

**RESPONSE TO COMMENTS
ORMOND BEACH POWER, LLC
ORMOND BEACH GENERATING STATION
TENTATIVE ORDER NO. R4-2020-XXXX
AND
TENTATIVE TIME SCHEDULE ORDER NO. R4-2020-YYYY
NPDES PERMIT NO. CA0060232**

Comment Letter dated October 19, 2020, from Heal the Bay

No.	Comment	Response	Action Taken
1a.	<p>Interim effluent limitations for Discharge Point 001 should be removed from the Tentative TSO.</p> <p>We are concerned that the Tentative TSO is allowing water quality violations to continue throughout the remaining duration of OTC operations. The permittee discharges OTC and other wastewater from the Ormond Beach Generating Station into the Pacific Ocean through Discharge Point 001.</p>	<p>The TSO request has been withdrawn and the TSO will no longer be considered for adoption. As a result, no response is necessary.</p>	<p>None necessary</p>
1b.	<p>The permittee has been given a final effluent limit for ammonia (as N) that is much higher than what is prescribed in the Ocean Plan owing to dilution activity prior to final discharge. The Tentative TSO then proposes <i>additional</i> interim effluent limits for ammonia (as N) at this discharge point that are roughly an order of magnitude higher than the final effluent limits. A summary of these effluent limits is provided in Table 1, below.</p> <p>Table 1. Effluent Limits for ammonia (as N), expressed as µg/L, as prescribed as a final limit in the Ocean Plan, a final limit in the Tentative Permit considering the dilution factor, and an interim limit in the Tentative TSO.</p>	<p>The final effluent limitations for ammonia (as N) in the tentative Order are higher than the water quality objectives in the Ocean Plan because the effluent limitations are based on the calculation procedures outlined in in the Implementation Provisions Section III.c.4. of the 2019 Ocean Plan. As required by the Ocean Plan, the effluent limitations were calculated using the Equation: $C_e = C_o + D_m(C_o - C_s)$</p> <p>Where: C_e = the effluent limitation (µg/L) C_o = the water quality objective (Ocean Plan) to be met at the completion of initial dilution (µg/L) C_s = background seawater concentration (µg/L) D_m = minimum probable initial dilution expressed as parts seawater per part</p>	<p>None necessary.</p>

No.	Comment				Response	Action Taken
		6-Month Median	Maximum Daily	Instantaneous Maximum	<p>wastewater (6.5:1). The Dm of 6.5:1, was previously approved by the State Water Board and the Regional Water Board based on the Mixing Zone Study submitted to the Regional Water Board on September 11, 2017.</p> <p>Using the equation above, the final effluent limitation for ammonia (as N) is 4,500 µg/L (6-month median). The maximum daily and instantaneous maximum were also calculated using the equation above. Therefore, the effluent limitations for ammonia (as N) included in the proposed Order are appropriate for this Facility and will achieve the numeric and narrative water quality objectives in the Ocean Plan to protect the beneficial uses of the Pacific Ocean (receiving water), as per the requirements of 40 Code of Federal Regulations (CFR) section 122.44 (d).</p> <p>The Board also notes the commenter’s concern that the tentative TSO included interim effluent limits for ammonia (as N) that are an order of magnitude higher than the final effluent limits. Since the TSO has been withdrawn from consideration, this part of the comment no longer needs to be addressed.</p>	None necessary.
Ocean Plan	600	2,400	6,000			
Final Effluent Limit (with dilution credit)	4,500	18,000	45,000			
Interim Effluent Limit	59,700	78,216	---			
1c.	<p>We appreciate that annual interim actions have been identified in the Tentative TSO to ensure that the permittee is working towards compliance with their final effluent limits for ammonia (as N), and that the Regional Board is requiring semi-annual reporting on progress towards these interim actions. However, strict limits on the discharge of ammonia (as N) is critical to maintain ecological health because “[w]hen ammonia is present in water at high</p>				<p>The interim limits in the TSO are no longer applicable since the TSO has been removed from consideration. No response is necessary.</p>	None necessary

