



# Santa Ana Watershed Project Authority

OVER 45 YEARS OF INNOVATION, VISION, AND WATERSHED LEADERSHIP



One Water One Watershed

AWRA INTEGRATED WATER RESOURCES MANAGEMENT AWARD  
HARVARD KENNEDY SCHOOL'S TOP 25 INNOVATIONS IN AMERICAN GOVERNMENT

June 26, 2018



Susan Lien Longville  
Commission  
Chair

Jeanine Townsend  
State Water Resources Control Board  
1001 I St., 24<sup>th</sup> Floor

Richard E. Haller, P.E.  
General  
Manager  
Sacramento, CA 95814

**RE: Comment Letter - Proposed Recycled Water Policy Amendment**

Orange  
County  
Water  
District

*Dear Ms. Townsend:*

Western  
Municipal  
Water District

The following comments are submitted on behalf of the Basin Monitoring Program Task Force administered by the Santa Ana Watershed Project Authority.<sup>1</sup> The Task Force is comprised of more than two dozen water and wastewater agencies in the Santa Ana region as is responsible for implementing the Salt and Nitrate Management Plan adopted by the Regional Board in 2004. Many of the new obligations set forth in the proposed amendment to the Recycled Water Policy are things that the Task Force has been doing for more than 12 years and our comments are based on this prior experience.

Eastern  
Municipal  
Water  
District

**Comments**

San  
Bernardino  
Valley  
Municipal  
Water  
District

- 1) As presently written it appears that the proposed amendments are intended to apply primarily to "projects" that deliberately recharge recycled water to groundwater. It is not clear if or how the new requirements might apply to the incidental recharge that occurs through the streambed when recycled water is discharged to surface waters. Is "incidental streambed recharge" considered a "planned use" or "recycled water project?"
- 2) There are numerous instances throughout the document where the proposed amendment emphasizes the need to demonstrate compliance with Title-22.<sup>2</sup> We

Inland  
Empire  
Utilities  
Agency

<sup>1</sup> <http://www.sawpa.org/task-forces/basin-monitoring-task-force/>

<sup>2</sup> See §2.1, §3.2.1.4.2, §7.3.2.1.1 and §8.1.2.1



assume that these statements are referring to the specific regulations within Title-22 governing the use of recycled water and not the other sub-sections of Title-22 that address requirements related to drinking water (e.g. §64449-Table B re: Secondary Maximum Contaminant Levels for Salinity). The Central Valley Regional Board's recent experience adopting a Salt and Nitrate Management Plan demonstrates how complicated this issue can become. Similar statewide confusion can be avoided by revising the Title-22 references to be more specific.

- 3) The proposed amendment is somewhat unclear as to whether or not reclaimed water users presently covered under a Master Reclamation Permit (MRP) should seek coverage under the State Boards General Order WQ-2016-0068-DDW. Section 7.2.1 states that: "... all appropriate and eligible projects with the capability of taking on responsibility of administering water recycling programs shall enroll under statewide reclamation requirements." And, Section 7.3.1 states that: "If a project is not appropriate or eligible to enroll under statewide water reclamation requirements, the regional water board shall consider a new site-specific order for adoption or consider the project for enrollment under an existing order (e.g., a master recycling permit..." This language appears to indicate the State Board's preference that recycled water users not rely on a MRP unless they are ineligible to enroll under General Order No. WQ-2016-0068-DDW. However, Section 1.4 states that the Policy describes the circumstances under which permittees may enroll under Order WQ-2016-0068-DDW "or choose an alternate permitting mechanism such as a master recycling permit." This latter language suggests a discretionary choice between equally acceptable approaches. Are recycled water users who are currently authorized under an existing MRP required to enroll in the statewide General Order when they are eligible to do so?
- 4) Section 3.2.1.3 requires municipal POTWs to report the volume of treated wastewater discharged to inland surface waters and to specify the "volume required to maintain minimum instream flow." The policy does not provide any definition for what constitutes "minimum instream flow" nor does it describe the method for making such a determination. Is this provision meant to apply only where the Regional Water Board has already proscribed minimum instream flow requirements (e.g. like those established in the North Coast region) or does this provision establish a new obligation on Regional Boards to develop minimum instream flow requirements for all streams that where recycled water is discharged?
- 5) Section 5.2 of the proposed amendment states that: "To approve a wastewater change petition, the State Water Board must determine that the proposed change will not injure any other legal user of the water involved...." The term "legal user" is not defined by the revised Policy and it is unclear whether it is intended to be synonymous with a duly authorized water right holders or all designated beneficial uses downstream of the discharge. For example, persons engaged in primary contact recreation may be engaged in a legal beneficial use but that does not establish an entitlement to the water in order

to continue doing so. As presently written, the Policy appears to create a strong legal presumption in favor of the beneficial uses currently supported by the discharge of recycled water (e.g. REC1 or WARM) thereby making it more difficult to divert such flows to other beneficial uses (e.g. GWR or AGR) in order to address critical water supply and sustainability issues in the state. We recommend this language be revised to provide the Regional Board and State Board greater flexibility to balance the demands of competing beneficial uses.

