

**From:** Michael Garabedian  
**To:** [commentletters](mailto:commentletters)  
**Subject:** Re: Comment Letter same day post deadline additions FYI-- Proposed Recycled Water Policy Amendment  
**Date:** Tuesday, June 26, 2018 2:41:41 PM

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On Jun 26, 2018, at 11:59 AM, Michael Garabedian  
<[michaelgarabedian@earthlink.net](mailto:michaelgarabedian@earthlink.net)> wrote:

To: Jeanine Townsend, Clerk of the Board: (this corrects comment at deadline and adds at the end):

Friends of the North Fork (American River) comments as follows:

When the State Water Resources Control Board (State Board) adopted the Recycled Water Policy in 2009, major factors were overlooked that have grown in importance each year since then. Senator Pavely's retirement is by itself is a major factor, because as the Senator was approaching retirement and then retired, bill authors have not emphasized as she did that wastewater repurposing (popularly known and sold as recycling and reuse) and public health must be closely tied together in state law and regulation.

An added recognition for this need now exists because of the reorganization of the Division of Drinking Water from Heath Services to the waterboards. The need is to add public health as a key consideration in making future state and regional waterboard appointments.

Fortunately, key proposed Recycled Water policy changes recognize and address the important role of public health. **The needed policy changes and steps towards needed changes that Friends of the North Fork supports are opposed by the water reuse community.**

It goes without saying that deregulation of wastewater recycling is the largely unwritten goal and purpose of the water reuse community and some of their support base.

This is nothing new and this activity is no surprise. The many-year unwritten mission of POTW operators and their associations is to deregulate their operations, witness the California Association of Sanitation Agencies that registers staff lobbyists and as a lobbyist employer, and apparently because it may not need to do so, the Central Valley Clean Water Association that does not have a registered lobbyist and is not a registered lobbyist employer.

This practice is not unique in California to POTW dischargers. In 1996, for example, the California legislature deregulated the electricity industry.

A. What water pollution regulations, POTW dischargers, and the state and legislature do not make clear and that the legislature may not recognize nor account for.

There are a number of Key facts, assumptions and policies that are inadequate, need additions, or largely missing from wastewater, including recycling policy and regulation making.

**1. An accurate and fair policy making process needs to mention up front that the Boards are engaged in an historically radical effort to change the ancient goal of keeping wastewater and drinking water separate.**

If this were recognized or stated now, the Recycled Water Policy (Policy) and framework for water repurposing would likely change and expand.

**2. The public is largely uninvolved, uninformed, ineffectively reached out to, and unwelcome to water pollution regulation processes and procedures including policy making.**

Informed public is systematically omitted or excluded from water quality regulation and recycling policy making. The USEPA administrator assigned to California NPDES preposterously states that if the waterboards publish public notices and no one comes or the public is not involved, that the Boards have successfully met public involvement requirements. This may dovetail with stated belief on the part of one State Board member. Ironically, a USEPA administration might regard this as reason to withdraw its California NPDES delegation.

**3. The water boards are not equipped nor are they required to regulate the impacts of wastewater on the health and content on people and on plants and produce.**

The boards continue to have no effective jurisdiction for plant and livestock uptake of wastewater constituents in plants. Board jurisdiction kicks in when water runs off of agricultural fields and operations. And what do those who regulate plant and animal content know about POTW operation?

Responsibility for human health came into the Boards ambit when the Division of Drinking Water was transferred from Health to the State Board.

Playgrounds, school yards and athletic fields require special public health policy attention. There need to be mechanisms to monitor these for recycled water hazards, and to determine if serious diseases acquired by children, athletes, picnickers and others who come down with serious diseases acquired them from recycled water. Policy should provide in the interim a grass monitoring system that reasonably insures that these hazards do not exist in these awns.

However, as reflected in water recycling policy starting in 2009, the State Board appointments, training and hearing comments do not necessarily demonstrate the need to adjust to meet this need. Instead, we have 10 years of concern about the health of and the desire to build the water reuse industry and legitimize its ability to sell recycled water.

**4. Water boards don't direct POTWs how to design and build POTWs, but**

**instead rely on the engineer seals on the plans.**

Water board members obviously, and some staff including some engineers have little idea what policies and practices are needed to regulate POTW discharges, including discharges that are the source for drinking water. This is because the waterboards have virtually no involvement in directing how POTWs design their treatment plants. An engineer's seal is required.

Waterboard staff might have little to no working ongoing responsibility or knowledge about how POTWs work, In effect, POTWs figure out how to meet NPDES permit limits for elements (MCLs) in their discharge without direction from Board staff.

Breakdowns that started in 1999 took me by the odiferous point of entry of Colfax discharges where Bunch Creek enters the North Fork, demonstrating the Regional Board and City neglect of water quality in the Auburn State Recreation Area. This outrage was dismissed as a concern by executive staff at an environmental group meeting that started me down the path that led to this comment and explains why Friends followed the Board's initial intransigent mis-development of Recycled Water Policy 2008-2009.

**5. The policy does not address protecting water supply systems from contamination and what to do if they are contaminated, including requiring them be replaced.**

This needs to include addressing policy liability for recycled water failure and damages. Policy needs to address the Walkerton, Canada incident health impacts and required replacement of the drinking water distribution system.

**6. Drinking water district board and staff training in POTW operations and regulation is needed.**

What do the POTW and drinking water districts know about the operation of the other?

**7. The Policy needs to address the conflict of interest that exists when the recycled water project sponsor is both the wastewater source and the drinking water distributor.**

**8. The hazards of recycled water monetization require as much policy clarification as possible.**

B. Source water California's nascent and ongoing failure to effectively implement the federal Clean Water Act Industrial Pretreatment Program is a classic waterboards failure to regulate water quality, which failings are proposed to be embraced, reinforced and continued in Proposed Policy 10.1.2.: "Agencies should employ source control and/or pollution prevention programs to minimize the likelihood of CECs impacting human health and the environment."

The USEPA delegated the NPDES water pollution control permit program and the Industrial Pretreatment program to California in the same memorandum. The State Board and the Region 5 board have by all actions with which I am familiar, not just abandoned, but through the NPDES program administered by regional boards and the State Board's too limited following of state IPPs, are undermining industrial pretreatment law and regulations.

This is an empty policy because it addresses to a certain extent, only monitoring.

The fundamental need is to control and regulate POTW source water.

**1. Surface Water Augmentation and Direct Potable reuse should not be implemented until the state has in place, effective, and enforced IPP programs.**

The Policy needs to require full assessment of POTW, Regional Board, State Board implementation of the the IPP including review of all investigations/audits and enforcement, including requiring investigation of whether POTWs under 5 mgd need the implement an IPP. No POTW without an IPP should be considered for any kind of water recycling. Any POTW involved in water recycling needs to be investigated to see if it needs an IPP. POTW NPDES permits need to do far more than require that that a POTW must implement an IPP. POTWs with a POTW General Order like the one adopted by Region 5 should be prohibited from recycling source water.

These actions are needed for all POTWs treating over 5 million gallons of wastewater per day because they are supposed to have IPPs, and there needs to be a very low threshold for investigating POTWs that process less than 5 mgd to see if they need an IPP.

The State Board needs to have available including to the public, the document(s): approved as POTW IPPs; making up a POTW's IPP; of all IPP programs that it has certified; copies of any conditions of certification, and of the individual IPP certification approvals. The State Board can not find a number of its approval documents and has referred us to the IPPs for a copy of their programs. Since IPPs are frequently a combination of municipal code and other documents, it seems to be that the State Board does not have a record of what it approved. This might be enough for the current Administration in Washington to withdraw its IPP delegation. Regional Boards need similar document requirements.

New staff need to be hired and existing staff and Board members need training in human health, epidemiology, physiology, and risk assessment and its limits.

An irony is that a large part of the Policy is taken up with salts which probably doesn't belong in this Policy about source water from sanitary systems. However, the presence and content about salts demonstrates the Policy's failure to address industrial discharges into POTWs. The Policy language is in many ways inconsistent and confusing, especially because of the language in the IPP.

IPP's categorical industries include commercial sources.

**2. IPP is far more of a traditional regulatory program for POTWs than California has for them which might explain why IPP requirements are ignored and not implemented.**

When I speak about IPP to many waterboard staff, I see that I am not being heard; I am faced with absent familiarity. My experience with the Region 5 Board level borders on a collective hostility to IPP. Whereas we had some success advocating for Inflow and Infiltration correction, we have had zero effectiveness on IPP, even though over 20 outfits from our street survey and the Local Hazard Mitigation Plan may need IPP regulation. What we thought was a commitment in an order to do a Colfax collection system-wide IPP investigation was instead recommended to USEPA by the Region 5 board to be an investigation of one industrial user, the Miller-Coors fruit drink distillery that closed the Colfax POTW for 90 days of the first six months of 2015.

Roseville which is said to be eligible for substituting the unacceptable General Order for its NPDES permit, is not implementing its IPP. It implies that it doesn't need to if it meets its MCLs. And thus it should be prohibited from the General Order and any recycling.

The federal IPP has categorical standards for defined dischargers, requires regulating POTW interface and passthrough with local limits. Federal regulations exist.

The State Board needs to review the practices, regulation, agenda content (e.g., listing each research and grant funding on its agendas), what is delegated to staff, transparency in management committee decisions, and public involvement of state agencies that do regulate practices at the interface of regulated actions.

IPP seems to me to be the lynchpin of both existing Board limitations and improving waterboard regulatory culture.

C. The Policy does to little to provide policy when monitoring suggests or requires the need to shut down the source water use

The state and regional water boards do not direct how POTWs are designed, so it is to be expected that they know little about how to regulate them as sources of drinking water.

The Policy has far too little about the mechanisms needed to safely regulate water repurposing which is described as water recycling.

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Coastal lagoon definition may be inadequate for lagoons that are very infrequently breached.

Executive Officer granted exceptions seem to be unqualified, unconstrained and with little or no public involvement.

A new draft should be issued for comment

On a note based on personal experience after working on the staff of California State Senate five years and New York State Assembly for over nine years, it seems to me that AB 574 requires serious catch-up by the legislature.

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Post comment-deadline points:

- a. We disagree with the narrative goal to minimize direct discharge of treated wastewater. Instead, direct discharge should continue unless it is proven that there is no existing environmental and public health including beach safety need for the discharge. This policy needs assure to that the different factors involved between short length and long length POTW ocean discharge conveyances are recognized and addressed.
- b. We oppose removing the requirement to monitor priority pollutants in recycled water used for landscape irrigation. Brenda Aleman documents the necessity to keep these limits and to better regulate this use.