316(b)
Once Through Cooling
Deadline: 9/15/06 5pm

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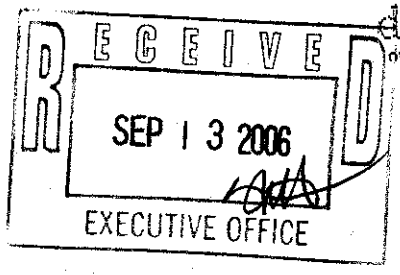
September 8, 2006



Mr. Tam M. Doduc
Chair, State Water Resources Control Board
California Environmental Protection Agency
1001 I Street
Sacramento, CA 95814

RE: CWA 316(b) policy

Dear Chairman Doduc:

As your Board finalizes a statewide policy for once-through cooling under CWA 316(b), I would strongly urge a much broader interpretation of "Restoration Measures" than currently described on pages 17-18 of the document posted at:
www.swrcb.ca.gov/npdes/docs/cwa316b/316b_scoping.pdf.

Limiting restoration to only *Habitat Production Foregone* (HPF) seriously diminishes the options available for appropriate management of a wide variety of coastal resources. HPF is unnecessarily restrictive to management agencies charged with stewardship of our living marine resources, preventing them from developing the most comprehensive and effective restoration projects possible. Many species and/or life stages impacted may not be habitat-limited, so adding more habitats will not achieve in-kind restoration objectives.

Also, depending on the habitat type in question and regional location of the power plant, appropriate sites for restoration may not exist, so achieving on-site restoration objectives will not be possible. The value of the HPF approach toward restoration may not serve the need because direct measures of habitat restoration results are difficult if not impossible to quantify.

The Board's draft policy dismisses the role that direct fisheries replenishment can play in restoring depleted stocks of coastal fishes. When discussing the use of fisheries replenishment, the policy states that the preferred approach is "in-kind, on-site" restoration. That limits restoration efforts to species directly entrained and impinged by the coastal plant whether or not that species is recognized as being in need of restoration. Considering the numbers of coastal species native to California that are already regarded as seriously depleted. I do not believe that adoption of this narrow approach is in the best interests of California's marine environment. A greater contribution to the management of our State's marine resources could almost certainly be achieved by removing these restrictions.

If, for example, the impacted species are common and widely distributed, restoring those species will add little to our marine environment. The Board's proposed policy could build upon the efforts undertaken by the California Department of Fish and Game (DFG) under mandate of the Marine Life Protection Act. DFG has developed a *Nearshore Fishery Management Plan*[1] (NFMP), which clearly delineates coastal marine species that

[1] NFMP is available via the internet at http://www.dfg.ca.gov/mrd/nfmp/section1_summary.html

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are in serious need of additional management resources. If restoration of these listed jeopardized species were allowed, a much broader benefit would be realized.

Let me offer a cogent, real-world example. Our Institute manages the Ocean Resources Enhancement and Hatchery Program (OREHP) in Carlsbad, where we rear and release white seabass throughout the Southern California Bight. This program was partly initiated and supported by the owners of the San Onofre Nuclear Generating Station to mitigate for impacts caused by once-through cooling. Why white seabass?

From the 1950s to the 1980s, annual party boat catches of white seabass in California dropped from over 55,000 to less than 3,500. OREHP was founded in 1982, our hatchery opened in 1995, and OREHP released its one millionth white seabass in 2004. Adult fish have been recovered up to 12 years after release and as much as 140 miles away from the release point. This seriously depleted species is becoming more abundant in part due to our hatchery program's "out-of-kind, off-site" restoration effort.

The fact that each fish is tagged before it is released and an extensive assessment program is in place illustrates the careful planning that has gone into this program with the clear and achievable goal of quantifying the benefits of this restoration effort. Furthermore, this important research program has established a firm foundation that will greatly facilitate transition to replenishment of other depleted species. In that regard, our research program now has captive breeding populations of California sheephead, California yellowtail, California halibut, cabezon, lingcod, and several species of critically depleted rockfishes.

The spirit of the Board's intent would arguably be much better served by allowing more such programs – out-of-kind and off-site – than currently envisioned. An approach that allowed marine species replenishment would also afford consistency with the science-based edicts of the legislatively mandated Nearshore Fishery Management Plan. A less restrictive approach than that proposed in the Board's draft plan would demonstrate a clear synergy between California resource agencies' common goal of ensuring a vibrant and sustainable coastal fisheries resource for our state's citizens.

If I can answer any questions you or the Board may have, please do not hesitate to contact me.

Sincerely,

Donald B. Kent
President

cc: California Secretary of Resources Michael Chrisman
Director California Department of Fish and Game Ryan Broddrick
OREHP Advisory Panel