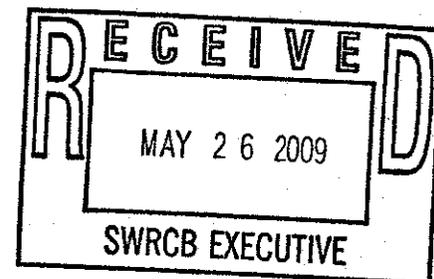




May 26, 2009

Charles Hoppin, Chair and Members
State Water Resources Control Board
1001 I Street
Sacramento, CA 94539



VIA ELECTRONIC MAIL: commentletters@waterboards.ca.gov

Re: 5/19/09 Board Meeting, Agenda Item #11: Landscape Irrigation Uses of Municipal Recycled Water, Comments on May 7, 2009 Changes

Dear Chair Hoppin and Board Members:

On behalf of the California Coastkeeper Alliance (representing 12 Waterkeepers spanning the California coast), Heal the Bay, and the Natural Resources Defense Council, we welcome the opportunity to provide these comments on the May 7, 2009 changes to the General Permit for Landscape Irrigation Uses of Municipal Recycled Water (General Permit). Because a number of the changes proposed in our first set of comments remain yet to be addressed, we attach and incorporate by reference those comments, and add additional observations and recommendations below.

First, the changes still do not address a continuing, underlying need in the General Permit for clarity, consistency with the Recycled Water Policy, and a commitment to water quality protection. For example, despite the new "Administrator" category of permittees, it is still unclear how the User will be held responsible for actually implementing the conditions of the General Permit, or even how they will be made clearly aware of their responsibilities. The accountability issues associated with this important gap have been exacerbated, not alleviated, in the May 7th draft on page 18. Paragraph 8 on page 18 inexplicably allows "pamphlets" and "brochures" to be used as measures of ongoing compliance with public and environmental health protection measures. Such static documents are suitable for public education, but not suitable for ongoing accountability, particularly with respect to discharges that could vary so significantly on a seasonal basis.

Additional areas of confusion relate generally to integration with the Recycled Water Policy, including:

- integration with the NPDES permit program (we continue to contend that this should be an NPDES permit, but at a minimum the Permit should explain fully the Policy's integration with existing applicable NPDES permits);

- application of pre- and post-salt and nutrient management plan requirements (which similarly are not explained);
- process for development of antidegradation analyses (the new “check off box” in Section IV of Attachment B only raises more questions about antidegradation requirements than articulates the differing antidegradation requirements pre- and post-salt and nutrient management plan adoption);
- integration with the CEC blue ribbon panel set up by the Policy, including a re-opener in the General Permit to address the panel’s recommendations as needed; and
- process for application of the “unusual circumstances” off-ramp for discharges for which a General Permit is not appropriate.

Each of these areas needs to be explained more fully in the General Permit if it is to be readily understood and implemented by the regulated community, consistent with its necessary public health and environmental protections.

With respect to the last bullet above, *i.e.* the “unusual circumstances” provision in the Policy, we recognize that it would be the responsibility of the regional water boards to ensure that individual permits are issued as appropriate, and consistent with the Recycled Water Policy. However, the General Permit as issued fails to mention this off-ramp, creating the presumption that use of the Permit is more broadly applicable to landscape irrigators than might otherwise be the case. Up-front explanations of this “unusual circumstances” provision would be extremely helpful to both the regional water boards and the permittees. This is especially true in light of the problematic elimination of key discharge prohibitions in the May 7th edits to the General Permit, including the prohibition against application within 50 feet of surface water and the prohibition on the use of recycled water “where there is evidence that Emerging Constituents/Chemicals of Emerging Concern (CECs) are a concern, as determined by CDPH.” These types of discharges should at a minimum be specifically defined in the General Permit itself as criteria for the regional water boards to look at when they are defining “unusual circumstances,” rather than completely eliminated from the Permit. Peer-reviewed data and findings (including setback distances) supporting use of such criteria in defining “unusual circumstances” can be found in the just-released U.C. report cited by Stanford University at the May 19th workshop.¹ We urge staff to review this new report carefully and incorporate its findings as needed to ensure that the General Permit is used appropriately and protects both the health of the environment as well as public health.

