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STATE WATER RESOURCES CONTROL BOARD RESOLUTION NO. 2023-

AMENDMENT TO THE WATER QUALITY CONTROL POLICY ON THE
USE OF COASTAL AND ESTUARINE WATERS FOR POWER PLANT COOLING
TO REVISE COMPLIANCE SCHEDULES FOR
ALAMITOS, HUNTINGTON BEACH, ORMOND BEACH, AND SCATTERGOOD
GENERATING STATIONS, AND DIABLO CANYON NUCLEAR POWER PLANT

WHEREAS:

1. The State Water Resources Control Board (State Water Board) is designated as the state water pollution control agency for all purposes stated in the Clean Water Act, including water quality control planning and waste discharge regulation.
2. The State Water Board is responsible for adopting state policy for water quality control, which may consist of water quality principles, guidelines, and objectives deemed essential for water quality control.
3. On May 2010, the State Water Board adopted the statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (Once-Through Cooling or OTC Policy) under [Resolution No. 2010-0020](#). The Office of Administrative Law approved the OTC Policy on September 27, 2010, and the OTC Policy became effective on October 1, 2010. The OTC Policy was amended in 2011, 2013, 2015, 2017, 2020, and 2021.
4. The OTC Policy includes uniform, technology-based standards to implement Clean Water Act section 316(b), which requires that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available for minimizing adverse environmental impacts.
5. The OTC Policy applies to nine existing power plants located along the California coast, and is implemented through National Pollutant Discharge Elimination System (NPDES) permits, issued pursuant to Clean Water Act section 402, which authorize the point source discharges of pollutants to navigable waters. The OTC Policy originally affected nineteen once-through cooling power plants, and ten of those facilities have ceased all once-through cooling operations since adoption of the OTC Policy.

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6. The OTC Policy establishes a schedule that provides a compliance date for the replacement, repowering, or retirement of each remaining power plant still using once-through cooling operations while accounting for potential impacts to California's electrical supply.
7. Section 3.A of the OTC Policy requires the owner or operator of an affected fossil-fuel power plant to have submitted an implementation plan to the State Water Board by April 1, 2011, selecting one of two OTC Policy compliance tracks and describing the general design, construction, or operational measures to implement the compliance track. The State Water Board received implementation plans from all owners and or operators as requested.
8. The Statewide Advisory Committee on Cooling Water Intake Structures (SACCWIS) is composed of representatives from the California Air Resources Board, the California Coastal Commission, the California Public Utilities Commission (CPUC), the California Energy Commission (CEC), the California State Lands Commission, the California Independent System Operator (CAISO), and the State Water Board. The purpose of the committee is to review implementation plans and schedules and to advise the State Water Board on OTC Policy implementation, in order to ensure that the implementation schedule takes into account local area and grid reliability, including permitting constraints.
9. The State Water Board adopted the OTC Policy with the explicit purpose of minimizing adverse environmental impacts to marine life resulting from use of coastal and estuarine waters for power plant cooling, and the State Water Board remains committed to timely compliance with the OTC Policy by owners and operators of affected power plants. Further, the State Water Board recognizes that OTC Policy compliance dates provide certainty to communities in planning for future land use.

In adopting the OTC Policy, the State Water Board recognized that power generating facilities are part of a statewide electrical grid and that changes in generating capacity resulting from OTC Policy compliance may have an impact on the grid and power availability, requiring long-term planning for transmission, generation, and demand resources. The OTC Policy provided a lengthy compliance schedule based upon extensive consultation with the energy agencies in order to facilitate planning for potential replacement, repowering, or retirement of affected power plant while avoiding disruption in the state's electrical supply. The OTC Policy requires compliance as soon as possible, but no later than the dates set forth in the Policy Implementation Schedule (Policy Section 2.B(1)), providing for State Water Board consideration of suspensions or revisions of compliance dates recommended

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by the energy agencies “[b]ased upon the need for continued operation of an existing power plant to maintain the reliability of the electrical system....” (OTC Policy Section 2.B(2)). Provisions for NPDES permits implementing the OTC Policy further emphasize that compliance schedule revisions recommended by the SACCWIS are those “necessary to maintain reliability of the electric system” (OTC Policy Section 3.C(1)). The OTC Policy also directs that, where the energy agencies make a unanimous recommendation for compliance date revisions based on grid reliability, the State Water Board “shall afford significant weight to the recommendation.” (OTC Policy Section 3.B(5)).

