

STATE OF CALIFORNIA

ARNOLD SCHWARZENEGGER, Governor

CALIFORNIA STATE LANDS COMMISSION
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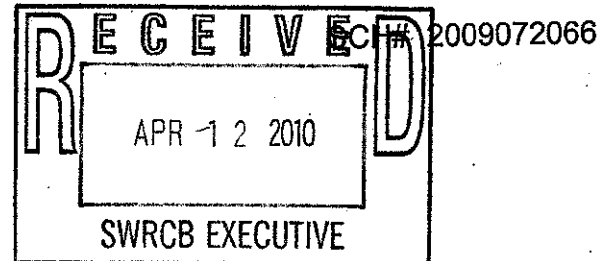
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VIA FACSIMILE AND REGULAR U.S. MAIL
commentletters@waterboards.ca.gov

April 12, 2010

Charles R. Hoppin, Chair
c/o Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, California 95814



Subject: Proposed Draft Final Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (March 22, 2010 Draft)

Dear Chair Hoppin:

Staff of the California State Lands Commission (CSLC) has received the above referenced Policy as modified on March 22, 2010. As discussed in previous comment letters to you, for those existing power plants using once-through cooling (OTC) that will be required to come into compliance with the Policy, the CSLC will be a trustee agency and a responsible agency under CEQA and the Public Trust Doctrine.

We again want to acknowledge and commend the substantive effort made by Board staff with respect to revising the Policy. This effort included regular meetings with staff from the energy agencies, the Coastal Commission, the Air Resources Board, and us to develop an implementation schedule that would protect marine life while maintaining grid reliability.

We do have some general concerns with the new revisions to the draft policy. With respect to the discussion on Page 3, regarding nuclear-fueled power plants, we do not believe that greenhouse gas emission concerns should be a bar to addressing OTC impacts from these facilities. Of course, the Commission supports full implementation of AB 32 but staff believes that can be done consistent with the need to address OTC impacts. Staff also is concerned about the revised language on Page 7 that, absent compelling evidence and overriding considerations, the Board shall follow recommendations from the CAISO regarding delaying compliance dates. The Commission believes that electricity supply reliability is extremely important but staff believes that the revised process can be abused by operators who delay compliance.

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CSLC staff also requests that the following comments regarding the most recent revisions be considered.

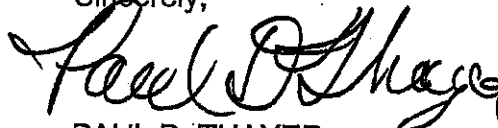
1. Page 6, B(2)(a), line 7 – This states that “If the Executive Directors of the CEC and CPUC do not object in writing...” This implies that both the CEC and the CPUC must agree to object. We believe that the public would be better served if the “and” is changed to an “or”, “...Executive Directors of the CEC and or CPUC do not...”
2. Page 7, B(2)(b), line 7 – Same comment as above.
3. Page 7, B(2)©, last sentence – We suggest: “In considering whether to suspend or amend the final compliance dates the State Board shall, at a minimum, consult with the CAISO.”
4. Page 10, B(5) – We suggest that this paragraph be separated into two paragraphs since the first portion addresses those situations when the plant is needed for grid reliability. The second portion of this paragraph addresses those situations when the plant is not needed for grid reliability. This distinction is not made clear in the paragraph as it is currently written.

First paragraph – “The State Water Board ...makes a finding of overriding considerations.”

Second paragraph – “In the event that (i) an owner or...final compliance date established in this policy, and (ii) the State Water Board...obtain the required permits, and (iii) continued operation of the plant is not needed to ensure grid reliability, then the State Water Board...not to exceed two years.”

As previously noted, we appreciate being given the opportunity to participate in a working group dedicated to the development of an implementation schedule that preserves marine life while ensuring grid reliability. Should you have any questions regarding our comments, please do not hesitate to contact Ms. Marina Brand at (916) 574-1814. Please contact Susan Young at (916) 574-1879 for questions regarding the Commission’s leasing jurisdiction.

Sincerely,



PAUL D. THAYER,
Executive Officer

cc: Marina Brand
Susan Young
Mark Meier
Colin Connor