



Sent via email: FeeBranch@waterboards.ca.gov

May 2, 2024

Mr. David Ceccarelli
Division of Administrative Services
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

RE: Comment Letter — Proposed Fees for Recycled Water Permits

Dear Mr. Ceccarelli:

On behalf of Water Reuse California (WRCA), we are pleased to submit comments on the draft options for Proposed Fees for Recycled Water Permits (fees) that were presented on April 18, 2024. WRCA represents over 200 public agencies, consulting firms, and companies dedicated to expanding the use of recycled water in California.

The state of California through statutes and State Water Resources Control Board (State Board) policies have long encouraged the development of recycled water and potable and non-potable reuse as drought and climate resilient water supplies. We share the Governor's robust vision as outlined in his August 2022, [*California's Water Supply Strategy: Adapting to a Hotter, Drier Future*](#) (*Water Supply Strategy*) which identifies increasing the use of recycled water as a key strategy: *Recycle and reuse at least 800,000 acre-feet of water per year by 2030 and 1.8 million acre-feet by 2040* (page 3).

The *Water Supply Strategy* further highlights the importance of developing these supplies and details several actions for increasing recycled water and potable reuse in the state.

Consistent with the state's goals to expand recycled water production, the entire state benefits from recycled water freeing up potable supplies. WRCA believes this new fee should not penalize agencies that are planning to produce recycled water nor those that already have established permits. We have worked with our members to develop the following feedback to the current proposal:

Fee should not be one-size-fits-all

WRCA is supportive of an approach that recognizes there are vast differences in agency projects across California. While we acknowledge the draft proposal aims to account for some of these differences (for example, Option C ranges from a proposed surcharge of 8% and goes as high as 66%), recycled water projects already have different starting places through their base permit fee. The permitting vehicles in use for recycled water projects (WRRs, NPDES Permits, WDRs, MRPs) already have different fee structures, so applying a surcharge to this base fee will extend the existing inequality. Additionally, existing permitting vehicles already capture the additional cost of recycled water projects relative to discharge projects through the threat and complexity ratings on which current permit fees are based.

Fee increase proposals need to be transparent and capped

We agree with Division of Administrative Services' Fee Branch staff that we need to minimize annual swings in fees and revenue. For the sake of planning and the success of their recycled water projects, our members need fee stability and ample time to plan and budget appropriately. As stated in 2023 where these recycled water fees were proposed, WRCA continues to propose that the State Board cap the annual increase for this recycled water permit fee to no more than 5 percent per fiscal year or tie annual increases to Consumer Price Index. WRCA supports the *Water Supply Strategy's* ambitious goals for increasing the development of recycled water supplies. However, allowing reasonable and predictable annual fee increases would create better budgeting certainty for projects currently under development. We have seen fees for other types of State Board permits dramatically increase in the past few years and WRCA does not want permit fees to be a deterrent for the development of continued and new recycled water projects.

Avoid duplicative charges

An approach is already in place for potable reuse projects that require review and approval by the State Board's Division of Drinking Water (DDW). For these projects, DDW requires project proponents to pay fees based on hourly rates of DDW staff to review engineering reports, which lead to development of project permits. WRCA is concerned that these newly proposed recycled water permit fees will be charged for the same work. These existing fees are already being paid – sometimes tens of thousands of dollars per project per year – during the permit acquisition or renewal phase for water recycling projects. Our members also often work in partnership with other agencies; we want to ensure that those partners are not both charged for the same work.

Fee should be fair

WRCA requests that any flow categorizations be based on actual recycled water flow instead of a facility's total permitted discharge. To assess a recycled water surcharge or fee based on the entirety of the wastewater flow when recycled water is, in some cases, only about 2% of the wastewater flow is a deterrent to the use and development of recycled water supplies. We request that, as described under current Options B and C, any volumetric binning of recycled water fees be based on the amount of recycled water produced. Data to support such an approach should be available through the SWRCB's volumetric reporting system.

Meaningful stakeholder engagement

We request the State Board staff hold an in person (with a hybrid option) Recycled Water Permits Fees Stakeholder meeting in early June to allow recycled water agencies to ask questions and provide meaningful input as the final option takes shape. We believe a proposal that was developed with stakeholder input that does not need to be immediately revisited in the near term is the best path forward.

Feedback on the staff spreadsheet

WRCA also questions why flows with one million gallons per day (MGD) to 50 MGD are grouped into one tier; such wide range contains a heterogeneous group of permits, projects, utilities, and end uses that likely does not reflect equivalent state regulatory effort. We would like to further discuss with you whether this category should be split into more tiers.

Proposed Alternative Option

WRCA would like to propose to return to last year's practice of continuing to fund the new Regional Board personnel years (PYs) via the existing Waste Discharge Requirement (WDR) Fees and Wastewater National Pollutant Discharge Elimination System (NPDES) Fees. \$4.73 million of the *Water Supply Strategy* budget change proposal, including 13 of the 15 PYs, was already funded in FY 23-24 via the existing WDR and NPDES Wastewater permit fees. The full budget change proposal amount could be funded by a minor increase to existing fees, versus the up to 66% increase in fees proposed for some recycled water projects.

If these excessive surcharges are adopted, some individual agencies would be effectively funding the equivalent of almost two personnel years (PYs), every year. We urge the State Board to reconsider the overall total it wishes to raise through this proposal. Maintaining a broad permit base to generate the required revenues is preferable; another strategy such as *fee for service* could be adopted – as is already done by DDW for work on recycled water projects-- to account for the variety of scenarios, ranging from quite simple to very complex projects.

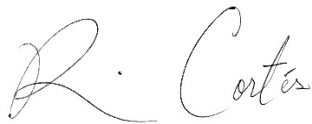
We believe that this approach will help to create a fee structure that is fair and equitable to agencies of varied sizes and ultimately help California to reach future recycled water goals.

Conclusion

We share your commitment to climate-resilient water sources. We desire to work with the State Board on these issues to ensure cost-effective, fair and transparent fees are established.

For questions or additional information, please contact me at rcortes@watereuse.org.

Sincerely,

A handwritten signature in black ink that reads "R. Cortés". The signature is written in a cursive style with a large, stylized initial "R" and a smaller "Cortés" following it.

Rosario Cortés
Manager of Regulatory Affairs
WateReuse California

cc: Board Members, State Water Resources Control Board
Karen Mogus, Chief Deputy Director, State Water Resources Control Board
Phil Crader, Interim Deputy Director, Division of Water Quality, State Water Resources Control Board
Annalisa Kihara, PE, Assistant Deputy Director, Division of Water Quality, State Water Resources Control Board