February 18, 2016

Felicia Marcus, Chair
and Members
Chair, State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Subject: Comment Letter – Proposed General Order for Recycled Water Use

Dear Chair Marcus and Members of the Board:

Our associations appreciate the opportunity to comment on the January 2016 draft General Order for recycled water use (Proposed Order). We also want to thank you and your staff for working with us on the revised proposed General Order, which will replace the existing General *Waste Discharge Requirements for Recycled Water Use* (order WQ 2014-0090-DWQ) adopted by State Water Resources Control Board (State Water Board) on June 3, 2014 (2014 Order).

We strongly support the establishment of these requirements in the form of "water reclamation requirements" rather than "waste discharge requirements." In our view, this is an important step toward the critical goal of having recycled water recognized as a valuable resource not a waste. We are very grateful to you for this change, and believe that it will advance expansion of recycled water uses throughout the state. The Proposed Order also allows recycled water projects that are implemented across Regional Water Board boundaries to be permitted by the State Water Board. Additionally, the Proposed Order contains a number of important clarifying changes that should help streamline recycled water projects in many areas of the state.

Our review of the Proposed Order identified several findings and provisions we believe should be modified to ensure clarity, equity and certainty. Note that while some of our members remain concerned with regard to aspects of the Proposed Order carried over from the adopted 2014 Order, our comments are limited to those issues that are new and contained for the first time in the January 2016 Proposed Order. We request the following changes:

Finding 34, Purpose and Applicability, Page 15
The Proposed Order specifies that entities may continue to operate under existing orders until requested by the Regional Water Board to either: (i) continue or expand coverage under existing orders or; (ii) apply for coverage under this General Order.

This is a very significant change from the 2014 Order that reflected a heavily negotiated compromise in its development. When the 2014 Order was proposed, it did not contain language indicating that it was optional for agencies to obtain coverage under the permit. The 2014 Order language was inserted as part of a change sheet (Change Sheet #1, dated 5/30/14) after strong urging on the part of the recycled water community, because many agencies in the state preferred to retain coverage under their existing permits with the option to "opt in" to the statewide general permit should they elect to do so. Many agencies still prefer to have the option of maintaining their existing permit coverage. We ask that you restore the language included in the adopted 2014 Order allowing a recycler to make an election regarding coverage for new and existing projects.

Finding 33, Eligibility for Coverage Page 14 and MRP, General Provision 8, Page 24
These two sections within the Proposed Order can be read to suggest that someone other than the Executive Officer, as his or her "designee", can determine whether a recycler is eligible for coverage under the Proposed Order and approve modifications to the Monitoring and Reporting Program (MRP). We understand that these provisions are intended to capture only a designee of the State Water Board's Executive Director, and recommend the following clarifications:

> The State Water Board's Executive Director (or designee) or the Regional Water Board's Executive Officer ~~or the State Water Board's Executive Director (or designee)~~ shall explain the need for a revised project, design, operation, or coverage under a different order, by making one or more of the following findings in the NOI response letter:
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> *** *****
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> The Administrators shall comply with the MRP issued with the NOA, and any future revisions, as specified by the State Water Board's Executive Director (or designee) or the Regional Water Board's Executive Officer ~~or State Water Board's Executive Director (or designee)~~.

MRP, General Provision 8, Page 24
As drafted the Proposed Order appears to encourage regional boards to develop their own monitoring plans "when necessary" at their own discretion outside of the model included in Attachment A. This uncertainty regarding monitoring obligations has been and could continue to be a disincentive for agencies to enroll in the General Permit. We recommend the following change:

A model MRP is provided as Attachment C. ~~However, the Regional Water Board's Executive Officer or State Water Board's Executive Director (or designee) may modify or replace the MRP when deemed necessary.~~

Water Recycling Administration requirements, Pages 21-23
The Proposed Order requires an Administrator to perform certain tasks (cross-connection inspections, periodic inspections, equipment labeling) unless it "hires" a third party agent. This language is too limiting, as the agent conducting these tasks could be a partner or other entity that would be assigned this responsibility but would not be hired and paid in the traditional sense. We recommend replacing the word "hire" with "use."

Cooling/Industrial/ Other uses of RW, B-4
A new sentence not in the 2014 Order was added that states, "For any additional treatment, implementation or monitoring requirements, consult with the State Water Board DDW." This language implies additional treatment, implementation, and monitoring may be required on a case by case basis. This appears counter to a primary purposes of the General Permit, which is to streamline permitting of RW projects. We recommend deleting this sentence.

NOI Jurisdictions, item 36, Page 16
The Proposed Order requires that the NOI of an applicant covering multiple jurisdictions include the signature of all jurisdictions producing or distributing recycled water. However, the acknowledgements of participation in an Administrator's program is also done by agreements and described in Title 22 Engineering Reports. It is burdensome and unnecessary to also require this in the NOI. We suggest revising this requirement so the applicant only has to gather signatures once.

O & M Plans Specification B.3, page 20 and NOI Section II.b.3, page A-3
Previous draft versions of the O & M specifications contained the qualifier that all measures must be "reasonably practicable." As all measures should be reasonably practicable we ask that this phrase be included back into the language.

> The State or Regional Water Board may require the Administrator to submit an Implementation or Operations and Management Plan specifying agronomic rates and nutrient application for the use area(s) and a set of reasonably practicable measures to ensure compliance with this General Order.
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> ****
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> For uses with frequent or routine application (such as irrigation), the Plan shall specify agronomic rates and nutrient application for the use area(s) and a set of reasonably practicable measures to ensure compliance with this General Order. For uses with infrequent or non-routine applications, the Plan shall specify a list

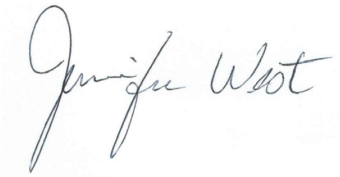
of reasonably practicable practices to ensure compliance with this General Order.

CEQA Finding 33d, page 14
This provision is included in the 2014 Order, but an additional phrase was added to the Proposed Order that is unclear and could be confusing: "The proposed use of recycled water does not implement mitigation measures or project alternatives found to be feasible in a California Environmental Quality Act (CEQA) document." We recommend this phrase be deleted.

Conclusion
We thank you and your staff for working closely with our associations on these and other changes. With these changes this Proposed Order is likely to increase enrollment and expand recycled water use in many areas of the state. However, it is critical that agencies continue to be allowed to remain covered under their existing permits or opt-in to the General Order if they choose.

Thank you for considering the suggested changes contained in this letter.

Sincerely,



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