



CALIFORNIA SECTION

June 25, 2008

Via Electronic Mail and Facsimile

Tam Doduc, Chair and Members
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

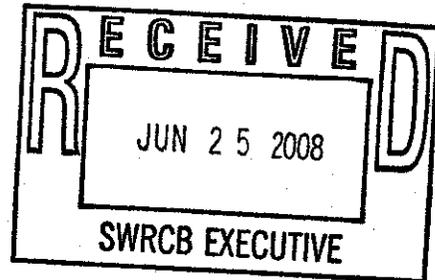
Attn: Jeanine Townsend, Clerk to the Board
(commentletters@waterboards.ca.gov)

Re: Comment Letter – Landscape Irrigation General Permit

Dear Chair Doduc and Members of the Board:

The California Section of the Water Reuse Association (WaterReuse) appreciates the opportunity to submit these comments in response to the Board's scoping request under the California Environmental Quality Act (CEQA). WaterReuse is a non-profit organization that promotes responsible stewardship of the State's water resources by maximizing the safe, practical, and beneficial use of recycled water. These comments reflect our commitment to help California achieve increased sustainable water supplies through water reuse.

As you know, recycled water is fundamental to the State's water supply and economic future. In 1997, the Legislature adopted statewide goals to recycle water: 700,000 acre-feet by 2000 and 1,000,000 acre-feet by 2010. The State did not achieve the goal set for 2000 and may not meet the goal set for 2010. In 2003, California's



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Recycled Water Task Force¹ identified the major barriers to meeting the recycled water goals including regulatory and permitting practices that result in inconsistencies, delays, increased project costs, and overly burdensome requirements on water reuse.

Assemblymember De La Torre's intent in authoring Assembly Bill 1481(AB 1481) was clearly to: (1) "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"; and (2) simplify and expedite the permitting process. This intent is consistent with and a logical outgrowth of the Task Force Recommendations.

Our comments are offered to assist the Water Board in its CEQA process to appropriately scope the project, identify alternatives to the project and analyze the significance of the impacts of both the project and its alternatives.

Scope of the Project

The scope of the project should be clearly defined as developing a permit that encourages and facilitates the use of recycled water for landscape irrigation.

Landscape irrigation should be defined broadly and should reflect the range of current urban recycled water uses. These uses include commercial, institutional, industrial, and municipal landscape irrigation. The Water Board should work in concert with the Department of Water Resources (DWR) to assure coordinated definitions of "landscape" between this permit and DWR's Model Water Efficient Landscape Ordinance. This level of state agency coordination will assist local implementation efforts and serve to further the shared goal of water use efficiency.

The Water Board must be mindful that an overly restrictive permit, or one that artificially limits the definition of "landscape irrigation," would actually discourage recycled water use, run afoul of AB 1481, and fall outside the scope of the project.

Benefits of Recycled Water Use

Because the project definition is to encourage the use of recycled water, the CEQA document must properly address the impacts of this increased use, and our scoping comments on impacts and mitigations are described below.

¹ Chaired by then Water Board member Richard Katz, the Recycled Water Task Force's membership represented federal, state, and local government, public health, and other private and public sector interests and produced: *Water Recycling 2030, Recommendations of California's Recycled Water Task Force* (June 2003).

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However, we believe that this CEQA analysis also affords the Water Board an important opportunity to clearly articulate and quantify the benefits of using more recycled water statewide. Clearly articulated, well quantified benefits are absolutely necessary if the Water Board is to meet its obligations under Resolution 68-16 (the Anti-Degradation Policy) to “assure that...the highest water *quality consistent with maximum benefit to the people of the State* will be maintained.”

When locally produced recycled water is used, in lieu of potable or raw water, for irrigation the State realizes the following benefits that must be considered in the CEQA analysis:

- Urban demands on surface and groundwater are reduced. The California Water Plan indicates that these can be reduced by as much as 1.4 million acre-feet annually through water recycling efforts.
- Wastewater discharges are reduced by the amount of water recycled, effectively minimizing the discharge of pollutants to waters of the state and enhancing California’s compliance with the federal Clean Water Act.
- Environmental water conflicts are reduced because an alternative supply is available for urban use. This alternative supply greatly increases the flexibility of the State’s water system and enhances the ability to make environmental water available at the right time and in the right quantities to support existing wildlife habitat and assist with the recovery of endangered and threatened species.
- Energy demands and concomitant greenhouse gas emissions are reduced because water is produced and used locally rather than pumped from great distances. A recently published report The Role of Recycled Water in Energy Efficiency and Greenhouse Gas Reduction, the California Sustainability Alliance found that “[f]or the four agencies studied², the annual energy and carbon benefits of accelerated development of available tertiary and secondary recyclable water totals 1,400 gigawatt hours and 540,000 metric tons of CO₂ – about 16% of California’s annual energy efficiency goals.”

For the purposes of CEQA compliance the Water Board must recognize the part that increased recycled water use can play in achieving the greenhouse gas reduction goals outlined in AB 32.

² The four agencies studied include: (1) Inland Empire Utilities Agency; (2) City of Ontario; (3) City of San Diego; and (4) Los Angeles Department of Water and Power.
http://www.fypower.org/pdf/CSA_RecycledH2O.pdf.

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- Compliance with the State's own Water Plan is facilitated. The Water Plan relies on 900,000 to 1.4 million acre-feet of additional recycled water use. Chapter 16 of the Water Plan clearly outlines the benefits of water recycling as follows:
 - i. Provide more reliable local sources of water, nutrients, and organic matter for agricultural soil conditioning and reduction in fertilizer use;
 - ii. Reduce the discharge of pollutants to water bodies, beyond levels prescribed by regulations, and allow more natural treatment by land application;
 - iii. Provide a more secure water supply during drought periods;
 - iv. Provide economic benefits resulting from a more reliable water supply;
 - v. Improve groundwater and surface water quality and contribute to wetland and marsh enhancement; and
 - vi. Provide energy savings; the use of recycled water as a local source offsets the need for energy-intensive imported water.