We also think it is a mistake to eliminate the bulk of the Findings that discuss the pollutants at issue in using recycled water. Complete transparency and regular outreach are the most effective ways to convince the public that their interests are being protected, as Orange County has discovered through their successful recycled water program. Indeed, other agencies, such as DWR in its latest draft California Water Plan,² are being considerably more specific than the State Board now is with regard to recycled water contaminants. This should give the State Board significant pause before deciding to eliminate similar details from its General Permit.

¹ University of California Division of Agriculture and Natural Resources, *Safe Application of Reclaimed Water Reuse in the Southwestern United States* (May 2009), available at <http://anrcatalog.ucdavis.edu/pdf/8357.pdf>.

² DWR, *CA Water Plan Update 2009: Public Review Draft*, Bulletin 160-09, Vol. 2, Ch. 11: Recycled Municipal Water, pp. 11-9 – 11-10 (“The following four water quality characteristics have been identified as being of particular concern: (1) microbiological quality, (2) salinity, (3) heavy metals, and (4) organic and inorganic substances such as pharmaceuticals and personal care products, household chemicals and detergents, fertilizers, pesticides, fungicides, and animal growth hormones.”) (Jan. 2009), available at: http://www.waterplan.water.ca.gov/docs/cwpu2009/1208prd/vol2/RecycledMunicipalWater_PRD_09.pdf.

The lack of attention to enforceability and accountability, and the removal of the bulk of the findings, together make the change to monthly monitoring a concern. There is no explanation of this departure from the proposed monitoring scheme, which can be particularly problematic in areas covered with more stringent Master Reclamation Permits (especially Master Reclamation Permits that are currently NPDES permits, which as a general rule should be considered under "unusual circumstances" and not generally considered for this Permit). The Permit should be more clear in how monitoring information will be collected and reported in order to ensure public and environmental health are protected. Moreover, priority pollutant monitoring should be included in the reporting forms, which should indicate the priority pollutant monitoring results collected for the recycled water at issue by the treatment plants.

Finally, while we appreciate the correction of the mistaken reference to a 50,000-gallon cutoff for reporting releases in the BMP section (at page C-1), the corresponding change to 1,000 gallons was not made in the Order itself (paragraph 17 on page 20) or in the Draft Initial Study (at page 22 of the Initial Study). We ask that that these corrections be made.

* * *

Thank you for your attention to these and the attached, prior comments. We look forward to working with you to develop and implement an effective, enforceable, accountable, and clear permit system for using recycled water for landscape irrigation in a way that both promotes recycled water use and protects public health and the environment.

Sincerely,



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Attachment: Letter from Heal the Bay *et al* to SWRCB (April 27, 2009)



April 27, 2009

Charles Hoppin, Chair and Members
State Water Resources Control Board
1001 I Street
Sacramento, California 95814

VIA ELECTRONIC MAIL

Re: Comment Letter-Landscape Irrigation General Permit

Dear Chair Hoppin and State Board Members:

On behalf of Heal the Bay, NRDC, Planning and Conservation League and the California Coastkeeper Alliance, we submit the following comments on the Draft General Waste Discharge Requirements for Landscape Irrigation Uses of Municipal Recycled Water ("General Permit"). We thank the State Water Resources Control Board ("State Board") and staff for this opportunity to present comments on the General Permit. Our organizations have been strong proponents of water reuse for many years and have been active in commenting on, and participating in the Task Force that worked to develop, the State Recycled Water Policy ("RWP"). Efforts to increase the appropriate use of recycled water while ensuring water quality is maintained are essential for California's sustainable water future.

