

STATE WATER RESOURCES CONTROL BOARD
RESOLUTION NO. 2001- 034

CONCURRENCE WITH THE CENTRAL COAST
REGIONAL WATER QUALITY CONTROL BOARD'S
ORDER GRANTING AN EXCEPTION TO THE STATE THERMAL PLAN
FOR MOSS LANDING POWER PLANT, UNITS 1, 2, 6, AND 7

WHEREAS:

1. Duke Energy North America (Duke Energy) is modernizing its Moss Landing Power Plant (MLPP) located on Elkhorn Slough along Monterey Bay by replacing the steam-turbine generators with combined-cycle generators (repowering) in Units 1 and 2, and replacing the high-pressure turbine rotor and cooling water pumps in Units 6 and 7.
2. The MLPP operates under waste discharge requirements (WDRs) issued by the Central Coast Regional Water Quality Control Board (CCRWQCB) and is subject to the State Water Resources Control Board's (SWRCB) 1972 "Water Quality Control Plan for Control of Temperature in the Coastal and Interstate Waters and Enclosed Bays and Estuaries of California" (Thermal Plan) with respect to the thermal component of the discharge.
3. Duke Energy has requested an exception to the Thermal Plan and, in support of this request, has submitted documentation to CCRWQCB that indicates that the exception will result in maintenance of balanced indigenous communities of marine life in the vicinity of the MLPP discharge pursuant to federal Clean Water Act (CWA) Section 316(a).
4. After considering comments by the public and by the scientific community, CCRWQCB found that the Thermal Plan exception in the form of alternative effluent limits could be allowed since the discharge from the modernized power plant will assure protection and propagation of balanced indigenous communities of fish, shellfish, and wildlife in the vicinity of the discharge.
5. On October 27, 2000 following a public hearing, CCRWQCB adopted WDR Order No. 00-041 for the modernized power plant that contains alternative effluent limitations (Attachment 1). The new WDR contain three different sets of thermal effluents limitations based on the discharge activity of the different operating units: (i) when only Units 6 and/or 7 are operating, the maximum temperature of the effluent should not exceed the natural temperature of receiving waters by more than 28° F as a daily average and 34° F as an instantaneous maximum (hourly average); (ii) when only Units 1 and/or 2 are operating, the maximum temperature of effluent should not exceed the natural temperature of receiving waters by more than 20° F (Thermal Plan) as a daily average and 26° F as an instantaneous maximum; and (iii) when Units 1 and/or 2 are operating along with Units 6 and/or 7, the maximum

temperature of the combined effluent should not exceed the natural temperature of receiving waters by more than 26° F as a daily average and 32° F as an instantaneous maximum. Additionally, during heat treatment, which will be conducted once every one to four months, the hourly average temperature of the discharge shall not exceed the temperature of the receiving water by more than 40°F.

6. SWRCB staff has determined that CCRWQCB has followed proper procedures and acted within its authority in adopting MLPP's alternative thermal effluent limitations and in submitting these to SWRCB for concurrence (Attachment 2).
7. The CCRWQCB's findings that the alternative thermal effluent limitations comply with the requirements of CWA Section 316 (a) also fulfill the requirements of State and federal antidegradation policies.
8. The California Energy Resources Conservation and Development Commission (Energy Commission) is the lead State agency for power plants. The Energy Commission is the lead agency under the California Environmental Quality Act (CEQA) for the Moss Landing Power Plant modernization project and prepared a functionally equivalent document (FED) in accordance with CEQA. The SWRCB is a responsible agency under CEQA; and in reliance on the FED, it must adopt CEQA findings regarding significant environmental effects regarding water quality for that portion of the project it approves. The only portion of the project to be approved by the SWRCB is a variance from Thermal Plan requirements for new thermal discharges to coastal waters. The FED on pages 233 through 243 analyzed the potential significant environmental effects of the thermal discharge and determined, that the evidence in the record shows that the thermal discharge is not likely to have significant environmental effect and that with the addition of the discharge from the new proposed units, thermal loading from the existing offshore facility will be reduced. (FED p. 242.) Based on the FED, the thermal discharge, including the temperature subject to the variance, will not have a significant environmental effect. Thus no mitigation for the thermal discharge is required under CEQA.
9. In accordance with the Executive Order D-22-01 issued by Governor Gray Davis on February 8, 2001, SWRCB has expedited consideration of Duke Energy's exception request for MLPP.

THEREFORE BE IT RESOLVED THAT:

The SWRCB:

1. Concurs with the CCRWQCB action granting MLPP an exception to the Thermal Plan and adopting alternative less stringent thermal effluent limitations as specified in CCRWQCB Order No. 00-041. The Thermal Plan exceptions include daily average and instantaneous maximum temperature limitations on the combined effluent of Units 1, 2, 6, and 7 and the effluent limitations on discharge during heat treatment.

2. Conditions the alternate effluent limitations on continuing compliance with the provisions of CWA Section 316(a) regarding maintenance of balanced, indigenous communities of marine life in the vicinity of the discharge. The alternate effluent limitations shall be reviewed by CCRWQCB at the time of any renewal of MLPP's discharge permit to assure that balanced indigenous communities of marine life are being maintained in the vicinity of the discharge.
3. Based on the FED adopted by the Energy Commission, the thermal discharge including the temperature authorized under the Thermal Plan variance will have no significant environmental effects and therefore no mitigation for the thermal discharge is required under CEQA.

CERTIFICATION

The undersigned, Administrative Assistant to the Board, does hereby certify that the foregoing is a full, true, and correct copy of a resolution duly and regularly adopted at a meeting of the State Water Resources Control Board held on March 7, 2001.

/s/

Maureen Marché
Administrative Assistant to the Board

For a copy of the Regional Board Order see Item 10/March 7, 2001 Board meeting agenda