



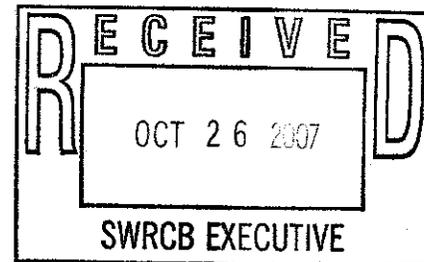
Western States Petroleum Association  
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12/4/07 Bd. Mtg.  
Water Recycling Policy  
Deadline: 10/26/07 Noon

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October 26, 2007

Submitted Via E-mail



Chairperson Doduc, and Members of the Board  
State Water Resources Control Board  
P.O. Box 100  
Sacramento, CA 95812-0100

Re: WSPA Comments – Proposed Water Recycling Policy

Dear Chairperson Doduc, and Members of the Board,

This letter contains the comments of the Western States Petroleum Association (WSPA) regarding the Water Recycling Policy (Policy) proposed by the State Water Resources Control Board (State Board).

WSPA is a trade association that represents the companies and other entities that conduct most of the petroleum-related operations in the western United States. These operations include production, transportation, refining and marketing of petroleum and petroleum-based products.

WSPA has a significant interest in the Policy because, as currently written, the Policy may apply to oilfield produced water and some WSPA members generate oilfield produced water from their operations. In some cases such oilfield produced water is provided to individual water districts and those districts then combine the produced water with water from other sources and recycle it for crop irrigation.

**Comment 1 – The Policy should not apply to oilfield produced water.** WSPA member company representatives recently communicated with State Board staff, who indicated that the Policy is not intended to apply to the use of oilfield produced water for irrigation purposes. Some of the language in the Draft Resolution supports this interpretation; e.g., paragraph 7(d) providing Total Dissolved Solids (“TDS”) in recycled water to be compared to that of “the public water supply of the service area that generates sewage from which the recycled water is produced.” However, the Policy as a whole is unclear on this point and the *Draft Staff Report and Certified Regulatory Program Environmental Analysis: Water Recycling Policy* (“Staff

Report") does not address the issue. WSPA therefore requests, in the first instance, that the State Board clarify its intent by revising the Policy to expressly state that it is not applicable to oilfield produced water.

**Comment 2 – The 300 mg/l additional TDS limit is arbitrary and unnecessary.** If the Policy is not revised to clarify that it does not apply to oilfield produced water, WSPA then requests that the State Board reconsider the effluent limitation allowing an increase of no more than 300 milligrams per liter (mg/l) TDS relative to the source water supply. WSPA believes that this effluent limitation is unnecessary and inappropriate. There is no evidence in the Staff Report, and no supporting documentation is cited, indicating the basis for the 300 mg/l TDS. Instead, the Staff Report states simply that 300 mg/l "was selected as being the difference that the majority of recycled water producers can currently meet" (Staff Report at page 5). What the majority of current producers can meet should have nothing to do with whether this limit is or is not necessary to protect water quality. Moreover, no evidence is cited to verify that "the majority of recycled water producers can currently meet" that limit.

State Board staff have indicated that the figure was drawn from a standard text, Metcalf & Eddy/AECOM's *Water Reuse: Issues, Technologies, and Applications* ("Water Reuse"). Table 3-11 in *Water Reuse* (p. 105) does provide a range of 150 – 380 mg/l TDS for the increased level of TDS in *domestic* wastewater. However, this figure is immaterial to TDS in non-domestic sources. WSPA understands that the Water Reuse Association is currently conducting a survey which would provide more accurate information on this point, but that survey has not yet been completed. At the least, the State Board should wait for the data from that survey – which presumably will include *all* forms of recycled water to which the Policy will apply – before relying on any conclusions as to what limits existing producers can meet. Given that the survey results are not yet available, the State Board has no reasonable basis for determining whether the Policy will facilitate or deter water recycling, with potentially significant consequences as noted in the next comment.

WSPA believes that regional boards and water districts should be responsible for determining the permissible salinity effluent limit for individual dischargers necessary to comply with the requirements of their respective basin plans. The groundwater quality objectives for salinity can vary considerably in a particular basin plan as well as in an individual hydrographic unit. For example, in the Tulare Lake Basin, the maximum average annual increase in salinity concentration for a particular hydrographic unit ranges from 1 µmhos/cm (Westside hydrographic unit) to 6 µmhos/cm (Tule River and Poso hydrographic unit). Further, the volume and level of salinity for individual recycled water producers varies considerably. Thus, adopting a statewide, one-size-fits-all approach in the Water Recycling Policy for establishing salinity effluent limitations for individual recycled water producers would be costly and unwise. By allowing for flexibility in regulating salinity in produced recycled water, producers can avoid costly measures that are unnecessary to protect water quality.

**Comment 3 – The Staff Report environmental checklist fails to comply with CEQA.** The Staff Report includes an "environmental checklist" under the State Board's certified regulatory program for compliance with the California Environmental Quality Act ("CEQA"). The checklist follows a programmatic approach that largely defers implementation actions to later project-level analysis by the regional boards. While CEQA encourages tiered environmental review, tiering does not excuse the lead agency from adequately analyzing significant environmental effects that are reasonably foreseeable consequences of adopting the program. See CEQA Guidelines section 15152(b); *No Oil, Inc. v. City of Los Angeles*, 196 Cal. App. 3d 223, 237 (1987) (an

agency cannot forego analysis of reasonably foreseeable impacts that would result from its "crystallized commitment" at the policy or program level).

Implementation of unnecessarily stringent TDS limitations would have the reasonably foreseeable effect of deterring existing water recycling programs, necessarily increasing the use of other water supplies to meet irrigation needs. The demands on California's limited water resources already represent an environmental problem, as the Staff Report acknowledges. Increasing reliance on those limited resources, in turn, would have potentially significant impacts with regard to water supply utilities, agricultural resources, water quality and biological resources. The Staff Report checklist fails to address any of these impacts. By acknowledging only impacts related to *increased* water recycling, but ignoring those related to *decreased* recycling as the result of the Policy's new restrictions, the checklist fails to address reasonably foreseeable environmental consequences as required by CEQA.

WSPA appreciates the opportunity to submit these comments on the State Board's proposed Water Recycling Policy. Please contact me at your convenience if you have any questions or wish to discuss our comments. Thank you.