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*Defending Our Waters—from the
High Sierra to the Golden Gate*

September 13, 2006

Ms. Tam Doduc, Chair
Members of the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814



Submitted via electronic mail to commentletters@waterboards.ca.gov

Re: Proposed Statewide Policy on Clean Water Act Section 316(b) Regulations

Dear Ms. Dudoc and Members of the Board:

Thank you for the opportunity to provide input on the State Board's once-through cooling ("OTC") policy. These comments are intended to supplement those submitted by the California Coastkeeper Alliance ("CCKA") on our behalf. We offer them to illustrate OTC's significant impacts to Bay and Delta waters and as evidence that more oversight is necessary to ensure effective implementation of section 316(b) requirements.

The impacts of OTC on the San Francisco Bay-Delta ecosystem are considerable, yet relatively little has been done to address them. For example, available data shows that the Potrero Power Plant in San Francisco entrains more than 300 million larval fish every year, destroying the equivalent of 390-903 acres of habitat. *316(b) Entrainment Report for Potrero Power Plant Unit 3*, prepared for Mirant Potrero, LLC by Tenera Environmental (March 2005). Studies of the Plant have demonstrated the feasibility of short and long-term improvements that would dramatically reduce impacts (variable speed pumps and dry cooling, respectively). This year, however, the San Francisco Regional Water Quality Control Board re-issued the Plant's NPDES permit without including any significant requirements to reduce or otherwise mitigate impacts. As a result, the Plant will continue to operate for the next five years just as it has for the past 30 and its OTC impacts will remain the same.

Similarly, the Contra Costa Power Plant has been allowed to use OTC despite known impacts on the Delta fisheries. The plant's intake is located in the Sacramento-San Joaquin River Delta, where populations of the indicator species Delta smelt are at their lowest levels in history, as are longfin smelt populations. Data analyzed by the U.S. Environmental Protection Agency ("EPA") showed that the Contra Costa Plant entrained an average of 7,195 delta smelt and 74,969 longfin smelt annually. EPA 821-R-02-2002, *Case Study Analysis for the Proposed Section 316(b) Phase II Existing Facilities Rule, Part E: San Francisco Bay/Delta Estuary*, pg. E3-15 (February 28, 2002).

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To address these impacts, the Plant's NPDES permit included several requirements such as off-site mitigation, installation of an aquatic filter barrier, and compliance with federal and state Endangered Species Acts ("ESA"). To date, however, no evidence exists that Mirant has fulfilled or even reasonably tried to fulfill these requirements. No aquatic filter barrier has been installed at either Unit 6 or 7 and the Plant appears to be operating without a federal incidental take permit or a state consistency determination. See "Mirant plants attract attention in Delta crisis," Contra Costa Times (March 15, 2006). We know that OTC harms aquatic life and that the Delta fisheries are declining rapidly, yet the Contra Costa plant continues to take Delta smelt essentially without consequences.

The Potrero and Contra Costa Power Plants are just two of many examples illustrating the harm that OTC causes and the inability of agencies to abate that harm. We hope that in adopting a statewide policy, the State Board will ensure that the rapid phase-out of OTC by power plants and that, in the interim, plant owners will be required to take meaningful steps to minimize and mitigate impacts.

Sincerely,

A handwritten signature in cursive script that reads "Amy Chastain".

Amy Chastain
Program Associate