No.	Comment	Response	Action Taken
	<p>enough levels, it is difficult for aquatic organisms to sufficiently excrete the toxicant, leading to toxic buildup in internal tissues and blood, and potentially death”¹ An additional three years of high ammonia (as N) discharge, with no increase in mitigation or non-compliance fees, puts ecological health at risk with no consequences to the dischargers. The permittee has been given a three-year OTC operation extension with no increase in mitigation fees, and the permittee has also been given a final effluent limit that takes their dilution efforts into account. For these reasons, <i>we recommend that the interim effluent limit for ammonia (as N) be removed from the Tentative TSO, and that the Regional Board hold the permittee accountable to all final effluent limits, as prescribed in the Tentative Permit.</i></p>		
1d.	<p>At a minimum, mandatory minimum penalties should automatically apply to any exceedance of this interim effluent limitation. If the TSO is approved with the proposed interim effluent limits for ammonia (as N), we request the following language change to Page 4, Section 19, of the Tentative TSO:</p> <p>“If an interim effluent limitation contained in this TSO is exceeded, the Discharger may shall be subject to enforcement actions for that exceedance, including the imposition of mandatory minimum penalties.”</p>	<p>The interim limits in the TSO are no longer applicable since the TSO has been removed from consideration. No response is necessary.</p>	None necessary
2a.	<p>For any one calendar month or 180-day period during which no sample (daily discharge) is taken and no reasonable justification is provided, a violation must</p>	<p>If a sample is not taken as required and no justification is provided or the justification is inadequate, the failure to collect a required sample would be a violation of the</p>	None necessary.

¹ US Environmental Protection Agency. Feb. 6, 2020. *Aquatic Life Criteria – Ammonia* <https://www.epa.gov/wqc/aquatic-life-criteria-ammonia>

No.	Comment	Response	Action Taken
	<p>be accordingly determined for that calendar month or 180-day period, with appropriate enforcement action.</p> <p>As currently written in the Tentative Permit, “[f]or any one calendar month during which no sample (daily discharge) is taken, no compliance determination can be made for that calendar month with respect to the AMEL.” However, it is important that samples are taken on schedule as required by the permit, unless there are safety concerns, or sampling was otherwise not possible.</p> <p>We understand that skipping a sampling event without reasonable justification is usually determined as a monitoring violation rather than a water quality violation, and request that clarifying language be added to the permit. If a sampling event is missed without reasonable justification, we lose data which is necessary to understand the potential impacts of the Ormond Beach Generating Station on local water quality. More importantly, missing that sampling event can allow a potential water quality exceedance to go undetected, and therefore unresolved, prolonging the negative impacts of the water quality exceedance. For this reason, appropriate enforcement action must be taken as soon as possible in the event of a monitoring violation.</p> <p>We recommend the following language be added to the first paragraph under Section 7.5 of the Tentative Permit.</p> <p>“For any one calendar month during which no sample (daily discharge) is taken, no compliance determination can be made for that calendar month with respect to the AMEL. If no reasonable justification (e.g. unsafe sampling conditions, no discharge, etc.) is provided in the absence of a sampling event for a calendar month, the associated monitoring report shall be rejected. If a monitoring report is</p>	<p>Discharger’s monitoring and reporting requirements, not a violation of the effluent limits.</p> <p>The tentative Order includes standard provisions, 6.1.2.j., and l., and Attachment D – Standard Provisions, sections 6.2., 6.3, and 6.4, with enforcement actions to be taken for violations of any requirements/provisions in the permit. Violations of the monitoring requirements are already addressed by these provisions.</p> <p>The proposed change is in the section of the Order that discusses compliance with the effluent limitations, not the monitoring program. The proposed language addresses determination of violations of monitoring and reporting requirements included in the Monitoring and Reporting Program (MRP). Thus, the proposed language has not been added.</p>	<p>None necessary.</p> <p>None necessary.</p>

