



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

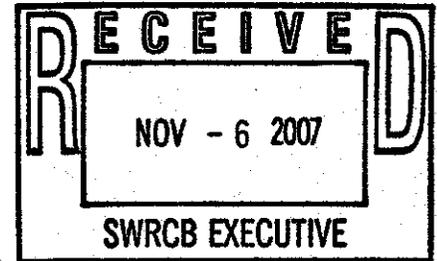
THE CITY OF SAN DIEGO

MAYOR JERRY SANDERS

November 6, 2007

VIA FACSIMILE TO (916) 341-5620

Tam Doduc, Chair and Members of the
State Water Resources Control Board
PO Box 100
Sacramento, CA 95812-0100



LATE COMMENT

Attention: Jeanine Townsend, Acting Clerk to the Board

Dear Chair Doduc and Members of the Board:

Subject: Comment Letter – Water Recycling Policy

The City of San Diego (City) was in a State of Emergency last week related to the San Diego County wildfires. In light of that fact we hope that you will consider our public comments even though we are submitting them after the October 26, 2007 deadline.

The City appreciates and supports the State Water Resources Control Board (SWRCB) staff efforts to create a Water Recycling Policy to consistently apply state statutes and regulations regarding water recycling quality throughout the State as recommended in the Recycled Water Task Force report of June 2003. The adoption of a statewide policy would ensure consistent interpretation of the requirements among the Regional Water Quality Control Boards.

One of the City's goals is to diversify its sources of water and to increase its local production. Development of local water supplies reduces the use of energy statewide (thus reducing a large contributor to global warming) as moving water throughout the state is now the largest user of energy in California. Recycled water is an important element of a sustainable, environmentally sound and cost-effective water resource "mix" in order to maintain water reliability in Southern California.

California law provides that the State's interest in conservation of water resources requires the maximum possible use of recycled water. The Water Code identifies recycled water as a major "new" source of water supply and a key element of a balanced and diversified water portfolio in many urban areas.

For the past ten years, the City has aggressively pursued the use of recycled water. Given the critical role of recycled water in ensuring the development of a diversified water supply portfolio for our region, we respectfully request that the Board directs staff to fully consider the role that

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regulatory programs may play in affecting the desirability of this valuable resource. The Regional Board should ensure that there are no unnecessary regulatory barriers to increase the use of recycled water.

In order to continue with a successful recycled water program, we encourage the SWRCB to consider, the following comments:

(1) Policy should be only about recycling and cross reference a groundwater policy if there is one. If the intent is to establish groundwater policy the title should be changed or there should be a separate Groundwater Policy.

(2) "Recycled water" should not be considered a "waste discharge" or "waste" that is injected into a well. Recycled water is not a waste and any such affirmation is contrary to state policy and state law.

It is important to note that the Water Code [§ 13050(d)] defines waste as:

"Waste" includes sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing, or processing operation, including waste placed within containers of whatever nature prior to, and for purposes of, disposal.

Equally important is the fact that the Water Code [§ 13050(d)] defines recycled water as:

"Recycled water" means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would not otherwise occur and is therefore considered a valuable resource. Emphasis added.

Further, it is clearly the intent of the legislature of the State of California, to encourage the use of recycled water, wherever this is appropriate, as evidenced by the following statutes:

"The Legislature finds and declares that a substantial portion of the future water requirements of this state may be economically met by beneficial use of recycled water. The Legislature further finds and declares that the utilization of recycled water by local communities for domestic, agricultural, industrial, recreational, and fish and wildlife purposes will contribute to the peace, health, safety and welfare of the people of the state. Use of recycled water constitutes the development of "new basic water supplies" as that term is used in Chapter 5 (commencing with Section 12880) of Part 6 of Division 6" [Water Code § 13511].

"It is the intention of the Legislature that the state undertake all possible steps to encourage development of water recycling facilities so that recycled water may be made available to help meet the growing water requirements of the state" [Water Code § 13512].

