



CALIFORNIA URBAN WATER AGENCIES



June 26, 2018

Felicia Marcus
Chair, State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Comment Letter – Proposed Recycled Water Policy Amendment
(sent via email)

Dear Chair Marcus and Members of the Board:

On behalf of Water Reuse California (WRCA), the California Association of Sanitation Agencies (CASA), California Municipal Utilities Association (CMUA), the Association of California Water Agencies (ACWA) and California Urban Water Agencies (CUWA), we thank you for the opportunity to submit comments on the draft amendments to the Recycled Water Policy (Policy). To stretch California's limited water supplies, our organizations support maximizing the beneficial use of recycled water in California, whether it be for drinking water, or for non-potable applications, such as for landscape irrigation, agriculture or other purposes.

We appreciate the time and effort spent developing the revised Policy. While we support many of the changes, our members have identified several aspects of the draft that are of significant concern. Our comments below are intended to ensure that the Policy continues to encourage and enhance, rather than unnecessarily impede, future recycled water project development, as well as support the continued implementation of existing projects. Given the importance of these issues, we request that the Board take the time necessary to complete the Policy in a thoughtful and collaborative manner. In particular, given the significant concerns we continue to have about the Bioassay Monitoring provisions, we request that the Board postpone initiation of the peer review process until we have an opportunity to work with staff to try to reach consensus.

Maintain a Singular Goal of Increasing Recycled Water Statewide

Appropriately, the one goal of the current Policy is to increase water recycling in California. All of the actions within the Policy are intended to support this broad goal, which is also

contained in the California Water Code, Section 13560. The draft Policy would add another parallel goal:

Minimize the direct discharge of treated municipal wastewater to enclosed bays, estuaries and coastal lagoons, and ocean waters, except where necessary to maintain beneficial uses. For the purpose of this goal, treated municipal wastewater does not include brine discharges from recycled water facilities or desalination facilities.

Our associations do not support the inclusion of this new goal. First, we view minimizing wastewater discharges only to the ocean and bays as a way to increase awareness of water recycling focused solely in coastal areas – not a statewide goal in and of itself. We support the Board’s desire to analyze information that wastewater agencies report to the Board regarding the amount of wastewater discharged to the ocean and bays. This information can be used to assess how much water recycling is theoretically possible to reduce wastewater discharges to saline water bodies, but to make such an assessment useful, it must take into account a variety of factors including demand, costs, feasibility, brine management, service duplication restrictions, and potential permitting issues. Additionally, by elevating this concept to a Policy goal, the Board would be sending a message that recycling in inland areas for agriculture and other purposes is a lower priority than coastal recycling and provide a platform for those who say water recycling should not occur unless the wastewater would otherwise flow to a saline water body. We must respectfully disagree with this principle.

If the Board determines this concept must be retained in the Policy in some form, we ask that it be moved to the “Benefits” section of the Policy and be recast to encourage water recycling where wastewater is discharged to the ocean/bays/estuaries. We would be happy to work with your staff on appropriate language. The Board should also consider expanding the Benefits section to include other major opportunities to increase water recycling in California, such as encouraging the use of recycled water for agriculture in inland areas and the benefits of increasing recycled water use as a strategy for adapting to climate change.

We also request that the language in Section 3.2 about calling for the Board to establish mandates to achieve the goals in section 3.1 be deleted.

Annual Recycled Water Reporting

We are generally supportive of the annual recycled water reporting requirements included in the Policy. However, we ask that all other duplicative tracking of recycled water uses be discontinued. We understand that the Board may not have full control over other state agencies conducting the recycled water tracking so the

Board may want to include a statement in the Policy that this reporting is intended to be the sole way to track recycled water use in the state.

Additionally, we request that the monthly reporting for municipal wastewater treatment plant influent, production and disposal be modified to require reporting of quarterly data in an annual report at one time per year instead of setting a monthly report schedule. Further

we ask that Section 3.2.1 expressly recognize that the volume of influent entering a wastewater treatment plan will not equal the volume of treated wastewater produced.