No.	Comment	Response	Action Taken
	<p>not submitted and accepted, a violation shall be determined pursuant to Water Code section 13385(h)(i) and section 13385.1(a)(1).”</p>		
<p>2b.</p>	<p>Pursuant to the same principles, we recommend the following language be added to the first paragraph under Section 7.10 of the Tentative Permit:</p> <p>“For any 180-day period during which no sample is taken, no compliance determination can be made for the six-month median effluent limitation. If no reasonable justification (e.g. unsafe sampling conditions, no discharge, etc.) is provided in the absence of a sampling event in any 180-day period, the associated monitoring report shall be rejected. If a monitoring report is not submitted and accepted, a violation shall be determined pursuant to Water Code section 13385(h)(i) and section 13385.1(a)(1).”</p>	<p>The word “day” has been added in the fourth sentence on section 7.10., Page 21 of the Order to read “For any 180-day period during which no sample is taken, no compliance determination can be made for the six-month median effluent limitation.”</p> <p>As stated in Response to Comment 2a, paragraph 3. above, the proposed change is in the section of the Order that discusses compliance with the effluent limitations, not the monitoring program. The proposed language addresses determination of violations of monitoring and reporting requirements included in the MRP. Thus, the proposed language has not been added.</p>	<p>Section 7.10, Page 21 of the Order has been revised to add the word “day”. No change is necessary for the other proposed language.</p>
<p>3.</p>	<p>The Permittee shall retain records of all monitoring information, including all calibration and maintenance records, and records of all data used to complete the application for this Order, for a period of at least 5 years, to ensure that we have all of the necessary information at hand when it is time to reassess the permit after December 31, 2023.</p> <p>As currently written in the Tentative Permit, “The Discharger shall retain records of all monitoring information... for a period of at least three (3) years from the date of the sample, measurement, report or application.” We recognize that the current plan is to cease all OTC operations in three years, by December 31, 2023, and that the period for retaining records may be</p>	<p>The stated period to retain records of at least three years is derived from 40 CFR § 122.41(j)(2) and not the Facility’s planned closure date. The quoted language in this comment is from “Attachment D – Standard Provisions.” The Standard Provisions are included in all NPDES permits pursuant to 40 CFR § 122.41 and will not be changed.</p> <p>However, it should be noted that individual NPDES Dischargers in the Los Angeles Region are required to submit their monitoring data to the California Integrated Water Quality System (CIWQS) database. Therefore, while the discharger is only required to retain all monitoring records for three years, all monitoring data will</p>	<p>None necessary.</p>

No.	Comment	Response	Action Taken
	<p>extended by request of the Executive Officer. However, we recommend that the records be kept for a minimum of five years. Therefore, we request the following language change to Section 4.1 of the Tentative Permit.</p> <p>“The Discharger shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this Order, and records of all data used to complete the application for this Order, for a period of at least three (3) five (5) years from the date of the sample, measurement, report or application.”</p>	<p>be retained in CIWQS in perpetuity and available for analysis.</p>	
<p>4.</p>	<p>The Regional Board should use inclusive language wherever possible in official documents.</p> <p>Inclusive language avoids the use of certain words that may exclude particular groups of people. We urge the Regional Board to use inclusive language wherever possible, particularly in official documents. For example, we recommend the following non-gendered language change to Page 6, Section 6, of the Tentative TSO.</p> <p>“The Executive Officer, or his/her their delegee, is authorized to take appropriate enforcement action pursuant, but not limited to, Water Code sections 13350 and 13385.”</p>	<p>The Board appreciates the feedback. The Los Angeles Water Board strives to create an inclusive environment and will endeavor to be more mindful of our language choices in the future. Since the TSO has been removed from consideration, this change will not be made.</p>	<p>None necessary</p>
<p>5.</p>	<p>Recognizing the significant negative impacts of OTC operations on California’s fisheries, estuaries, bays and coastal waters, we are disappointed that the Ormond Beach Generating Station has been granted a three-year extension of OTC operations beyond the ten-year grace period originally allowed in the 2010 OTC Policy with no additional mitigation fees. If the Regional Board moves forward with a TSO for this facility, it is critical that no extension beyond this three-year extension be considered,</p>	<p>The Tentative Permit has been prepared to conform to the provisions of the Implementation Schedule of the OTC Policy. The TSO has been removed from consideration so the interim limits in the TSO are no longer applicable.</p>	<p>None necessary.</p>

No.	Comment	Response	Action Taken
	and that the Permit and the TSO be sufficient to protect public and environmental health until OTC operations cease. We urge the Regional Board to consider our recommendation above to strengthen the Tentative Permit and the Tentative TSO		

Miscellaneous Minor Modifications - Tentative Order No. R4-2020-XXXX (additions are underlined/ and deletions are stricken out):