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"The people of the state have a primary interest in the development of facilities to recycle water to supplement existing water supplies and to minimize the impacts of growing demand for new water on sensitive natural water bodies. A substantial portion of the future water requirements of the state may be economically met by the beneficial use of recycled water. The Legislature has established a statewide goal to recycle 700,000 acre-feet of water per year by the year 2000 and 1,000,000 acre-feet of water per year by the year 2010" [Water Code § 13529(c-e)].

"The Legislature finds and declares all of the following:

- (a) The waters of the state are of limited supply and are subject to ever-increasing demands.*
- (b) The continuation of California's economic prosperity is dependent on adequate supplies of water being available for future uses.*
- (c) It is the policy of the state to promote the efficient use of water through the development of water recycling facilities.*
- (d) Landscape design, installation, and maintenance can and should be water efficient.*
- (e) The use of potable domestic water for landscaped areas is considered a waste or unreasonable use of water within the meaning of Section 2 of Article X of the California Constitution if recycled water is available that meets the conditions described in Section 13550 of the Water Code" [California Government Code § 65601]. Emphasis added.*

Recycled water is **not** a waste and any such affirmation is contrary to state policy and state law. The language used by staff in the Water Recycling Policy documentation obfuscates the distinction between wastewater and recycled water that has been repeatedly recognized by the Legislature.

We respectfully request the State Board direct staff to revise all documents associated with the proposed Water Recycling Policy and delete any references to recycled water as a waste. We further request that staff reconsiders the proposed policy as it affects recycled water to ensure that any proposed regulations are consistent with the intent of the Legislature.

(2) Management of Nutrients and Total Dissolve Solids (TDS)

The Draft Water Recycling Policy states:

"Regional Water Boards shall require the following in waste discharge and water reclamation requirements for recycled water irrigation projects:

- (a) the development and implementation of a nutrient management plan...*
- (d) the monthly average TDS concentration in the recycle water to not exceed the monthly average TDS concentration of the source water supply, plus 300 mg/l".*

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(a) Rather than place an undue burden on end users or recycled water purveyors (and essentially our ratepayers) to prepare and/or monitor "nutrient management plans", thereby discouraging the use of recycled water, we recommend that the Policy require that users institute Best Management Practices (BMP). BMPs are already incorporated into San Diego County's Recycled Water Certification course that customers' site supervisors are required to attend. The course provides information to site supervisors for safe and efficient operation of recycled water

systems. Designation of "site supervisors" are required per our San Diego RWQCB Water Recycle Recycling Requirements (Permits 97-03 and 2000-203).

(b) The Policy's TDS effluent limit exceeds the 1,200 ppm set by Title 22 California Code of Regulations. The City already strives to produce recycled water with TDS equal to or less than 1,000 ppm. The proposed Policy would set the standard for San Diego at about 800 ppm. The City has an aggressive industrial pre-treatment program that monitors flows to the North City and South Bay Water Reclamation Plants. No groundwater basins are adversely impacted by the use of recycled water in the City where recycled water is significantly used. Requiring that the City institute more stringent parameters would require more extensive and costly demineralization which would greatly impact the City's recycled program. We support locally driven basin-planning for management and sustainable use of groundwater as the correct and appropriate way to preserve groundwater quality.

~~(3) Policy should explicitly state that it does not alter liability under existing law.~~

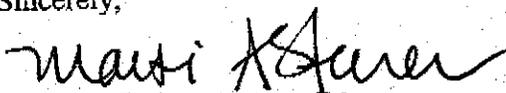
~~17. "Compliance with requirements based in whole or in part, on this Policy does not exempt a discharger from liability for contamination of groundwater".~~

The strict liability language in the Policy should be deleted or replaced with language noting that the Policy does not exceed liability under existing law.

The City appreciates the opportunity to provide these comments and looks forward to working with the SWRCB and its staff in adopting the final Recycled Water Policy.

If you have any questions regarding our comments please call me at (619) 533-4112.

Sincerely,


Marsi A. Steirer, Deputy Director
Water Resources and Planning Division

JAC:chr

cc: Dr. Tim Bertch, Director, Metropolitan Wastewater
Ms. Toby Roy, Water Resources Manager, San Diego County Water Authority