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

OFFICE OF THE MAYOR
ANTONIO R. VILLARAIGOSA

October 26, 2007

Ms. Jeanine Townsend
Acting Clerk to the Board
State Water Resources Control Board 1001 I Street, 24" Floor
Sacramento, California 958 14

Re: City of Los Angeles' Comments Regarding the Proposed Statewide Water Recycling Policy

Dear Ms. Townsend:

The City of Los Angeles (City) appreciates the opportunity to provide comments on the State Water Resources Control Board's (State Board) Proposed Water Recycling Policy (Policy) and commends the State Board for its efforts in developing this Policy. As a supplier of water to four million people, the City believes that the timely development of this Policy and the immediate implementation of the provisions in the recently adopted Assembly Bill 1481 are essential to advancing the use of recycled water for irrigation in California. The City sponsored Assembly Bill 1481 to create a consistent permitting framework that encourages the use of recycled water for irrigation.

Recycled water is a sustainable resource, and the use of recycled water for irrigation is a great way to save our tap water supplies for other more important uses. This is more important now than ever as we continue to face drought and reduced water supplies. The use of recycled water for irrigation is safe and has been in use for years. Additionally, the increased use of recycled water will help reduce the energy consumption associated with supplying potable water throughout the State.

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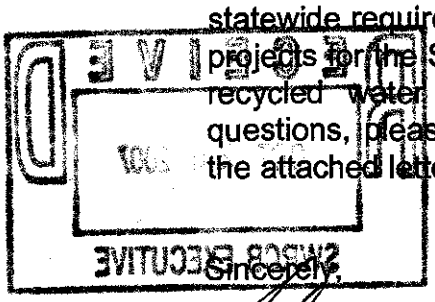
The City hopes that the attached detailed comments provided by Department of Water and Power and the Bureau of Sanitation will assist the State Board in revising the Policy to foster consistent application and uniform interpretation of water recycling throughout the state. Consistent statewide requirements are essential to encourage the development of new projects for the State to achieve its goal of recycling one million acre-feet of recycled water by 2010. If you should any additional comments or questions, please contact the responsible individuals identified in each of the attached letters.



Sincerely,

NANCY SUTLEY
Deputy Mayor, Energy and Environment

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October 26, 2007

Ms. Jeanine Townsend
Acting Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, California 95814

Subject: Comment Letter –Water Recycling Policy Dated September 13, 2007

Dear Ms. Townsend:

The City of Los Angeles' Bureau of Sanitation (Bureau) appreciates the opportunity to provide technical comments regarding the State Water Resources Control Board's (State Board's) effort to develop a Statewide Water Recycling Policy (Policy) and the issues this would address. As a producer of recycled water, the Bureau believes that timely development of a consistent statewide policy and the immediate implementation of the provisions of the recently adopted AB 1481 are essential to advancing the use of recycled water in California. The Bureau believes the increased use of recycled water for irrigation will aid the State in resolving its water supply and greenhouse gas challenges. A consistent statewide policy and statewide general permit that protects our water resources but does not burden water recycling irrigation projects with potentially restrictive regulations and related compliance costs is essential to developing new projects. This is especially true for irrigation projects in which potentially restrictive regulations could result in extensive groundwater monitoring and the drilling of new monitoring wells each time a new irrigation project is undertaken.

While the Bureau strongly supports the State Board's effort to develop a statewide water recycling policy, we believe the Policy as released will not encourage the development of new recycled water projects. The following technical comments are offered to assist the State Board in revising the proposed Policy to ensure that it achieves the goals of fostering consistent application and uniform interpretation of water recycling throughout the state.

Bureau's Major Concerns

1. **The proposed Policy should deal with irrigation projects only.**

   The Bureau recommends that the Policy deal with irrigation projects only. The addition of groundwater recharge requirements unnecessarily complicates the policy. Groundwater recharge projects are already subject to extensive requirements set by the California Department of Public Health (DPH) and are regulated through Waste Discharge Requirements. The Policy should instead provide guidance to Regional Water Quality Control Boards (Regional Boards) in permitting irrigation projects. These are the projects that have the most immediate potential to aid the State in meeting its goals for recycling water. Many localities may be able to utilize recycled water to irrigate golf courses, parks, cemeteries, and other green areas. The use of recycled water for irrigation is safe and has been in use for years. However, consistent requirements are needed to ensure that this source of water is not regulated out of use. A policy is needed that encourages development of new projects for the use of recycled water. The use of potable water to irrigate grass is wasteful in these times of drought. The resulting Policy needs to provide clear guidance for these types of projects and should not complicate the issue by adding requirements for groundwater recharge.