Restore Funding Incentives

As California continues to develop recycled water projects, it is critical that the Board make grants and loans available to provide an opportunity for smaller utilities to retrofit existing plants, when appropriate, to support water reuse applications, or build small-scale demonstration projects for producing recycled water. The 2009/2013 Recycled Water Policy provided funding incentives for water purveyors, stormwater agencies, and water recyclers. However, the proposed amendments to the 2018 Recycled Water Policy omit the funding provisions. We recommend that the Board retain funding incentives within the proposed policy to further the development of local water infrastructure projects and advance research for new, innovative technologies.

Wastewater Change Petitions

Over the last few years wastewater change petition requirements in Water Code Section 1211 have delayed many water recycling projects in California. During the CEQA scoping phase, staff acknowledged this problem and indicated that the proposed changes to this section of the Policy would clarify the institutional and interagency issues and streamline the process. Unfortunately, the proposed changes to the Policy create uncertainty rather than clarity, add new requirements to a process that is already prone to delays, and fail to address the very real institutional, scientific, and resource issues that characterize the current process.

There are two issues of major concern with this section of the Policy. First, the Policy states that the Division of Water Rights (DWR) may cumulatively consider the impacts from “past, present and probable future projects with the potential to decrease the streamflow.” CEQA compliant projects will already have considered cumulative impacts of past and present projects, where applicable, so this provision appears to be duplicative. We understand that in some cases, where there are multiple proposed projects in a watershed, the Board may wish to employ a different approach to ensure instream uses are protected. This does not require a policy amendment; the Board is already taking such an approach with the Los Angeles River pilot project, which provides an opportunity to “test drive” this model. However, we are concerned that the policy as drafted has the potential to further slow down and complicate reviews for the majority of projects where this approach is not needed or appropriate.

Second, Section 5.1 adds a new requirement that prior to changing the point of discharge, place of use, or purpose of use of treated wastewater that **could** decrease the flow in any portion of a watercourse, or receiving state funding for the treatment or use of recycled water, a “determination” must be obtained from the Board staff that the project is in compliance with Section 1211.

We are concerned that even if the process for a “determination” is set up initially as a simple process (i.e., simple request and an email reply) it has the potential to become more complicated and burdensome over time, with the Board developing extensive forms that

have to be completed and expanding the making of any such determination into a complicated and time-consuming process.

We understand this requirement may have been prompted by the failure of some applicants to understand and comply with Section 1211. Simply stating the obligation in the Policy will help raise awareness, and we believe that additional education and outreach would also be a useful way to ensure that project proponents understand the requirements of Section 1211. However, requiring issuance of an affirmative determination, as proposed in the Policy, has the potential to create additional delays for those who are compliant, and puts an additional burden on the Board's staff.

In light of this and other concerns related to Section 1211, we believe that the Board and the recycled water community would be better served by convening a stakeholder/interagency effort to develop a guidance or other document that sets forth the process, obligations, timelines and other important aspects of the program.

Salt and Nutrient Management Plans (SNMPs)

We support the change in the Policy that calls for Regional Board prioritization of SNMP development and thank staff for its inclusion. We believe it is important to devote limited resources to addressing those basins where salt and nutrients need to be managed to protect beneficial uses.

We continue to believe that the inclusion of the SNMPs within the Policy is misplaced. The SNMPs should be part of a larger stakeholder effort to manage the quantity and quality of groundwater in California. The passage of the Sustainable Groundwater Management Act (SGMA) in 2014 appears to be an opportunity to coordinate SNMPs with SGMA plans and reduce overlap among separate groundwater/water quality planning efforts.

Permitting of Recycled Water Projects

The draft Policy requires that all old engineering reports (before 2000) be reviewed and updated in two years. The draft Policy also states that all recycled water general orders from Regional Boards will expire in one year and agencies must transition to the 2016 General Order or other permit coverage for non-potable recycled water.