We present our comments first noting that we stand behind the State Board in its effort to encourage the reuse of California's scarce supply of water for appropriate activities, including landscape irrigation. As highlighted in the State Recycled Water Policy and reinforced by AB 1481 (De La Torre), landscape irrigation is in many cases amenable to streamlined permitting efforts. However, **in order for this streamlined permitting to encourage landscape irrigation water reuse projects and be protective of public health and water quality, the General Permit must be understandable, implementable and enforceable.** As drafted, we believe that the General Permit does not accomplish these goals. Our comments below offer suggestions for improving the permit in these three areas to increase the use of recycled water for landscape irrigation where appropriate.

The State Board Must Ensure That the General Permit Is Consistent with the Recycled Water Policy.

Incidental Runoff

The General Permit references as controlling for incidental runoff the requirements from paragraph 7(a) of the recently-adopted Recycled Water Policy (para. 30, page 7), yet there are inconsistencies between the General Permit and the Recycled Water Policy (RWP). For example, the RWP requires that landscape irrigation projects implement BMPs to control leaks and incidental runoff, including “correction either within 72 hours of learning of the runoff, or prior to the release of 1,000 gallons, whichever occurs first.” (RWP, at 8.) Yet the General Permit requires a BMP that requires “correction either within 72 hours of learning of a leak, or prior to the release of 50,000 gallons.” a major difference. (General Permit, at C-1 (emphasis added).) Similarly, the General Permit requires the reporting only of the “unauthorized discharge of 50,000 gallons or more of “disinfected tertiary recycled water,” rather than the expected 1,000. (General Permit, at 18 (emphasis added).) The General Permit is also not clear on who will be doing the reporting, a task that at a minimum should fall to the permittee(s). The General Permit must be consistent with the Recycled Water Policy (RWP, at 8 (“It is the intent of the State Water Board that the general permit for landscape irrigation projects be consistent with the terms of this Policy.”).) Fifty thousand gallons is an enormous amount of water—as much as some city water tanks—and in no way is consistent with the intention to permit only “incidental” runoff. Thus, the General Permit must be modified so that the number “50,000” in these two instances is replaced with the number “1,000.”

Further the General Permit states that “[r]ecycled water shall not be allowed to escape from the Use Area by airborne spray or by surface flow except in minor amounts such as that associated with BMPs for good irrigation practices.” (General Permit, at 14.) How are “minor amounts” defined? Again, this appears inconsistent with the RWP. For clarity purposes, this should be defined.

Finally, the State Board should include paragraph 7(a) of the Recycled Water Policy directly in the General Permit.

Salt and Nutrient Management Plans

The General Permit states that salt sources “...should be managed in a manner consistent with the Recycled Water Policy, including paragraphs 6 and 9(d).” (General Permit, at 4.) Again, there appear to be inconsistencies between the Policy and General Permit. The RWP requires that “[d]uring the interim while the salt management plan is under development, a landscape irrigation project proponent can either perform project specific monitoring, or actively participate in the development and implementation of a salt/nutrient management plan, including basin/sub-basin monitoring.” (RWP, at 9.) However, the General Permit does not specify this requirement. As salt and nutrient management plans may not be developed for five years or more, the interim period must be addressed in this General Permit. The State Board should specify within the General Permit that the Permittee must either conduct monitoring or actively develop a plan, and

that after the plans are developed that compliance with any applicable salt and nutrient management plan is required.

Constituents of Emerging Concern and Priority Pollutants

The RWP requires landscape irrigation projects to conduct Constituents of Emerging Concern ("CEC") monitoring and priority pollutant monitoring. As the CEC monitoring requirements are in the process of being developed by an expert panel, the minimum annual CEC monitoring requirements do not take effect until 18 months after the RWP adoption. The RWP requires that "...any permits shall include a permit reopener to allow incorporation of appropriate monitoring requirements for CECs after State Water Board action under paragraph 10(b)(2)." (RWP, at 9.) However, the General Permit does not *require* that the General Permit be reopened:

The State Water Board will review this General Permit periodically and will revise requirements when necessary. Specifically, monitoring requirements *could* be revised to include CEC monitoring.... (General Permit, at 19 (emphasis added).)

