

Clean Water Act Anniversary an Opportunity for Environmental Leadership

By Linda Sheehan

Today marks the 35th anniversary of the Clean Water Act, a time for reflection on the importance of protecting our waters for ourselves and future generations. This reflection is all the more timely in light of the looming changes in water supply and availability that California faces because of climate change, a reality reinforced by Al Gore's recent reception of the Nobel Peace Prize.

Conservation and recycling will be increasingly important elements of California's water portfolio in coming years. Unlike conservation, recycling presents certain challenges

in maintaining water quality while increasing supply. California can and should rise to meet those challenges. The converse — boosting recycled water use at the expense of existing water quality — would unnecessarily put California's existing sources of potable water, particularly groundwater, at risk.

Federal and state clean water laws provide the framework for evaluating the impacts of recycled water projects on adjacent waterways. Section 301(a) of the federal Clean Water Act prohibits the discharge of any pollutant into U.S. waters unless the discharge meets certain requirements, including the permit provisions in Section 402. "Discharge of pollutants" refers

broadly to "any addition of any pollutant to navigable waters from any point source." Recycled water is not exempt.

Recycled water projects that add pollutants to surface water — and to groundwater hydrologically connected to surface water — must obtain Clean Water Act permits to protect water quality.

The state's Porter-Cologne Water Quality Control Act similarly regulates any discharge that "could affect" local water quality. While Porter-Cologne specifically encourages use of recycled water, the Regional Water Quality Control Boards nonetheless must ensure that recycled water releases do not impact the beneficial uses of the state's waters. Significantly, unlike the federal Clean Water Act, Porter-Cologne's reach extends to all groundwater throughout the state.

The integrity of the Clean Water Act and Porter-Cologne in protecting California's dwindling supply of clean water will be maintained only if these laws are consistently upheld. Ignoring the precepts of these acts out of a misplaced concern over how the public perceives recycled water violates the law and moves us away from clean water.

It is also shortsighted. Only a full, publicly transparent commitment by recycled water purveyors to meeting all applicable standards will ensure long-term public confidence in the use of recycled water to meet California's pressing water needs.

Recycled water is currently used for such projects as crop irrigation, other irrigation (soccer fields, golf courses, landscaping), recharge of depleted groundwater aquifers and as a barrier to seawater increasingly drawn into aquifers by inland pumping.

Some regional water boards issue project permits that contain safeguards intended to protect adjacent waterways that may be affected. However, other projects go forward with relatively little oversight.

This is partially owed to the misconception that, because recycled water has been treated to meet certain California Department of Public Health standards, it cannot impact other uses of surface water and groundwater that it may mix with. This is simply not the case.

Recycled water can contain numerous pollutants that may pass through the treatment process, including but not limited to: metals, salts (including nitrates), pesticides, pharmaceuticals, endocrine disruptors, organic pollut-

ants, chlorine disinfection byproducts and other contaminants. Monitoring of some runoff discharges from recycled water projects has shown that the discharges can violate a number of water quality standards.

Groundwater may be particularly at risk, in part due to the difficulty and associated cost of cleaning it up once polluted. Some of the contaminants in recycled water, such as chlorine disinfection by-products, exist only rarely in groundwater and so would immediately degrade any affected groundwater. Conversely, salts, such as nitrates, already contaminate many groundwater basins and exist in relatively high levels in recycled water, the release of which can exacerbate existing groundwater pollution problems.

For example, from 1997 through 2001, nitrates were detected above regulatory standards in the drinking water supplies serving more than 11 million Californians, with pregnant women and infants particularly at risk.

Because an estimated 30 percent to 40 percent of California's water supply comes from groundwater, special attention must be paid to both the supply and quality of this invaluable resource. This includes monitoring affected groundwater for emerging contaminants so that appropriate action can be taken down the road in the face of new scientific information on the impacts of these pollutants.

In this context, the actual protection provided by the Department of Public Health's standards becomes extremely significant. Even when met, these standards only protect a certain set of human uses of recycled water, which can be vastly different from standards set to protect other water uses. For example, copper is far more toxic to aquatic life than to humans.

Moreover, the Department of Public Health does not set standards for the full range of recycled water contaminants that may impact water uses. This is where the Clean Water Act and Porter-Cologne fill the gap and protect the quality of all of California's waters for all uses. Without the additional, mandatory safeguards provided by these laws, water intended for habitat, agricultural, industrial and other uses would suffer.

Rather than ignoring potential problems, crossing our collective fingers and hoping for the best, we will

encourage the highest use of recycled water only if we pay full attention to the quality of recycled water in light of its potential uses and impacts.

For example, the East Bay Municipal Utility District sells recycled water to the Chevron Refinery for use in cooling towers. In response to refinery needs, the East Bay district has agreed to treat the recycled water past tertiary treatment, which is normally the maximum level of treatment used. In turn, Chevron will significantly increase the amount of recycled water that it uses in its operations. Similar attention to the needs of both recycled water customers and those impacted by use of this resource will ensure the safety and reliability of — and continued market for — recycled water.

The Clean Water Act established a national goal of eliminating the discharge of pollutants by 1985, with an interim goal of fishable and swimmable waters by 1983. Some have called for weakening controls on the use of recycled water, asserting that

the cost of preventing pollution from its use is too high. California can do better than that.

In urging an override of President Nixon's veto of the Clean Water Act on Oct. 17, 1972, Sen. Edmund Muskie asked his colleagues: "Can we afford clean water? Can we afford rivers and lakes and streams and oceans which continue to make life possible on this planet? ... These questions answer themselves."

As it has led the country on greenhouse gas control, California can and should lead the nation again in developing recycled water as an important, reliable water supply that will both protect and improve the health of California's invaluable natural waters.

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