



# CALIFORNIA FARM BUREAU FEDERATION

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*Submitted via email:*

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## **RE: Comment Letter—Proposed Recycled Water Policy Amendment**

The California Farm Bureau Federation (“Farm Bureau”) is a non-governmental, non-profit, voluntary membership California corporation whose purpose is to protect and promote agricultural interests throughout the state of California and to find solutions to the problems of the farm, the farm home, and the rural community. Farm Bureau is California’s largest farm organization, comprised of 53 county Farm Bureaus currently representing approximately 48,000 agricultural, associate, and collegiate members in 56 counties. Farm Bureau strives to protect and improve the ability of farmers and ranchers engaged in production agriculture to provide a reliable supply of food and fiber through responsible stewardship of California’s resources.

### **General Comments**

The Water Board’s draft amendments to its statewide Policy for Water Quality Control for Recycled Water (“Draft Policy” dated 5/9/2018) affect numerous important areas of statewide water policy interest to California agriculture. With all indications pointing to a future where technological innovation and careful stewardship of limited available water supplies are increasingly important, the Draft Policy provides important direction for development of recycled water supplies in an exceedingly complex regulatory environment. Farm Bureau generally commends the Draft Policy’s “Benefits of Recycled Water.”<sup>1</sup> Farm Bureau also appreciates the Water Board’s commitment to substantially augment and diversify California’s overall water portfolio with its bold statement of the goal to increase the use of recycled water from 714,000 acre-feet per year to 1.5 million afy by 2020 and 2.5 million afy by 2030.<sup>2</sup> To achieve these goals, however, it is important to ensure that *all* aspects of the Water Board’s Draft Policy are working toward their achievement—and, conversely, that no feature of the Policy is, in any way, avoidably working against it. In keeping with these dual objectives, Farm Bureau suggests some key revisions to reduce potential obstacles to expeditious project permitting.

<sup>1</sup> See 5/9/2018 Draft Policy Markup at 3, Sections 2.1 and 2.2.

<sup>2</sup> *Id.* at Section 3.1.

## **Opportunities and Special Considerations for Agriculture**

As local Groundwater Sustainability Agencies (“GSAs”) begin implementation of local Groundwater Sustainability Plans (“GSPs”), and as California water managers, localities, and state agencies work to meet the challenges of future droughts and climate variability, recycled water will assume an increasingly important role in water management. For agriculture, as highlighted in the Draft Policy, important emerging opportunities include voluntary ag-urban partnerships in agricultural areas adjacent to urban centers, voluntary opportunities to safely irrigate crops, voluntary opportunities to supplement and diversify existing agricultural water supplies, meeting future challenges under SGMA and from a changing climate, recharging groundwater with recycled water (whether directly, or via in lieu recharge) and, in coastal areas, providing a barrier against saltwater intrusion. At the same time, as highlighted in the Draft Policy, an expanded role for recycled water entails numerous complexities and requires careful balancing of potential risks and concerns. Notwithstanding potential benefits of recycled water for agriculture, areas of potential concern include:

- The importance of developing recycled water as a voluntary supplemental water source, and not as a waste disposal method or as a substitute for traditional water sources;
- Maintaining existing water rights and avoiding potential loss through non-use;
- The need for full, site-specific understanding of potential practical and agronomic constraints on recycled water uses in agriculture;
- The need for technical assistance and on-going research concerning recycled water use in agriculture and for potential groundwater recharge;
- Concerns relating to potential consumer perception issues and basic public health and safety;
- Concerns relating to potential effects on downstream users;
- The need for robust input and involvement from local growers at the local and regional level;
- Potential liability issues;
- Recognition of the time, complexity, and economic burdens associated with project permitting, regulatory compliance, reporting, monitoring, etc.

## **Waste and Unreasonable Use**

While incentives for robust development of recycled water supplies to meet the Water Board’s 2020 and 2030 goals, Farm Bureau has reservations concerning the Draft Policy’s proposed use of the Water Board’s waste and unreasonable use authorities to inflexibly force local water agencies to put available recycled water to beneficial use in every circumstance.<sup>3</sup> It is important to recognize that there may be circumstances in which recycled water is available, but where its use is impractical, infeasible, or undesirable for the one reason or another. In such cases, the Water Board’s Policy should afford it sufficient enforcement discretion to refrain from an exercise of its section 275 authorities as appropriate.

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<sup>3</sup> See *id.* at page 7, Sections 3.3.1 and 3.3.2.