This voluntary reopener language is very weak and should be modified to state that a reopener *must* occur when the CEC panel has completed its work. Specifically, the State Board should mandate that the SWRCB "shall" review the monitoring requirements after the CEC panel completes its work and modify as needed.

Further, priority pollutant effluent monitoring is not addressed at all in the General Permit and should be required in the Monitoring Project on a twice annual basis, as required in the RWP. The public must be provided consistent assurance that recycled water is safe and high quality; periodic priority pollutant monitoring is essential for this purpose.

Unusual Circumstances

The Recycled Water Policy states that "[t]he Regional Water Boards shall, absent unusual circumstances... permit recycled water projects that meet the criteria set forth in this Policy, consistent with the provisions of this paragraph." However, the General Permit itself does not reference or discuss this "unusual circumstances" language. The General Permit should reference this language and provide guidance to permittees, permit writers and decision-makers on the applicability of this provision, particularly in the case of regulated entities already holding master reclamation permits.

The Antidegradation Language Should Be Modified to Reflect the Recycled Water Policy and 68-16.

Paragraph 45 on page 10 of the General Permit, addressing antidegradation, is not sufficiently protective of the environment and potentially sets problematic precedent. It should be revised to better reflect the language in the RWP and to better reflect the specific language in the Antidegradation Policy (68-16). Accordingly, we suggest that paragraph 45 be revised to read, consistent with page 11 of the RWP, as follows:

45. Landscape irrigation with recycled water in accordance with this General Permit is to the benefit of the people of the State of California. Nonetheless, the State Water Board finds that the use of water for irrigation may, regardless of its source, collectively affect groundwater quality over time. The State Water Board intends that these impacts be limited as much as possible through, in part, compliance with the terms of the General Permit and the Recycled Water Policy.

Also, the General Permit does not address antidegradation requirements for the interim period before a salt/nutrient management plan is developed. The RWP states that “[a] project that meets the criteria for a streamlined irrigation permit and is within a basin where a salt/nutrient management plan satisfying the provisions of paragraph 6(b) is being prepared may be approved by the Regional Water Board by *demonstrating through a salt/nutrient mass balance or similar analysis that the project uses less than 10 percent of the available assimilative capacity as estimated by the project proponent in a basin/sub-basin* (or multiple projects using less than 20 percent of the available assimilative capacity as estimated by the project proponent in a groundwater basin).” (RWP at 12, emphasis added.) In order to consistent with the RWP, the State Board similarly must include these requirements for the interim period.

The State Board Should Issue the General Permit as an NPDES/WDR Permit.

As we have articulated in several comment letters to the State Water Board on the prior iterations of the Recycled Water Policy and on the scoping for this General Permit,¹ **recycled water releases to surface water must be regulated under the federal Clean Water Act pursuant to an NPDES permit.** Avoiding this responsibility only leaves those using recycled water that is released to surface water subject to lawsuits to obtain an NPDES permit, an end result that is not conducive to supporting the use of recycled water. The Legislature and the Governor properly anticipated use of a general NPDES permit (*and* general waste discharge requirements (“WDRs”)) in adopting the following specific findings in AB 1481, the genesis of this General Permit:²

(a) On September 22, 1989, the United States Environmental Protection Agency granted the State of California, through the State Water Resources Control Board and the California regional water quality control boards, the **authority to issue national pollutant discharge elimination system (NPDES) permits**

(b) Section 122.28 of Title 40 of the Code of Federal Regulations provides for the **issuance of general permits to regulate a category of point sources of pollution** if the sources meet all of the following requirements:

- (1) Involve the same or substantially similar types of operations.
- (2) Discharge the same type of waste.
- (3) Require the same type of effluent limitations or operating conditions.
- (4) Require similar monitoring.
- (5) Are more appropriately regulated under a general permit instead of individual permits.

¹ See, e.g., Letter from California Coastkeeper Alliance *et al* to SWRCB, pp. 4-6 (June 26, 2008) (attached).

