



OFFICE OF THE MAYOR

CHERYL COX
MAYOR

December 8, 2009

Mr. Richard Wright, Chair
Boardmembers
CA Regional Water Quality Control Board, San Diego Region
9174 Sky Park Court, Suite100
San Diego, CA 92123-4340

RE: Consideration of Permit Minor Modifications to CA 0001368, Order No R9-2004-0154
for Dynegy South Bay, LLC South Bay Power Plant

Dear Chair Wright and Members of the Regional Water Quality Control Board:

The City of Chula Vista respectfully requests that the Regional Water Quality Control Board (RWQCB) reconsider RWQCB staff's position regarding "minor modifications" to the Dynegy South Bay Power Plant (SBPP) permit.

On September 9, 2009, approximately 100 South Bay residents and local officials attended the RWQCB meeting to request that the Board reconsider your staff's proposed administrative extension. I followed up with an offer regarding the RWQCB's holding a hearing in Chula Vista to focus on the Plant's impacts to South San Diego Bay. The community was encouraged by the response of each RWQCB member and the proposed scheduling of a hearing to reconsider the extension. Unfortunately, a hearing has not yet been scheduled.

The South Bay watershed has co-existed with a permit that allows the plant to operate. The permit does not provide the SBPP with the right to damage beneficial environmental uses. This damage is effectively described and documented in the RWQCB's 2004 permit, a permit that we were led to believe would conclude last month, November 2009. Duke/LS Power's commitment to stop operating the plant this year (2009) during the permit process was key to the City and others not objecting to the permit or requiring substantial mitigation at that time.

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The RWQCB should *not* abdicate its authority or responsibility to protect the bay from further environmental damage. The South Bay has shouldered the effects of the SBPP for almost 50 years without adequate mitigation or offsets for damage the plant caused.

A time certain for when that damage stops and restoration begins must be established.

South Bay residents encouraged the Board to make its findings solely on the basis of water quality issues. However, Dynegy's failure to plan over the past five-year permit period when Duke/ LS Power committed to stop operating the plant demonstrates that providing a "minor modification" permit without substantive mitigation is woefully inadequate. Any additional permit period without immediate and substantial mitigation is an incentive to continue to operate this plant for tremendous financial gain at the expense of our watershed, public access, and the economy of our region.

On behalf of the residents of Chula Vista, the City Council and I respectfully request that the Board begin the process they started at the September 2009 meeting with the following steps:

- Initiate the recommendations outlined in the December 3, 2009, letter of the Chula Vista City Council Energy Sub-committee,
- Establish a mitigation fund to begin immediate restoration of the South Bay habitat damaged by the plant's operation, and
- Provide additional habitat outreach and education funding that considers every day the plant operates beyond the expired permit and Duke/LS Power's 2004 commitment to stop operating the plant.

Respectfully,



Cheryl Cox, Mayor
City of Chula Vista

cc: City Council
Jim Sandoval, City Manager
Michael Meacham, Director of Conservation and Environmental Services
David Gibson, Executive Officer