

Department of Water and Power



the City of Los Angeles

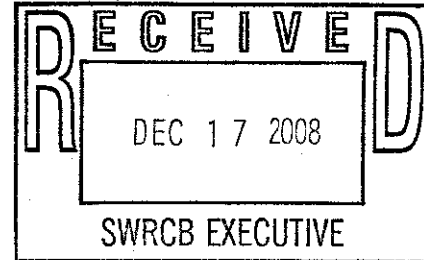
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December 17, 2008

Ms. Tam Doduc, Chair  
California State Water Resources Control Board  
1001 "I" Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814



Attention: Ms. Jeanine Townshend

Dear Ms. Doduc:

Subject: Comment Letter - Antidegradation Policy (Resolution 68-16)

The City of Los Angeles Department of Water and Power (LADWP) appreciates the opportunity that the State Water Resources Control Board (SWRCB) has provided to review and comment on the "Statement of Policy With Respect to Maintaining High Quality of Waters In California" (antidegradation policy), and also the Administrative Procedures Update 90-004 (APU).

LADWP serves drinking water from multiple sources of water to the City of Los Angeles. These sources include State Water Project, Owens Valley, Colorado River, and local groundwater basins. LADWP is planning to use these and other sources, as mandated by the State, such as recycled water from reclamation facilities and stormwater runoff for both recharging groundwater basins and irrigation. Each of these sources has differing water quality. In light of these issues, LADWP has the following comments:

I. Should the Policy be revised for surface waters?

LADWP believes that the Policy as written is sufficient to express the intent to prevent high quality and exceptional quality waters from being degraded. Therefore, LADWP supports the Policy as written.

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II. Should the implementation procedures as contained in the APU be revised?

- A. LADWP believes the Administrative Procedures Update (APU) should be revised to address the need for greater development and use of recycled water and captured storm water. The APU should also address the conditions to be considered per the mandate of California Water Code Section 13241. These include the past, present, and probable future beneficial uses of water, the environmental characteristics of a hydrographic unit under consideration, including the quality of water, the water quality conditions that could reasonably be achieved through the coordinated control of all factors which affect water quality in the area, economic considerations, and the need to develop and use recycled and storm water.

**Recommendation:** LADWP suggests that in the APU the SWRCB acknowledge the value of recycled water and captured storm water to communities in arid or drought-affected regions, and in areas that are largely dependent on imported supplies to meet their potable water demands. The APU should identify existing resolutions and legislation promoting recycled water and storm water capture and the resulting challenges in implementing the antidegradation policy. The APU should also provide a procedure for the Regional Board to quantify the value of recycled water, captured storm water, and grey water reuse so that required economic considerations can be addressed. The procedure should provide direction on how to weigh the need to ensure present and future water supply reliability in a region using different sources of water while meeting water quality standards (WQS) versus maintaining current water quality levels.

- B. In order to provide flexibility for municipalities to use waters from a variety of sources, including storm runoff and recycled water, LADWP believes the SWRCB needs a procedure to identify "high quality" waters also known as Tier II according to the USEPA (meaning the waterbody meets the current baseline concentration, which is more stringent than the water quality standards for that waterbody's beneficial use) or Tier 1 according to the USEPA (waters achieving water quality standards). The State of Maryland uses a procedure that involves comparing water quality data with water quality standards (WQS) for appropriate beneficial uses, proposing the waterbody classification, then allowing for a public comment period and hearing followed by the adoption of the tier classification (i.e., Tier 1 or 2), which is then translated into regulations.

**Recommendation:** In the APU the SWRCB should provide a procedure to distinguish between "high quality" waters and waters meeting WQS. Such a procedure should take into account the municipalities' responsibilities to manage

waters served to the public as a part of a "maximum benefit" analysis. When implementing this procedure, the SWRCB should consider allowing municipalities the flexibility to manage their water sources such that they can ensure water supply reliability, as long as WQS are achieved.

- C. LADWP believes that the APU should provide a procedure to calculate the baseline water quality, as well as how to calculate the anticipated change in water quality when a given discharge begins. The APU states that the most recent water quality resulting from permitted action is the baseline water quality, but does not provide sufficient detail.

