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June 26, 2018

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



Dear Ms. Townsend:

Subject: Comment Letter – Proposed Recycled Water Policy Amendment

The Los Angeles Department of Water and Power (LADWP) would like to thank the State Water Resources Control Board (SWRCB) for the opportunity to comment on the Proposed Amendment to the Policy for Water Quality Control for Recycled Water (Proposed Amendment) released May 9, 2018.

LADWP is currently making significant infrastructure investments to address environmental impacts, such as long drought periods due to climate change. Recycled water can offset potable water demands and is a key component in reducing overall potable water usage, especially during water shortage periods. LADWP plans to increase recycled water use in its service territory to 59,000 acre-feet per year (AFY) by 2025, and has set a long-term goal to reach 75,000 AFY by 2040. As part of reaching this goal, LADWP is always looking for opportunities to expand recycled water use and has updated its Recycled Water Master Plan to include other uses such as the use of recycled water for groundwater replenishment and surface water augmentation.

LADWP commends the SWRCB on its continued work on this policy in order to allow for the use of recycled water. Since the last amendment in 2013, there have been changes that will support an expanded use of the recycled water program which is important for areas throughout California that will need to find an alternative to potable water. With respect to this version of the amendment, LADWP appreciates and supports that the SWRCB may consider potential cumulative impacts of past, present, and probable future projects. LADWP also appreciates the clarification for wastewater change petitions as well as the language for salt and nutrient management plans. In addition, LADWP was pleased to see that the mandates have been changed to goals for encouraging the increased use of recycled water. These modifications are valuable for the success and use of recycled water going forward. As we continue to work together, LADWP respectfully provides the following comments on the Proposed Amendment:

General Overall Comments:

LADWP believes the Proposed Amendment should be flexible and allow for a streamlined process to approve recycled water projects. The focus should be on the benefits and maximizing the use of recycled water. LADWP encourages greater interagency coordination so that these projects and 1211 petitions have a well-organized and efficient path forward that is cost-effective and time-saving. LADWP believes that for those areas where the science shows the loading of the nutrients does not warrant the need for a Salt and Nutrient Management Plan (SNMP), the requirements should be flexible and streamlined. Duplication of analysis and reporting needs to be evaluated and existing databases such as the California Integrated Water Quality System (CIWQS) and other sources that are already in place for monitoring and reporting are utilized instead of reinventing new ones. Regulatory certainty is important for successful implementation of recycled water projects and therefore should be a goal of this Proposed Amendment.

Specific Comments:

1. Definition for Water Purveyor (p. v)

With regards to the definition of Water Purveyor, LADWP believes more clarity is needed. LADWP recommends clarifying the inclusion of recycled water in the definition for a Water Purveyor as: "An entity that supplies water and/or recycled water."

2. Goals and Reporting Requirements (Section 3.2, p.3)

The Proposed Amendment establishes reporting requirements set by the SWRCB. In order to provide regulatory certainty and avoid confusion, in addition to the requirements to be consistently applied throughout the State, LADWP believes clarification is needed as to whether or not these reporting requirements will replace or supersede those set by the Regional Water Quality Control Boards (Regional Boards).

LADWP recommends adding language to clarify whether the SWRCB reporting requirements will replace or supersede reporting requirements set by the Regional Boards.

3. Goals and Reporting Requirements (Section 3.2, p.3)

The Proposed Amendment also updates the language from "mandates" to "goals" throughout the document. As such, LADWP believes that there was an oversight with the sentence, and suggests changing the phrase "or establish mandates" from Section 3.2 to "or establish goals."

4. Goals and Reporting Requirements Definitions (Section 3.2.1.4.2, p.5)

In Section 3.2.1.4.2 of the Proposed Amendment (p. 5), it appears that the definitions of Reservoir Water Augmentation and Raw Water Augmentation are the same. LADWP believes this may have been an error.

Reservoir Water Augmentation is the planned placement of recycled water into a raw surface water reservoir used as a source of domestic drinking water supply for a public water system, as defined in Section 116275 of the Health and Safety Code, or into a constructed system conveying water to such a reservoir (Water Code §13561) as described in the Proposed Amendment. Raw water augmentation is the planned placement of recycled water into a raw water supply, such as a reservoir, lake, groundwater basin.

Therefore, LADWP requests the SWRCB clarify these two definitions.

5. Wastewater Change Petitions (Section 5, p.9)

LADWP agrees with the intent in Section 5.2, however it is not clear which guideline(s) the SWRCB would use to determine whether the proposed change would cause injury or unreasonably affect instream uses.

LADWP recommends more discussion with stakeholders in order to provide regulatory certainty to determine which guidelines should apply.

6. Salt and Nutrient Management Plans (Section 6, p.10)

In Section 6.1.2, the Proposed Amendment refers to “salt and nutrient pollution.” LADWP suggests changing this to “salt and nutrient loading” due to the possible misconstruction of the word pollution. To a certain degree, the salt and nutrients are necessary and may need to be managed in some areas where recycled water is utilized, but should not be misinterpreted as inherently harmful pollutants.

In Section 6.2.1.3, LADWP suggests adding “a salt and nutrient management plan that is in the development phase in coordination with the Regional Water Board” as one of the exemptions to the requirements of Section 6.2.4.