In addition, using recycled water for urban irrigation clearly implements the intent of Chapter 12 of the Water Plan, which is devoted to matching water quality to use. Landscape irrigation does not require potable water.

- The constitutional prohibition against waste and unreasonable use of water is implemented because of appropriate action taken by the Water Board.

In addition, recycled water is a sustainable supply and should be encouraged under the Water Board's own core value of sustainability (Resolution 2008-0030), and goals in the May 30, 2008 Strategic Plan Update 2008-2012.

Project Specific Impacts, Thresholds of Significance and Mitigations

In developing its CEQA analysis, the Water Board should recognize that this project (the development of a General Permit for recycled water use) does not eliminate the legal requirement for agencies that propose recycled water projects to comply with CEQA as lead agencies for those projects. As such, most physical impacts related to project construction and operation are appropriately managed by the lead agency proposing to develop a recycled water project.

In analyzing this project under CEQA, the Water Board should focus on potential public health and water quality impacts, which WateReuse firmly believes can be demonstrated to be less than significant.

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With respect to the protection of public health:

- The Water Board should properly respect the California Department of Public Health (CDPH) and its Water Recycling Criteria to define the treatment and use requirements necessary to protect public health. Under CEQA, the Water Board may rely upon the public health-based science and analysis used by CDPH in adopting the requirements of Title 22. There is no need for the project to conflict with or regulate beyond the requirements of Title 22. The Water Board's findings should articulate that Title 22 addresses what CDPH – the agency tasked with the creation of the water recycling criteria under the Water Code – considers significant in permitting landscape irrigation projects, and no other mitigation is necessary. Accordingly, the project does not need to address conventional or emerging contaminants.
- Further, the CEQA document should not focus on the use of improperly treated, managed, and/or regulated recycled water as was done in the scoping document. Such use is outside the scope of the project and would not be allowed under the General Permit.

With respect to the protection of water quality:

- The Water Board should recognize that the use area requirements and management practices in Title 22 provide protection for not only public health, but also water quality. In addition, the application of Best Management Practices (BMPs), such as irrigation at agronomic rates, notification of users regarding nutrients in the water, and site supervisor training, site inspections, etc., adequately protect both surface water and groundwater from anything but the most incidental contact with recycled water and render the impacts of such contact less than significant.
- The Water Board should recognize that recycled water used for urban irrigation is "irrigation water" and should utilize the existing MS4 program to assure compliance with the Clean Water Act. There is no need for a separate NPDES permit for recycled water irrigation. The Water Board has discretion in issuing NPDES permits and their requirements.
- Finally, in making findings with respect to the Anti-Degradation Policy, the Water Board should find that the combination of Title 22 required treatment and irrigation use area and management practices, along with relevant BMPs that are selected based on input from the recycled water community effectively constitute "best practicable treatment and control" and the "pollution and nuisance" will not occur.

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Alternatives to Project

Under CEQA, the Water Board must evaluate a No Project Alternative, which would be defined as no General Permit for Landscape Irrigation and no encouragement of recycled water use. The Water Board must consider the environmental impacts of no increase in recycled water use. These should include:

- The impacts of continued reliance on the fragile Sacramento-San Joaquin River Delta, the overtaxed Colorado River;
- The impacts of continued reliance on increasingly stressed local groundwater basins including the potential for increased seawater intrusion;
- The impacts of attempting to meet water demands of rapidly growing population with existing water supplies;
- The impacts of continued and increasing discharges to surface water;
- The economic and social impacts of not meeting the water demands of the state; and
- The energy and greenhouse gas emission consequences of continuing to rely on the existing imported water system throughout the state.

If the current environment of regulatory uncertainty continues, recycled water use could actually be reduced in the future; the CEQA document would need to analyze the associated impacts of the loss of this water supply. Continued overly stringent regulatory requirements and application of the “one molecule rule” in the case of incidental runoff and groundwater recharge may actually cause local purveyors to turn off projects that are essential to California’s water future because these requirements render projects too difficult and expensive to operate.

Consultation with Stakeholders

At the June 18, 2008 Workshop and Scoping Meeting for the General Permit, as part of the Water Board staff presentation, other issues were raised that are being considered in the development of the permit. These issues included:

- Eligibility criteria;
- Recycled water benefits and concerns (pathogenic organisms, salinity, “emerging contaminants,” unauthorized discharges of recycled water, application of the Anti-degradation Policy);

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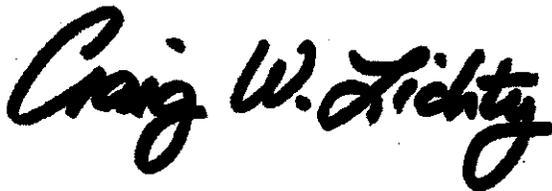
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- Agency and stakeholder coordination;
- Existing recycled water use permits; and
- Fee schedule.

These issues are complex and are deserving of significant deliberation to achieve the goals of AB 1481. To effectively resolve these issues, the Water Board needs to specifically consult with recycled water producers and users during the development of the permit rather than only use this scoping process as the means of collecting information. For that reason, we have not provided specific input on these issues at this time. The only way to understand how these issues can be resolved and appropriately facilitate recycled water use is to talk to the people who do it – the producers and users.

Consultation with stakeholders should be continuous and fairly informal so that concepts can be fully vetted. Consultation only through the formal public comment process will not be effective. WateReuse would be glad to help facilitate these discussions.

Sincerely,



Craig Lichty
President, California Section
WateReuse Association

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