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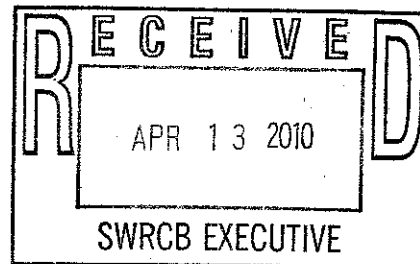
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April 13, 2010

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 'I' St., 24th Floor
Sacramento, CA 95814



**RE: Comment Letter: March 22, 2010 Draft Water Quality Control Policy
on the Use of Coastal and Estuarine Waters For Power Plant Cooling**

Dear Ms. Townsend:

On behalf of the California Council for Environmental and Economic Balance (CCEEB), thank you for once again offering us the opportunity to comment on the Board's proposed "Water Quality Control Policy of the Use of Coastal and Estuarine Waters for Power Plant Cooling." CCEEB is a non-partisan, non-profit organization of business, labor and community leaders that seek to achieve the State's environmental goals in a manner consistent with a sound economy.

CCEEB's membership includes the owners of the power generating facilities that utilize once through cooling (OTC) systems in California. As such, any state policy or regulation that proposes to phase out this coastal power plant cooling method in California is of great interest to CCEEB. We recognize and appreciate the open process the Board has provided for the development of this Draft Policy and your willingness to work with us as this Draft Policy has evolved over the last several years. Much progress has been made and the current draft is appreciably improved for which we are grateful, however, as you consider final action on this document we urge that you consider the following issues that CCEEB believes still need to be addressed.

1. Consideration of Costs and the Conduct of the Cost Studies

While CCEEB appreciates the allowable consideration of costs for the nuclear facilities in a cost vs. cost comparison, we still maintain the more appropriate consideration of costs in this Policy should be the wholly disproportionate cost vs. benefit test as addressed by the US Supreme Court in its Riverkeeper II decision on April 1, 2009. We also still maintain that this test should be applied to all coastal plants on a case-by-case basis.

If, however the Board maintains its current preference for a cost vs. cost comparison for the nuclear facilities only, we urge the Board to clarify that the comparative costs that the Board will use in the analysis are those contained in the Tetra Tech Study performed for the Ocean Protection Council in 2007. We also urge the Board to affirm that the entity chosen to perform this analysis must have nuclear experience. Finally, before requiring a new study, we urge the Board to review and consider existing cost studies that have been performed.

2. Mitigation Credits

While CCEEB appreciates the recognition of mitigation performed under order for the combined cycle generation units, we are confused why that recognition of mitigation was not extended to other plants. We believe that all mitigation already performed should be recognized by this Policy.

3. Limiting Schedule Extensions to 2 years

While CCEEB appreciates the recognition that CEQA and other permitting obstacles can significantly delay a compliance project we believe that limiting a schedule revision to two years is arbitrary and unrealistic. The 2-year schedule modification limitation should be removed.

4. Conflicts Remain in Adaptive Management Strategy Language

CCEEB urges the Board to carefully reassess the language used in describing its adaptive management strategy to remove inconsistencies and conflicts between the described role of the Advisory Committee and the Independent System Operator.

5. Intake Cages and Screen Requirements

CCEEB requests that the Board reconsider its large organism cage requirements for intake structures and its 200-micron screen requirements. The small grid size required for the large organism cage present fouling issues and thus safety issues at the nuclear facilities. In addition, such technology cannot be installed in the one year allowed by the Draft Policy; at least three years would be needed. As we have pointed out in previous comments the 200-micron screen is similarly ill advised and is likely to lead to organism impingement and system fouling. Additionally, Track 2 entrainment monitoring focuses on larvae. Section 4.B(1) provides that "a new baseline entrainment study shall be performed to determine *larval* composition and abundance in the source water" and that "baseline entrainment sampling shall provide an unbiased estimate of *larvae* entrained" See also Draft Final Policy, Section 5 (defining "proportional mortality" in terms of "larvae"). Despite this focus on "larval" forms of fishes, Section 4.B(1)(a) provides that entrainment impacts shall be based on "sampling for all *ichthyoplankton**," a term defined to include both larval forms and "pelagic eggs."

This disconnect in Track 2 monitoring (i.e., larval forms v. pelagic eggs) has important implications and must be corrected. To resolve this disconnect and to avoid confusion, the reference to "pelagic eggs" in the definition of "ichthyoplankton" should be deleted. By limiting compliance monitoring to a life stage size no smaller than larvae, life stages of organisms would be defined in terms of the size of screening technology that is operationally feasible. Accordingly, the Section 5 definition of "Ichthyoplankton" should be revised, as follows (deleted text is ~~struckthrough~~):

Ichthyoplankton – Refers to the planktonic early life stages of fish (i.e., the ~~pelagic eggs and larval forms of fishes~~).

6. Los Angeles Department of Water and Power Issues

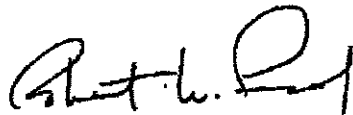
As its stand-alone balancing authority to provide power to its system is independent of the ISO and unique in the State, CCEEB believes that the Board should give great deference to the issues raised by LADWP relating to its responsibilities to meet its power supply obligations while complying with this Draft Policy.

7. Use of Recycled Water

Section 3.10 of the SED indicates that State Board staff's intent is to recommend a requirement in the OTC Policy to consider the "feasibility" of using recycled wastewater for power plant cooling. "Alternative 2" in Section 3.10 is described as "Require that power plant owners consider the feasibility of using recycled wastewater for power plant cooling", and the Staff Recommendation states, "Staff recommends Alternative 2: Require that power plant owners consider the feasibility of using recycled wastewater for power plant cooling, either to supplement OTC or as makeup water in a closed-cycle system, when developing their implementation plans." (SED at p. 77). "Feasible" is a commonly understood term and is more consistent with Staff's apparent intent than "available," which is subject to multiple interpretations and could lead to uncertainty and uneven application. CCEEB suggests that provision 3(A)(2) be revised to replace the word "available" with "feasible."

Thank you for the opportunity to submit these comments. We look forward to continuing to work with you on a Policy that can be successfully implemented.

Sincerely,



Robert W. Lucas
Waste & Water Quality Project Manager



Gerald D. Secundy
President

cc: Susan Kennedy, Chief of Staff, Office of the Governor
Dan Pellissier, Deputy Cabinet Secretary, Office of the Governor
Linda Adams, Secretary for California Environmental Protection Agency
Cindy Tuck, Undersecretary for California Environmental Protection Agency
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