

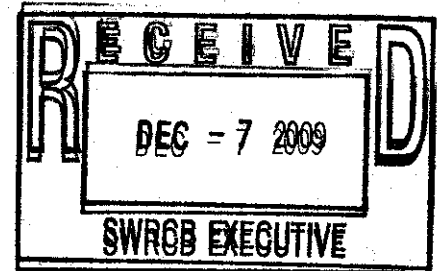


City of Morro Bay

Morro Bay, CA 93442 • 805-772-6200

September 29, 2009

Dorothy R. Rice, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100



Re: Comments on the Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling

Dear Executive Director Rice:

The City of Morro Bay welcomes the opportunity to provide comments on your draft "Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling." ("Policy") In reviewing the City of Morro Bay's comments we encourage the State Water Resources Control Board to recognize the unique characteristic of the Morro Bay Power Plant and its existence next to, and its withdrawal of water from, a National Estuary.

The City agrees with the State Water Board staff recommendation that the State Water Resources Control Board should proceed with developing a statewide policy, and commends your staff for its comprehensive effort to attempt to comply with Section 316 (b) of the Federal Clean Water Act (CWA) by requiring that the location, design, construction and capacity of cooling water intake structures reflect the use of the best technology available for minimizing adverse environmental impacts. There is no need to wait for guidance from the United States Environmental Protection Agency, the State has the legal right and responsibility to regulate once-through cooling (OTC) facilities to protect marine resources and should do so expeditiously.

The City agrees with the State Water Board staff recommendation that a statewide Policy, if properly drafted, should effectively resolve the long-standing inconsistencies in implementation of CWA Section 316(b) technology-based requirements addressing OTC impacts, and lessen the considerable permitting and resource burdens associated with the technical details of the power plant permitting process. Another key feature of the draft Policy is that it contains an implementation plan that addresses potential effects to the State's electrical generation and transmission system while simultaneously coordinating the efforts of the State and Regional Water Boards to address adverse impacts from OTC systems.

ADMINISTRATION
595 Harbor Street

CITY ATTORNEY
595 Harbor Street

FINANCE DEPARTMENT
595 Harbor Street

FIRE DEPARTMENT
715 Harbor Street

HARBOR DEPARTMENT
1275 Embarcadero Road

POLICE DEPARTMENT
870 Morro Bay Boulevard

PUBLIC SERVICES
955 Shasta Avenue

RECREATION & PARKS
1001 Kennedy Way

However, the City of Morro Bay does have grave concerns that the draft Policy often appears to be vague and unclear, allowing opportunities for power plant owners to exercise options made available in the draft Policy to delay and avoid achieving the Board's stated goal of "protecting the state's coastal and estuarine waters." More specifically, the City of Morro Bay provides the following comments and concerns:

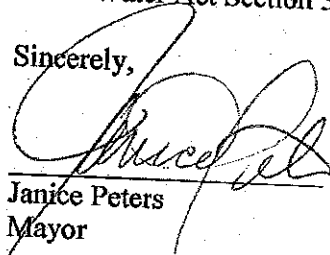
- The draft Policy states on Page 2, Paragraph I., that a Statewide Advisory Committee on Cooling Water Intake Structures (SACCWIS) will be convened to advise the Water Board on implementation of the Policy. *Although the City commends Staff for including the Coastal Commission and the State Lands Commission in the SACCWIS the draft Policy should be amended to include the Ocean Protection Council.*
- The draft Policy states on Page 3, Paragraph 2.A.(1), that pursuant Track 1, "an existing power plant must reduce intake flow rate at each unit, at a minimum, to... 93 percent reduction in intake flow rate for each unit.... compared to the facility's design intake flow rate." *The draft Policy should be amended to clarify whether the design intake flow rate must be calculated at maximum design or average operating capacity levels based on actual historical data for a specific period of time.*
- The draft Policy states at Page 3, Paragraph 2.A.(2), that pursuant Track 2, "if an owner or operator of an existing power plant demonstrates to the Regional Board's satisfaction that compliance with Track 1 is not feasible, the owner or operator must reduce impingement mortality and entrainment of all life stages of marine life for the facility, as a whole, to a comparable level to that which would be achieved under Track 1, using operational or structural controls, or both." *The draft Policy should be amended to establish criteria for determining feasibility and define operational or structural controls.*
- The draft Policy states at Page 4, Paragraph C. (1), that "No later than one year after the effective date of this Policy, the owner or operator of an existing power plant with an offshore intake shall install large organism exclusion devices having a distance between exclusion bars of no greater than nine inches, or install other exclusion devices, deemed equivalent by the Regional Water Board." *The draft Policy should be amended to ensure that the definition of "Offshore intake" includes a "bay or estuary".*
- The draft Policy states at Page 4, Paragraph C. (2), that "No later than one year after the effective date of this Policy, the owner or operator of an existing power plant unit that is not directly engaging in power-generating activities, or critical system maintenance, shall cease intake flows, unless the owner or operator demonstrates to the Regional Water Board that a reduced minimum flow is necessary for operations," *The draft Policy should be amended to include standards and criteria to determine how "necessary for operations" must be demonstrated.*

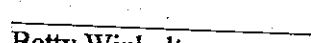
- The draft Policy states at Page 4, Paragraph C. (3) (b) that "Demonstrating to the Regional Water Board's satisfaction that the interim impacts are compensated for by the owner or operator's participation in funding an appropriate mitigation project". *The draft Policy should be amended to include standards and criteria to determine an "appropriate mitigation project".*
- The draft policy states at Page 8, Number 16 that the Morro Bay Power Plant shall be "in compliance" by 12/31/2015. According to footnote 2, this "Due Date" was developed considering information provided by the California Energy Commission, the Public Utilities Commission, CAISO, and the LADWP. *The City encourages the Board to examine the record very closely and determine whether the timeline for compliance can be shorten to minimize the adverse impacts from OTC systems and protect marine resources.*
- The draft Policy states at Page 10, Paragraph 5, A. (2) for the "Track 2 Monitoring Provisions" that a "baseline entrainment study shall be performed, unless the discharger demonstrates, to the Regional Water Board's satisfaction, that prior studies accurately reflect current impacts." *The draft Policy should be amended to include standards and criteria to clarify "the Regional Water Board's satisfaction".*

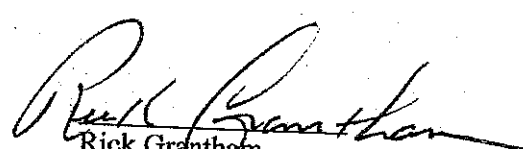
The City of Morro Bay believes the challenges for future power generation for California are filled with exciting possibilities. New technological breakthroughs are within sight. With focused determination, California can create new technologies, new infrastructure, new jobs, new revenue sources, cleaner air and water. We can do this by decreasing our impacts on coastal waters and our dependence on outside power generation sources.

The City of Morro Bay thanks the Board for the time and resources you have committed, and joins other organizations in expressing our appreciation for the commendable job of improving upon the original 2006 Policy. This new draft Policy moves us one step closer implementing State law and represents a much-needed, and legally required, improvement over the federal Clean Water Act Section 316(b) regulations.

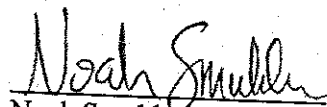
Sincerely,


Janice Peters
Mayor


Betty Winholtz
Vice Mayor


Rick Grantham
Councilmember


Carla Borchard
Council Member


Noah Smukler
Council Member