² Available at: http://info.sen.ca.gov/pub/07-08/bill/asm/ab_1451-1500/ab_1481_bill_20071012_chaptered.pdf.

...
(h) Therefore, it is the intent of the Legislature to create a uniform interpretation of state standards to ensure the safe, reliable use of recycled water for landscape irrigation uses consistent with state and federal water quality law.

(Emphasis added.)

The General Permit (para. 10, page 12) bans the discharges of recycled water to surface waters unless pursuant an NPDES permit – but does not provide the streamlined access to this NPDES permit, as envisioned by AB 1481. Instead, there in fact is no clear NPDES permit available in a real sense for the permittees or the public that will regulate releases of recycled water so that they do not run afoul of Clean Water Act Section 301(a)'s ban on discharges to surface water without an NPDES permit.

Somewhat contradictingly, the General Permit also says that the use of recycled water cannot cause or threaten to cause pollution or nuisance as defined under Water Code Section 13050,³ which appears to presume some releases to surface water, again without providing the necessary federal regulatory framework as called for in AB 1481, the Recycled Water Policy, and most importantly the federal Clean Water Act. NPDES permits are not only necessary as a matter of law; they are also necessary as a practical matter, to allow for the assistance of citizen enforcement suits as needed to ensure that the provisions of the streamlined permit are complied with. In this era of cutbacks in state funding, all partners must be engaged to ensure that the state appropriately uses and protects its precious waters.

Disappointingly, rather than establishing a clear set of requirements under an NPDES/WDR permit, the General Permit merely obliquely references the Recycled Water Policy for information on potential use of MS4 permits – which are not included in the General Permit – to comply with federal Clean Water Act mandates for discharges to surface water (see para. 30, page 7). We have articulated to the State Board in prior comments that an MS4 permit cannot regulate recycled water discharges without significant additional and site-specific analysis.⁴ Recycled water discharges are *not* storm water, and they do not fit within the allowance for non-storm water discharges. For example, even relatively low discharges of pollutants such as

³ Relevant subsections of Water Code Section 13050 are:

(k) "Contamination" means an impairment of the quality of the waters of the state by waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease.

"Contamination" includes any equivalent effect resulting from the disposal of waste, whether or not waters of the state are affected.

(l) (1) "Pollution" means an alteration of the quality of the waters of the state by waste to a degree which unreasonably affects either of the following:

(A) The waters for beneficial uses.

(B) Facilities which serve these beneficial uses.

(2) "Pollution" may include "contamination."

(m) "Nuisance" means anything which meets all of the following requirements:
interfere with the comfortable enjoyment of life or property.

(2) Affects at the same time an entire community or neighborhood, or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

(3) Occurs during, or as a result of, the treatment or disposal of wastes.

⁴ See, e.g., Letter from California Coastkeeper Alliance *et al* to SWRCB (Dec. 22, 2008).

nutrients are not “insignificant” in a nutrient-impaired waterway. Region 1 recently rejected a City of Santa Rosa attempt to include recycled water runoff in their submitted storm water management plan. This had become an issue because Region 1’s Laguna de Santa Rosa is impaired for nitrogen, phosphate and low DO and used by endangered Steelhead as a migration and rearing area; the local recycled water that would have reached the waterway contains nitrogen and phosphorus at levels that would worsen this problem. See attached photo of recycled water overflow to a storm drain that leads to the Laguna de Santa Rosa/Mark West Creek watershed.

As we noted in prior comments to the State Board, if the permit is to even consider recycled water discharges in MS4 permits, additional language must be added to make it clear that the permittee must first demonstrate that the discharge will be a *de minimus* source of pollutants for the specific water bodies at issue and will not impact those water bodies’ health. This of course will require regular sampling and careful analysis that may go beyond the general requirements of an MS4 permit. Without such language, the reference to MS4 permits must be struck, and the current draft General Permit re-issued for comment as a draft NPDES/WDR permit.

