

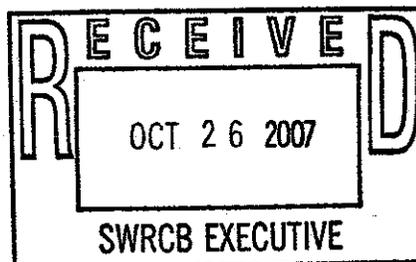


12/4/07 Bd. Mtg.  
Water Recycling Policy  
Deadline: 10/26/07 Noon

5750 ALMADEN EXPWY  
SAN JOSE, CA 95118-3686  
TELEPHONE (408) 265-2600  
FACIMILE (408) 266-0271  
www.valleywater.org  
AN EQUAL OPPORTUNITY EMPLOYER

October 25, 2007

Jeanine Townsend, Acting Clerk of the Board  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



Subject: Comment Letter – Proposed Water Recycling Policy

Thank you for the opportunity to provide comments on the Public Review Draft of Proposed Water Recycling Policy prepared by the California State Water Resources Control Board Division of Water Quality. The Santa Clara Valley Water District (SCVWD) offers the following comments for your consideration:

#### Santa Clara Valley Water District Interests

The Santa Clara Valley Water District serves the nearly 1.8 million residents of Santa Clara County. Ensuring a safe, reliable supply of high-quality water now and in the future is a top priority for the SCVWD. Our core business includes management of groundwater resources, flood protection and stream stewardship, and wholesale water supply. SCVWD objectives include both promoting recycling and protecting groundwater resources, as is evident by the following SCVWD Board of Directors Ends Policies:

- E-2.1.6. The groundwater basins are aggressively protected from contamination and the threat of contamination.
- E-2.1.7. Water recycling is expanded within Santa Clara County in partnership with the community, consistent with the District's Integrated Water Resources Plan (IWRP), reflecting its comparative cost assessments and other Board Policies.
  - E-2.1.7.1 Target 2010, water recycling accounts for five percent of total water use in Santa Clara County.
  - E-2.1.7.2 Target 2020, water recycling accounts for ten percent of total water use in Santa Clara County.

To be able to meet the needs of the community, the SCVWD looks for flexible and adaptive ways to balance competing objectives. In this way, the SCVWD is quite familiar with the challenges that face State Board as it considers the complex water needs of the State of California.

#### Water Board Interests

The fundamental precept of California's approach to water is balancing competing objectives to maximize the beneficial uses of the resource for present and future generations, taking into consideration the local needs and challenges.

As stated in Water Code Section 13000:

*The Legislature finds and declares that the people of the state have a primary interest in the conservation, control, and utilization of the water resources of the state, and that the quality of all the waters of the state shall be protected for use and enjoyment by the people of the state. The Legislature further finds and declares that activities and factors which may affect the quality of the waters of the state shall be regulated to attain the*

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*highest water quality which is reasonable, considering all demands being made and to be made on those waters and the total values involved, beneficial and detrimental, economic and social, tangible and intangible.*

This approach is reflected in the mission statements of both the State Board and the Regional Boards:

*The State Board's mission is to preserve, enhance and restore the quality of California's water resources, and ensure their proper allocation and efficient use for the benefit of present and future generations.*

*The mission of the Regional Boards is to develop and enforce water quality objectives and implementation plans that will best protect the State's waters, recognizing local differences in climate, topography, geology, and hydrology.*

This local management approach is further highlighted in State law when it comes to managing groundwater resources, as is evidenced by Water Code Section 10750:

*The Legislature finds and declares that groundwater is a valuable natural resource in California, and should be managed to ensure both its safe production and its quality. It is the intent of the Legislature to encourage local agencies to work cooperatively to manage groundwater resources within their jurisdictions.*

Proposed Water Recycling Policy is Contrary to SCVWD Interests

As a local groundwater management agency and water supply agency, the SCVWD supports the flexibility of existing State Policy in allowing for water resources protection and the beneficial uses of water, including water reuse. This draft Water Recycling Policy fundamentally compromises this balancing approach and reduces the Regional Board's ability to consider local needs and local conditions in its decisions. Achieving the balance between water resource protection and recycled water expansion is best done based on local conditions and needs, in consultation with local water supply and groundwater management agencies and consistent with groundwater management plans. Statewide laws, policies, and regulations should not restrict a local water district or groundwater management agency's ability to implement projects that best meet their area's water management needs. Likewise, statewide standards should not compel local agencies to consider or implement projects that do not meet local needs and interests, or are inconsistent with local groundwater management plans. This policy restricts the ability of local agencies to work with the appropriate Regional Board to find the optimal solution for their region, including maximizing appropriate water reuse.

The notice of the workshop states that

*The purpose of a statewide policy would be to provide direction to the Regional Water Quality Boards on how to interpret state statutes, regulations, plans, and policies with respect to water recycling projects, thus ensuring consistent interpretation of the requirements among the Regional Water Boards.*

The SCVWD supports this stated purpose, which is not inconsistent with the principle that Basin Plans and other specific programs within different Regions will be different as a result of differing competing objectives and challenges in each locality. Unfortunately, in trying to gain more consistent application of the State's mandated water balancing obligations under anti-degradation, this draft policy replaces it with inflexible criteria that disregard local conditions.

