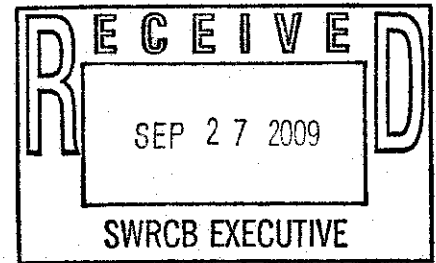


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Re: Comment Letter – OTC Policy

Several critical terms, “wholly disproportionate”, “feasible”, “cost/benefit” are left undefined. These concepts have been the subject of discussion in the courts and it does not serve California agencies, industry, and members of the public well to not recognize this history. The State Water Board has an obligation to provide guidance as to what is meant *or not meant* by these terms in order to avoid an endless re-hash of the decisions dealt with by the courts.

Track 1 calls for reduction of the intake flow rate *at each unit*, while Track 2 calls for a reduction for the *facility as a whole* comparable to that of Track 1. Why the difference? Would it not make more sense to call for reduction at each Intake Structure? Please note that the label SACCWIS refers to Intake Structures by name.

Why are outdated data used in the document? The information on the Morro Bay power plant is so incorrect as to be misleading. The Designed Flow (Table 4, p 35) was for four units, two of which have been mothballed, so the Dependable Capacity for the remaining two units is *not* 300 MW per unit, particularly as the plant cannot run that much without exceeding air pollution limits. The Capacity Utilization figures (p. 35) listed are for 2001-2006; more recent years should have been used to give a more accurate picture of the current situation. Again, in Table 10 (p. 49) the Capacity is listed as 1002 MW, which was for the 4 original units, not the two remaining ones. In Table 13 (p. 62) a different set of years is used, 2000-2005, again not for the most recent years, and again listing the no longer valid Design Intake Flow of 668 which was for the original four units. The intent of the State Water policy presumably is to phase out aging, dysfunctional coastal plants as per the California Energy Action Plan; therefore the policy should provide the actual current capacity. That is what should be used as the baseline for phasing out old plants. To do otherwise would overstate the amount of generation lost by the phasing out process. If the information on other plants is similarly outdated this should also be corrected.

There is a lack of urgency to the policy. The enormous damage to marine life from once-thru-cooling is recognized but the policy allows the problem to continue for years to come. The “wholly disproportionate demonstration” (p A-8) option for nuclear plants and plants exceeding 8500 BTU is a loophole so large that it allows for years of postponement of any real action. The years of studies contemplated afterwards similarly postpone action. Where is the incentive for the industry to change? Use of the “free” ocean and estuary water for cooling purposes provides a monetary advantage that power plants cooled by other means do not have. The state policy needs to provide an incentive to *change*, in other words, a financial disadvantage to the use of its waters.

Restoration (p.75) as an interim mitigation for marine impacts seems paradoxical; it is posed as an alternative if final compliance with the policy cannot as yet be achieved.

However restoration itself is a time consuming process which will only reveal its effectiveness over time, if at all. Would the restoration project be abandoned when compliance is attained? An interim mitigation measure really should be capable of immediate implementation as soon as the decision is made that final compliance is not yet achievable. Examples that come to mind are: shutting down one of several operating units, or shutting down operation during the spawning season. If restoration is selected it certainly should be stipulated that the project will be maintained even after final compliance.

Regarding the composition of SACCWIS (p.A-2), the Ocean Protection Council should be included, as well as Fish and Game (Marine Branch) as the Marine Protection Act is very protective of marine resources. The MPA regulations allow recreational fishing only and no commercial fishing; once-thru-cooling *is* a taking of fish.

The planned inclusion of "the environmental community" in the Review Committee (section 3D, p.A-5) is appreciated. However it is too vague. It would be more correct to recognize that there are certain environmental stakeholders who have long concerned themselves with the environmental damage from power plants and nuclear plants. It is to be hoped that their voice will be welcomed, particularly in view of the fact that this very attempt at creating a better policy is due, at least in part, to their dedicated participation.

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