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12/4/07 Bd. Mtg.
Water Recycling Policy
Deadline: 10/26/07 by Noon

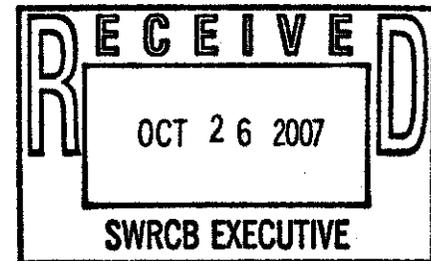


Santa Margarita Water District

October 29, 2007

Late 12:02pm

Ms. Jeanine Townsend, Acting Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100



Subject: Comment Letter - Proposed Water Recycling Policy

Dear Ms. Townsend:

Santa Margarita Water District (SMWD) appreciates the opportunity to provide comments regarding the proposed statewide policy regarding recycled water. SMWD has been producing recycled water for over 25 years and is supportive of the SWRCB's leadership in developing a framework to facilitate water reuse and bring greater consistency to recycled water regulation and permitting.

As a general comment, given the State's apparent overarching water policy objectives of maximizing the beneficial use of the State's waters with primary and continuing emphasis on conservation and recycled water use, it is paramount the SWRCB does not erect barriers to the use of recycled water vis-à-vis extraordinary interpretations of the Clean Water Act and implementing provisions under the Porter-Cologne Water Quality Control Act. Accordingly, because of different conditions throughout California, the SWRCB's recycled water policy should provide reasonable latitude with respect to its interpretation and implementation.

SMWD operates three water reclamation facilities in South Orange County with current production of approximately 200 million gallons per month. Additionally, over one million gallons per day of irrigation runoff is captured and returned to the recycled water system for reuse. Further, design/construction is underway for other runoff reclamation systems to further augment water supplies.

SMWD is a member agency of the South Orange County Wastewater Authority (SOCWA) which currently holds a permit (Order No. 97-52) issued by the San Diego Regional Water Quality Control Board (SDRWQCB). Conditions in the permit are essentially based on years of study and monitoring the use of recycled water which recognize there is no detrimental effect on Basin Plan objectives for local receiving waters.

The following points address specific concerns with respect to the draft Water Recycling Policy:

Purveyor Liability

This is in the nature of a constitutionally-prohibited ex-post facto law. It is not reasonable, nor prudent, to hold producers liable for potential future regulations. As presently proposed, even if a supplier is in 100% compliance with existing regulations at the time recycled water is generated and distributed, future more stringent regulations may create retroactive liability.

The proposed liability policy is clearly not consistent with promoting and sanctioning the production of recycled water in California; the liability issue should be completely removed from the proposed policy. California's water future, particularly since it appears to rely heavily at this time on conservation and recycled water use, is clearly dependent on developing significant new supplies through water recycling.

Salinity Management

The San Juan Creek Watershed in South Orange County is subject to SWRCB jurisdiction. There is very little ground water in South Orange County that can be utilized without treatment. Stringent TDS restrictions on applied recycled water may make it difficult to collect and reuse irrigation runoff. Restricting reclaimed water production to 300 mg/L over supply is not critical to SMWD, however if other sources were to be utilized in the recycled distribution system, this restriction would definitely pose a problem.

It is critical to distinguish, as the policy generally does, between irrigation, which is a use of water with only incidental effects and recharge projects, which are designed to augment groundwater. While the statement that "*Basin Plans are generally out of date with respect to control of salts,*" may be appropriate for certain basins, for those areas where the system has been working successfully and the basin in question has not been significantly impacted, any additional restrictions would be unwarranted and may adversely affect the ability to produce recycled water efficiently and with reasonable costs.

The draft policy appears to favor effluent limits for publicly owned treatment works (POTWs) that are designed to restrict salinity in produced recycled water in order to decrease potential deleterious effects on groundwater. As stated above, South Orange County has little available groundwater and the water that is present is normally of substandard quality, and therefore is not utilized. Accordingly, this restriction may not be applicable to the region.

Also, the policy suggests requiring producers to establish programs and ordinances to remove self-regenerating water softeners which would be difficult, if not impossible, to enforce. If elimination of self-regenerating water softeners is deemed necessary, in order for local agency to enact and enforce local regulatory ordinances, new or stronger State laws are necessary.

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Development and implementation of nutrient management plans would be difficult to implement considering the number and type of recycled water users. This restriction would be unwieldy for those charged with oversight and cost-prohibitive for the smaller users such as homeowner's associations, schools, and city parks.

Nutrient Management Plan

Limiting water usage to only that required for maximum utilization for crop growth and landscape maintenance, as well as the placing limits placed on soil nutrients such as nitrogen and phosphorus are reasonable goals. However, it is difficult to envision reasonable and implementing regulations and enforcing the restrictions. Not all the water purveyors have available resources to adequately monitor and control these issues and it is unlikely the Regional Boards will have necessary resources.

If you have any questions, or would like to discuss the District's comments please call me at (949) 459-6590.

Sincerely,

SANTA MARGARITA WATER DISTRICT

Daniel R. Ferons
Chief Engineer