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GOVERNOR



MATTHEW RODRIGUEZ  
SECRETARY FOR  
ENVIRONMENTAL PROTECTION

## State Water Resources Control Board

JAN 04 2017

Mr. George Piantka  
Director of Regulatory Environmental Services  
NRG Energy, West Region  
5790 Fleet Street, Suite 200  
Carlsbad, CA 92008-4703

Dear Mr. Piantka:

### RE: REQUEST FOR CONCURRENCE WITH INTERIM MITIGATION PROPOSAL FOR ENCINA POWER STATION UNDER THE ONCE-THROUGH COOLING POLICY

The State Water Resources Control Board (State Water Board) received your letter, dated February 12, 2016, requesting concurrence with the interim mitigation proposal for Encina Power Station (EPS) under the statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (Once-Through Cooling [OTC] Policy). Section 2.C.(3)(a) through Section 2.C.(3)(c) of the OTC Policy provides options for demonstrating compliance with the interim mitigation requirements.

Your letter reiterates the request from Cabrillo Power I LLC (Cabrillo), a subsidiary of NRG Energy, that (1) the first 304 million gallons per day (MGD) of OTC flow be satisfied by Poseidon Resources Corporation's (Poseidon) mitigation project for Carlsbad Desalination Project (CDP) and (2) any water flow required solely for CDP would not be defined as OTC flow and, therefore, not subject to the OTC Policy's interim mitigation requirements.

Staff has reviewed Cabrillo's request and site specific information, including the co-location with CDP. Regarding Cabrillo's request that the first 304 MGD of OTC flow be satisfied by Poseidon's mitigation project for CDP, the State Water Board is denying this request. The State Water Board has not identified evidence or findings to indicate that the Regional Water Board approval of Poseidon's Minimization Plan was intended to mitigate for the impacts of impingement and entrainment of marine life associated with cooling water intakes required for EPS's operations. Furthermore, Poseidon has yet to implement the mitigation portion of the Minimization Plan. Therefore, Cabrillo must identify a proposed plan to mitigate the interim impingement and entrainment impacts resulting from intake of cooling water required for EPS operations, including under conditions of co-located operation with CDP. However, the State Water Board provides concurrence with Cabrillo's second request that any intake flow required solely for CDP is not defined as OTC flow and is not subject to the OTC Policy's interim mitigation requirements.

FELICIA MARCUS, CHAIR | THOMAS HOWARD, EXECUTIVE DIRECTOR

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This determination is not to be construed as setting a precedent for other power plants that request to use existing mitigation efforts to fulfill their interim mitigation requirements for the OTC Policy. Such requests will be reviewed on a case-by-case basis. Site specific facts will inform future individual determinations.

On September 26, 2016, the State Water Board requested information necessary to calculate the interim mitigation requirements for EPS pursuant to the OTC Policy. Staff is currently reviewing the information provided in your response letter that was received by the State Water Board on November 29, 2016.

For further questions related to this subject matter, please contact Mr. Jonathan Bishop, Chief Deputy Director, at (916) 341-5820 (Jonathan.Bishop@waterboards.ca.gov) or Dr. Maria de la Paz Carpio-Obeso, Ocean Unit Chief, at (916) 341-5858 (MarielaPaz.Carpio-Obeso@waterboards.ca.gov).

Sincerely,

  
Thomas Howard  
Executive Director

cc: David Gibson, Executive Officer  
San Diego Regional Water Quality Control Board  
2375 Northside Drive, #100  
San Diego, CA 92108