Alamitos, Huntington Beach, and Ormond Beach Generating Stations

10. The owners and operators of Alamitos, Huntington Beach, and Ormond Beach generating stations intend to comply with the OTC Policy by ceasing the use of once-through cooling water by their respective compliance dates.
11. On September 1, 2020, the State Water Board adopted [Resolution No. 2020-0029](#), which amended the OTC Policy to extend the compliance dates of Alamitos, Huntington Beach, and Ormond Beach generating stations to December 31, 2023, to support system-wide grid reliability and address capacity shortfalls.
12. At the March 14, 2022 annual meeting of the SACCWIS, the committee members approved the Final 2022 Report of the SACCWIS, which did not recommend any changes to the compliance schedules in the OTC Policy.
13. After the Final 2022 Report of the SACCWIS was approved, the CEC, CPUC, and CAISO (collectively the “energy agencies”) conducted a new reliability analysis that considered impacts from several compounding events, including extreme weather events, supply chain constraints, interconnection and permitting concerns, and climate change updates in the electricity demand forecast. The analysis considered potential coincidental events that could further adversely impact system-wide grid reliability, such as a simultaneously occurring extreme heat wave, drought, and wildfire affecting transmission capacity. The resulting conclusions of this analysis identified a project shortfall as high as 10,000 megawatts (MW) in summer 2025, and a need for resource capacity beyond existing required planning criteria used to support the conclusions in the Final 2022 Report of the SACCWIS.
14. In recognizing the risk to grid reliability during coincidental extreme events and a need for additional capacity resources, the State Legislature

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subsequently adopted, and the Governor signed, Assembly Bill 205 (2021-2022 Reg. Sess.), which created a statewide Electricity Supply Strategic Reliability Reserve program (Strategic Reserve) to bolster system reliability while California procures energy resources. Assembly Bill 205 allows the Department of Water Resources to contract with and extend the life of existing generating facilities planned for retirement, including OTC power plants. Specifically, Assembly Bill 205 requires the Department of Water Resources to prioritize contracts with non-preferred resources, such as remaining fossil-fueled OTC units, under the Strategic Reserve.

15. On September 30, 2022, the SACCWIS reconvened to consider recommending OTC Policy extensions to provide capacity to the Strategic Reserve for system-wide grid reliability. The SACCWIS unanimously voted to approve the following recommendation, which is consistent with Alternative A1 from the 2022 Special Report of the SACCWIS:
 - a. Extend the compliance date for Alamitos Generating Station Units 3, 4, and 5 for three years from December 31, 2023, to December 31, 2026;
 - b. Extend the compliance date for Huntington Beach Generating Station Unit 2 for three years from December 31, 2023, to December 31, 2026; and
 - c. Extend the compliance date for Ormond Beach Generating Station Units 1 and 2 for three years from December 31, 2023, to December 31, 2026.
16. These compliance date extensions would provide up to 2,854 MW capacity to the Strategic Reserve to support system-wide grid reliability.
17. The Amendment to the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling to Revise the Compliance Schedules for the Alamitos, Huntington Beach, Ormond Beach, and Scattergood Generating Stations, and the Diablo Canyon Nuclear Power Plant (Amendment) extends the compliance dates for Alamitos, Huntington Beach, and Ormond Beach generating stations through December 31, 2026, as recommended by the SACCWIS and indicated above. The Amendment revises the implementation schedules for Milestone 33 of Table 1 in Section 3.E of the OTC Policy. The Staff Report to the Amendment (Staff Report) includes the rationale and considerations for the extensions, an addendum to the 2010 Final Substitute Environmental Documentation, and additional information to support the Amendment.

