



Heal the Bay

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October 19, 2020

Irma Muñoz, Board Chair
Regional Water Quality Control Board
Los Angeles Region
320 W 4th Street, Suite 200
Los Angeles, CA 90013

Sent via email to: losangeles@waterboards.ca.gov

RE: ORDER R4-2020-XXXX (NPDES NO. CA0001198) WASTE DISCHARGE REQUIREMENTS FOR THE ORMOND BEACH POWER, LLC (ORMOND BEACH GENERATING STATION, VENTURA COUNTY) DISCHARGE TO THE PACIFIC OCEAN AND TIME SCHEDULE ORDER R4-2020-YYYY REQUIRING ORMOND BEACH POWER, LLC TO COMPLY WITH REQUIREMENTS PRESCRIBED IN ORDER R4-2020-XXXX.

To Chair Muñoz and Members of the Los Angeles Regional Water Quality Control Board:

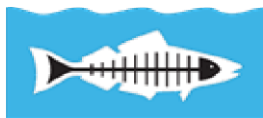
Heal the Bay is a non-profit environmental organization with over 30 years of experience and 15,000 members dedicated to making the coastal waters and watersheds of Greater Los Angeles safe, healthy, and clean. On behalf of Heal the Bay, we respectfully submit comments on the following documents:

- Proposed Order R4-2020-XXXX Waste Discharge Requirements for the Ormond Beach Power, LLC (Ormond Beach Generating Station, Ventura County) discharge to the Pacific Ocean (Tentative Permit), and
- Proposed Time Schedule Order (TSO) R4-2020-YYY Requiring Ormond Beach Generating Station to comply with requirements prescribed in order R4-2020-XXX (Tentative TSO).

The Ormond Beach Generating Station uses once through cooling (OTC) power generation. This OTC operation causes significant, harmful, and ongoing impacts to our valuable marine resources. In 2005, the California Energy Commission first recognized OTC as a contributing factor to the degradation of California's fisheries, estuaries, bays and coastal waters.¹ Public discussions began with the State Water Resources Control Board (State Board) that same year on the development of the State Water Resources Control Board Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (OTC Policy), which was later officially adopted in 2010. Heal the Bay was one of many stakeholders, including the Coastal Commission, Energy Commission, Public Utilities Commission, as well as other NGOs, that worked together to craft the requirements of the OTC Policy, and we served on the Expert Review Panel for the OTC Policy.

It is critical, for the health of California's coastal ecosystems, that the timeline in the OTC Policy be followed. We understand that the State Board has already granted a three-year time extension to cease OTC operations at the Ormond Beach Generating Station by December 31, 2023 (originally December

¹ California Energy Commission. 2005. *Issues and Environmental Impacts Associated with Once-Through Cooling at California's Coastal Power Plants: Staff Report*. Available at: www.energy.ca.gov/2005publications/CEC-7002005013/CEC-700-2005-013.PDF



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31, 2020). We also understand the need for grid reliability, particularly during times of peak energy demand. However, we must consider the negative impacts of allowing OTC operations, including effluent discharge, to continue beyond the ten-year grace period originally allowed in the 2010 OTC Policy, and the implications of this extension on both public and environmental health, with no penalty assumed by the permittee for these ongoing impacts. Therefore, we offer the following recommendations to strengthen the Tentative Permit and the Tentative TSO to better protect our water resources during the three-year time extension, and to ensure that there is no need, or perceived need, for extensions beyond this three-year time extension. We also offer a recommendation to use more inclusive language and not inadvertently exclude particular groups of people in official documentation.

- Interim effluent limitations for Discharge Point 001 should be removed from the Tentative TSO.
- 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 be accordingly determined for that calendar month or 180-day period, with appropriate enforcement action taken in response.
- 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.
- The Los Angeles Regional Water Quality Control Board (Regional Board) should use inclusive language wherever possible in official documents.

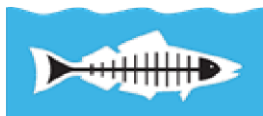
These recommendations are discussed in further detail below.

Interim effluent limitations for Discharge Point 001 should be removed from the Tentative TSO.

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 waste water from the Ormond Beach Generating Station into the Pacific Ocean through Discharge Point 001. 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 *additional* 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.

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.

	6-Month Median	Maximum Daily	Instantaneous Maximum
Ocean Plan	600	2,400	6,000
Final Effluent Limit (with dilution credit)	4,500	18,000	45,000
Interim Effluent Limit	59,709	78,216	-



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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 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.”² 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, ***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.***

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:

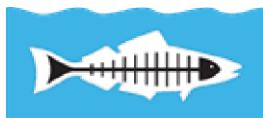
“If an interim effluent limitation contained in this TSO is exceeded, the Discharger ~~may~~ **shall** be subject to enforcement actions for that exceedance, including the imposition of mandatory minimum penalties.”

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 be accordingly determined for that calendar month or 180-day period, with appropriate enforcement action.

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.

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.

² US Environmental Protection Agency. Feb. 6, 2020. *Aquatic Life Criteria – Ammonia*. <https://www.epa.gov/wqc/aquatic-life-criteria-ammonia>



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We recommend the following language be added to the first paragraph under Section 7.5 of the Tentative Permit:

“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 not submitted and accepted, a violation shall be determined pursuant to Water Code section 13385(h)(i) and section 13385.1(a)(1).”**

Pursuant to the same principles, we recommend the following language be added to the first paragraph under Section 7.10 of the Tentative Permit:

“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).”**

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.

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 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.

“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.”

The Regional Board should use inclusive language wherever possible in official documents.

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.



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“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.”

.....

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, 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.

Thank you for the opportunity to comment on the Proposed Order R4-2020-XXXX Waste Discharge Requirements for the Ormond Beach Power, LLC discharge to the Pacific Ocean, and the Proposed Time Schedule Order R4-2020-YYY Requiring Ormond Beach Generating Station to comply with requirements prescribed in order R4-2020-XXX. We look forward to continuing our collaborative work with the Los Angeles Regional Water Quality Control Board to preserve, enhance, and restore the quality of California’s Water resources. If you have any questions concerning these comments, please contact Annelisa Moe through email at amoe@healthebay.org or by phone at 310-451-1500 X139.

Sincerely,

Annelisa Ehret Moe
Water Quality Scientist
Heal the Bay

cc by email: Cris Morris, Supervising Water Resources Control Engineer, Los Angeles Regional Water Quality Control Board. Cris.Morris@waterboards.ca.gov

Rosario Aston, Water Resources Control Engineer, Los Angeles Regional Water Quality Control Board. Rosario.Aston@waterboards.ca.gov