



Irvine Ranch Water District
15600 SAND CANYON AVENUE
P.O. BOX 57000
IRVINE, CA 92619-7000

FAX



*Late
4:58 pm*

Date October 25, 2007

Number of pages including cover sheet 4

To: Jeanine Townsend
State Water Resources Control Board

From: Kirsten G. McLaughlin
mclaughl@irwd.com

Phone _____

Phone 949-453-5338

Fax Phone 916-341-5621

Fax Phone 949-453-1327

CC: _____

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REMARKS: Urgent For your review Reply ASAP Please comment

Attached please find IRWD's comment letter regarding the State Water Resources Control Board's proposed Statewide Recycled Water Policy.

Please do not hesitate to contact me if you have questions regarding this letter.

Thank you!

Kirsten G. McLaughlin

Legislative Affairs Specialist

Irvine Ranch Water District

**IRVINE RANCH WATER DISTRICT**

15600 Sand Canyon Avenue • P.O. Box 57000 • Irvine, California 92618-7000 • (949) 453-5300 • www.irwd.com

October 25, 2007

Jeanine Townsend
Acting Clerk to the Board
State Water Resources Control Board
PO Box 100
Sacramento, CA 95812-0200

RE: Proposed Statewide Recycled Water Policy

On behalf of the Irvine Ranch Water District, I write to provide our comments on the State Water Resource Control Board's proposed statewide recycled water policy. We appreciate the opportunity to comment on this important document.

IRWD is widely recognized as a leader in recycled water not only in California but throughout the nation. We are one of the first agencies in the state to distribute recycled water directly from our reclamation plant, and have been doing so for 40 years. The majority of IRWD's recycled water is used for landscape irrigation in parks, golf courses, school grounds, city street medians, homeowner associations and other public areas. Recycled water is also used for toilet and urinal flushing in 30 office buildings, for cooling towers, and for industrial uses such as carpet dyeing. IRWD maintains a completely separate recycling pipeline system of over 300 miles. In fiscal year 2005/2006, IRWD delivered approximately 22,000 acre feet of recycled water to more than 3,800 customers.

The Irvine Ranch Water District is regulated by the Santa Ana Regional Water Quality Control Board. The Santa Ana Region, made up of large portions of Orange, San Bernardino and Riverside Counties, has been very effective in salt and nutrient management and water recycling. As such, a wide array of highly successful water recycling projects have been developed in our region with the support of the Regional Board, the environmental community, and the public. We recognize that there is currently a large disparity in the interpretation of statutes, regulations, plans, and policies with respect to water recycling projects at the regional board level and there is a need to create a measure of consistency among the regional boards. However, we have great concerns that the creation of a statewide policy on water recycling could undermine current successful efforts in regions like Santa Ana. While IRWD has great empathy for other water agencies across the state who have faced insurmountable challenges in implementing recycled water programs, it is vital that we do not undermine successful areas of the state and limit regional flexibility in a well-intentioned effort to overcome those challenges.

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We have identified three specific areas of concern with the statewide recycled water policy as proposed:

Total Dissolved Solids Incremental Limitation

The policy as drafted creates a statewide Total Dissolved Solids (TDS) incremental limit of 300 mg/L as an interim control measure prior to adopting a basin wide salt management plan. This "one size fits all" limit would apply statewide without any water quality or environmental evaluation being performed. A statewide approach is likely to act as a disincentive to agencies looking to build or expand recycled water projects as there is ample evidence that a statewide 300 mg/L increment cannot be met by many agencies across the state without resorting to some form of desalination. Currently, the TDS increment is left to the discretion of the individual regional boards. This allows regional boards to work hand in hand with local agencies to achieve and maintain a TDS incremental limit appropriate to the region and applicable Basin Plans, as is done in the Santa Ana Region. If a statewide TDS incremental limit policy is adopted, the delicate balance that has been established in the Santa Ana Region, as well as others throughout the state may be undermined. We would recommend that instead, the policy direct Regional Boards to develop regional TDS incremental limits and methodologies through a collaborative and integrated planning process with local agencies.

Nutrient Management Plans

The policy will require recycled water users to draft and implement nutrient management plans which could be costly and of marginal benefit for individual users. Some areas of the state have already implemented similar regional nutrient management efforts such as Nutrient Total Management Daily Load (TMDL) Implementation Plans. Having water users develop similar plans may be an unnecessary duplication of effort.

Financial Means and Future Liability:

The policy would require recycled water purveyors to assume a "Superfund-like" liability (past, present and future liability) over potential impacts related to the discharge of recycled water and require purveyors to demonstrate that they have the financial means to fund future cleanup efforts if recycled water is identified as a source of contamination. This provision is a significant deterrent to water purveyors providing or considering recycled water projects. Technological improvements increase the number of potential pollutants detected faster than science can validate the significance of the contamination, this provision leaves the providers of recycled water open to unlimited liability and serves as a significant disincentive to the expansion of recycled water use across the state. Neither the public nor the recycled water industry benefits from artificially increasing the liability on recycled water.

On a more general basis, it is our understanding that the SWRCB elected not to include in the policy provisions regarding the regulation of so called "incidental runoff" and overflow from impoundments of recycled water. These issues were identified by the state Recycled Water Task

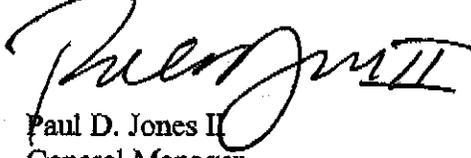
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Force in 2003 with a recommendation that SWRCB to convene a panel to determine what enforcement options were available under state and federal laws. The current direction from the SWRCB appears to be to address the issue of impoundments on a case-by-case through the Regional Boards, and "incidental runoff" will be addressed through development of a statewide general permit as required through recently chaptered legislation. Nonetheless, acknowledgment of these issues in the proposed policy with some general guidance language regarding the reasonable consideration of relative impacts (i.e. the potentially insignificant effects of incidental discharges of intermingled recycled and storm water during large storm events) would be helpful.

As noted above, legislation was passed this year requiring development of a statewide general water recycling permit and it is our hope that "incidental runoff" and other key issues can be addressed in this process with policy guidance from the SWRCB. As an overall concept, a general permit is beneficial for assuring agencies that their investments in recycled water systems and supplies will be protected by consistent regulation. This regulatory consistency will provide a "safe harbor" for agencies making decisions to invest substantial public financial resources in recycled water and, therefore, should result in additional recycled water development. The legislation also appropriately provides the ability for agencies to permit projects individually through the RWQCB. In either permitting scenario, policy guidance from the SWRCB would be beneficial.

IRWD appreciates the State Board's commitment to increasing the use of recycled water in California and efforts to create consistency across the state. We fully support the statewide goals of recycling one million acre feet per year of highly treated wastewater; however we remain skeptical of a "one size fits all" policy that may eliminate the regional flexibility necessary to address the diverse and complex challenges faced in different areas of the state. It is important that any statewide policy adopted by the State Board related to recycled water allows for current and planned recycled water projects to continue and expand to meet the state's growing water needs. Once again, thank you for the opportunity to provide comments on this important issue. If we can be of further assistance, please do not hesitate to contact me.

Sincerely,



Paul D. Jones II
General Manager