We are concerned that one year is not enough time to enroll all of the regional board permit holders in the 2016 General Order. If engineering reports need to be reviewed or updated, this could potentially take longer than a year, and recycled water permittees could be left without coverage through no fault of their own. We ask that the deadline be extended, or language included in the Policy allowing projects to continue while the transition is ongoing. We also note that agencies with existing permits that update their engineering reports and comply with all aspects of the Policy should be allowed to maintain master or individual permit coverage outside of the 2016 General Order.

Bioassay Monitoring: Follow CEC Science Advisory Panel Recommendation

While we support the advancement of monitoring through bioassays, we are very concerned about the proposed approach in the Policy. In April the science advisory panel released its

final report on CECs --*Monitoring Strategies for Constituents of Emerging Concern in Recycled Water*. The report made a number of recommendations and observations on bioassay testing. These were:

- Two new bioassay tests (ER-a/AhR) should be added for groundwater recharge and reservoir augmentation potable reuse projects.
- The bioassay testing should be done in a deliberate three-phase approach that consists of a 3-5 year data collection period, a pilot implementation phase and finally, a full implementation phase with response actions associated with the results of the bioassay tests.
- The science advisory panel declared that response actions as a result of these tests in the data collection phase are “premature and thus not appropriate, until such methods are fully validated and certified by the appropriate entities.” This statement is made in different ways eight separate times in the final report.
- A Bioscreening Implementation Advisory Group should be formed to help specify protocols and guide utilities and the Board through the data collection and pilot program phases.

Unfortunately staff has proposed to significantly deviate from the recommendations of the final CEC science advisory panel report and instead tie the outcome of bioassay tests, which are not sufficiently validated and standardized, to response actions that may have a direct impact on utilities. We strongly disagree with this approach.

The final CEC science advisory panel report defines standardization as providing confidence in the comparability of results. This is not the case with bioassay tests at this time. The final CEC report mentions there are four labs in the world currently conducting these tests – one outside of the United States. When our members contacted the laboratories, they gave a variety of answers on how the tests would be performed and requested a level of specificity regarding test parameters indicating a lack of method standardization. Effectively coordinating test details with the laboratories requires significant expertise in bioanalytical methods that is lacking outside of the research community at this time. This lack of standardization is likely

to result in widely different numeric outcomes and an associated lack of reproducibility across different laboratories and recycled water facilities.

While Board staff states that the bioassay testing is comparable to the CEC chemical testing, we again must strongly disagree. For the existing chemical tests for CECs there are at least four commercial and seven public agency labs in California that perform these tests, and the methods and standards for the tests have matured and are reproducible.

As we do not believe the bioassay tests are adequately standardized and reproducible at this time and there are considerable questions about how exceeding these thresholds might impact human health, we strongly disagree with tying the numeric outcomes to response actions.

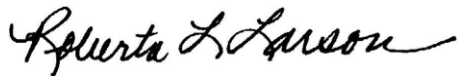
The proposed revision to the Policy states that the response actions include but are not limited to potentially performing “non-targeted analysis”, which is again, not recommended by the science advisory panel. Other actions include an open-ended response action of “modification of facility operations.” Costly studies and monitoring are included in the response actions. Another problem with including response actions for bioassays is that utilities will potentially have to explain to customers that certain thresholds have been exceeded and what that means for human health, despite the fact that this is not fully understood.

In summary, we urge the Board to revise the Policy to follow the recommendations of the science advisory panel. We also urge the Board to contact members of the science advisory panel to discuss the current status of standardization and validation of bioassay testing and the science advisory panel recommendations more broadly.

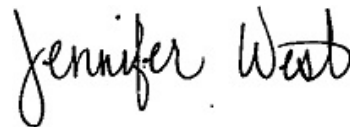
Conclusion

A Recycled Water Policy that facilitates water reuse in California is of critical importance to our future water supplies. We are fully committed to working with the Board and staff to develop a Policy that advances the goal of increasing the use of recycled water throughout California.

Sincerely,



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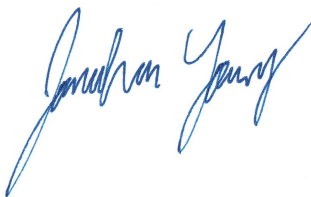
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