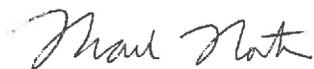
- 6) Sections 6.1.3 and 6.2.1.1 require Regional Water Boards to develop a management plan for all groundwater "basins where salts and/or nutrients are a threat to water quality." It is unclear whether this obligation is triggered only when pollutant concentrations may exceed applicable water quality objectives or if a SNMP must also be developed anywhere that recycled water recharges may "degrade" existing groundwater quality even if salt and nitrate concentrations in the receiving water remain well below basin plan objectives. Since the text of section 8.2.4.1 suggests that some portion of the available assimilative capacity may be used without undue concern, it does not appear that all potential degradation automatically constitutes "a threat to water quality" nor is a SNMP automatically required in order to make any allocation of assimilative capacity. Additional text would be useful to help clarify what constitutes a threat to water quality sufficiently serious to warrant development of a SNMP.
  
- 7) Section 6.2.4.1 specifies that water quality monitoring plans "must focus on water supply wells and areas proximate to large water recycling projects, particularly groundwater recharge projects." Since all wells supply water it appears that this section was actually intended to emphasize the need to focus on wells used for domestic and community drinking water uses (MUN). If so, additional language clarifying this intent would be helpful.

- 8) Section 8.2.4.1 retains the language from the existing Recycled Water Policy that describes how assimilative capacity should be calculated by comparing the mineral water quality objective with the average water quality concentration in the basin or sub-basin. The Santa Ana Regional Board has been using this approach for more than 40 years and it was specifically affirmed by the State Board in Res. No. 2004-0060 approving the SNMP for that region. However, when the Central Valley Regional Board recently proposed to adopt the same approach in their SNMP, several stakeholders submitted comments stating that such "spatial and temporal averaging" was not allowed by the California Water Code and was inconsistent with the state Antidegradation Policy (Res. No. 68-16). This same concern arose in 2015 when the State Board staff published a white paper discussing potential revisions to the Antidegradation Policy. It would be very helpful if Section 8.2.4.1 were expanded to more fully describe appropriate application of spatial and temporal averaging techniques in the context of evaluating compliance with water quality objectives for groundwater basins/sub-basins.
- 9) Section 6.2.4.1.3 requires monitoring data to be reported electronically to a database and in a format specified by the State Water Board. While we have no objection to such a requirement we wish to note that we have had extreme difficulty working with some state databases (esp. CEDEN). The input specifications are so rigid and inflexible that we have been unable to complete a successful upload despite considerable effort. The smallest deviation or omission will cause otherwise valid data to be rejected. This problem must be resolved before imposing new electronic submission requirements.
- 10) Sections 7.3.2.1 and 7.3.2.1.5 require recycled water projects to demonstrate "appropriate use of fertilizers" in order to be eligible for streamlined permitting. This appears to establish a new reporting obligation regarding the amount of fertilizer used in areas where recycled water is also applied. This would impose an enormous additional burden on recycled water agencies that may inadvertently discourage the use of reclaimed water for landscape or crop irrigation. In addition, the proposed policy provides no guidance as to what constitutes an "appropriate use of fertilizers" or how to make such a determination.

- 11) Section 8.2.4.1 appears to indicate that groundwater recharge projects that propose to utilize less than 10% of available assimilative capacity alone, or less than 20% of available assimilative capacity in combination with multiple projects in the same basin, need not conduct any additional analysis in order to comply with the Antidegradation Policy provided that the project proponent is actively participating in the development of a salt and nitrate management plan for the basin. How does this language affect other provisions of the Antidegradation Policy to demonstrate: 1) no pollution or nuisance, 2) best practicable treatment or control, and 3) maximum benefit to the people of the state?
  
- 12) Section 7.4 establishes rigid prohibitions against allowing recycled water to escape from proscribed use areas. The proposed text establishes a strict liability standard that would apply even to something as simple as a broken sprinkler head while making no allowance for good faith efforts to affect timely repairs when such events occur. Such language may actually discourage greater use of recycled water because it inadvertently reinforces the long-held public misperception that recycled water is dangerous. We urge the State Board to consider revising this text to require authorized users to make best efforts to minimize the risk of recycled water escaping the designated use areas.

Thank you for your consideration. Please contact me if you have any questions regarding these comments.

*Respectfully submitted,*



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