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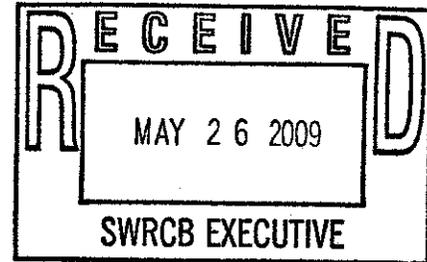
May 26, 2009

Reply to:

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Via Electronic Mail & U.S. Mail

Charles R. Hoppin, Chair and members  
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ATTN: Jeanine Townsend, Clerk to the Board  
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SUBJECT: **Comment Letter—May 7, 2009 Draft General Permit for Landscape  
Irrigation Uses of Municipal Recycled Water**

Dear Chair Hoppin and Members of the Board:

The above-listed Associations are pleased to submit these comments on the May 7, 2009 *Draft General Waste Discharge Requirements for Landscape Irrigation Uses of Municipal Recycled Water* (General Permit). At the May 19, 2009 Board workshop, the Associations and our member agencies provided testimony and described implementation problems associated with the proposed General Permit. On May 21, 2009, we met with Board staff to discuss how to assure that the General Permit meets the goal established by both AB 1481 (De La Torre) and Board's own Recycled Water Policy: the permit should be a streamlined permit that facilitates the use of recycled water for landscape irrigation. The Board workshop and meeting with staff were informative and productive. We thank the Board for these opportunities to engage meaningfully in the process to develop the General Permit.

The Associations also appreciate that the May 7, 2009 draft of the General Permit addresses many of the concerns raised in our April 27, 2009 comment letter. The revisions in the May 7 draft General Permit are consistent with Board's established Policy of increasing the use of recycled water as a safe, reliable alternative water supply. The May 7 draft General Permit

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characterizes recycled water as a valuable resource instead of a waste (see Water Code, § 13050(n)), allows recycled water producers to enroll under the General Permit and no longer requires an individualized irrigation management plan for each use site.

While we applaud the Board's efforts, we urge you to consider some key issues as you move forward to adopt a practical and workable General Permit. With recurring drought, population growth, concerns about sustaining the Sacramento-San Joaquin Delta ecosystem, and the impacts of global climate change on our state's high Sierra snow pack, the use and value of recycled water means more to our state than ever before. Further revisions to resolve implementation concerns and clarify requirements will allow the General Permit to expand the use of an efficient, safe and locally reliable water supply *while also* saving public resources, including Water Board staff time. Without these changes, recycled water producers and distributors will not seek coverage under the General Permit. Because some of the problematic provisions are inconsistent with current permitting practices for landscape irrigation projects, adopting the May 7 draft General Permit without revision could *decrease* the use of recycled water for landscape irrigation if existing water recycling programs are required and alter effective current program practices.

The Associations continue to emphasize that the existing master reclamation permit (MRP) framework (Water Code, § 13523.1 et. seq.) provides the correct model for the General Permit. Under the MRP's "bottom up" framework, the recycled water producer/distributor develops the detailed regulatory program, including training, monitoring, reporting and enforcement provisions; and it is this locally developed program that is then reviewed and approved by the appropriate water board in consultation with California Department of Public Health (CDPH). With the clear guidance provided by the Recycled Water Policy, this "bottom up" framework will maximize the use of recycled water in California. In the spirit of working with you as partners committed to providing a safe reliable water supply, the Associations submit the following detailed comments.

**A. Clarity Regarding Permit Coverage and Recycled Water Policy Implementation**

The Associations request that the Board revise the General Permit to provide greater clarity on a few key issues.

The General Permit should expressly state that it is intended to implement the Recycled Water Policy's requirement that, absent unusual circumstances, projects that meet the policy's criteria should be permitted in a streamlined fashion. The General Permit is a streamlined permit, and projects that involve special circumstances require an individual permit.

The General Permit should be clearer as to how it relates to existing and future permits, including master reclamation permits. For example, the General Permit should require the appropriate regional board to rescind any existing, redundant permit requirements when coverage

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commences under the General Permit. The General Permit should not apply to all recycled water use sites under the control of Producer/Distributor. For example, a Producer/Distributor that enrolls in the General Permit should be eligible to provide recycled water to industrial sites under a different permit. The General Permit could make this clear with language on page 11 to provide: "IT IS HEREBY ORDERED ... shall comply with the following for Use Areas covered under this General Permit: ..."

The General Permit should better define the responsibilities of the Board, CDPH and producers/distributors. We recommend that the Board review the master reclamation permit approach where producers and distributors must demonstrate that they have enforceable mechanisms (permits, user agreements, etc.) to ensure compliance site requirements in permits. Clarification that preparation of salt/nutrient management plans are not the sole responsibility of producers and distributors should also be provided.

Finally the General Permit should reflect the Recycled Water Policy's provisions that address constituents of emerging concern. The Associations request that the permit include a simple, clear reopener to address Blue Ribbon Panel recommendations, as appropriate, when these become available.

#### **B. Monitoring and Reporting Requirements and Nutrient Management**

For the General Permit to streamline and facilitate recycled water use consistent with water quality law, *the monitoring and reporting requirements must be feasible and reasonable to implement and provide useful information.* The Associations are pleased with the level of progress made during the May 21, 2009 meeting with Board staff to ensure such an outcome. We are grateful that staff listened to all stakeholders and worked to find common, sensible and practical ground that addresses the concerns of the regulators (including CDPH), the regulated community and public interests.