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18. On November 30, 2022, the CPUC, CAISO, and CEC submitted a joint letter to the State Water Board clarifying that their support of Alternative A1 of the 2022 Special Report of the SACCWIS is contingent upon the associated power plants participating in the Strategic Reserve. The energy agencies proposed in this joint letter that these resources will only be called upon to support grid operations during extreme weather events (including any maintenance or test events recommended by and coordinated with the CAISO) under the Strategic Reserve. The energy agencies further clarified that these resources would not participate in the Resource Adequacy program, which is a policy framework under the CPUC that guides the resource procurement process. Participation in the Resource Adequacy program would likely lead to increased electricity generation and therefore increased once-through cooling usage as compared to the operation of the affected power plants under the Strategic Reserve. The extension of the compliance dates for Alamitos, Huntington Beach, and Ormond Beach generating stations is contingent on these generating stations participating in the Strategic Reserve.

Scattergood Generating Station

19. The Los Angeles Department of Water and Power (LADWP) intends to comply with the OTC Policy for Scattergood Generating Station by ceasing the use of once-through cooling water by the respective compliance date.
20. On July 19, 2011, the State Water Board adopted [Resolution No. 2011-0033](#), which extended the OTC Policy compliance dates for Scattergood Generating Station Units 1 and 2 from December 31, 2020, to December 31, 2024, after evaluating the implementation plan submitted by LADWP. In its implementation plan, the LADWP committed to repowering all OTC power plants in its balancing authority area, including Scattergood Generation Station, with more efficient facilities that use closed-cycle cooling.
21. In February 2019, Los Angeles Mayor Eric Garcetti announced the Green New Deal, which requires 100 percent zero-carbon energy capacity for the LADWP's balancing authority area by 2045. The Green New Deal impacted the LADWP's previous plans to repower Scattergood Generating Station's OTC units with closed-cycle cooling. The LADWP is planning to replace the once-through cooled units at Scattergood Generating Station with a hydrogen generating station without the use of once-through cooling and upgrade and construct regional transmission capacity to support the goals of the Green New Deal.

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22. On February 3, 2022, the LADWP submitted a request to the State Water Board to extend the OTC Policy compliance date of Scattergood Generating Station Units 1 and 2 from December 31, 2024, to December 31, 2029. The LADWP requested the compliance date extension because Scattergood Generating Station's existing capacity is required to support local grid reliability while the LADWP pursues planning, permitting, and construction of the new hydrogen generating station and transmission projects required to replace Scattergood Generating Station's capacity.
23. On June 23, 2022, the State Water Board requested additional information from the LADWP to evaluate the Scattergood Generating Station extension request. The State Water Board received a response from the LADWP on August 22, 2022, and shared the response with the SACCWIS in recognition of Section 1.K of the OTC Policy.
24. Section 1.K of the OTC Policy states that the SACCWIS will assist the State Water Board in evaluating schedules for power plants not under the jurisdiction of the CPUC or operating within the CAISO Balancing Authority Area. At the September 30, 2022 SACCWIS meeting, the SACCWIS considered the LADWP's request to extend the compliance date for Scattergood Generating Station Units 1 and 2. A majority of the SACCWIS members voted to support the LADWP's request consistent with Alternative B1 in the 2022 Special Report of the SACCWIS.
25. The California Air Resources Board abstained from voting on the Scattergood Generating Station extension request at the September 30, 2022, SACCWIS meeting to allow additional time to evaluate air quality permits and rulemakings under the South Coast Air Quality Management District. During public comments at the March 7, 2023 public hearing on the proposed amendment, the California Air Resources Board's SACCWIS member stated that the California Air Resources Board had evaluated the LADWP's request to extend Scattergood Generating Station's compliance date and found no cause to object to the extension request.
26. The Amendment extends the compliance date for Scattergood Generating Station Units 1 and 2 from December 31, 2024, through December 31, 2029, as supported by the SACCWIS and indicated above. The amendment revises the implementation schedules for Milestone 36 of Table 1 in Section 3.E of the OTC Policy. The Staff Report includes the rationale and considerations for the extension, an addendum to the 2010 Final Substitute Environmental Documentation, and additional information to support the Amendment.

