Finding No. 22 (page 6) appears to be entirely irrelevant, and gives the impression that chlorinated recycled water "is toxic to fish and other aquatic wildlife." This is incorrect. In many instances, when the residual chlorine concentration in recycled water is in the range of 1-2 mg/L, the concentration is reduced to negligible levels through landscape irrigation.
6. Findings No. 23-27 imply that recycled water contains concentrations of emerging contaminants that pose a threat to humans and the environment, which will discourage people from using it. To the extent that this discussion is necessary, it should be made clear that Board policy already addresses the need for further research and provides for development of additional regulation if and only if the evidence suggests it is warranted.
7. Finding No.38 (page 8) states that "Improper use or discharge of recycled water represents a threat to the quality of the waters of the state and to human health and the environment." This statement is incorrect, insofar as regulations governing incidental runoff are quite restrictive such that "improper" discharge may occur of tertiary treated disinfected recycled water which has no detectable impact on the waters of the state or human health. **The finding should be revised to provide the necessary regulatory authority without implying that the use of recycled water is dangerous to people or the environment.**
8. Finding No. 48 (Page 10) states that the State Board's Mitigated Negative Declaration has properly determined that the proposed Draft Requirements would have no significant effect on the environment. On the contrary, if the General Permit is adopted and eventually becomes the standard basis for all recycled water permits, it will have the effect of reducing recycled water use, the impact of which was not sufficiently evaluated in the Mitigated Negative Declaration.

Prohibitions, Specifications and Provisions

General Comments:

Taken together, the Prohibitions, Specifications and Provisions place an unnecessary and discouraging burden on recycled water customers who will as a result be less inclined to use recycled water. To cite two primary examples, the detailed specifications of the Operations and Maintenance Plan and the daily reporting requirements mandate levels of effort far greater than any required for the use of alternate potable supplies and well beyond current requirements that have been demonstrated to be sufficient for the proper protection of public health and the environment.

9. Prohibition 2 (page 11) references an Operation and Maintenance Plan which is more detailed than necessary, insofar as it stipulates an Engineering Report that is not

required by Title 22 for irrigation systems. It should be deleted, or if allowed to remain should be revised as follows:

“The use of recycled water in a manner **substantially and significantly** different than described in the Operation & Maintenance Plan is prohibited.”

10. Prohibitions 4 through 7 (pages 11 and 12) are more appropriately termed limitations of the scope of the permit and should be properly worded as such.
11. Prohibition No. 8 implies that there is at least a good possibility that recycled water supplied for nonpotable use contains hazardous concentrations of CECs. The statement is both incorrect and unnecessary, since evaluation of CECs is an ongoing effort carried out under the terms of the SWRCB Recycled Water Policy.
12. If the goal of this General Permit is to facilitate the use of recycled water, Prohibition No. 10 (page 12) should acknowledge that incidental discharge of recycled water below some *de minimis* amount has negligible effect on the waters of the state.
13. Prohibition No. 13 would have effect of limiting or eliminating the use of recycled water for construction purposes (dust control, concrete mixing, etc.) because it prohibits trucks that use recycled water from subsequently using potable water for similar purposes. It should be rewritten to state that

“Use of any equipment or facilities that have been used to convey recycled water (e.g., tanks, temporary piping or valves, and portable pumps) also used ~~for~~ **to convey** potable water ~~supply conveyance for drinking or other potable purposes~~ is prohibited.”
14. Specification No. 4 (page 13) refers to “waste constituents.” This is an unnecessarily negative characterization of recycled water.
15. Current Title 22 regulations already advise recycled water customers to minimize public exposure to recycled water. However, this water is generally approved for full contact recreation and the further restrictions of Specification No. 6 are not necessary.
16. Specification No. 12 is needlessly restrictive with respect to signage. South Bay Water Recycling uses a variety of signs with appropriate wording approved by CDPH and tailored to fit the landscape and aesthetic needs of customers, some of whom would reject the use of recycled water if forced to use the specified signage.
17. Specification No. 16 is needlessly restrictive and will have the effect of discouraging customers from using recycled water out of fear of legal liability. An alternate wording is suggested to the same effect:

“**Transport of Recycled water shall not be allowed to escape** from the Use Area by airborne spray or by surface flow ~~except in minor amounts such as that associated~~ **shall be minimized through the use of with** BMPs for good irrigation practices.
18. Provision No. 5 requires and “individualized Irrigation Management Plan.” In our judgment, when customers attend Site Supervisor training and follow BMPs such a

detailed plan is not needed and would discourage irrigation customers from using recycled water.

19. Provision No. 5 (pages 16 and 17) also includes reference to an “approved Title 22 Engineering Report.” Such a report is not currently required for all landscape irrigation sites and requiring one would place an undue burden on recycled water customers.
20. Provision No. 7 (page 17) requires that the Distributor conduct periodic testing. Current CDPH regulations require only that the Distributor ensure that appropriate monitoring and inspection occurs, which is sufficient.

Monitoring and Reporting Program (MRP)

21. The daily monitoring and reporting program would have the effect of discouraging all but the most committed of South Bay Water Recycling customers from using recycled water and in our judgment is entirely unworkable. The Annual Self-Inspection Reporting currently required by the SWRCB is effective and appropriate and should be instituted in place of the suggested program. Please see the comments provided by WaterReuse and BACWA for additional information.