7. Bioanalytical Screening Tools and Constituents of Emerging Concerns Monitoring Requirements (Attachment A, p. A-5)

The Science Advisory Panel’s (SAP’s) recommendations for the Monitoring Strategies for Constituents of Emerging Concern (CECs) in Recycled Water dated April 2018, found there to be little to no threat for most chemicals in recycled water and concluded that work remained before a useful collection of assays would be ready for use to determine regulatory compliance. The SAP concluded that CEC monitoring is applicable for potable recycling uses, but unnecessary for non-potable reuse applications

approved under Title 22 (Monitoring Strategies for CECs in Recycled Water, Section 9.2, p. 98).

Similarly, although Estrogen receptor (ER) and Aryl Hydrocarbon receptor (AhR) bioassays show more utility than some conventional analytical techniques for assessing risk, simply detecting “activity” with the assay does not necessarily indicate that the recycled water will pose a threat to the environment or human health. LADWP also believes many laboratories will be unable to absorb the estrogen and aryl hydrocarbon receptor assay screening requirements. There is further concern about the consistency of results and the ability to develop testing in timely manner.

Furthermore, the proposed Monitoring Trigger Level (MTL) for the AhR assay (0.5 ng/L) is too close to the Method Detection Limit and the Reporting Limit. The results at that level are therefore estimated, and response actions should not be tied to unstable results. To that end, the SAP also stated that response actions would be premature at this time, and recommended a phased implementation of bioanalytical screening.

Although the Amended Recycled Water Policy also proposes a three-phased implementation approach, it did not follow the SAP’s recommendations. The initial assessment monitoring phase, which appears to correspond to Phase I of the SAP’s approach, would only be conducted for a period of one year, and several response actions are required if monitoring results exceed designated thresholds. This would be followed by a second phase of baseline monitoring for a period of three years, once again with several required response actions if monitoring results exceed certain thresholds. The third phase would be the standard operation monitoring phase, which would be based on the findings of the baseline monitoring phase.

LADWP respectfully requests modification of the Amended Policy to reflect the SAP’s recommendations. LADWP recommends that Phase I be extended to a three to five-year period, since a one-year monitoring program is unlikely to provide sufficient data to determine whether it will be appropriate to continue with the recommended in vitro bioassays or adjust the monitoring recommendations based on new developments in technology and application. LADWP also recommends deleting the requirement for response actions during Phase 1, since the Panel indicated that the existing process for interpreting and responding to in vitro bioassay results does not justify response actions at this time. LADWP recommends changing Phase II to a one-year pilot study to test the new monitoring framework developed after assessment of the Phase I results, as envisioned by the SAP, with deletion of the requirement for a three-year baseline monitoring program and for response actions during Phase II. Phase III would continue to represent the standard operation monitoring program, but should not be implemented until the bioanalytical methods have been standardized, validated, and certified (per the SAP’s recommendation).

In summary, LADWP believes that more research is essential to provide cost-effective, standardized approaches and transparent interpretation guidelines. LADWP suggests

revisiting the SAP's recommendations and delaying the implementation of bioanalytical screening. LADWP recommends requiring that the SAP review the bioscreening data collected during Phase I, in consultation with SWRCB staff, utility personnel and other interested stakeholders. This could be accomplished through the formation of a "Bioanalytical Advisory Group," as recommended by the SAP, to interact with on-going and future efforts to develop, evaluate and apply bioanalytical tools for water quality screening.

8. Monitoring Locations for Groundwater Recharge – Surface Application (Attachment A, p. A-10)

In order to be consistent with the new language in the SWRCB's regulations for Groundwater Replenishment Using Recycled Water (DPH-14-003E), LADWP suggests replacing the sentence at the top of page A-10:

At monitoring well locations designated in consultation with the State Water Board within the distance groundwater travels downgradient from the application site in 30 days.

with the following sentence:

At monitoring wells locations consistent with the requirements set by California Code of Regulations (CCR) section 60320.126, and approved by the Division of Drinking Water.

Water does not travel quickly through soil and in many instances will take more than 30 days to reach a nearby monitoring well. As such, sampling in 30 days is unlikely to yield meaningful results. Therefore, LADWP recommends, as has been noted above, that the SWRCB use the requirements set in the CCR Section 60320.126.

9. Groundwater Recharge – Surface Application (Attachment A, p. A-21)

In concurrence with the comment above, LADWP suggests replacing the following sentences:

The distance between the application site and the monitoring wells shall be no more than the distance the groundwater travels in 30 days downgradient from the application site. The location of the monitoring wells shall be designated by the regional water board in consultation with the State Water Board.

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with the following sentence:

The location of the monitoring wells shall be consistent with the requirements set by CCR section 60320.126, and be approved by the Division of Drinking Water.

In closing, LADWP thanks the SWRCB for updating the Proposed Amendment and appreciates the opportunity to provide comments. LADWP looks forward to continue working with SWRCB staff in this process. Should you have any questions regarding this letter, please contact me at (213) 367-0436 or Ms. Chloe Grison at (213) 367-1339.

Sincerely,



Katherine Rubin

Manager of Wastewater Quality and Compliance

CG

c: Ms. Felicia Marcus, Chair, SWRCB
Mr. Steven Moore, Vice Chair, SWRCB
Ms. Tam M. Doduc, SWRCB

Ms. Dorene D'Adamo, SWRCB
Mr. E. Joaquin Esquivel, SWRCB
Ms. Chloe Grison, LADWP