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The SCVWD feels that it is in its best interest, and in the best interest of the Water Board, to promote water reuse flexibility. Consider as an example the situation in Santa Clara County, the SCVWD service area. The SCVWD actively promotes appropriate recycled water use in keeping with SCVWD policies, in partnership with the four local recycled water producers. Expanding expanded recycled use is promoted in areas where geologic conditions, such as protective clay layers and adequate separation to groundwater, protect our high-quality groundwater. In some smaller areas of the County like the Coyote Valley, where separation to groundwater is minimal and the soil conditions are not protective, the SCVWD works with the local recycled water provider to improve recycled water quality to protect this aquifer, which is the sole source for drinking water in the area. The 300 mg/l criterion in this draft Policy may be problematic for the SCVWD in both cases: in areas where the SCVWD is striving to increase recycled water use, the 300 mg/l criterion may prove to restrict reuse; in areas with high vulnerability, it may not be sufficiently protective. The SCVWD is confident that the best solution for current customers and for future generations that will depend on our water supplies is to allow us to have the flexibility to work with our Regional Boards, our recycled water providers, and our water retailers in developing the right water supply of the right quality in the right places.

Attached are SCVWD's specific comments. If you have any questions regarding these comments, please do not hesitate to call me at 408-265-2607, extension 2080.

Sincerely,



Keith Whitman  
Water Supply Manager

cc: Behzad Ahmadi  
Hossein Ashktorab  
Pam John  
Barbara Judd  
Walt Wadlow  
Keith Whitman  
Stan Williams  
Greg Zlotnick

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The major provisions of this Proposed Policy are summarized below:

<b>Proposed Policy Provisions</b>	<b>Compatibility with Local Considerations and Regional Board Mission</b>
<p>The proposed policy includes provisions for recycled water irrigation use and for water reuse for groundwater recharge.</p>	<p>The policy is confusing in several places where it is unclear if the provision applies to recycled water for irrigation, recycled water for groundwater recharge, or both. The policy should either remove the reuse for recharge aspects or clearly separate the policy into two separate sections.</p>
<p>For irrigation projects, implementation of a nutrient management plan, compliance with Title 22 recycling criteria, requirements that the recycled water application rate not exceed that needed for the landscape (including leaching and irregularities in the distribution system uniformity) are to be considered adequate management, as long as the monthly average TDS concentration in the recycled water not exceed that of the source water supply plus 300 mg/l. The source water supply is that of the public water supply for the service area that generates the sewage.</p>	<p>Whereas #4 states that some variation is desirable throughout the state because of differing climatic and hydrologic conditions. This approach does not consider local differences in climate, topography, geology, and hydrology, as required by the Regional Board's mission and the Porter-Cologne Act. This policy should be modified to also recognize differing geologic conditions and groundwater protection needs as well as differing needs for additional dependable drought-proof sources of water supply to support agriculture, industry, and population changes. In some situations, these criteria are too restrictive to allow best use of recycled water, while in other situations these criteria don't allow adequate water resource protection.</p>
<p>Other than those measures listed above, Regional Boards can not require for any recycled irrigation project any other salt management measures prior to 1/1/2018.</p>	<p>This provision removes the ability of the Regional Boards to address salt loading issues that may arise for over ten years. Regional Boards are responsible for protecting the waters of the state.</p>

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Proposed Policy Provisions	Compatibility with Local Considerations and Regional Board Mission
<p>Whereas #13 states as a fact that "it is usually unreasonable to require groundwater monitoring for irrigation projects using recycled water". The policy also states that Regional Boards can not require groundwater monitoring for recycled water irrigation projects unless "it determines that site conditions such as shallow groundwater could cause an increased potential for the irrigated site to adversely affect public health or surface water quality"</p>	<p>This appears to put a burden of proof on the regional board that an irrigation project will harm public health before they can ask for monitoring.</p> <p>Depending on site conditions and the quality of the recycled water, groundwater quality can be impacted. Although in many cases groundwater monitoring may be unnecessary, it is overstating the case to state that the effectiveness of groundwater monitoring is limited, especially for dissolved constituents like nitrates and other salts.</p> <p>Further, this provision limits consideration to adversely impacting health; degrading a groundwater basin doesn't appear to be sufficient cause. The Regional Board should also require groundwater monitoring if it believes the project may adversely impact groundwater quality.</p> <p>Lastly, this provision misrepresents the purpose of monitoring, which is to gather information, determine impacts, and implement adaptive management.</p> <p>Without monitoring, how does a project confirm that no adverse impacts are occurring?</p> <p>Adaptive programs that provide appropriate monitoring need not be onerous burdens.</p>
<p>For groundwater reuse projects, the "Board shall establish the effluent limitation at a concentration equivalent to the MCL". The only exception in the Policy is if some other beneficial use needs to be protected: "...Board may establish a limitation that is more stringent than the MCL if necessary to protect a designated beneficial use other than municipal or domestic use, such as agricultural use".</p>	<p>This use of MCLs is not the one for which they are intended. MCLs are meant to ensure that water served to the public meets minimum health goals.</p> <p>This approach does not account for the anti-degradation objectives of the State in the Porter-Cologne Act and in Resolution 68-16. This does not allow local water purveyors to ensure that the water they serve meets anything greater than regulatory minimums.</p>
<p>For groundwater reuse projects, the policy does allow the Regional Board to evaluate whether the project will change the geochemical equilibrium in the aquifer and to establish requirements to limit degradation and to prevent the project from causing violations of groundwater quality objectives.</p>	<p>The SCVWD supports this provision.</p>

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<b>Proposed Policy Provisions</b>	<b>Compatibility with Local Considerations and Regional Board Mission</b>
<p>Water recycling irrigation projects and groundwater recharge reuse projects that comply with this policy, the Porter-Cologne Act, and the applicable Basin Plan shall be considered to have met the requirements of State Water Board Resolution 68-16.</p>	<p>This policy does not include enough consideration for local geology and hydrology to ensure that this statement is indeed true. In essence, this policy exempts projects from the need to demonstrate compliance with one of California's most fundamental environmental rules.</p>