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Diablo Canyon Nuclear Power Plant

27. Pacific Gas and Electric intends to comply with the OTC Policy for Diablo Canyon Nuclear Power Plant (Diablo Canyon) by ceasing the use of once-through cooling water by the respective compliance date.

28. On September 2, 2022, Governor Gavin Newsom signed Senate Bill 846 into law. Effective September 2, 2022, Senate Bill 846 established a new OTC Policy compliance date for Diablo Canyon Units 1 and 2. Senate Bill 846 added Section 13193.5 to the Water Code, which specifies in part:

Notwithstanding any provision to the contrary in the State Water Resources Control Board's Water Quality Control Plan on the Use of Coastal and Estuarine Waters for Power Plant Cooling, as referenced in Section 2922 of Title 23 of the California Code of Regulations, the final compliance dates for Diablo Canyon Units 1 and 2 shall be October 31, 2030.

29. Revising the compliance date in the OTC Policy is a conforming change without regulatory effect to the compliance dates of Diablo Canyon Units 1 and 2. The revision ensures the OTC Policy is consistent with the Diablo Canyon compliance date established by SB 846 and provides the reader with an accurate accounting of OTC Policy compliance dates. The Amendment revises the compliance dates in Milestones 35 and 37 of Table 1 in Section 3.E of the OTC Policy.

Administrative Amendment – SACCWIS Convenings

30. The Amendment adds milestones for the SACCWIS to report to the State Water Board on the status of implementation of the OTC Policy in 2025 and 2026, which covers the timeframe in which Alamitos, Huntington Beach, and Ormond Beach generating stations would continue to be available to support the Strategic Reserve. Beyond 2026, the SACCWIS may convene as needed to address grid reliability concerns impacting existing once-through cooled power plants.

California Environmental Quality Act

31. The California Natural Resources Agency approved the State Water Board's water quality control planning process, which includes state policies for water quality control, as a certified regulatory program that adequately satisfies the

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California Environmental Quality Act (CEQA) requirements for preparing environmental documents (California Code of Regulations, title 23, section 3777). A substitute environmental document (SED) is used in place of an environmental impact report as CEQA environmental documentation.

32. The Staff Report for the Amendment to the OTC Policy (Staff Report) contains the required environmental documentation under the State Water Board's CEQA regulations. The change in compliance dates does not constitute a project within the meaning of CEQA. Because all OTC facilities affected by the OTC Policy were operating at the time of the 2010 Final Substitute Environmental Document, impacts associated with continued operation of those facilities were not analyzed as a potential impact associated with adoption of the OTC Policy or with reasonably foreseeable methods of compliance with the OTC Policy. Instead, impacts associated with operation of the affected power plants were considered as part of the environmental setting, or CEQA baseline. Continued operation of the power plants did not constitute a substantial adverse change to the physical conditions existing at the time the OTC Policy was adopted in 2010. The extension of specific compliance dates for purposes of grid reliability in this proposed amendment continues the baseline environmental setting. Nonetheless, the Staff Report updates the addendum to the 2010 Final SED that was adopted with the OTC Policy on May 4, 2010. The addendum concludes that extending the compliance date does not lead to new significant environmental impacts or a substantial increase in the severity of previously identified environmental impacts.
33. Consistent with CEQA, the State Water Board finds the Staff Report does not engage in speculation, but rather analyzes the project and the alternatives to the project and concludes that the project will not result in any additional environmental impacts. This finding reflects the State Water Board's independent judgment.