1. Order - Page 15, Deleted Section 6.3.1.m. and update numbering.
2. Order – Page 17, Section 6.3.5.a., deleted the language ~~”on or before December 31, 2023 unless the Final Compliance Date is suspended, modified or amended under any of the circumstances set forth in the OTC Policy section 2.B.(2)”~~ at the end of the 2nd paragraph and replaced with ”by the Final Compliance Date for the Facility established in Section 3.E, Table 1 of the OTC Policy, or any later date established in accordance with the Final Compliance Date suspension provisions in Section 2.B(2) of the OTC Policy.”
3. Order – Page 18, Table 9, Task 8, on column 2, Compliance Date, replaced ~~”December 31, 2023 unless modified, suspended, or otherwise amended consistent with the OTC Policy”~~ with ”Date established in § 3.E, Table 1 of the OTC Policy (currently December 31, 2023), or any later date established in accordance with the Final Compliance Date suspension provisions in Section 2.B(2) of the OTC Policy.”
4. Order – Page 18, Section 6.3.5.a., deleted last paragraph after Table 9.
5. Order – Page 21, Section 7.10., added the word “day” in the fourth sentence to read “180-day period.
6. Order – Page 22, Section 7.12., bottom of the page, corrected the “100” to be the IWC concentration of 13.3%.
7. Monitoring and Reporting Program (MRP) - Page E-8, Table E-3, “Minimum Sampling Frequency” column, added “(Note o)” in all “2/year” frequency cells.
8. MRP – Page E-9, Footnote I., added ”or most probable number (MPN)” and ”or 110 MPN/100 mL”.
9. MRP – Page E-10. Added footnote o: ”Monitoring shall be once per semiannual period (January - June, July - December).”
10. MRP – Page E-28, Deleted Sections 10.3.2. and 10.3.3 since they are no longer applicable.
11. MRP – Page E-29, Section 10.4.4, added a footnote to the 2nd sentence which reads, ”The Discharger plans to retire the Facility to comply with the OTC Policy by the Final Compliance Date established in Section 3.E, Table 1 of the OTC Policy (December 31, 2023), or any later date established in accordance with the Final Compliance Date suspension provisions in Section 2.B(2) of the OTC Policy.”

12. MRP – Page E-29, Section 10.4.5, revised the text at the beginning of the paragraph, to read, “The Discharger shall ~~also include with the permit application~~ submit a Climate Change...”
13. Fact Sheet – Page F-12, Section 2.5, revised the text on the 1st sentence of the paragraph to read, “The Discharger plans to retire the Facility to comply with the OTC Policy by the Final Compliance Date of ~~December 31, 2023~~, established in Section 3.E, Table 1 of the OTC Policy (currently December 31, 2023), or any later date established in accordance with the Final Compliance Date suspension provisions in Section 2.B(2) of the OTC Policy. ~~unless the final compliance date is suspended, modified or otherwise amended under the OTC Policy.....~~”
14. Fact Sheet – Page F-16, Section 3.3.7., modified text to the 3rd sentence of the last paragraph to read, “...If the amendment to the OTC Policy is approved by the Office of Administrative Law (OAL), this Order implements the Final Compliance Date of December 31, 2023. ~~Therefore, this Order implements the final compliance date of December 31, 2023..~~” and modified the text of the 4th sentence to delete “~~consistent with the suspension provisions in section 2.B (2) of the OTC Policy~~”.
15. Fact Sheet – Page F-18, Section 3.5.1, revised the due date for the Climate Change Plan to be if and when the ROWD is submitted for permit renewal.
16. Fact Sheet – Page F-21, corrected table numbers in “Footnote for Table F-9” and “End of Footnotes for Table F- 9”.
17. Fact Sheet – Page F-41, corrected table number from “Table F-17” to “Table F-19”.
18. Fact Sheet – Page F-46, Section 6.2.4, added text at the beginning of the paragraph to read, “The Discharger plans to retire the Facility to comply with the OTC Policy by the final compliance date established in Section 3.E, Table 1 of the OTC Policy. As of the date of the adoption of this Order, the final compliance date for this Facility is December 31, 2023. If the Permittee is authorized by the OTC Policy to continues operations for another permit.....”
19. Fact Sheet – Page F-47, Section 6.2.5.a.i, added text to the 2nd paragraph, last sentence to read, “..However, as discussed in section 2.5 of this Fact Sheet the Discharger is opting to comply with the OTC Policy by retiring the Facility by the final compliance date ~~(December 31, 2023, unless otherwise suspended or modified under the OTC Policy~~ for the Facility established in Section 3.E, Table 1 of the OTC Policy, or any later date established in accordance with the Final Compliance Date suspension provisions in Section 2.B(2) of the OTC Policy).”
20. Fact Sheet – Page F-47, Table F-23, replaced ~~December 31, 2023~~ with “Date established in § 3.E, Table 1 of the OTC Policy (currently December 31, 2023), or any later date established in accordance with the Final Compliance Date suspension provisions in Section 2.B(2) of the OTC Policy.”
21. Revised the first paragraph of Attachment G Section 9 to be: “The Facility operator shall conduct one comprehensive site compliance evaluation each year. The SWPPP shall be revised, as appropriate, and submitted to the Regional Water Board along with the annual monitoring report. The revisions shall be implemented no later than 90 days after submission. The evaluation is subject to review by the Regional Water Board Executive Officer and modifications may be required. Evaluations shall include the following: