



September 9, 2010

State Water Resources Control Board
Mr. Charles Hoppin, Chair
PO Box 100
Sacramento, CA 95812-0100

Re: Comment Letter - California Ocean Plan Triennial Review Scoping
Delivered via email to: commentletters@waterboards.ca.gov

Dear Chair Hoppin and Board Members

Thank you for the opportunity to provide scoping comments on the California Ocean Plan Triennial Review. WaterReuse California and its 250 members are offering comments on the regulation of reverse osmosis brine discharge in the Ocean Plan. Fundamentally, our organization believes that changes to the Ocean Plan that would impair the ability to discharge reverse osmosis brine are unnecessary and will negatively impact the development of recycled water.

Impairing the discharge of brine will negatively impact existing and planned recycled water projects

This type of regulation, unless carefully considered, has the potential to discourage new water recycling projects in California, especially if those projects rely upon advanced treatment to meet public health goals for recycled water quality. The State Water Resources Control Board (the Water Board) has already recognized that droughts, climate change, in-stream flow needs and population growth all point to the need for new water supplies. We appreciate the fact that the Water Board has worked with a wide-range of stakeholders to develop a Recycled Water Policy that anticipates these competing demands and commits to the shared goals of a safe, clean and abundant water supply and increasing recycled water use by 2 million acre-feet per year. This increase is enough water to completely offset Southern California's reliance on diversions from Sacramento-San Joaquin Delta.

Decisions made by the Water Board on the Ocean Plan could affect the feasibility of developing additional recycled water supplies. Particularly in southern California, our member agencies are relying on groundwater recharge and other indirect potable reuse

Recycling Water to Meet the World's Needs

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projects to provide a safe, reliable, locally-produced water supply. In accordance with both the Clean Water Act and CDPH's recommendations, recycled water purveyors will be using "best available technology", which, for many indirect potable reuse projects, is reverse osmosis. As a result, brine disposal is critical to successful project implementation. Unnecessary regulation of brine disposal will both increase the cost of developing recycled water projects and could, ultimately, limit our ability to implement them all together.

The Ocean Plan already includes adequate provisions to protect beneficial uses from adverse effects of brine discharge

New numeric or narrative water quality objectives, specific to brine, are not necessary because all brine discharges already require NPDES permits. These permits already implement Ocean Plan objectives for toxic, bacteriological, physical, chemical and biological water quality characteristics. These objectives already include limits on the concentrations of metals, and chemical constituents that are protective of all beneficial uses including habitat for marine species and human health. The Ocean Plan already contains established standards applying to the naturally occurring chemical constituents found in seawater that can also be found in concentrated brine.

New objectives for brine discharges proposed in Alternatives 2 and 3 in the 2007 Triennial Review would impact recycled water projects without providing any additional water quality protection. In addition, insufficient technical basis exists to establish maximum salinity concentrations in the form of a narrative or numeric objective. The perceived need for such a requirement appears to be based on a single study by the Southern California Coastal Water Research Program (SCCWRP) on sea urchin embryos, that itself suggested the need for more study. Test protocols have changed since SCCWRP's initial work was completed and technology has advanced, so the study results most likely are not representative of current conditions. As such, inadequate basis exists for a far-reaching, new, regulatory requirement.

We have faced a similar situation with you before: regulation of constituents of emerging concern (CECs) in recycled water. In this case, we've used expert panels and an ongoing commitment to research to frame a protective, science-based approach to regulation. On this issue of hypersalinity, the water industry has already initiated additional research and will continue to do so. We welcome your participation with us. We all understand that good public policy requires that we get more data and experience before artificially limiting our future water supplies.

Finally, a "one-size-fits-all" state-wide formula to fit all coastal environments would not recognize the enormous spatial and temporal range of natural background levels. The acute and chronic toxicity standards already set forth in the Ocean Plan have already allowed the Regional Boards to successfully develop permits for brine discharge. In summary, developing more recycled water will require disposal of brine and the current Ocean Plan, which allows for site specific permits, already provides good methods to protect water quality, marine species and public health. Changes to specifically regulate

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brine discharges do not have a sound scientific basis, will limit water recycling and will not afford more protection. They are simply not needed at this time.

Sincerely,

A handwritten signature in black ink, appearing to read "D. W. Smith". The signature is fluid and cursive, with the first name "D." and last name "Smith" clearly legible.

David W. Smith, PhD
Managing Director