2. **The proposed policy should recognize that recycled water is a valuable resource per the water code.**

   The Policy should not refer to recycled water as a waste. Recycled water is treated to Title 22 Standards and, as such, is not a discharge of waste. The Policy should make it clear that under the Water Code, recycled water is a resource to be used beneficially. (Water Code section 13050(n); 13529.2(f).) It is a resource that preserves ever shrinking sources of potable water and reduces Southern California's dependence on imported water. It will also reduce the State's consumption of energy used in pumping potable water from the State Water Project to Southern California. Therefore, rather than using the term "effluent limit" to describe recycled water quality, the Policy should refer to "constituent levels." In addition, many of the recitals need to be redrafted to remove language that infers that recycled water is a problem to be mitigated rather than a resource to be used.

3. **The Policy should recognize that groundwater monitoring is not necessary for recycled water irrigation projects.**

   If the Policy is intended to encourage the use of recycled water, it should be clear that groundwater monitoring should not be required for irrigation projects. We are concerned with the language in the Policy that provides Regional Boards with discretion to require monitoring when there is "shallow groundwater" present. While we understand that this provision was intended to prescribe a narrow set of conditions where monitoring can be required, the Bureau believes this language could and would be used to require groundwater monitoring in permits for irrigation projects. The Policy does not limit this provision to shallow groundwater that is presently beneficially used for municipal drinking water or

agricultural irrigation. Agencies that might be considering the use of recycled water for irrigation projects will not proceed with those projects if groundwater monitoring is required. Any incidental recharge from irrigation projects will have a *de minimus* impact on groundwater. There are many inputs into a groundwater aquifer and irrigation with recycled water is usually a small input into a groundwater basin. Thus, groundwater monitoring should be addressed in region wide plans rather than be required of individual irrigation projects.

4. **The Policy should recognize that nutrient and salt plans should not be applied to individual irrigation projects.**

While the Bureau supports the development of basin-wide salt and nutrient management plans, these plans should not be enforced on individual projects. These types of plans should be done on a basin-wide basis regardless of whether or not recycled water is used. Requiring nutrient or salt management plans will not encourage potential providers and users to consider the use of recycled water for irrigation projects. Providers and users would instead continue to use potable water for irrigation where no additional plans are required.

5. **Total Dissolved Solids (TDS) should not be set as a requirement in the Policy.**

The Policy's TDS limitation in Requirement 7(d) needs to be removed. The requirement limiting TDS to the potable water concentration plus 300 mg/L, in the City of Los Angeles would make it impracticable to irrigate with recycled water. Irrigation projects with almost 30 years of usage would have to be turned off. In addition, because the City blends water from several sources, it would be difficult to calculate the source water's TDS concentration. Additionally, the Policy overstates how much control a local agency has in limiting its TDS to potable plus 300 mg/L. State law makes it difficult to ban the installation of new water softeners and impossible to remove existing water softeners. (Health and Safety Code section 116775.) Additionally, source control of industrial dischargers on this scale may not have the results the Policy assumes, especially when water conservation efforts are taken into account.

The City's collection system also receives wastewater from many contract cities with yet additional sources of potable water supply. Ensuring compliance with the Policy's requirement, limiting TDS concentration of recycled water to the potable water concentration plus 300 mg/l, through industrial local limits would require enforcement of an adjustable industrial discharge limit (fluctuating with the combined potable water concentration) which is not practical to implement or enforce.

6. **The Policy should recognize that incidental runoff of a valuable resource should be treated the same as potable water when used for irrigation.**

The Bureau is concerned that the reference to NPDES permits in Requirement 7(e) could be interpreted by Regional Boards as a requirement to regulate incidental runoff from irrigation projects through individual NPDES permits. Runoff from irrigation projects should be dealt

with in the same manner as potable water runoff. As the Policy notes, recycled water irrigation projects are designed to minimize runoff. Recycled water in the City of Los Angeles is not free water. Customers who use recycled water still have an economic interest in irrigating efficiently and minimizing runoff. As such, there are existing regulatory mechanisms which regulate potable water runoff that are also appropriate for recycled water. If an NPDES permit is required to regulate recycled water runoff, recycled water will be less marketable to users, who will understandably opt to continue to use potable water for irrigation where additional permitting is not required.

7. **The Policy should recognize that WRRs are the primary mechanism for regulating irrigation projects.**

Recycled water irrigation projects should be regulated only by Water Recycling Requirements (WRRs), not Waste Discharge Requirements (WDRs) or NPDES permits, if the State Board wants to encourage the use of recycled water. WRRs are the appropriate mechanism for irrigation projects. This is not a discharge of a waste to a waterbody; therefore, WDRs or NPDES permits are not necessary. Irrigation projects have a *de minimus* impact on the groundwater as projects are designed to use recycled water efficiently. The use of WDRs or NPDES permits would not encourage the use of recycled water for irrigation projects.

