

**DEPARTMENT OF WATER RESOURCES**

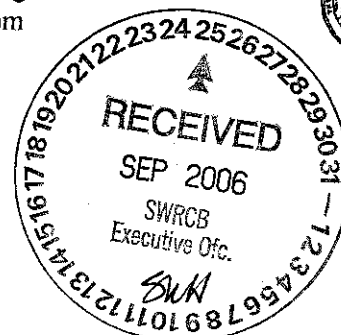
1416 NINTH STREET, P.O. BOX 942836  
SACRAMENTO, CA 942360001  
(916) 653-5791

316 (b)  
Once Through Cooling  
Deadline: 9/25/06 5pm



September 15, 2006

Clerk of the Board  
State Water Resources Control Board  
Division of Water Rights  
P.O. Box 2000  
Sacramento, CA 95812-2000



Via electronic mail: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

Subject: 9/21/06 Board Meeting Item 7 – Consideration of a Proposed Order Amending State Water Board Decision 1641 to Comply with a Writ of Mandate.

Dear Ms Her:

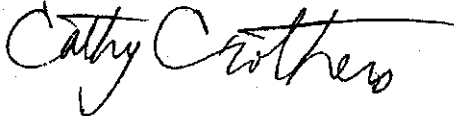
The Department of Water Resources (DWR) recommends that the State Water Resources Control Board (State Board) not adopt the proposed Draft Order amending the State Board Decision 1641 to comply with the writ of mandate regarding southern delta salinity objectives. The writ of mandate, as noted in the proposed Draft Order, requires the State Board to commence proceedings either to assign responsibility for meeting the southern Delta salinity 0.7 EC objective in the southern delta or to amend the 1995 Bay-Delta Water Quality Control Plan (WQCP).

DWR recommends that the State Board satisfy compliance with the writ by commencing proceedings to amend the WQCP program of implementation regarding the southern delta salinity objective rather than changing DWR's water rights. The proposed Draft Order includes such action. The Draft Order, page 3, states that the State Board intends to conduct a workshop this fall to review the salinity requirements and information related to salinity in the southern delta. This action by the State Board will commence the needed proceeding required by the writ. This action is similar to the State Board's approach in addressing the writ of mandate on the Vernalis flow objectives in the WQCP. Footnote 2 of the draft order indicates that the State Board will be conducting a separate proceeding to amend the WQCP program of implementation related to the Vernalis objective. DWR recommends that the State Board follow this approach for the south delta salinity objective as well.

Furthermore, the State Board should not delete a provision from D-1641 as proposed in the Draft Order without first noticing and holding a water rights hearing (see Water Code Section 1394 (b) and State Board water right regulations regarding procedures on adjudicative hearings and other water right matters (Title 23, Section 760 and Section 648 et seq.)). DWR requests notice before such a proceeding is commenced.

DWR observes that the notice of the proposed order was received this week and has not had sufficient time to consider all issues related to this item. Therefore, DWR may provide additional oral comments on item 7 at the September 21 meeting.

Sincerely,

A handwritten signature in cursive script that reads "Cathy Crothers". The signature is written in black ink and is positioned above the typed name.

Cathy Crothers  
Staff Counsel