



State of California – Natural Resources Agency
DEPARTMENT OF FISH AND WILDLIFE
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EDMUND G. BROWN JR., Governor
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December 20, 2017

Via Electronic Mail Only

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-2000
commentletters@waterboards.ca.gov



Dear Ms. Townsend:

SUBJECT: Comment Letter - Proposed Recycled Water Policy Amendment Early Public Consultation

On November 21, 2017, the State Water Resources Control Board (State Water Board) released an informational document for early public consultation on a proposed amendment to the Policy for Water Quality Control for Recycled Water (Recycled Water Policy). The proposed amendment will update monitoring requirements for constituents of emerging concern (CECs), reflect recent regulatory developments, advancements in the field of recycled water, and update or clarify guidance on salt and nutrient management plans. The informational document describes the topics of the proposed amendment and summarizes factors that could be considered in the analysis of potential significant environmental effects under the California Environmental Quality Act (CEQA). The California Department of Fish and Wildlife (Department) appreciates the opportunity to provide comments during the development of the proposed amendment to the Recycled Water Policy.

As a Trustee Agency, the Department has jurisdiction over the conservation, protection, and management of fish, wildlife, native plant species, and habitat necessary for biologically sustainable populations of those species and their benefits to all citizens of the state (Fish & G. Code, § 711.7, subd. (a) & 1802; Pub. Resources Code, § 21070; CEQA Guidelines, § 15386, subd. (a)).

Topic 2: Goals and Mandates

The Department agrees with the project goal of supporting the increased use of recycled water in a manner that protects the environment and public health as one piece of a broader strategy to mitigate the effects of long-term drought, climate change, and water supply uncertainty. The informational document states that storm water capture and conservation goals may be removed from the Recycled Water Policy because they are now housed in the Strategy to Optimize Resource Management for Storm Water and implementation of Executive Order B-37-16 ("conservation

regulations”) and any changes to the goals may acknowledge conservation efforts and long-term water supply challenges that may affect recycled water production or use. The Department recognizes the challenge of ensuring the needs of fish and wildlife are met while recycled water use increases. However, the Department is concerned that the project’s goal of increasing the use of recycled water, in combination with other goals and mandates to increase storm water capture and water conservation, may have a cumulative effect in the reduction of available instream water for fish and wildlife, and may therefore may have a significant adverse environmental impact. The Department suggests that the State Water Board clarify where the analysis of potential cumulative impacts from a reduction in available instream water for fish and wildlife, and the habitats they depend upon, as a result of changes to the Recycled Water Policy goals will occur in the CEQA process.

Increased recycled water use will likely result in an increase in wastewater change petition submittals, thereby reducing the amount of water discharged into the state’s rivers and streams. The biological resources of numerous streams in the state, particularly in the southern portion, are reliant upon the effluent of wastewater treatment plants to sustain them. It is critical that the effects of reducing instream flows to streams from wastewater treatment plants be both individually and cumulatively considered to prevent reductions in discharge from adversely altering the hydrologic flow regimes. Altering flow regimes requires careful consideration and site-specific scientific evaluation as changes in stream volume are directly linked to changes in stream conditions and aquatic species habitat suitability for water depth, velocity, temperature, and dissolved oxygen. Effluent reliant streams may also contain species listed under the Federal Endangered Species Act and California Endangered Species Act, and the potential for take of a listed species should also be considered. The Department suggests that the State Water Board clarify where the analysis of potential cumulative impacts from the reduction of instream flows as a result of increased wastewater change petitions will occur in the CEQA process.

Topic 4: Add clarifying language regarding the process to comply with Water Code section 1211

The Department is supportive of the State Water Board’s proposal to add language clarifying the requirement of complying with Water Code § 1211. The Department suggests additional clarifying language for complying with Water Code § 1700 for the wastewater change petition process. Specifically, it would be beneficial for the proposed amendment to highlight Water Code § 1701.2 (c): “Include all information reasonably available to the petitioner, or that can be obtained from the Department of Fish and Wildlife, concerning the extent, if any, to which fish and wildlife would be affected by the change, and a statement of any measures proposed to be taken for the protection of fish and wildlife in connection with the change.” It is highly encouraged that petitioners

solicit input from the Department early in the wastewater change petition process. Early consultation will allow the Department to provide input on the petitioner's project, the project's potential environmental impacts, and any protective measures that may be necessary.

The Department recommends all petitioners identify low-flow ecological threshold flows and habitat connectivity flows necessary to maintain the health of aquatic instream and riparian resources, in all stream reaches at and below the point of discharge. The establishment of a seasonally appropriate low-flow threshold helps protect fishery productivity during critically low-flow time periods by supporting stream channel forms and riparian communities that directly affect aquatic life. Flow levels decreasing below the low-flow threshold are typically characterized as rapidly declining in aquatic habitat and aquatic benthic invertebrate productivity, and are generally stressful conditions for the fishery and the greater aquatic ecosystem. Aquatic habitat connectivity flows allow for movement, passage, and persistence of aquatic biota. Encouraging the petitioner to consult with the Department throughout the development of the wastewater change petition can expedite the overall process, saving time and resources for all parties involved.

The Department is highly supportive of the State Water Board's proposal to consider cumulative impacts when processing wastewater change petitions (stated in the Early Public Consultation presentation, slide 18). The Department recognizes the State Water Board's effort to begin addressing this complicated issue, such as the Los Angeles River informational item at the State Water Board's November 8th meeting, and greatly appreciates the opportunity to have participated at that meeting.

Conclusion

The Department appreciates the State Water Board's efforts to amend the Recycled Water Policy and clarify the Water Code § 1211 process to ensure compliance. The Department is concerned that the potential cumulative impacts of the project will have a significant adverse environmental impact and suggests that the State Water Board clarify where these impacts will be analyzed in the CEQA process.

The Department appreciates the opportunity to provide comments on the CEQA scoping of the proposed amendment to the Recycled Water Policy, and looks forward to continue working with the State Water Board in the development of this amendment.

Ms. Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
December 20, 2017
Page 4

Sincerely,



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