**Recommendation:** LADWP suggests that procedures be adopted in the APU to help Regional Boards determine baseline water quality and to quantify the amount of degradation that may occur when a discharge source is added to a waterbody.

- D. LADWP believes that adopting a procedure to identify beneficial uses that may be harmed would be helpful because WQS in many cases are already very stringent, a slight increase in historical concentrations of an analyte may or may not show measurable harm to a beneficial use.

**Recommendation:** LADWP suggests that the APU adopt a procedure to identify beneficial uses that might be harmed if the historical concentrations are raised but within WQS. The APU should also identify how to measure harm (or lack of harm) to beneficial uses when water quality degrades slightly but still meets WQS.

- III. Should the implementation procedures of the APU be formally adopted as guidance or regulations?

- A. LADWP believes that the APU should be a guidance document rather than a regulation to allow for flexibility, such as site-specific or region-specific considerations. Furthermore, the current APU appears to have been functioning adequately as a guidance document.

**Recommendation:** LADWP suggests that the APU remain as a guidance document.

- IV. Should the implementation procedures of the APU be expanded beyond the point sources discharge permitting program?

- A. LADWP believes that the antidegradation analysis has always included consideration of non-point sources. Currently the determination of total maximum daily load (TMDL) wasteload allocations has been influenced by the estimated

contribution of pollutants by non-point sources. TMDL calculations also account for growth within a region, as required by the margin of error calculations. NPDES permit development also includes historical data of waterbodies, which receive non-point discharges. Thus a major expansion of the APU to include non-point sources is not necessary.

**Recommendation:** LADWP suggests that the APU remain as written with regards to non-point sources.

V. Should the Policy be revised as it applies to groundwater?

A. The Policy should not be revised as it applies to groundwater. The LADWP believes that Resolution 68-16 is written so that its implementation will protect the quality of the Waters of the State. The Policy allows for regulatory latitude in that it takes into consideration the existing water qualities in the State and permits discharges if it is demonstrated that the highest water quality consistent with the maximum benefit to the State is maintained.

**Recommendation:** Because discharge permits are developed with the goals of Resolution 68-16 written into them, LADWP suggests that the APU specify that discharge permits be prepared with a statement of finding that the permitted activity has been determined to be consistent with the goal of providing for the maximum benefit to the people of the State. This finding would have to be determined by quantifying the benefit of the activity versus a quantifiable effect if the activity was not permitted.

B. In urban areas, groundwater is often stored and served to the public after being polished and blended as necessary. Municipalities are aware of the importance of serving water to the public that meets human health standards. Municipalities should be given the flexibility to work with the SWRCB so that water may be stored in the ground and reused as long as no priority pollutants or other harmful pollutants are introduced into the groundwater. Groundwater is currently recharged from different sources: Colorado River, recycled water, and storm water. Each source has a differing amount of total dissolved solids (TDS), some of which have higher amounts than baseline water quality without exceeding groundwater standards.

**Recommendation:** LADWP suggests that the APU should be revised in order to more adequately address the need for water recycling and reuse of both recycled and storm water, without compromising WQS.

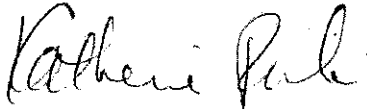
Ms. Tam Doduc  
Page 5  
December 17, 2008

**C.** Currently the Policy requires all groundwater basins to be classified as Tier II (high quality). This may reduce the amount of flexibility that municipalities have when choosing the sources of water to be added to the groundwater. The Policy and APU should therefore allow for the possibility of classifying groundwater as Tier I (waters meeting groundwater standards).

**Recommendation:** LADWP suggests that the Policy allow for groundwater basins to be classified as Tier I (waters achieving WQS). The APU should be revised to discuss the conditions that would allow a Tier I classification for certain constituents.

Again, thank you for the opportunity to submit comments. LADWP looks forward to working with the State Board on the Antidegradation Policy and APU documents. If you have further questions or need additional information regarding LADWP's comments, please feel free to contact Mr. Mark Bassett or Mr. Clayton Yoshida of the Wastewater Quality and Compliance Group at (213) 367-3059 or (213) 367-4651, respectively.

Sincerely,



Katherine Rubin  
Manager of Wastewater Quality and Compliance Group

CY:rp  
c: Mr. Clayton Yoshida