Compensatory Mitigation and Voluntary Efforts to Offset Impact

34. Current and future owners and operators of Alamitos, Huntington Beach, Ormond Beach, and Scattergood generating stations, and Diablo Canyon, will be required to continue implementing measures to mitigate for interim marine life impingement and entrainment impacts up to and until final compliance with the OTC Policy, in accordance with requirements set forth in OTC Policy Section 2.C(3).
35. Voluntary efforts to offset marine life impacts proposed by owners and operators are unrelated to any requirement or obligation imposed pursuant to

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CEQA, either by the State Water Board or Regional Water Quality Control Boards or any other public agency. Payments contributing to the voluntary offset efforts are also unrelated to ongoing interim mitigation requirements imposed by OTC Policy Section 2.C(3), which are requirements that continue to apply in full until OTC Policy compliance is achieved. While the owners' and operators' proposed expenditures would provide value to community and coastal restoration projects and community outreach efforts, the voluntary efforts do not affect the extension of the compliance dates or mitigation requirements set forth in OTC Policy Section 2.C(3).

36. In a letter dated February 27, 2023, Ormond Beach Power indicated its commitment to contribute funding to a coastal public access park near the Ormond Beach site, contingent on extension of Ormond Beach Generating Station's operations under a resource adequacy or other market-based contract. Ormond Beach Power and the City of Oxnard entered an agreement in November 2022 to provide for funding by Ormond Beach Power of a new public coastal access park near the site of Ormond Beach Generating Station. The Public Access Park Agreement was approved by unanimous vote of the City of Oxnard Council on November 1, 2022. This agreement does not replace or diminish the previous agreement between GenOn and the City of Oxnard to fund demolition and remediation at the Ormond Beach Site.
37. On March 15, 2023, AES-Southland, Inc. (AES) submitted a written comment letter on the proposed amendment indicating its intent to conduct an additional voluntary offset effort. AES indicated this effort would be conceptually in line with the AES Coastal Enhancement Program implemented in 2022, provided Alamitos and Huntington Beach generating stations' compliance dates are extended through 2026.
38. On March 17, 2023, the LADWP submitted a written comment letter on the proposed amendment indicating its support for providing voluntary offset effort associated with the proposed extension of Scattergood Generating Station beyond payments required by the OTC Policy's interim mitigation program. The LADWP also provided a letter requesting that its current interim mitigation payments for Scattergood Generating Station be used to fund local coastal mitigation projects.

Disadvantaged and Tribal Communities Adverse Water Quality Impacts and Outreach

39. On September 16, 2022, Governor Gavin Newsom signed into law Assembly Bill 2108 (2021-2022 Reg. Sess.) to address the disadvantaged and tribal communities disproportionately impacted by water quality pollution (Water Code sections 189.7 and 13149.2). The extension of OTC Policy compliance

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dates of Alamitos, Huntington Beach, Ormond Beach, and Scattergood generating stations may result in continued adverse water quality impacts to the populated disadvantaged community surrounding Ormond Beach Generating Station and the lands of the Chumash and Gabrieleño (Tongva) Tribes.