The May 7, 2009 draft of the General Permit continues to require overly prescriptive measures for nutrient application, monitoring and reporting. *For each use site*, end users and producers/distributors must keep track of all fertilizer applied and calculate the nutrient-loading rate monthly; determine the volume of non-recycled water applied; and conduct weekly inspections. This is unnecessary from a legal or informational standpoint, moves away from current program practices which emphasize use education, and will deter recycled water use by adding site-based complexity to an issue that is best managed regionally. The Recycled Water Policy acknowledges the regional management strategy and the General Permit should emphasize a practical, educational approach that helps set the stage for implementing long-term regional management strategies.

For example, the Los Angeles County Sanitation Districts and City of San Jose each supply recycled water without adverse water quality impacts to over 500 landscape irrigation

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sites. The public agencies' permits do not require complex calculations of water or nutrient application rates or maintenance of weekly logbooks. In 2008, the South Orange County Wastewater Authority (SOCWA) produced over 17,000 acre-feet of recycled water for irrigation at nearly 3,000 use sites. The inspection, meter reading, user training, data management, and reporting to document nitrogen application rates monthly would *add \$3,750,000 in annual costs* to SOCWA's member agency recycled water programs, without any apparent additional protection or improvement of water quality.

The Associations believe that a Best Management Practice (BMP) approach that involves user education and engagement as well as programmatic, regional-level reporting will both facilitate recycled water use and allow for the compilation of the data necessary to effectively implement regional salt and nutrient management plans. We respectfully request that the Board consider replacing the General Permit's reporting requirements with those on pages of 17 through 18 of Attachment A to our April 27, 2009 comment letter. While the Associations continue to believe this is a workable, lawful and proven approach, we also agree with the direction for monitoring and reporting espoused by Board staff during the May 21, 2009 meeting. The May 21 meeting approach would apply before a salt and nutrient management plan is complete and would give way to the nutrient management practices in any plan once adopted. The General Permit must be clear that this is an interim approach.

Under the May 21 meeting approach, the program Administrator would provide clear information to users on salts and nutrient content of recycled water quality and what such information means. Communication approaches could include an illustrative conversion (perhaps a chart) or online conversion calculator that informs the User how the nutrient content relates to nutrients in fertilizer and the application of recycled water and fertilizer. The General Permit may include these requirements in the Monitoring and Reporting Program. In addition, the General Permit may include a BMP that places responsibility on the producer/distributor to ensure that site supervisors are trained about the relationship between nutrients in the recycled water and fertilizer application. The BMP may require a level of minimum supervisor training to ensure standardization across the state. Much like the MRP framework, the initial form of educational materials and the content of site supervisor training would be submitted for the Water Board's review at the time an agency applies for coverage under the General Permit.

Under the approach developed in the May 21 meeting, the program Administrator would annually report to the Water Board on both the amount of water applied and the nutrient content of the recycled water delivered for landscape irrigation. Annual reporting is appropriate since the nutrient content in recycled water rarely differs.

The May 21 meeting approach would also require annual reporting of the amount of recycled water applied basin-wide rather than by each individual use site. The producer/distributor would be responsible to ensure that users apply recycled water at an agronomic rate. The producer/distributor would determine what a user's theoretical application

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rate should be based on the site characteristics and compare that to the user's actual application rate. If the theoretical and actual rates significantly differ, the producer/distributor must address the potential problem with the user.

The May 21 meeting approach would replace the proposed user log book with annual user surveys that are completed and returned to the program Administrator under penalty of perjury. The survey will identify any problems associated with the user's system or operation and maintenance of the system. The producer/distributor must follow-up with site inspections as appropriate for the site and operations, address any problems with the user and report any chronic problem situations to the Board.

The approach developed by Board staff and stakeholders (including CDPH) at the May 21 meeting is consistent with the Recycled Water Policy, AB 1481 and the Board's informational goals. The Recycled Water Policy acknowledges that a regional, basin-wide strategy is best to deal with salt and nutrients. The approach will ensure that users understand the concept of agronomic rates and know how much nitrogen is in the recycled water so they can adjust their recycled water and nitrogen application rates accordingly. The agronomic application of recycled water and nutrients will protect groundwater from degradation. The approach will also ensure that users keep track of and maintain their irrigation systems and the Board has meaningful data regarding the amount of recycled water used in lieu of potable water for landscape irrigation. Finally, since changes to annual from monthly reporting are consistent with current practices, the General Permit would likely streamline and facilitate recycled water permitting.

### **C. CDPH Approval of Use Sites**

The General Permit should not include the new requirement that CDPH approve use sites not included in the original Title 22 Engineering Report. (See General Permit at p. 18, Provision C.7.) Consistent with the master reclamation permit approach, the Administrator should have the authority to add new sites. There is no need for a producer/distributor and CDPH to incur administrative costs to hook up new irrigation sites when the local site approval or permitting process suffices.

In summary, the Associations appreciate the progress made to develop a General Permit that streamlines and facilitates the use of recycled water for landscape irrigation in accordance with AB 1481 and the Recycled Water Policy. Our comments are offered in the spirit of cooperation and to help assure that the General Permit, when developed, will be a valuable tool for expanding the recycled water supply. We look forward to the reviewing the revisions and further engagement with you and your staff.

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If you have any questions, please contact Dave Smith at (707) 237-6992  
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Sincerely,



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