



April 9, 2015

Felicia Marcus, Chair
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



SUBJECT: Comment letter – Desalination Amendments

Dear Ms. Marcus:

CalDesal is pleased to submit the following comments in response to the State Water Resources Control Board's (Board) recent publication of the final draft staff report, draft amendment to the Ocean Plan, and the draft substitute environmental documentation. CalDesal members generally find the final draft is positive and productive, and we appreciate the opportunities for stakeholder involvement provided by the Board and staff.

CalDesal is a nonprofit association of water agencies and other entities that advances the use of desalination and salinity management as important options for local and regional sustainable water supply reliability. CalDesal has actively participated in the Board's California Ocean Plan Amendment process for Desalination from the start and hereby incorporates by reference all previously submitted comments.

The Board should and we believe does recognize desalination as an important local and regional sustainable water supply and reliability option in order to improve water supply reliability, to help reduce reliance on imported water and in the face of climate change, to better meet future regional and local needs.

We appreciate the SWRCB staff considering and addressing several of the water industries' concerns on key issues in the proposed final draft regulations. CalDesal supports and would like to express its appreciation for many of the revisions to the proposed regulations, including those where water agency studies and research are recognized.

We agree with and support the SWRCB establishing a screen slot size of no greater than 1.0 mm for surface water intakes if subsurface are not feasible (L2d(1)(c)ii.), which is supported by studies performed by West Basin MWD and other water agencies. West Basin's study demonstrated how slot sizes less the 1.0 mm faced problematic fouling and related operational issues. CalDesal also supports revising the study period for entrainment mitigation estimates and related studies from 36 months to 12 months (L2(1)(a)). As recognized in staff's response to comments in Appendix H, page H-180, a properly designed one-year study should provide sufficient information. The potential costs and permitting delay of 36 month studies would have presented a major barrier to several projects in California.

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Another revision we support is the ability to use “out-of-kind” mitigation in developing mitigation projects, as it adds flexibility to the proposed regulations and improves the ability of water agencies to mitigate marine life impacts. CalDesal is particularly supportive of the inclusion of the California Environmental Quality Act definition for ‘feasibility’.

We wish to reiterate that CalDesal is open to a mitigation fee, but we believe it is critical that the fee have a direct nexus to the potential impacts of a project and that it should be calculated and applied one time to cover all marine organism mitigation requirements for a project, inclusive of all state permitting agencies. Assuming the Board is able to develop a mitigation fee that CalDesal and other stakeholders can support, CalDesal submits that each desalination project proponent should have the option of paying the mitigation fee or building their own mitigation project or utilizing an existing restoration project. Moreover, CalDesal is ready to work with the appropriate state agencies to pass legislation to set up the mechanics for the mitigation fee.

CalDesal Issues of Concern

1. CalDesal supports the protection of larval, juvenile, and adult stages of marine life through the use of marine protective technologies (e.g., wedge wire screens) to avoid impingement and minimize entrainment losses. Project applicants should be credited more than just one percent for using such marine protective technologies when calculating Empirical Transport Model (ETM) for mitigation purposes since the ETM methodology assumes open intakes. Industry experts working for West Basin Municipal Water District believe the credit should be much larger, around 50%, by applying a 1.00mm wedge wire screen. When comparing the ETM/APF analysis of a large open pipe compared to a wedge wire screen with a 1.00mm opening the 1% credit does not take into account all of the juvenile and reproductive adult marine life that will be protected. The 1% that is cited from the Intake Expert Panel report is only referencing 1% of larvae being protected with the screen, but does not take into account all of the juvenile and adult organisms that will be 100% protected.. Therefore, CalDesal joins West Basin recommending a larger ETM/APF credit of 50% to account for the protection of juvenile and adult organisms that are being 100% protected and not being accounted for in the ETM calculation.
2. The proposed final Amendment also provides that brine discharges from desalination facilities shall not exceed 2.0 parts per thousand (ppt) above the “Natural Background Salinity.” Natural background salinity is defined as the 20-year mean monthly salinity at the project location. Given that the natural background salinity can and does fluctuate, the definition of Natural Background Salinity should be modified to account for this natural salinity range.

To address this problem, CalDesal recommends that the proposed final Amendment be revised such that the Natural Background Salinity is defined as the 20-year mean monthly salinity at the project location unless the actual salinity measured at the facility intake, absent any influence

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from the discharge, is greater than the 20 year mean monthly salinity, in which case, the Natural Background Salinity shall be the actual salinity measured at the intake, absent any influence from the discharge.

CalDesal is grateful that the Board staff took into consideration many of our previous comments. Our members would be happy to meet with staff to discuss these comments further.

Finally, CalDesal would like to extend our appreciation to the Board Members and Board staff for their open and transparent process in developing the draft Desalination rules and regulations for the Ocean Plan.

Please contact me directly if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Ronald Davis". The signature is written in a cursive, flowing style.

Ron Davis
Executive Director
CalDesal

CC: Members, State Water Resources Control Board
Vicky Whitney, Deputy Director
Claire Waggoner, Environmental Scientist
Jeanine Townsend, Clerk of the Board.