40. Continued adverse water quality impacts are not new or significant changes above the CEQA baseline impacts. Nonetheless, continued adverse water quality impacts of the OTC Policy compliance date extensions may include the impingement and entrainment of marine and estuarine life from approximately 769,000 million gallons of once-through cooling water projected to be used for each year until final compliance is achieved, as described in Section 5.7 of the Staff Report. Measures within the State Water Board's authority to address impingement and entrainment are currently in place through the OTC Policy provision that existing power plants must implement measures to mitigate the interim impingement and entrainment impacts resulting from cooling water intakes during operation until final compliance with the OTC Policy is achieved. As addressed in Section 8 of the Staff Report for the Amendment to the OTC Policy, the proposed compliance date extensions do not constitute a substantial change in the project's environmental baseline. Therefore, owners and operators of power plants will continue to comply with the interim mitigation requirements in Section 2.C(3) of the OTC Policy until they achieve final compliance to offset water quality impacts analyzed in the 2010 Final Substitute Environmental Document.
41. Additionally, adverse water quality impacts of the OTC Policy compliance date extensions may include continued pollutant discharges from ongoing operation of the Alamitos, Huntington Beach, Ormond Beach, and Scattergood generating stations pursuant to NPDES permits as described in Sections 5.3 and 8.2 of the Staff Report for the amendment to the OTC Policy. Owners and operators of the power plants elected to comply with the OTC Policy by retiring or repowering OTC units, which will cease intake of OTC water from ocean and estuarine environments. To the extent that any exceedances of limits contained in NPDES permits occur, the State Water Board would expect the applicable Regional Water Board to pursue compliance actions within their authority.
42. The State Water Board conducted outreach to the above-mentioned communities to engage in and identify issues of environmental justice as early as possible, with the majority of the outreach occurring during and after the public comment period of January 31, 2023, to March 17, 2023.

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Public Process

43. The State Water Board provided a written public comment period for the Amendment from January 31, 2023, through noon on March 17, 2023.
44. The State Water Board held a public hearing on March 7, 2023, providing an opportunity for oral comments and discussion between State Water Board members, staff, and the public on the proposed amendment to the OTC Policy, and has reviewed and carefully considered all comments and testimony received.
45. The State Water Board carefully considered comments received and responded to comments. The responses to comments do not add significant new information that is material to the State Water Board's decision or that would otherwise warrant action that is not a logical outgrowth of the proposed amendment that was previously subject to a written comment period. Therefore, it is not necessary to afford interested persons with another written comment period to address the responses to comments.

Effective Date

46. The Amendment to the OTC Policy will become effective upon approval by the Office of Administrative Law.

THEREFORE BE IT RESOLVED THAT:

The State Water Board:

1. Approves and adopts the Staff Report and Addendum to the 2010 Final Substitute Environmental Document and directs the Executive Director or designee to transmit the Notice of Decision to the Secretary of Resources.
2. Adopts the amendment to the OTC Policy as reflected in Attachment A and summarized as follows:
 - a. To extend the compliance date for Alamitos Generating Station Units 3, 4, and 5 for three years from December 31, 2023, to December 31, 2026, contingent upon participation only in the Strategic Reserve;

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- b. To extend the compliance date for Huntington Beach Generating Station Unit 2 for three years from December 31, 2023, to December 31, 2026, contingent upon participation only in the Strategic Reserve;
 - c. To extend the compliance date for Ormond Beach Generating Station Units 1 and 2 for three years from December 31, 2023, to December 31, 2026, contingent upon participation only in the Strategic Reserve;
 - d. To extend the compliance date for Scattergood Generating Station Units 1 and 2 for five years from December 31, 2024, to December 31, 2029;
 - e. To revise the compliance date for Diablo Canyon Units 1 and 2 to October 31, 2030, as a non-regulatory change to ensure the OTC Policy is consistent with the compliance date established by SB 846; and
 - f. To add milestones for the SACCWIS to report to the State Water Board on the status of implementation of the OTC Policy in 2025 and 2026.
- 3. Authorizes the Executive Director or designee to submit the amendment to the Office of Administrative Law for review and approval.
 - 4. If, during the approval process, State Water Board staff or the Office of Administrative Law determines that minor, non-substantive modifications to the language of the amendment are needed for clarify or consistency, the Executive Director or designee may make such changes and shall inform the State Water Board of any such changes.

CERTIFICATION

The undersigned Clerk to the Board does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on August 15, 2023.

Courtney Tyler
Clerk to the Board