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

CELSOC
Consulting Engineers and Land Surveyors of California

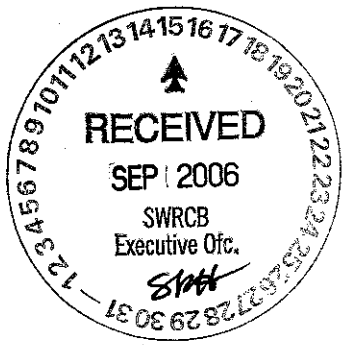
California Manufacturers & Technology Association

Silicon Valley Leadership Group

California Retailers Association

Industrial Environmental Association
Leaders of Environmental Responsibility

September 15, 2006



Song Her, Clerk to the Board
State Water Resources Control Board
1001 I Street
Sacramento, CA 95814

Re: Comments on Scoping Document Regarding
Once Through Cooling in California Power Plants

Dear Ms. Her:

Thank you for the opportunity to comment on the State Water Resources Control Board draft 316(b) policy scoping document for once through cooling for existing facilities. The above organizations have the following comments on the draft policy.

First, The State Water Resources Control Board should not draft a comprehensive 316(b) policy until they have all of the relevant data on the impacts of once through cooling and the cost impacts of that policy. All of the discharges are currently required by the Federal 316 (b) rule to submit their comprehensive demonstration studies (CDS) to the Regional Boards by January 8, 2008. Once this is done, the offshore impacts of once through cooling of each station and the costs to comply with the 316(b) rule will be known. The state should wait to draft their policy (assuming a state policy is even needed) until we know the offshore impacts and the cost of the facilities to comply with the Federal rule. This way, the policy would be based more on facts and less on speculation. The State Water Resources Control Board will likely not be able to develop its policy earlier than the second quarter of 2007. If the state waits only six more months, they can use the critical data from all of the comprehensive demonstration studies on which to base their policy.

There is also no cost benefit analysis option in the draft SWRCB 316(b) policy. Cost considerations should be made part of the state policy, just as it is in the Federal 316(b) rule. The case may very well likely be that many or all of the potential intake modifications will be far too costly for a minimal benefit to the offshore environment for many generating stations. This is why cost considerations are part of the Federal 316(b) rule. Any state policy on 316(b) should keep the cost considerations in the Federal 316(b) rule in tact.

The state 316(b) scoping document affects nearly 45% of the State of California electrical generation capacity. In light of the recent power shortages, a policy should not be adopted by the state that could result in the potential removal or reduction in power from any of these facilities. This is made

even more significant due to the recent legislation passed by the state legislature on greenhouse gas emissions targets. This legislation will likely result in the prevention of constructing future electrical generation that results in greenhouse gas emissions, or could even result in the shutdown of some existing generation. Between 316(b) and this legislation, up to 80% of the state electrical generation could be adversely impacted. This could have a substantial impact on the availability and reliability of the electrical power grid in the state of California in the future.

Mitigation is also only allowed under certain circumstances in the state 316(b) scoping document. Mitigation should be allowed (as it is in the Federal 316(b) rule) to assist existing generating facilities, most of which were constructed several years before the new 316(b) rule was adopted to comply with the rule.

The proposed state 316(b) policy also does not allow for site specific determination of Best Technology Available (BTA). The draft policy states that this would be inconsistent with the California Water Code Section 13142.5 because BTA would be inconsistent with this rule. This is not correct however, since this section of the California Water Code does not apply to existing electrical generating facilities. It would be highly impractical and very costly to redesign or change the location of an existing electrical generating facility. Therefore, site specific determination of Best Available Technology (BAT) should be part of the state 316(b) policy.

The 316(b) scoping document as written could also impact the ability to construct desalination plants on the California coast. Due to future anticipated demand for water in the state of California, the construction of desalination plants on the coast is considered necessary by water authorities to meet the future demand of drinking water in the state. Water authorities are currently considering some electrical generating facilities as locations to build future desalination plants. This rule could have an adverse impact on such plans.

The state 316(b) scoping document is also largely based on the New York State 316(b) policy. The New York State 316(b) policy is based on the Hudson River. Most of the California power plants are on the Pacific Ocean. This offshore ecosystem is completely different than the Hudson River in New York. The facilities on the Hudson River have a much greater impact on that ecosystem than the California electrical generating facilities have on the Pacific Ocean. Any state 316(b) policy should be written based on a California offshore environment, not a river in the state of New York.

In closing, the Federal Rule on 316(b) took into account the actual impacts of once through cooling and the costs to comply with the rule. It was based to a large degree on existing scientific data and cost estimates. The current state 316(b) scoping document does not do this. One could argue that the state should just go along with the Federal 316(b) rule. The State Water Resources Control Board and the Regional Boards still have a great deal of oversight on compliance with this issue. This should be their involvement. However, if a state 316(b) policy is implemented, it should not be done until after the comprehensive demonstration studies are completed. Only then can a comprehensive state 316(b) policy be drafted. And such a policy should include the provisions detailed in this letter and should not compromise the ability of electrical generating facilities from being in compliance with the timeline in the Federal 316(b) rule.

Patti Krebs

Patti Krebs, Executive Director
Industrial Environmental Association

Joseph Lyons

Joseph Lyons, Policy Director Energy
California Manufacturers & Technology Association

Bill Dombrowski

Bill Dombrowski
Consulting Engineers & Land Surveyors of California

Justin Bradley

Justin Bradley, Director of Energy Programs
Silicon Valley Leadership Group

Keith R. Dunn

Keith Dunn, Legislative Director
California Retailers Association