Archie D. McPhee
40482 Gavilan Mountain Road
Fallbrook, CA 92028
February 10, 2009

Nicholas O. Bartsch
California Energy Commission
Public Advisors Office
1516 Ninth Street, MS 12
Sacramento, CA 95814-5512

Dear Mr. Bartsch,

Attached, for your attention, is a copy of a communication I sent to Mr. Celli. With the exception of the address, it is also a copy of a complaint I sent to the California Attorney General's Office.

I have experienced some turmoil lately. First, my computer went down, it got a virus through my dial up connection. I ended up purchasing a new computer etc. with which a period of learning is required. I am also in the process of getting a new E-mail address. I was also hospitalized for a bout of pneumonia for which I am recovering. I put my mail on hold and I will pick it up in a few days when the wet weather is terminated. There is lots of green outside now.

Thanks for your previous assistance. I believe it is unlawful to alter the meaning of California Law, specifically the California Health Laws Related to Recycled Water, by inserting a word or words, or implied wording into lawful definitions which is intended to alter the meaning and lawful defined uses specified by these laws. Contrary to the reply I received from Mr. Babula, the California Health Laws Related to Recycled Water are LAWS and not STANDARDS.

Sincerely,

Archie McPhee

Revised 2/9/09
ADMcPhee

Archie D. McPhee
40482 Gavilan Mountain Road
Fallbrook, CA 92028
February 9, 2009

California Energy Resources
Conservation and Development Commission
1516 Ninth Street
Sacramento, CA 95814

Dear Mr. Celli,

My complaint is essentially: 1) Items I perceive as perjured statements by the California Energy Commission (CEC) Staff and/or a Contractor. 2) The lack of an Environmental Impact Report for the stated purpose of transporting a form of Recycled Water from Fallbrook CA to Pala CA by tanker truck. My response to the communication I received from Mr. Babula of the California Energy Resources Conservation and Development Commission is attached. Mr.Babula's response to my Evidentiary Hearing report was filled with untrue generalities and errors.

The California Health Laws Related to Recycled Water (CHLRRW) is a **series of LAWS specifically designed to the concerns of recycled water.** Every law in the USA specifically defines its lawful requirements in precise terms.

"Disinfected Secondary -23 recycled water" does not mean secondary **treated** wastewater that has been disinfected; **it has a precise meaning defined in the CHLRRW, Title 22, June 2001 Edition Section 60301.225 as "Disinfected secondary -23 recycled water means recycled water that has been oxidized and disinfected so that the median concentration of total coliform bacteria in the disinfected effluent does not exceed a most probable number (MPN) of 23 per 100 Milliliters utilizing the bacteriological results of the last seven days for which analysis has been completed and the number of total coliform bacteria does not exceed an MPN of 240 per 100 milliliters in more one sample in any 30 day period".** Where in this definition is the terms "secondary **treated** recycled water"? It does not exist because "secondary treated recycled water" is a wastewater treatment definition while "Disinfected Secondary-23 recycled water" is the definition of a degree of disinfection and not treatment. The California Energy Commission (CEC) cannot insert the word "treatment" or "treated" into a "California Law" and claim that Law has **not** been changed.

The precise definition of "**RECYCLED WATER**" is defined in the CHLRRW, Water Code, June 2001 Edition, Section 13050(n) as follows: ""Recycled Water' means water which, as a result of treatment of waste, is suitable for a direct beneficial use or a controlled use that would otherwise occur and is "therfor" considered a valuable resource." Where in this definition is the term **"Disinfected"** or the terms **"Disinfected Secondary -23"** or the term "tertiary **treated"**. It is for this reason that the CHLRRW, Title 22, June 2001 was enacted. Many of the general uses in the "Water Code" were identified and specified in "Title 22" instead of using a general term such

as irrigation. For example "Disinfected Secondary-23 recycled water can only be used for irrigation of "Any non-edible vegetation where access is controlled so that the irrigation cannot be used as if it were part of a park, playground or school yard" while "Disinfected tertiary recycled water" can be used for "Food crops including all edible root crops, where the (disinfected tertiary) recycled water comes in contact with the edible portion of the root". Do these different uses agree with the above definition of the CHLRRW, Water Code, June 2001 of "RECYCLED WATER" quoted word for word above? NO. Even **Un-disinfected secondary recycled** water is defined in Title 22, Section 60301.900 as: " "Un-disinfected secondary recycled water" means oxidized wastewater". **Note the term wastewater.**