8. **The Bureau requests clarification on the financial liability provisions contained in the State Policy.**

The Bureau is concerned with the financial liability provision contained in the Policy and requests clarification that it is not the policy's intent to alter liability under existing law. The Bureau would suggest that the liability provision in the policy be redrafted to state that "nothing in this policy is intended to expand or limit liability under existing law for contamination of groundwater." The Bureau believes that irrigation with recycled water is a safe and widely accepted beneficial use. The City of Los Angeles has safely irrigated with recycled water for nearly thirty years. The Policy's statement of financial liability does not encourage the use of recycled water for irrigation projects and may result in potential producers and users continuing to rely on potable water resources for irrigation purposes.

9. **Create a separate statewide policy to encourage the reuse of stormwater for irrigation and infiltration.**

The Bureau requests the State Board to develop a separate statewide policy to encourage the reuse of stormwater for irrigation, infiltration, and recharge. A statewide policy that creates a consistent regulatory framework to encourage the use of stormwater would also ease the State's reliance on potable water supplies. There are many integrated resource projects being developed throughout the State to retain and reuse stormwater onsite for irrigation and infiltration. The Bureau believes that the State Board's involvement in this effort will only help in developing this valuable resource.

The Bureau believes the recommendations enumerated above will result in a more effective and successful program and thanks the State Board in advance for considering its technical comments. Attachment 1 to this letter provides more specific technical comments and details. If you have any questions regarding the Bureau's technical comments, please contact H.R. (Omar) Moghaddam, Manager of the Regulatory Affairs Division, at (310) 648-5423.

Sincerely,

Enrique C. Zaldivar, Interim Director
Bureau of Sanitation

Attachment 1

w/attachment

cc: Tracy Egoscue, RWQCB
Nancy Sutley, Mayor's Office
Michael Mullin, Mayor's Office
Cynthia Ruiz, Board President, Board of Public Works
Paula Daniels, Commissioner, Board of Public Works
Rafael Prieto, Chief Legislative Analyst Office
James B. McDaniel, LADWP
Lillian Kawasaki, LADWP
Traci Minamide, Bureau of Sanitation/EXEC
Varouj Abkian, Bureau of Sanitation/EXEC
Masahiro Dojiri, Bureau of Sanitation/EMD
Adel Hagekhalil, Bureau of Sanitation/WESD
Timeyin Dafeta, Bureau of Sanitation/IWMD
Hiddo Netto, Bureau of Sanitation/WRD
H.R. (Omar) Moghaddam, Bureau of Sanitation/RAD

ATTACHMENT 1

Specific Technical Comments from the City Los Angeles, Bureau of Sanitation

Water Recycling Policy Dated September 13, 2007

Water Recycling Policy (WRP) Finding No. 9: Development and implementation of nutrient management plans.

Irrigation projects which utilize high quality recycled water do not impair or threaten to impair a waterbody and do not require individual nutrient management plans. While nutrient management plans may be beneficial for watershed-wide management, they are not appropriate for each and every irrigation project. The criteria for determining whether a nutrient management plan is needed should be whether nutrients or nitrates threaten to impair a specific waterbody and should be done on a basin-wide basis.

Requiring nutrient management plans on a project-by-project basis without considering Water Quality Objectives and whether the reach of the waterbody is impaired for nitrogen compounds will be contrary to the Legislature's intent to undertake all possible steps to encourage the development of facilities that recycle wastewater. If potential users or suppliers are required to implement a nutrient plan for individual irrigation projects, this will not encourage potential users to switch from potable to recycled water, which is contrary to the goal of this policy.

WRP Finding No. 12: A recycled water producer can limit TDS to a 300 mg/L increase from a potable water source through control of industrial discharges and self-generation water softeners.

The Bureau believes this finding overstates a water producer's ability to control TDS through banning water softeners and control of industrial discharges. State law makes it difficult to remove existing water softeners and ban future installations. Additionally, the City of Los Angeles has had a very successful water conservation program where per capita water usage has declined over the years. Water usage is the same today as it was 25 years ago despite an increase in population of nearly 1 million people. This has resulted in a higher TDS concentration of our wastewater. As for controlling industrial discharges, agencies set their local limits based on site specific environmental conditions. Ratcheting down on industrial users may not result in the decreases assumed in this policy especially in light of water conservation efforts in this region and the difficulty in banning water softeners under state policy.

WRP Finding No. 16: A Regional Water Board may need to establish a limitation for a constituent for which California Department of Public Health (DPH) has not established an MCL.

