

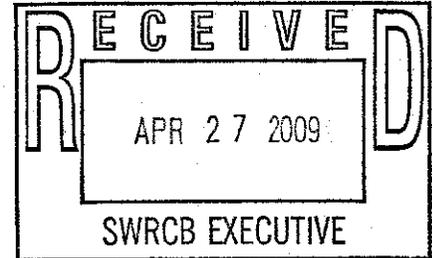
LIVERMORE

CALIFORNIA

Via Electronic Mail and U.S. Mail

April 24, 2009

State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814
Attn: Jeanine Townsend, Clerk to the Board



Subject: Comment Letter – Landscape Irrigation General Permit

Dear Chair Hoppin and Members of the Board:

The City of Livermore (City) appreciates the opportunity to comment on the *Draft General Waste Discharge Requirements for Landscape Irrigation Uses of Municipal Recycled Water* (General Permit). The City provides water, wastewater and recycled water services to customers in the city of Livermore. The City also treats wastewater from the Ruby Hills development in the city of Pleasanton.

The City has long recognized the value of recycled water, beginning in the 1960's when treated wastewater was used to irrigate the municipal golf course. Recycled water continues to play an integral water resource role for meeting water demands in the City. The significance of recycled water is increased in light of the current water supply emergencies in the State; recycled water helps to reduce dependence on the Delta. Approximately 80% of the water supply for the Livermore Valley is water imported from the Delta via the South Bay Aqueduct.

The City applauds the State Water Board for its efforts to promote the use of recycled water with the adoption of the Recycled Water Policy, and its efforts to meet the goals of AB 1481. However, the intent of AB 1481 (De La Torre) was to develop and adopt a General Permit that would increase the safe, reliable use of recycled water for landscape irrigation uses and reduce reliance on alternative water sources. As currently drafted, the General Permit instead provides disincentives to the use of recycled water rather than fostering the achievement of the full potential of water reuse.

- The General Permit characterizes recycled water as a waste rather than a valuable resource.

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The findings of the General Permit state that "The California Legislature has declared its intent to promote the use of recycled water. Recycled water is a valuable resource and significant component of California's water supply. When used in compliance with the Recycled Water Policy, Title 22, and all applicable state and federal water quality laws, the State Water Board finds that recycled water is safe for approved uses, and strongly supports recycled water as a safe alternative to potable water for such approved uses."

However, other findings and prohibitions in the General Permit characterize recycled water as waste and a water quality threat, which is counter to this finding and inconsistent with the existing Water Code and Recycled Water Policy characterization of recycled water as a valuable resource.

- The General Permit is supposed to streamline the regulatory process.

It is stated in Finding 2 of the General Permit that the "General Permit is intended to streamline the regulatory process." As drafted, the General Permit does not accomplish this streamlining goal. Instead, it is a "top-down" regulatory approach that requires multiple levels of documentation to be developed (e.g., Operations Plan, General Irrigation Management Plan, Individualized Irrigation Plan, Title 22 Engineering Report, etc.) for each recycled water user site for submittal to the State Water Board. The Monitoring and Reporting Program requires daily monitoring at each use site, which is not practical and not necessary.

The City strongly encourages the State Water Board to consider the San Francisco Bay Regional Water Board (Region 2)'s *Order 96-011, General Water Reuse Requirements for: Municipal Wastewater and Water Agencies* as a template of a successful general permit. Order 96-011 employs a "bottom-up" regulatory approach. As stated in Finding 1 of Order 96-011, the intent "is to streamline the permitting process and delegate the responsibility of administering water reuse programs to local agencies to the fullest extent possible." As described in Provisions C.3 and C.4, this is accomplished through a "Producer [or Distributor] designed permit-based program for Users of recycled water. The Producer shall develop administrative procedures specifying how the permit based system for regulating users will be implemented and how compliance with the DHS [now DPH] reuse criteria will be assured." Reporting and monitoring requirements are described in Attachment C of Order 96-011. Monitoring requirements are determined by the Distributor on a site-by-site basis "based on the size, volume used, complexity, etc. of each use area," and are incorporated into each Distributor-issued User permit.

The City of Livermore has successfully implemented its recycled water program for the past 12 years under Order 96-011. To obtain coverage under Order 96-011, the City developed a Water Reuse Program technical report consisting of "Administrative Procedures for Program Staff," and "Guidelines for the Use of Recycled Water." Both documents were submitted to the Regional Water Board and California Department of

Health Services, now the California Department of Public Health (CDPH), for review and approval prior to receiving approval for coverage under Order 96-011.

The City's Program allows for City staff to efficiently process applications for new sites to use recycled water and for existing sites to comply with retrofit requirements. Once a site has met all the requirements called for in the Program, including a cross connection test, the City issues a legally binding permit to the user. The permit identifies monitoring requirements and any other use area requirements based on the conditions specific to that site. The City minimizes the administrative burden on users and its own staff by recording recycled water usage (meters) at the same time interval that potable water meters are read (as allowed by Order 96-011). The City conducts site inspections based on the size, complexity, and past history of individual sites. The City compiles this recycled water usage and site inspection information and prepares the annual report required for submittal to the Regional Water Board.

The daily potable water, recycled water, and nutrient monitoring and weekly site inspections proposed in the draft General Permit would represent a significant administrative burden, and cost, to each recycled water user and/or the City. These requirements would be a significant disincentive to increased, or continued, recycled water use. The level of recycled water monitoring and reporting needed for the General Permit should be evaluated by State Water Board staff through the same lens as Water Code Section 13267:

"The burden, including the costs, of these reports shall bear a reasonable relationship to the need for the report and the benefits to be gained from the reports. In requiring those reports, the regional board shall provide the person with a written explanation with regard to the need for the reports, and shall identify the evidence that supports requiring that person to provide the reports."

The City participated in a several-year process (completed in 2004) involving water purveyors, wastewater agencies (including recycled water producers/distributors) and other interested parties in developing a regional Salt Management Plan for the Livermore Valley. Early on, it was determined that the effort was doomed to failure if it were attempted to be developed and implemented on a parcel-by-parcel basis. The regional, basin-wide salt management approach addressed all significant sources of water and salt loading, and developed what stakeholders agreed to be an equitable, regional, multi-year approach to managing salt loading to the overall groundwater basin.

- The General Permit is overly prescriptive.

The General Permit is overly detailed and prescriptive on issues already addressed by existing law, e.g., Title 17 and Title 22. The General Permit should instead reference the applicable codes.

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- The inclusion of Prohibition A.8 with regard to Chemicals of Emerging Concern is premature.

The General Permit prohibits recycled water use where CDPH determines there is a concern. This is inconsistent with the Recycled Water Policy. The Recycled Water Policy acknowledges that the state of knowledge regarding CECs is incomplete, and that additional research and development of analytical methods and surrogates to determine potential environmental and public health impacts is needed. It calls for convening a "blue ribbon" advisory panel to guide further actions relating to CECs. To remain consistent with the Recycled Water Policy, the General Permit should defer CEC-related requirements and prohibitions until after the science-based policy making process identifies the appropriate CEC requirements.

- The inclusion of prescriptive requirements for salts and nutrients is premature.

Salts and nutrients should be addressed by reference to the Recycled Water Policy. The General Permit should not include prescriptive user site requirements (e.g. daily monitoring) or de facto nutrient management plans in advance of the determination process laid out in the Recycled Water Policy.

Thank you for the opportunity to provide these comments to the State Water Board.

Sincerely,



for

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cc: Daniel McIntyre