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May 3, 2012

Charles R. Hoppin, Chair  
State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

**SUBJECT: Letter regarding the Final Draft Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems**

Dear Chairman and Members of the Board:

This letter is to express Mojave Water Agency's (MWA) concerns regarding the State Water Resources Control Board (SWRCB) Final Draft Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems ("Draft OWTS Policy"), released March 20, 2012. The MWA Board of Directors has adopted a Resolution opposing the Draft OWTS Policy (enclosed). In addition to the Resolution, local stakeholders and municipalities have brought a number of concerns to our attention, which are described in more detail below.

#### **Public & Stakeholder Outreach process**

1 → MWA staff, and the staff of other large municipalities within MWA, did not become aware of the Draft OWTS Policy until mid-April, although it was released March 20. With a comment deadline of May 4, 2012, this has left many of our local agencies with little time to understand and prepare meaningful comments on the Draft OWTS Policy. **Therefore, MWA respectfully requests that the SWRCB; 1) delay the adoption of the OWTS Policy to allow for an adequate public outreach process to ensure that the people affected by the policy have adequate time to provide input or 2) defer consideration of such policy until the completion of the regional Salt/ Nutrient Plans (SNMPs) as described in our comments.**

The OWTS Policy has the potential to create huge impacts on agencies and property owners throughout the state; because of this, we urge the SWRCB to seek the same level of stakeholder involvement as it outlined for the development of SNMPs in the Water Quality Control Policy for Recycled Water (Resolution No. 2009-0011; "Recycled Water Policy"). The Recycled Water Policy emphasizes the importance of local management and stakeholder involvement in the development of SNMPs:

*dwelling unit, or its equivalent, per 2.5 acres for those units that rely on OWTS.”*  
(Section 7.8)

The current allowed density of one dwelling unit per 0.5 acres is supported by a 1993 report prepared by the US Geological Survey (“Potential for Ground-Water Contamination from Movement of Wastewater Through the Unsaturated Zone, Upper Mojave River Basin, California,” Water-Resources Investigations Report 93-4137). The report evaluated densities of 1 to 4 dwelling units per acre, and concluded that in the Mojave River Basin “current onsite domestic-wastewater disposal practices pose **little immediate threat to the local ground-water resource.**” The USGS report also indicates septic systems contribute substantial return flows to groundwater and slow the decline of groundwater levels in an area that has historically experienced severe overdraft. This is a significant benefit to the region’s water resources.

2 → This change in the density requirement has the potential to negatively impact many property owners within MWA and statewide. **The OWTS Policy should not impose an arbitrary density requirement, but rather it should use a science-based approach to determining appropriate thresholds for OWTS. This issue could be addressed by removing the 2.5 acre per dwelling unit requirement in Section 7.8 or by changing it to something less restrictive, such as 0.5 acres per dwelling unit or by reviewing the assumptions and analyses in the USGS report as part of the propose SNMP process.**

Again, this science based approach would be directly supported by the local SNMP effort. Furthermore, this proposed policy is confusing to the region’s stakeholders as it appears to be in direct conflict with the spirit of the development of the SNMP effort that is currently underway.

### **Local Agency Management Plans**

3 → The Policy appears to allow some local flexibility or deviation from the above-mentioned standards through the Local Agency Management Program (LAMP) process. This flexibility is good in concept as it appears to encourage a science-based approach with close community involvement. **However, we feel there are not clear performance measures in the OWTS Policy for local agencies to prepare a LAMP, nor any assurances that the Regional Boards would approve the proposed LAMP.**

### **Conclusion**

In general, it seems the Draft OWTS Policy has been put together using a top-down, one-size-fits-all approach, without consideration of the potentially huge impacts to local stakeholders and property owners, and without a basis in science or local conditions. In addition, this process appears to preempt and potentially supersede the SNMP program that regions are currently developing that would otherwise form the scientific basis for these types of local policies and controls that will protect our common resource. The consideration of such policy should be put on hold until the forthcoming SNMPs are

published in early 2014. The SNMP process would allow the Regional Boards and local communities to work collaboratively together to tailor a management program that is appropriate to the environment and circumstances of local regions.

Thank you for considering our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kirby Brill', with a stylized flourish at the end.

Kirby Brill  
General Manager

Enclosure

## RESOLUTION NO. 949-12

### RESOLUTION OF THE MOJAVE WATER AGENCY OPPOSING THE STATE WATER RESOURCES CONTROL BOARD'S FINAL DRAFT WATER QUALITY CONTROL POLICY FOR SITING, DESIGN, OPERATION, AND MAINTENANCE OF ONSITE WASTEWATER TREATMENT SYSTEMS

**WHEREAS**, on March 20, 2012 the State Water Resources Control Board (SWRCB) released the Final Draft Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems ("Policy"); and,

**WHEREAS**, approximately half of the population within the Mojave Water Agency (MWA) boundaries live in dwelling units served by onsite wastewater treatment systems ("OWTS", "septic systems"); and,

**WHEREAS**, local municipalities have expressed concern that implementing this policy will be burdensome and potentially costly to local property owners and the implementing agencies; and,

**WHEREAS**, under current regulations property owners within MWA have enjoyed the ability, or potential, to develop land at a density of up to one dwelling unit per 0.5 acres, for properties relying on septic systems. Under Tier 1 of the Policy the maximum density allowed for properties relying on septic systems would be restricted to one dwelling unit per 2.5 acres (Section 7.8 of the Policy). This portion of the Policy has the potential to negatively impact property owners within MWA; and,

**WHEREAS**, a 1993 report by the United States Geological Survey (USGS Water-Resources Investigations Report 93-4137) indicates that in the Mojave River Basin "current onsite domestic-wastewater disposal practices pose little immediate threat to the local ground-water resource." The report further indicates septic systems contribute substantial return flows to groundwater. This is a significant benefit to the region's water resources; and

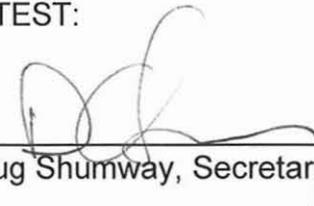
**WHEREAS**, MWA has applied for State Proposition 84 funding assistance for an update to the Integrated Regional Water Management Plan, including preparation of a Salt/Nutrient Management Plan (SNMP) with an anticipated completion date of early 2014. The SNMP will provide a locally-driven region-specific decision making tool for policies and basin management decisions regarding water quality.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Directors of the Mojave Water Agency opposes the Final Draft Water Quality Control Policy for Siting, Design, Operation, and Maintenance of Onsite Wastewater Treatment Systems, and requests State-driven water quality policies (including OWTS) be addressed following completion of the SNMP plan and associated processes.

**ADOPTED** this 26<sup>th</sup> day of April, 2012.

  
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Art Bishop, President

ATTEST:

  
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Doug Shumway, Secretary