



September 28, 2017

Chair Felicia Marcus and Board Members  
c/o Katherine Faick  
State Water Resources Control Board  
1001 I Street, 24<sup>th</sup> Floor  
Sacramento, CA 95814

Sent via electronic mail to: [commentletters@waterboards.ca.gov](mailto:commentletters@waterboards.ca.gov)

**RE: OTC Policy: Diablo Canyon Plant Draft Determination**

Dear Chair Marcus and Board Members:

On behalf of California Coastkeeper Alliance and Natural Resources Defense Council, we appreciate the opportunity to provide comments on the State Water Resources Control Board's (State Water Board) Draft Determination (Determination) regarding the interim mitigation for the Diablo Canyon Plant (Diablo).

The Once-Through Cooling (OTC) Policy requires owners or operators of existing power plants to implement measures to mitigate interim impingement and entrainment impacts resulting from their cooling water intake structures. The interim mitigation period commenced on October 1, 2015, and continues up to and until owners or operators achieve final compliance with the OTC Policy.

On August 18, 2015, the State Water Board adopted Resolution 2015-0057 (2015 Resolution), delegating to its Executive Director the authority to approve proposed measures for power plant owners or operators to comply with interim mitigation on a case-by-case basis. However, the Resolution states that after "considering the public comments received on a draft determination, the Executive Director shall consider whether, in light of unusual circumstances or significant controversy, the final approval of the determination should be made by the State Water Board at a public meeting."

From the outset, we want to thank State Water Board staff for their efforts to verify Diablo's site-specific Determination. We greatly appreciate the consultation with Dr. Raimondi to verify the accuracy of PG&E's proposal. It is important to note that we do not oppose Diablo's site-specific mitigation proposal – even though that results in a lower mitigation fee. However, given Diablo's intake volume – expected to continue through 2024 – we want to ensure that the variables used in the Determination is accurate and verifiable.

The Diablo Determination contains minor but significant flaws that need to be revised. The Draft Determination states that maximum intake volume is being used to determine the mitigation fee, which is inaccurate. We respectfully request that staff either use the correct maximum permitted intake volume of 2,760 MGD, or accurately describe 827,196 MG as the actual flow rate. We also request that the use of 2,670 MGD in Table 1 be verified as correct, and if not, recalculate using the correct flow rate. Lastly,

we respectfully request that additional supporting information be provided to explain how the impingement mass of 710 pounds was derived.

Discrepancies in the draft determination between intake flow volume utilized for calculations and description of volumes must be corrected. The Diablo Draft Determination cites an intake flow rate of 827,196 MG for the period of October 1, 2015 to September 30, 2016, and describes this flow as the “maximum intake volume”.<sup>1</sup> We have attempted to verify the accuracy of this flow rate by examining the publicly available data reported by the Permittee in CIWQS and we have been unable to do so. This flow rate is not consistent with the various flow rates reported in CIWQS, and the discrepancies between what is reported in publically available data and what is described in the Draft Determination could result in very significant differences in the entrainment payment calculation. The CIWQS reports referenced in our review have been attached for reference, and the volumes reported therein have been transferred to the table in Attachment 1, for ease of comparison.

The Draft Determination states that to “determine the intake flow volume, staff used the *maximum intake volume* for the interim mitigation period” (at 7, emphasis added). At the outset, this raises an issue of whether in referencing “maximum intake volume”, the State Water Board is referring to the maximum permitted volume (2,760 MGD) or the maximum design flow volume (2,540 MGD)?<sup>2</sup> If the maximum permitted volume is used, than the total volume for the interim mitigation period is 1,007,400 MG and the entrainment fee due, based on a \$3.88/MGD rate, is \$3,908,712. This amount due is \$699,192 more than the entrainment fee that the Draft Determination states is due: \$3,209, 520.

Alternatively, if staff intent is to utilize the actual flow volumes, the text of the Draft Determination should be corrected to precisely and accurately describe the numbers cited in the document, and the supporting flow data utilized to arrive at these calculations should be included as an attachment to this and all future interim mitigation determinations. While the intake flow rate of 827,196 MG is closer to the sum of the average flow as reported in the discharge reports for the period of time in question (824,704), there is still a discrepancy between the numbers.

We respectfully request that the State Water Board Executive Director revise the draft Diablo Determination to either use the correct maximum permitted intake volume of 2,760 MGD, or to accurately describe the actual flow rate, if that is what is being utilized, and to support that rate with accompanying documentation.

This Draft Determination sets a critically important precedent that will impact interim mitigation fees through 2024. Our review of the Draft Determination reveals a number of additional factual issues that should be checked. We recommend that the Final Determination be issued, including supporting documentation of numeric inputs.

First, Table 1 in the Draft Determination, “Calculation of default entrainment cost adopted in the State Water Boards Resolution No. 2015-0057”, utilizes an intake volume of 2,670 MGD to calculate the site-specific entrainment cost for Diablo Canyon. This number appears to be an incorrect transposition of 2,760, the maximum permitted volume in Diablo Canyon’s Annual Discharge Reports. We request that the use of 2,670 MGD be verified as correct; if it is not correct, the calculations in the Table, and potentially throughout the Determination, must be revised.

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<sup>1</sup> Draft Determination at 7.

<sup>2</sup> 2015 & 2016 Annual Discharge Monitoring Reports, Appendix 2, Tabular Summaries of Influent and Effluent Monitoring.

Second, we respectfully request that additional supporting information be provided to explain how the impingement mass of 710 pounds was derived. The Draft Determination references the OTC Policy Substitute Environmental Document, but this is a vague reference, the accuracy of which is difficult to verify. We request that the methodology for calculating the impingement mass be explained, and information to assist in verifying the accuracy of the mass utilized in the calculation be provided.

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Again, we greatly appreciate State Water Board staff efforts to ensure Diablo's site-specific Determination is accurate and consistent with the 2015 Mitigation Fee Resolution. The Diablo OTC Plant will have significant and ongoing marine life impacts – that need to be mitigated properly. Because of the highly fact-dependent nature of the interim mitigation calculations, it is essential for the draft determinations to be precise and for the public to have ready access to the specific flow reports utilized to calculate interim mitigation amounts due.

Sincerely,

Sean Bothwell  
Policy Director  
California Coastkeeper Alliance

Elizabeth Murdock  
Director, Pacific Ocean Initiative  
Natural Resources Defense Council