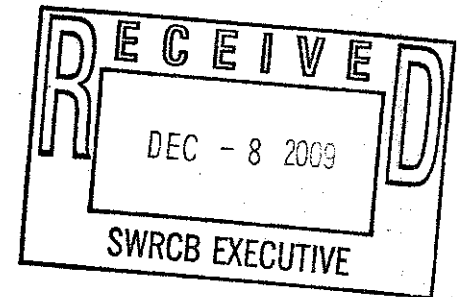




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December 8, 2009

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
P.O. Box 100
Sacramento, CA 95812-0100



RE: *Revised Proposed Statewide Water Quality Control Policy of the Use of Coastal and Estuarine Waters for Power Plant Cooling and the Associated Supplemental Environmental Document*

Dear Ms. Townsend:

AES Southland (AES-SL) is the owner of the largest fleet of once-through-cooled (OTC) generating facilities in the state. AES-SL owns the Redondo Beach, Alamitos and Huntington Beach generating stations, which together have over 4,200 MWs of installed capacity and 14 individual generating units. The facilities are located in the Los Angeles basin Local Capacity Requirement (LCR) area and represent approximately 18% of Southern California Edison's peak demand.

AES-SL has reviewed the revised "Proposed Statewide Water Quality Control Policy of the Use of Coastal and Estuarine Waters for Power Plant Cooling and the Associated Supplemental Environmental Document" (Revised Policy) released by staff on November 23, 2009. AES-SL believes that this latest draft is inadequate and fails to both address the concerns raised by stakeholders in the comments filed on September 30, 2009 and does not provide sufficient clarity to the proposed policy.

AES-SL acknowledges that other parties are filing extensive comments regarding the Revised Policy and hereby incorporates by reference the submitted comments of the California Council for Environmental and Economic Balance, Southern California Edison, Los Angeles Department of Water and Power, Dynegy, RRI, and NRG Energy. With this in mind, AES-SL is limiting its comments to only two additional items.

The Revised Policy must provide more clarity to the Regional Water Boards about how to calculate mitigation for application on an interim basis.

The Revised Policy clarified that "*the Habitat Production Forgone (HPF) method, or a comparable alternate method approved by the Regional Water Board, shall be used to determine the habitat and area for a mitigation project.*" This revision is helpful in that it clarifies the methodology to use, however it is still insufficient because it does not provide any clarity to the Regional Water Boards about how to apply the methodology to compensate for impacts that are interim. Mitigation determined from the application of the HPF, or any other methodology used to determine habitat impact, usually results in the creation or restoration of wetlands and/or the construction of artificial reefs. Once completed, these projects are permanent and will continue to produce benefits indefinitely provided the projects are adequately maintained.

This has not been a significant concern in the past because the methodologies used to determine mitigation have been applied to new plants or existing plants that expect to continue operating for decades, which is a time frame more consistent with the life of a mitigation project. There is no precedent for applying the HPF methodology, or any comparable methodology, to compensate for impacts that could end as early as one year after the mitigation is required.

The Regional Boards must be given direction about how to scale and apply the HPF results, or the results from any alternative methodology chosen, on an interim basis. Without this clarity, there is significant risk that the methods will be applied inconsistently across the regions. It would be unfair to require the same level of mitigation from a facility that expected to operate for five more years at most, compared to what would be required from a new facility that had an expected operating life of thirty to fifty years. Without more direction and clarity provided to the Regional Boards it is highly likely that the HPF methodology, or any comparable alternate method, will be applied unfairly and inconsistently.

Compliance with Track 2 should not be based on reductions in average monthly flow volumes.

At the Board Workshop held on December 1, 2009, several parties argued that the Track 2 compliance should be based on reductions in average monthly flow volumes rather than actual Impingement Mortality and Entrainment (IM&E) studies. AES-SL does agree that reductions in volumetric flow should be used as a proxy for IM&E reductions achieved in Track 2 rather than requiring actual scientific studies. However, we do not support using historical and actual average monthly flows to calculate the reductions. Electricity consumption in California is largely a function of ambient temperature. Relative monthly ambient temperatures, and therefore electricity consumption, can vary significantly from year to year. Weather patterns in California are variable. In some years weather and demand peak in early summer and in other years it peaks in late summer. To illustrate,

over the last four years CAISO's peak annual electricity demand has been reached in four different months - July, August, June and September, respectively.

If comparison between historical and actual facility-wide OTC flow is going to be used as a proxy for IM&E reductions, then the averaging period must be sufficiently long to allow for the year to year variations in relative monthly electricity consumption. Ideally, the averaging period would be annual; however, this may not accommodate the variability of larval production across the year. To deal with the variability of larval production from month to month, it may be necessary to use a semi-annual or other seasonal averaging period. Alternatively, monthly flows could be translated into estimated impacts by applying a monthly impact weighting. The weighting factor could be higher in months with high larval productivity and lower in months with less larval production. The fundamental point is that straight monthly averaging will not provide the flexibility needed to address year to year weather fluctuations.

AES-SL appreciates the opportunity to provide these comments and suggestions. Please do not hesitate to contact me at (562) 493-7855 or Julie Gill at (916) 509-0598 with any questions.

Kindest regards,



Eric Pendergraft
President
AES Southland

cc: Members of the State Water Resources Control Board
Jonathan Bishop, Chief Deputy Director, State Water Resources Control Board