Allowing a Regional Board to establish an "effluent" limit, for which DPH has not established an MCL, defeats the policy's aim of creating statewide consistency and allows the regional boards to second-guess DPH on human health matters. The finding states the recycled water may contain constituents not typically found in surface water or groundwater. However, DPH regulates these constituents. The Bureau supports a policy that recognizes compliance with DPH public health drinking water standards to be sufficient for irrigation with Title 22 Recycled

Water. The policy should also state that the DPH is responsible for setting requirements for spreading or injection of recycled water into groundwater. We believe that the policy should explicitly state that DPH is the authority on the protection of human health.

The Policy correctly states that the recycled water is produced from sewage. But whether it should be regulated like a waste is another issue, an issue already decided by the California Legislature. The Legislature has expressly recognized the safety and benefit of "recycled water," and that such water is not to be considered a "waste." The Water Code §13050(n) defines "recycled water" as "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." Recycled water is the final product which results from the physical, chemical, and biological treatment of wastewater and is suitable for a direct beneficial use or a controlled use that would not otherwise occur. This policy needs to acknowledge that the recycled water is not a waste and state that it is a valuable resource.

WRP Finding No. 17: When hydrological conditions are appropriate, it is not necessary to establish effluent limitations. Groundwater limitations along with groundwater monitoring provide adequate water quality protection.

The policy's use of "groundwater recharge reuse" is vague and needs clarification to ensure that provisions intended to apply to recharge projects do not apply to irrigation projects. The policy should recognize that groundwater monitoring for recycled water irrigation projects is not necessary. Incidental recharge from an irrigation project will have a *de-minimis* impact on groundwater. Recycled water irrigation projects are designed to provide the necessary amount of water required by landscaping. The policy should recognize that groundwater limitations and monitoring may be appropriate for recharge projects where the intent is to recharge the aquifer, but not for irrigation projects. If monitoring is required for individual irrigation projects, this will not encourage the use of recycled water. It would place an unnecessary burden on irrigation projects.

WRP Finding 23: Anti-degradation, State Board Resolution No. 68-16

Irrigation with recycled water, as stated above, is a "valuable resource" and not a waste and should not be regulated as such. Anti-degradation applies only to the disposal of wastes. The use of recycled water should not be considered a discharge of waste and anti-degradation should not apply. The Bureau believes that a Regional Water Quality Control Board's (Regional Board's) interpretation of anti-degradation could result in extensive analyses of assimilative capacity for irrigation projects. The cost of undertaking expensive studies, assessments, and reporting -- where ambient groundwater quality meets Basin Plan objectives and recycled water meets all permit limitations – will ultimately discourage the development of future recycling projects.

WRP Requirement 7(d): Regional Boards shall require that the monthly average TDS concentration in the recycled water not to exceed the monthly average TDS concentration of the source water supply by 300 mg/l.

The present proposal to limit TDS to source water plus 300 mg/L is too restrictive and impractical. According to the statewide policy, in order to be able to irrigate using recycled water from two of the City of Los Angeles' Water Reclamation Plants, Los Angeles-Glendale (LAG) and Donald C. Tillman (DCT), the TDS value of the recycled water cannot exceed 300 mg/l plus the TDS value of the potable water source. In 2005, the average TDS value for one of the potable water sources for LAG and DCT, the Los Angeles Aqueduct, was 109 mg/l. The policy as written would set the TDS limit of 409 mg/l for the use of recycled water. However, The TDS range for LAG, in 2005, was 512-770 mg/l with the average of 659 mg/l. For DCT, the range was 449-948 mg/l with the yearly average 614 mg/l. As a result of the policy's TDS limit, the use of recycled water for irrigation from these two plants would have to be discontinued, without any scientific basis or reason. The Bureau would instead have to discharge high quality irrigation water to the Los Angeles River instead of watering golf courses, cemeteries, and other greenbelts.

Furthermore, calculating the average monthly TDS concentration of the source water in a service area of our Water Reclamation Plants would be difficult and impractical. The Los Angeles Department of Water Power blends water from the Los Angeles Aqueduct, Metropolitan Water District (MWD), and groundwater. Additionally, the City of Glendale, whose collection system flows into the LAG service area, also blends MWD and groundwater. It would be extremely difficult to calculate the TDS of the "blend" of water being used in each of our service areas. The policy would also create a moving target and make it difficult to comply when drought and other climatic changes cause the blend of source water to fluctuate.

The City's collection system also receives wastewater from many contract cities with yet additional sources of potable water supply. Ensuring compliance with the policy's requirement, limiting TDS concentration of recycled water to the potable water concentration plus 300 mg/l, through industrial local limits would require enforcement of an adjustable industrial discharge limit (fluctuating with the combined potable water concentration) which is not practical to implement.

This requirement will also end up penalizing agencies with successful water conservation programs. Water usage is the same today as it was 25 years ago despite an increase in population of nearly 1 million people. This has resulted in a higher TDS concentration of our wastewater. Ultimately the 300 mg/l incremental baseline limitation will place the City's water recycling program in jeopardy.

To encourage the use of recycled water for irrigation, the Bureau recommends that the policy not specify a TDS requirement. A 300 mg/l above the baseline TDS limitation will not encourage the use of recycled water and may place existing water recycling program in jeopardy.

WRP Requirement 7(e): Regional Boards shall require Compliance with 40 CFR 122 (NPDES) in WDRs and WRRs

The reference to NPDES permits in the policy is confusing and may have the unintended consequence of requiring individual NPDES permits to regulate runoff. There are adequate existing regulatory schemes for managing irrigation runoff including MS-4 and other low threat discharge permits. The NPDES program is a federal permitting requirement that sets limits on the amount of pollutants from a point source (Municipal, Industrial, Stormwater, Mining, Feedlot, and Aquaculture). The policy should not issue NPDES permits or WDRs to recycling projects that irrigate safely with high quality recycled water that meets Title 22 drinking water standards.

Incidental runoff from irrigation projects such as golf courses and parks should be treated the same as potable water. It would not be possible to ensure that minor amounts of runoff from a golf course or park comply with effluent limitations in an NPDES permit, and the logistics and costs associated with its capture, treatment, and ultimate disposal do not justify any environmental benefit.

Recycled water irrigation projects should be regulated only by Water Recycling Requirements (WRRs), not WDRs or NPDES permits. Additional permits and restrictions are a hindrance to future water recycling efforts. Unnecessary and costly regulations placed on irrigation projects will result in producers and end users simply substituting potable water to avoid potential monitoring and additional permitting costs.

The Bureau recommends the removal of the reference to NPDES permits and instead a statement that irrigation projects be regulated only by WRRs.

WRP Requirement No. 8: Regional Boards shall only require groundwater monitoring for a recycled water irrigation project if site conditions, such as shallow groundwater, could cause an increased potential to adversely affect public health...

Groundwater monitoring is not necessary for recycled water irrigation projects. The policy's requirement to allow a Regional Board to require groundwater monitoring when there are "site conditions such as shallow groundwater" that could "adversely affect public health or surface water" is vague and provides Regional Boards with discretion to require monitoring without regard to the uses of the underlying groundwater or any demonstrated impact of the irrigation project on that groundwater. Allowing Regional Boards the discretion to require groundwater monitoring based on the depth of the water table will defeat the purpose of creating consistent statewide standards. Regulation of salts and other constituents should be done on a watershed basis and individual irrigation projects should not be burdened with unnecessary groundwater monitoring requirements.

The policy should not assume that groundwater recharge is either intended or anticipated as the result of an irrigation project utilizing high quality recycled water. The policy should recognize that water recycling projects are designed and operated to use water efficiently and minimize runoff. Recycled water irrigation projects will not result in groundwater recharge.

The Bureau recommends that this requirement be removed from the policy. Requiring any groundwater monitoring of a recycled irrigation project will not encourage municipalities in this state to use recycled water. This is especially true if a project is an area where existing wells are non-existent or not suitable for groundwater monitoring. The cost of providing new wells for monitoring will not encourage the development of future recycled water projects.

WRP Requirement No. 11: For constituents for which DPH has not established an MCL, a RWQCB may interpret a narrative objective for toxicity for protection of human health...

As noted, the Bureau recommends that the policy deal only with recycled water for irrigation and not create requirements for groundwater recharge. However, if groundwater recharge is retained as part of the policy, then DPH requirements should control. Allowing a Regional Board to establish limits that are more stringent than an MCL does not lead to consistent statewide requirements and defeats the purpose of the policy. Furthermore, the Water Code Section 13529(f) states that the "use of recycled water has proven to be safe and the State Department of Health Services is drafting regulations to provide for expanded uses of recycled water." These standards are drafted and can be added to or modified as DPH believes is necessary. If Regional Boards are allowed to establish limits more stringent than drinking water, then recycled water will not be used for irrigation or groundwater recharge. If recycled water meets DPH requirements, then it should be treated in the same manner as when potable water is used to recharge the groundwater aquifer. Since DPH has the authority to regulate potable water, it should also have the authority to set standards for recycled water based on public health.

This provision also allows a Regional Board to establish an effluent limit for which DPH has not established an MCL under circumstances where it has complete discretion in choosing which constituents and at what levels to regulate. The policy fails to indicate which constituents are not being addressed by DPH and to indicate the scientific basis that will be used to set more stringent MCLs than those set by DPH. This requirement as written has the potential to undo the State Water Board's decision on the Alamitos Barrier Project where Action Levels were used as limits on recycled water. The policy should allow DPH to set requirements for spreading or injection of recycled water into groundwater. Furthermore, DPH requirements should also be used in the same manner as they are for potable water. Action Levels and Notification Levels should be applied as such and compliance with MCLs should be based on an annual average.

The Bureau requests that the policy recognize that DPH is the authority for standards for the protection of human health. Furthermore, if the State Board chooses to allow the Regional Boards discretion in this area, then the policy needs to discuss the scientific basis that will be used to set more stringent MCLs. The policy should also require Regional Boards to apply DPH requirements in the same manner as they apply to potable water.

WRP Requirement No. 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 Bureau is concerned with the policy's statement assigning financial liability for past use if drinking water standards become more stringent in the future and request clarification regarding

the policy's intent. The Bureau would suggest redrafting the policy's statement to state that "Nothing in this Policy is intended to expand or limit liability under existing law for contamination of groundwater." Holding an entity that is complying with the requirements of this policy and its permits liable for future changes in drinking water standards will not encourage the use of recycled water for irrigation. This is approaching recycled water as a waste rather than a resource to be beneficially used. Such a provision is consistent with the intent of the existing regulatory scheme to protect the public health and the environment. Setting liability based on a temporary exceedance of a limit which was not in existence will deter the development of recycled water projects for irrigation. This is especially true for irrigation projects where a statement of liability could cause discourage producers and users from using recycled water.

The requirement in the policy may also conflict with the recent decision in the Hartwell Case which provided a safe harbor for water utilities regulated by the Public Utilities Commission against future liability when water standards become more stringent. The Bureau believes this case is also applicable to the use of recycled water for irrigation.

If you have any questions regarding the above technical comments, please contact H.R. (Omar) Moghaddam, Manager of the Regulatory Affairs Division, at (310) 648-5423.

October 26, 2007

Ms. Jeanine Townsend
Acting Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, California 95814

Dear Ms. Townsend:

Subject: Comment Letter – Proposed Water Recycling Policy

The Los Angeles Department of Water and Power (LADWP) appreciates the opportunity to provide comments on the State Water Resources Control Board's (State Board) Draft Proposed Water Recycling Policy (Policy), and commends the Board for their effort to develop a uniform statewide water recycling policy. The State Board's Resolution No. 77-1 states that the Board must adopt principles that encourage and promote water reclamation in water-short areas of the State to supplement and/or replace present water supplies.

A uniform policy will allow agencies to develop long range plans to use recycled water in areas where its use will supplement existing potable water supplies. Recycled water provides a local reliable source of water. The use of recycled water reduces the reliance on outside sources of water, limits the effect of climate change on water supplies, and uses less energy than importing water from outside the area which results in the generation of fewer greenhouse gases.

LADWP sponsored Assembly Bill 1481 (AB 1481) that was signed into law on October 12, 2007 and suggests that provisions of this bill be written into any policy that addresses irrigation uses of recycled water. This bill requires the State Board to develop a statewide permit for the use of recycled water for irrigation projects, including the establishment of eligibility criteria for coverage under the permit. The passage of AB 1481 reflects the state's recognition that a streamlined statewide recycled water irrigation policy is necessary, and allows agencies that are already subject to recycled water irrigation permits issued by Regional Boards to either continue coverage under their existing permit or apply for coverage under the statewide permit.

LADWP supports the State Board's efforts on promoting the development of the basin-wide salt and nutrient management plans and the implementation of irrigation water use procedures to reduce the over application of recycled water. The Statewide Policy should be written in such a way as to provide agencies with guidelines for the use of recycled water while achieving water quality objectives and protecting public health. The LADWP agrees that in order to protect the water quality objectives and human health, the development of basin wide salt management plans, nutrient management practices and recycled water irrigation application criteria is an effort in the right direction. Implementation of these portions of the policy will be effective at limiting the build-up of salts and nutrients in the soil and groundwater and will help in reducing the wasteful use of recycled water.

Salt build-up in soil and groundwater has been a concern and needs to be studied on an ongoing basis with a basin-wide approach. Therefore, development of basin wide salt management plans, through data collection, will help in addressing the effects of salt build-up in the soil and groundwater. This will allow a more effective result to limit impacts, if any, from all water sources on the quality of the groundwater. As stated in the draft Policy, the use of water from any source, for irrigation, results in the deposition of salts into the soil. A basin wide salt management plan will better address all these possible avenues of salt contamination.

While the draft Policy is intended to address many issues that will encourage recycled water use and provide agencies with statewide guidance, the LADWP believes some of the Policy's requirements will, as written, hinder the implementation of recycled water projects.

