



July 19, 2012

Charles R. Hoppin, Chair and Members  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

Via Email: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Subject: Comment Letter – Phase II Small MS4 General Permit

Dear Chair Hoppin and Members of the Board:

WaterReuse California was a participant in the process to develop the Recycled Water Policy (Policy) approved by the Board in 2009. The Policy is an important element of our collected effort to meet the State's goal of increasing recycling to 2.5 million acre-feet by 2030. The Policy addressed incidental runoff, and we are concerned that the draft Phase II Small MS4 General Permit is inconsistent with the Policy in this regard.

We offer the following comments on draft Phase II Small MS4 General Permit as follows:

- **Definition of Incidental Runoff.** The definition of incidental runoff in the draft Phase II Small MS4 General Permit (Section B.4) differs from that in the Policy (Section 7.a) in two important ways as follows.
  1. The definition of incidental runoff in Section B.4 of the draft Phase II Small MS4 General Permit includes “runoff from potable and recycled water use areas”. Potable and recycled water are but two of many possible sources of irrigation supply with the potential to be a source of runoff. To the extent that the Board considers regulation of runoff in the draft Phase II Small MS4 General Permit necessary to protect beneficial uses, water source is not relevant and reference thereto should be deleted.
  2. The definition of incidental runoff in the Policy is in a section entitled *Landscape Irrigation Projects*, (Section 7), which clarifies that the definition applies to runoff from landscape irrigation projects. The applicability of the definition in the draft Phase II Small MS4 General Permit should be similarly defined.

These two comments about the definition of incidental runoff can be addressed with the following change to the second sentence in Section B.4:

### ***Recycling Water to Meet the World's Needs***

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“Incidental runoff is defined as unintended amounts (volume) of landscape irrigation runoff ~~from potable and recycled water use areas~~, such as unintended, minimal over-spray from sprinklers that escapes the area of intended use.”

Section B.3.n should also be changed as follows:

“incidental runoff ~~of potable or recycled water~~ from landscaped areas (as defined and in accordance with section B.4 of this Permit).”

- **Notification.** Section B.4.d of the draft Phase II Small MS4 General Permit requires Regional Water Board notification “no less than four hours prior to the discharge” from a recycled water storage pond. Notification of a discharge *prior* to its occurrence is not possible since the discharge has not occurred. We recommend that notification be required *after* a discharge has occurred. We also recommend that 24 hours notification be allowed since some storage ponds are remote and may be difficult to access during storm events. Also, Section B.4.d is unclear as to whether notification should be provided for any storage pond discharge or for discharges that occur as a result of a storm event less severe than the 25-year, 24-hour event. These comments (and minor editorial issues) can be addressed with the following change to Section B.4.d

“Manage ponds containing recycled water such that no discharge occurs unless the discharge is a result of a 25-year, 24-hour storm event or greater, and the appropriate Regional Water Board is notified of discharges resulting from a less severe storm event by email no later than 24 ~~four~~ hours after ~~prior to~~ the discharge. The notification is to include identifying information, including the Permittee’s name and permit identification number, and”

- Section B.4.e would require “[a]ny other actions necessary to prevent the discharge of incidental runoff to the MS4 or waters of the U.S.” to prevent incidental runoff. This is overly restrictive and amounts to a prohibition of incidental runoff. It is also more restrictive than the Policy and no justification is provided in the Fact Sheet. We strongly urge deletion of Section B.4.e.
- **Consistency with the Water Efficient Landscape Ordinance.** In 2006, the State Legislature required the update of the Model Water Efficient Landscape Ordinance (WELo) and required all local agencies to adopt the updated WELo or equivalent by January 1, 2010. The WELo includes requirements for efficient landscape and irrigation design, soil management, irrigation scheduling, landscape and irrigation maintenance, irrigation auditing and irrigation efficiency. To avoid inconsistency between requirements, section E.11.j should refer to the requirements of the WELo for landscape and irrigation design and maintenance.

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Thank you for your consideration. Please contact me if you request additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "David W. Smith". The signature is written in a cursive, flowing style with a large initial "D" and "S".

David W. Smith, PhD  
Managing Director