



December 8, 2009

State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814

Dear Sirs,

The Santa Lucia Chapter of the Sierra Club represents the Sierra Club' members in San Luis Obispo County. We are very pleased that the State Water Resources Board eliminated wholly disproportionate analysis from consideration in determining compliance with the revised draft of the Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling. As we and others emphasized in our previous comments, these economic considerations could not be justified as a standard in deciding if coastal power plants and regulations governing their operations meet the requirements of the Riverkeeper II decision by the U.S. Court of Appeals.

In light of the Board's welcome and appropriate action, we urge you to make further revisions that will eliminate the many vague and unclear parts of the revised policy in order to ensure that it will phase out the use of once-through cooling (OTC) in a reasonable time period. A policy that is not forthright in its requirements for compliance opens up the possibility of noncompliance through disputed terms and phrasing.

In addition, the policy now allows 10 to 12 years for some existing plants to phase out OTC, without justification. With some owners already moving ahead to replace old plants without even waiting for a new policy and others considering alternative uses of plant sites, there seems to be no excuse for not stepping up the timeline on replacement of existing plants, especially with so many renewable energy opportunities, such as PV solar, now available to ensure grid reliability without relying on gas-fired plants. The destruction of marine life and other coastal resources should be paramount in determining priorities for continued operation of existing plants.

The policy's provisions for Track I and II appear to provide potential loopholes that could be exploited to allow unreasonable extensions of the use of OTC by power plants. Owners or operators would be allowed to "demonstrate" that Track 1 is "not feasible" without adequate standards required to show infeasibility. Under the policy, if such a demonstration is accepted by a regional water board, the owner or operator will be allowed to meet compliance under Track 2, which has less demanding requirements for reducing OTC. Compliance with those lower requirements would be measured by monthly verification of through-screen intake velocity or monitoring of impacts on fish and larvae, as described in Section 4 A. The policy does not state who will choose among those two options or how that will be done. But assuming monitoring is the means chosen for measuring compliance under the two options, there is no standard referenced for determining what level of entrainment and/or impingement would be acceptable for compliance. Baseline entrainment sampling would provide an "unbiased estimate of larvae entrained," but to what use would that estimate be put in determining whether a plant were in compliance with the new policy? What is the point of the process?

We also question the length of time in which the policy will regulate power plant cooling in California in view of the fact that the US EPA is in the process of developing draft regulations for existing cooling processes and the determination of how compliance with the Riverkeeper II decision will be determined. Is this an interim Board policy, pending the EPA regulations? Will it be necessary to review the policy through another public process when the EPA regulations are adopted? It seems incumbent on the Board to clarify how it expects this regulatory scenario to play out, so that power plant owners and operators, the public and other state agencies are aware, prepared for and involved.

Given these uncertainties and others, the compliance dates listed in the Implementation Schedule would seem to be equally uncertain, thus failing to meet the Riverkeeper II mandate for existing plants to use the best technology available; failing the marine life which is supposed to receive protection from OTC for the first time; and failing coastal communities that have suffered from the destruction of marine resources for so long, with the consequences so evident.

We urge the Board to closely examine the new draft and to revise the language and requirements to make sure that the best possible regulatory apparatus is adopted for the benefit of the public's coastal waters that have been abused by once-through cooling for more than a half a century, and to bring coastal power plants into compliance with the Clean Water Act, ending three decades of de facto violations.

Sincerely,

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