Moreover, the purpose of the General Permit, as we understand, is to streamline the regulatory process for water reuse landscape irrigation projects in order to encourage these types of projects in the future. However, by referencing the permittee to another document (the recycled Water Policy) which then reference yet-to-be-established requirements in MS4 permits for releases to surface water that will certainly happen, the process is not in fact truly streamlined. This General Permit requires that the “direct or indirect discharge from use areas of recycled water to surface waters . . . is prohibited, unless otherwise authorized by an NPDES permit.” Many discharges may be covered by this prohibition/requirement, which fails to “streamline” the process as intended by the General Permit, because under the proposed process: (1) potential users must ensure they are covered by a separate MS4 permit in their region; (2) MS4 permits may be inconsistent from region to region;⁵ and (3) not all potential users may be covered by an applicable MS4 permit. Where a potential user is not covered by an existing MS4 permit, the General Permit is unclear whether that user may still apply to be covered under the General Permit and then seek NPDES coverage, or whether the user must first seek out and obtain a separate NPDES permit.

For these reasons, the Board should issue the General Permit as an NPDES/WDR permit.

The State Board Should Include the Users as an Independently Responsible Entity.

The General Permit should clarify that Users are independently responsible under the General Permit and require written documentation that the Users understand and will carry out their responsibilities. It is the Users who will implement many of the requirements and BMPs in the General Permit, and their responsibilities should be clear to both the public and also to the Users themselves. The General Permit (para. 15, page 14) does not require the User to be a permittee; it merely requires, without meaningful explanation or accountability, that the Producer and

⁵ This is inconsistent with the intent of the Legislature in AB 1481, which noted in the adopted Findings that “(f) The 2002 Recycled Water Task Force . . . concluded that inconsistent regulation of water recycling by state and local officials leads to confusion and uncertainty with regard to the design and management of water reuse systems.”

Distributor ensure that the User implements the required BMPs identified in Attachment C. Both the Permit and Attachment C should be modified to better reflect the requirements and responsibilities incumbent on the User. For example, the User could sign a document stating that they had read and agreed to the terms of the NOI and General Permit, and the Distributor could maintain copies of such documents for ready access by the regional water boards. This adjustment not only will clarify the legal responsibilities of the User; it also will further streamline the regulatory process and encourage appropriate use of recycled water, by allowing new Users to come online with a straightforward application process that would have been considered already in the applicable General Permit.

Accordingly, we suggest the following language to the first paragraph on page C-1 (edited sentence in bold):

This menu of potential Best Management Practices (BMPs) identifies some practices for the management of the production, distribution, and use of recycled water that, in addition to requirements in law²³, will help ensure the safe and efficient use of recycled water. Many of these BMPs are also intended to minimize or eliminate conditions that cause runoff, ponding, and windblown spray (drift). **Pursuant to Recycled Water Specification B.15, Recycled Water Users must implement the required BMPs identified below and consider implementing other BMPs as appropriate for a Recycled Water Use Area.**

Further, the Provisions section on page 15 of the General Permit should also be edited to clearly reflect the User's responsibility. We suggest the following language (edited portions in bold):

"C. PROVISIONS

1. A duly authorized representative for each Producer and Distributor shall each sign the completed NOI form (Attachment B); a duly authorized representative of each User shall sign an Appendix to the NOI form that shall be kept by the Distributor with the NOI (Attachment __). Enforcement actions for violations of this General Permit may be taken against all responsible entities, **including Recycled Water Users**, for violations of any part of this General Permit. However, in general, responsibilities ~~for Producers and Distributors~~ are as follows:

- a. Producers shall be responsible for ensuring that recycled water meets the quality standards of this General Permit and any associated waste discharge requirement order(s) for the WWTP(s).
- b. Distributors shall be responsible for the operation and maintenance of transport facilities and associated appurtenances necessary to convey and distribute the recycled water from the point of production to the point of use with all applicable Title 22 requirements.
- c. **The Producer, Distributor, and User** shall be responsible for the application and use of recycled water in the respective Use Areas

and for associated operations and maintenance in accordance with all applicable Title 22 requirements, state and federal water quality laws, and this General Permit, **including implementation of BMPs pursuant to Attachment C.** The Producer and Distributor are also responsible for ensuring that Users maintain the minimum land application acreage and impoundment capacity to comply with the terms and conditions of this General Permit.”

Miscellaneous

- Paragraph 46a of the General Permit should be modified as follows: “Implement treatment and use standards necessary to produce disinfected tertiary recycled water and implement the applicable Title 22 Requirements and meet state and Federal water quality standards.”
- The General Permit states that “[t]he general Irrigation Management Plan shall include measures...to minimize application of salinity constituents (by mass) to Recycled Water Use Areas.” (General Permit, at 16.) The State Board should clarify what is meant by “minimizing” salt application. This is very subjective. Who decides what amount is appropriate?
- The General Permit states that “The Producer and Distributor are also responsible for ensuring that Users maintain the minimum land application acreage and impoundment capacity to comply with the terms and conditions of this General Permit.” (General Permit, at 15.) Please clarify what is meant by “minimum land application acreage” and exactly how this would be maintained.
- After conversations with State Board staff, it is our understanding that the General Permit could be obtained in place of the master water reclamation permit if the permit holder so chose. Yet, the General Permit states that “Producers and Distributors that operate pursuant to a master reclamation permit shall be allowed to retain coverage under the master reclamation permit.” (General Permit, at 7.) Would some Producers and Distributors need to obtain both permits? How do master reclamation permits fit within the Recycled Water Policy’s reference to “unusual circumstances”? These issues should be clarified within the General Permit.
- The Monitoring and Reporting Program requires that several parameters are monitored on a daily basis at all recycled water use areas. First, we note that any site checks and reports may more appropriately be done by the User, who has more ready access to the sites than the Distributor. Reports could then be held by the User and compiled by the Distributor for any necessary review. Second, we recommend that the State Board ensure that the timing and details of the proposed daily monitoring program are appropriate for the type and level of recycled water use being proposed. The goal of this streamlined permit process is to encourage recycled water use consistent with Title 22 and water quality law. Monitoring requirements should not only ensure that public and

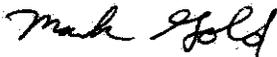
environmental health is protected, but also that users are not inappropriately discouraged from pursuing recycled water as a viable option for landscape irrigation.

- Limiting recycled water use to "common areas" in residential developments in subsection vi is appropriate, as this limits access to recycled water systems to trained staff. However, this limitation is inappropriate when extended to commercial and industrial landscaping, as the landscaping at these sites is also handled by trained staff. Thus, the State Board should remove the limitation of "common areas" in paragraph 3, sections vii and viii.
- Paragraph number 4 on page 2 should be deleted or moved to the section beginning with "It is Hereby Ordered" on page 11. Paragraph 4 sets forth specific directives which are more proper in the section beginning on page 11 than in the more general findings section. Also, Section 4.c. should be modified to add at the end: ", and state and federal water quality law requirements."
- Paragraph number 7 on page 17 should be modified to read, "The Distributor shall ensure that periodic inspections are conducted..."

* * *

Reuse and recycling of our limited water resources will be essential to meet the ever-growing demand for water in the state, including water needs for a healthy environment. With the recommended changes above, the General Permit will better implement the important goal of increasing the use of recycled water for landscape irrigation, which will preserve our potable water supplies for higher uses, without diminishing the commitment to protect public health and enhance water quality fully in the process. We ask that you incorporate the above recommended changes to the Policy to best effectuate this vision, and we look forward to working with you to ensure clean, reliable sources of water for California.

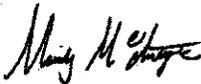
Best regards,



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Attachment: Photo of Recycled Water Overflow

Attachment: Letter from California Coastkeeper Alliance *et al* to SWRCB (June 26, 2008)



Don McEnhill

Recycled water irrigation overflow emptying into a storm drain that empties into Airport Creek, a tributary to Windsor Creek, which is tributary to Laguna de Santa Rosa/ Mark West Creek watershed.