Disinfected tertiary recycled Water is defined in my attached response to Mr. Babula on pages 12, 13, and 14. Nowhere in any part of the CHLRRW Title 22 (or the Water Code), June 2001 Edition **(the Law and not a Standard) are the terms "Recycled Water that has undergone tertiary treatment and disinfection" or "meets all the requirements for Title 22 Disinfected tertiary treated water". There is no "tertiary treated" or "tertiary treatment" terms anywhere in Title 22 or the Water Code of the CHLRRW. How can anyone meet the requirements of something that is not in existence anywhere In the CHLRRW?**

In accordance with California Law, specifically CHLRRW, Title 22, June 2001 Edition, the lawful terms are:

1) Disinfected tertiary recycled water and NOT Disinfected tertiary TREATED recycled water.(see Section 60301.230).
2) Disinfected Secondary-2.2 Recycled water and NOT Disinfected secondary TREATED-2.2 recycled water (see Section 60301.220).
3) Disinfected secondary-23 recycled water and NOT Disinfected secondary TREATED-23 recycled water (see Section 60301.225).
4) Un-disinfected secondary recycled water and NOT Un-disinfected secondary TREATED recycled water (see Section 60301.900).
5) Recycled Water and NOT TERTIARY TREATED Recycled water (Section 13050(n)), (see CHLRRW, Water Code, June 2001 Edition). (Quoted word for word above in the bottom paragraph of page 1 including the misspelled word "therefor")

Any attempt to insert the word(s) **"treated"** or **"treatment"** or **"tertiary treated"** into the 5 above titles, definitions, or lawfully defined uses by wording, or implied wording which is intended to alter their meaning and lawful defined uses is unlawful and, in my opinion, is perjured testimony when involving California State business.

In Enclosure 4 of the attached document, there is a news report concerning the Olivenhain Water District. This water district wants to ship their recycled water from their water district to a landfill located near Riverside County by tank truck. The appeals court stated Olivenhain and the landfill need an Environmental Impact Report (EIR) in order to do so. The Environmental issues in my response # 8 on pages 6 through 7, my environmental issues in response # 11 on page 11 and my environmental issues on page 16 must, by law, require an EIR to be carried out by the OGP for the tank truck transportation of recycled/reclaimed water. Never in the history of

California has a court refused a request for an Environmental Impact Report when the request was based on environmental issues.

In my opinion, someone has perjured themselves and for this reason I am herein forwarding the above and my attached response to the State Attorney General herein requesting an investigation of my claim of perjured testimony by the CEC staff and/or the Contractor, Orange Grove Energy Power Plant. I can read plain English as can the California Attorney General also read. A law is still a law regardless of what SDG&E wants, and to deliberately add words to a law in an attempt to make it agree with what you want it to be is unlawful, and to me, is a form of perjury when it involves California official business.

Sincerely,

Archie McPhee

PS On one occasion, during a new pump station certification for the City of San Diego, it was discovered the contractor supplied used pumps without nameplates. The contractor was then required to provide new pumps for this new San Diego pump station before I certified it as operational correct. I pay attention to detail which the CEC staff does not. Trusting contractor accomplishments without precise contract documentation and a system of checks and counterchecks is worse than dumb. San Diego City has faults but their contract documents are precisely exact with no loopholes, but contractors still used the lack of skill of some City inspectors to try their cost saving, money saving tricks. Does the CEC even have/require inspections or qualified inspectors to verify contract specifications before, during, and after construction? Without pre-inspections, inspections during construction, final operational inspections, and a system of operational monitoring to verify the continued use of California lawful health law procedures then the CEC detailed contract specifications and related documents are simply useless pieces of paper to satisfy SDG&E. For example; detailed specifications for the production of "Disinfected tertiary recycled water" must be continuously monitored for the health of workers. Has the lack of inspections and monitoring been purposely done by CEC staff for the benefit of SDG& E?

I noticed a couple of typos in my original document but I have since learned where my "correct spelling" icon in my new "Word Vista" program is located and I have become more familiar with my new keyboard.