



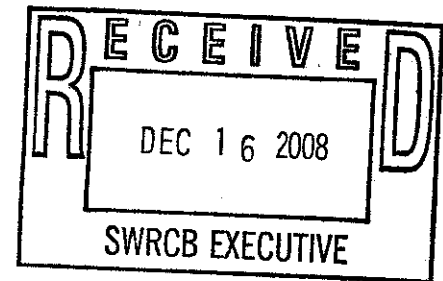
COUNTY SANITATION DISTRICTS OF LOS ANGELES COUNTY

1955 Workman Mill Road, Whittier, CA 90601-1400
Mailing Address: P.O. Box 4998, Whittier, CA 90607-4998
Telephone: (562) 699-7411, FAX: (562) 699-5422
www.lacsd.org

STEPHEN R. MAGUIN
Chief Engineer and General Manager

December 15, 2008
File No. 31-370-40.4A

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



Dear Ms. Townsend:

Comment Letter - Anti-degradation Policy (Resolution 68-16)

The County Sanitation Districts of Los Angeles County (Districts) appreciate this opportunity to submit comments on the State Water Resources Control Board's (State Board) scope of actions to consider in reviewing the State Water Board Resolution No. 68-16 "STATEMENT OF POLICY WITH RESPECT TO MAINTAINING HIGH QUALITY OF WATERS IN CALIFORNIA" (Anti-degradation Policy) and its implementing guidelines as contained in the Administrative Procedures Update 90-004 (APU 90-004), precedential decisions, and legal memoranda. The Districts are a confederation of special districts, which operate and maintain regional wastewater and solid waste management systems for approximately 5 million people who reside in 78 cities and unincorporated areas in Los Angeles County. The Districts operate 11 wastewater treatment plants and maintain approximately 1,300 miles of sewer lines, which convey flows from industries and municipalities within service areas to the aforementioned wastewater treatment plants. Districts' water reclamation facilities discharge into ocean water, inland surface water, and waters of the state, including groundwater. As such, the Districts' operations may be affected by the outcome of the review of Resolution No. 68-16 and its implementation.

California's Anti-degradation Policy and Implementation Guidance Pertaining to Surface Water

California's current direction to Regional Boards in implementing State Board Resolution No. 68-16, as contained in APU 90-004, along with precedential decisions, legal memoranda, and recent EPA guidance is sufficient, effective, and working well in practice. Regional Boards have a specialized understanding of their respective watersheds, as well as the socio-economic factors in their regions, and are able to make informed decisions regarding implementation of the current anti-degradation policy and guidance, as exemplified by the Districts' recent experience in securing waste discharge requirements from the Lahontan Regional Water Quality Control Board. In that case, staffs from the Lahontan Regional Board and the Districts were able to critically evaluate and apply the State's existing anti-degradation policy and implementation guidance so as to protect the subject ground water, while maintaining a pragmatic and efficient process and result. As such, determination of factual issues under the anti-degradation policy, and whether the best practicable treatment or controls are being implemented, should remain at the discretion of each Regional Board.

Total Maximum Daily Load (TMDL) Development/Implementation and Water Quality Standards Versus Anti-degradation

It is the recommendation of the Districts that State and Regional Board staff resources be focused on adoption of scientifically derived water quality standards and TMDL development/implementation to address water quality issues for impaired waters, while focusing anti-degradation analysis on maintaining existing "high quality waters in California," as discussed in State Board Resolution No. 68-16. Furthermore, the degree of anti-degradation analysis required should be proportional to potential degradation, and the State Board should reject suggestions to use the anti-degradation policy as a means to require redundant (i.e., cumulative impacts analysis already performed under CEQA) or prohibitively expansive analysis.

The Districts recommend that implementation of the State's anti-degradation policy complement, rather than replace, scientifically-derived water quality standards that are specifically designed to ensure that beneficial uses are protected. Where water quality standards are already being attained and maintained, and therefore, beneficial uses are well-protected, the State's anti-degradation policy should not be the catalyst that dictates additional unnecessary and costly action, especially given the resource constraints many public entities face. Flexibility and site-specific determinations should be encouraged when evaluating baseline "existing" water quality and best practicable treatment or controls, especially where prior and current permitted activities, land use changes, and other factors may preclude return to some prior observed level (assuming the prior observed level is based on valid, statistically significant data). Finally, the Districts urge the State Board not to view all effluent dependent waters, prevalent in Southern California and which may not have existed when water quality control policies referenced in Res. 68-16 were originally adopted, as requiring corrective regulatory action, as these water bodies often provide new beneficial uses, water supplies, and habitat improvements.

Any Revisions to the Anti-degradation policy or its Implementation Guidance Should Encourage, Not Curtail, Recycled Water Use

The California Legislature has mandated that the State of California, and its agencies, undertake all possible steps to encourage development of water recycling facilities, and has found that the utilization of recycled water by local communities for domestic, agricultural, industrial, recreational, and fish and wildlife purposes will contribute to the peace, health, safety, and welfare of the people of the state. Water Code §§13511, 13512. On November 4, 2008, the State Board issued its draft Recycled Water Policy in an effort to encourage recycled water use, while simultaneously ensuring reasonable protection of water quality and beneficial uses. The Districts recommend that the State Board carefully consider whether suggested revisions to the anti-degradation policy or its implementation guidance will curtail recycled water use. Given the water resource constraints the State is facing, the State Board should not create additional barriers to using this vital resource.

Implementation of the State's Anti-degradation Policy to Groundwater

The Districts recommend a new APU be developed to provide implementation guidance of the State's anti-degradation policy to groundwater because groundwater and surface water differ significantly on technical issues such as fate and transport. Since the fate and transport of recycled water and/or effluent to groundwater is complicated with many influencing factors, the point of compliance and a mixing zone should be considered when determining appropriate application of the anti-degradation policy. In addition, the time required to observe a change in water quality is generally much longer for groundwater than surface water so data fields encompassing a limited time period are less helpful. Therefore, the use of long-term averages for constituents should be considered. Finally, the use of geographically limited data sets to determine existing groundwater quality or "high quality" groundwaters should be discouraged, as groundwater quality can substantially differ within limited areas and depths given various hydrological and land use influences.

Jeanine Townsend, Clerk to the Board

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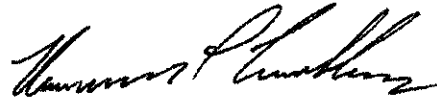
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In conclusion, the Districts recommend that the State Board continue to implement the State's anti-degradation policy as recommended in APU 90-004 for surface water, develop a new APU for groundwater, and focus anti-degradation policy efforts solely on high quality waters.

The Districts thank you in advance for your careful consideration of these comments. If you have any questions concerning this letter, please feel free to contact the undersigned at (562) 908-4288, ext. 2801.

Very truly yours,

Stephen R. Maguin



Raymond Tremblay
Section Head
Monitoring

RT:JN:nm