## Proposed Streamlining Measures

Farm Bureau appreciates the Draft Policy’s inclusion of streamlining that would empower a regional board to “find that groundwater sustainability plans developed pursuant to [SGMA] include water quality components that sufficiently address the components of and therefore are functionally equivalent to a salt and nutrient management plan.”<sup>4</sup> Allowing regional salt and nutrient management plans to “leverage the use of groundwater monitoring wells from other regulatory programs, such as the Irrigated Lands Regulatory Program [“ILRP”] and [SGMA],”<sup>5</sup> is also helpful to reduce duplication, complexity, and expense. Similarly, helpful flexibility is provided in the provision (at Section 6.2.1.5, on page 13 of the Draft Policy) to afford the regional boards discretion to “adopt plans or programs of implementation for the protection of beneficial uses in basins whether or not a salt and nutrient plan has been accepted by the regional board [...] or a basin plan amendment has been adopted by the regional water board[....]” In short, streamlining features that reduce costs and shorten processes by allowing requirements to be met through already required regional salt and nutrient management plans, irrigated lands regulatory programs, groundwater sustainability plans, streamlined anti-degradation analyses and the like, are generally positive and important to achieve the Board’s ambitious 2020 and 2030 goals for statewide recycled water use.

One key exception is the third proposed requirement for “streamlined” permitting for “irrigation projects” using nonpotable recycled water under 7.3.1.3 of the Draft Policy.<sup>6</sup> Specifically, the proposed criterion that irrigation projects “minimize percolation ... below the root zone ... in a manner ... necessary to satisfy the plant’s root evapotranspiration requirements,” etc. would improperly prescribe specific agronomic practices. The proposed criterion is improper and unnecessary in light of the first two proposed criteria (relating to “[c]ompliance with all applicable laws and regulations” and an “approved engineering report”) and where, as proposed, a project eligible for streamlining is *already* one that “would not cause or contribute to pollution or nuisance, or otherwise fail to comply with the applicable basin plan or State Water Board plans or policies.” Since the background context of “applicable laws and regulations” and of “the applicable basin plan or State Water Board plans or policies” would *already* include such things as any required regional salt and nutrient management plans, the IRLP, SGMA, and the Water Board’s anti-degradation and recycled water regulations, these additional provisions would only serve to slow permitting of beneficial recycled water projects, strongly deterring farmers from voluntary wider adoption of recycled water use. Because such unintended consequences are directly contrary to the Water Board’s laudable 2020 and 2030 goals for statewide recycled water expansion, Farm Bureau recommends deleting the excessive and unnecessary third criterion under 7.3.2.1.3, page 19, of the Draft Policy.

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<sup>4</sup> *Id.* at page 13, Section 6.2.1.4.

<sup>5</sup> *Id.* at page 15, Section 6.2.4.1.2.

<sup>6</sup> *Id.* at page 19, Section 7.3.2.1.3.

## **The Need for Additional Focus on Unique Agricultural Challenges**

Farm Bureau generally supports the Draft Policy's approach to interagency cooperation in furtherance of the Policy's goals including collaboration with the California Department of Food and Agriculture, "with grower coalitions, third-party technical service providers, public and private agricultural entities, and academia."<sup>7</sup> At the same time, to ensure advancement of the Draft Policy's goals with respect to recycled water, the Draft Policy should more specifically establish a framework for research and technical assistance related to the many technical and agronomic issues arising uniquely in an agricultural setting. For example, this could include work with the University of California's Cooperative Extension offices, with the NRCS, and with agricultural researchers at California private and public universities and colleges. To facilitate and more clearly define the precise nature of interagency cooperation between the Water Board and CDFA, the Water Board's policy might also establish the pathway toward an eventual MOU for implementation.

### **Conclusion**

Thank you for the opportunity to provide comments on the draft amendments to its statewide Policy for Water Quality Control for Recycled Water. As noted, however, in order to ensure that these goals are achieved, the Recycled Water Policy must more forthrightly consider and address the unique needs of agriculture. The Water Board must exercise its section 275 authorities reasonably, with flexibility and due restraint. Proposed streamlining measures should maximally reduce required processes and costs, while at the same time adequately protecting public health and the environment. Finally, and very emphatically, the Board's Policy should in no way dictate specific agronomic practices or otherwise improperly constrain a farmer's ability to manage his lands, produce an agricultural commodity, and successfully move it to market. Questions or concerns regarding these comments may be directed to Justin Fredrickson at (916) 561-5673

Sincerely,



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<sup>7</sup> *Id.* at pages 8-9, Section 4.5.