LADWP's main areas of concern are:

- Combining of the irrigation program and groundwater recharge project language in the same policy,
- Regulating recycled water as a waste product,
- A restrictive and unattainable Total Dissolved Solids (TDS) limit,
- Increased groundwater monitoring,
- The future liability issue
- The local Regional Board's authority

LADWP has the following comments:

Provide separate policies for irrigation and groundwater recharge projects

The Policy as written combines requirements for both irrigation and recharge projects. These types of applications are distinctly different. Landscape Irrigation with Title 22 recycled water, is generally a de-minimus discharge with little or no impact to the

underlying groundwater aquifer. When properly designed and managed, irrigation projects should not cause significant groundwater percolation concerns. On the other hand, groundwater recharge immediately influences the groundwater since it is injected or discharged directly into the water table. Since groundwater recharge projects are already regulated by the California Department of Public Health (CDPH) regulations, Waste Discharge Requirements, and Water Recycling Requirements, the policy should only address irrigation. In addition, separating the irrigation policy will facilitate the implementation of Assembly Bill 1481 and make the permitting process more streamlined and efficient.

LADWP suggests that the language in the policy that addresses groundwater recharge projects be developed in a separate policy. However, if the State Board believes that groundwater recharge should be included in a single policy, LADWP recommends separating the policies into 2 sections, one that addresses irrigation projects and one for groundwater recharge projects.

Regulating Recycled Water as a discharge of waste in the policy language

Many portions of the draft policy are written as if the use of recycled water is a waste discharge. The use of recycled water for all possible uses, such as irrigation is not a discharge of waste but use of another water resource. Recycled water that meets Title 22 requirements is considered safe for irrigation and should not be considered a discharge of waste that requires compliance with NPDES requirements. Recycled water is defined as a valuable resource (Water Code section 13050(n)) and should not be regulated as a wastewater.

Total Dissolved Solids (TDS), Page 2, Item 12; Page 4, Item 7d

The Policy as written states that recycled water used for irrigation, shall not exceed a TDS value of 300mg/l above the TDS level in the potable source water. LADWP believes this method for determining a TDS level sets a restrictive and highly variable limit without scientific basis and discourages both the current use of recycled water and future water conservation efforts. Additionally, there has been no scientific study offered showing how the TDS limit stated in the policy was determined or what level of TDS in irrigation water has an impact on groundwater quality. Finally, the stated limit creates a more restrictive limit where a limit already exists in the reclamation plant's WRR used for irrigation water.

According to the Statewide Policy, in order to be able to irrigate the grass using recycled water from two of the City of Los Angeles' Water Reclamation Plants, Los Angeles-Glendale (LAG) and Donald C. Tillman (DCT), the TDS value of the recycled water cannot exceed 300 mg/l plus the TDS value of the potable water source. In 2005, the

average TDS value for one of the potable water sources for LAG and DCT, the Los Angeles Aqueduct, was 109 mg/l. The policy, as written, would set a TDS limit of 409 mg/l for the use of recycled water. However, the TDS range for LAG, in 2005, was 512-770 mg/l with an average of 659 mg/l. For DCT, the range was 449-948 mg/l with a yearly average 614 mg/l. As a result of the State Policy's TDS limit, the use of recycled water for irrigation from these plants would have to be discontinued, without any scientific basis or reason.

Linking the TDS limit of the recycled water to the monthly average TDS concentration of the source water is problematic due to the blending of multiple sources of water with highly varying TDS values. LADWP blends water from the Los Angeles Aqueduct, State Water Project, Metropolitan Water District, and the Colorado River. In 2005, these sources had an average TDS value ranging from 109 mg/l (LA Aqueduct) to 302 mg/l (State Water Project). Using this possible TDS range in implementing the policy would result in a TDS limit ranging from 409 to 602. Because of the variability of the source water blend, the TDS limit would be continually changing and therefore difficult to comply with. In addition, due to this variability of the TDS limit, municipalities within the same area could have a different TDS limit even though the reclaimed water is being applied in the same vicinity over the same groundwater aquifer.

Water conservation results in an increase in TDS values due to decreased dilution of the wastewater. The Policy as written, with such a restrictive TDS limit, without scientific basis, will penalize agencies who have implemented successful water conservation programs.

LADWP also believes that setting a limit in the policy is not necessary as limits are already required as part of the Reclamation Plant's Water Recycling Requirements (WRRs). The limits set in the WRRs are standards developed to protect the groundwater aquifers. Having two standards is not necessary and confusing. The TDS limit set in the existing WRR's was issued after thorough investigation of the attenuation of the constituents utilizing groundwater modeling.

Finally, LADWP believes that TDS levels in recycled water irrigation projects are self-regulated and driven by the customers' irrigation needs. If a proposed irrigation project does <u>not</u> meet the TDS Basin Plan Objective and the Board determines that a regulatory framework needs to be established, the framework should be developed in such a way as to not deter the use of recycled water. For example, using a TDS increment of 300 mg/L would cause irrigation with Title 22 recycled water to ultimately cease in the City of Los Angeles and other areas.

LADWP recommends that the State Board remove the 300 mg/l limitation in the policy as written and in its place apply the area-wide salt management plans already required by the policy. Until the area-wide salt management plans are developed and

implemented, LADWP suggests that an exemption, with the use of best management practices (BMPs) controlling the application of the irrigation water, be put in place. The policy needs to be developed to reflect the goal that allows and encourages the use of recycled water.

Increased Groundwater Monitoring, Page 5, Item 8

Groundwater monitoring triggered by the use of irrigation water will impose an undue burden on agencies and will discourage the use of recycled water. Properly controlled application of recycled irrigation water is a de-minimus activity and should not require site specific groundwater monitoring. Because the stated goal of the policy is for statewide consistency, allowing the Regional Board the authority to determine which site conditions might require groundwater monitoring defeats the purpose of a consistent statewide policy and allows the Regional Boards too much discretion in implementing this policy.

LADWP concurs with the State Board, that the application of irrigation water in the amounts needed for landscaping and crops will not result in more of a threat to groundwater quality than irrigation with potable or groundwater making the need for groundwater monitoring unnecessary and not effective in determining the effect the application of recycled water alone has on groundwater quality.

It is not reasonable to assume that once recycled water is applied to the ground that all water quality changes to the groundwater are due to the application of the recycled water and not other influences. In fact, since the application of recycled water to water the grass is a de-minimus activity, it can be assumed that the amount or concentration of TDS applied to the ground is insignificant.

Should the RB believe that the application of irrigation water from any source (potable, groundwater, recycled water) could impact groundwater quality, LADWP suggests that the Regional Board develop a regional water supply database which includes the already collected area-wide groundwater monitoring that is being done by the water utility companies and others.

Finally, AB 1481 requires the State Board to establish the eligibility criteria for coverage under the General Statewide Permit for landscape irrigation projects. Projects which do not satisfy the permit's criteria would be ineligible and would need to consult with their local regional board. LADWP recommends that Item 8 be rewritten stating that a Regional Board may only require groundwater monitoring for a recycled water irrigation project if the project is determined to be ineligible for coverage under the statewide permit.

Future Liability, Page 6, Items 17 and 18

The policy, as written, holds an agency responsible for contamination of groundwater even if it is complying with the current requirements. Holding an entity that is complying with the requirements of this policy liable for future changes in standards will not encourage the use of recycled water. Compliance with regulations should protect an agency from liability. LADWP believes an agency should not be responsible for complying with a future standard that does not exist at the time of setting the current requirements. If drinking water standards do change in the future, the effect that the future standard has on groundwater quality that should be addressed at the time the new standard is adopted. This portion of the policy is a vague "moving target" that cannot be met and discourages the use of recycled water. In addition, all groundwater used as a potable water source is treated/blended to meet the drinking water standards set by the California Department of Public Health (CDPH).

LADWP recommends that the policy be re-written stating that anyone operating within current standards shall not be held liable in the event those standards change. Also, a grace period should be in place for recycled water suppliers to meet any new standard developed by regulators.

Authority of Regional Boards, Page 5, Items 8 and 9

The stated purpose of the statewide policy is to provide direction to the Regional Boards to ensure consistent interpretation of the policy requirements. The draft Policy provides the Regional Boards with too much discretion on how the Policy is to be interpreted. This defeats the goal of the Policy to implement a consistent statewide water recycling policy.

LADWP strongly suggests that the policy be written to provide guidance language to the Regional Boards on how to implement the uniform statewide requirements.

In closing, LADWP also supports the comments on the Statewide Policy prepared and submitted by the California Section of the WateReuse Association. Again, LADWP supports the development of a uniform statewide recycled water policy in order to meet the state's water recycling goals and commends the Board for their efforts to develop a uniform statewide water recycling policy. Such a policy is essential in working towards achieving the State's goals for maximizing the use of recycled water. Our situation in Los Angeles, where it took six years to get a permit to water the grass, and there are still outstanding questions, is why this policy is so urgently needed. LADWP looks forward to working with you in developing a policy that all suppliers can participate.

If you have any further questions regarding this comment letter, please feel free to contact Mr. Mark Bassett of the Wastewater Quality Compliance Group at (213) 367-3059.

Sincerely,

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