



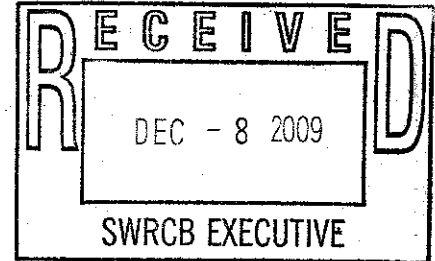
Public Comment
Once Through Cooling
Deadline: 12/8/09 by 5:00 p.m.

UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
Southwest Region
777 Sonoma Ave., Room 325
Santa Rosa, CA 95404-4731

December 7, 2009

In response refer to:
SWR/F/SWR3:JJD

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, California 95814



Dear Ms. Townsend:

NOAA's National Marine Fisheries Service (NMFS) thanks the State Water Resources Control Board (SWRCB) for this additional opportunity to comment on the proposed Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (the Policy). The latest version of the Policy, dated November 23, 2009, includes several changes from the previous version. A workshop was held at SWRCB in Sacramento on December 1, 2009, to explain the proposed changes and to allow for additional public input and interaction with the SWRCB members and staff.

NMFS continues to support the proposed policy. It is still expected to result in significant reductions in impacts to marine and estuarine ecosystems affected by these facilities which will improve the condition of Essential Fish Habitat (EFH) as designated by the Magnuson-Stevens Fishery Conservation and Management Act. Although a response to comments document has not been released at this point, it is obvious that several of NMFS' recommendations to further improve the Policy were not adopted by SWRCB. Because we do not know finality of, or the reasons behind, these decisions, we hereby incorporate the previous recommendations from our September 28, 2009, letter and hope that they will be incorporated into the final Policy.

We are pleased that the wholly disproportionate demonstration provision has been removed from the Policy. It was evident at the December 1, 2009, workshop that the provision had caused confusion among the Permittees and that Permittees that were never intended to fall under the provision were expecting that it would apply to their facilities. By moving the language pertinent to the five facilities the former provision was intended to address, to Section 2 of the Policy, the Policy has been streamlined and the intent made clear with only a minor change to structure and wording. It is our understanding that these five facilities will still be required to reduce their impacts to the maximum extent practicable until they can fully meet the requirements of Track 1 of Provision 2 or until they are no longer needed and are



decommissioned. In the meantime, they will be required to mitigate for their remaining impacts and conduct routine monitoring to determine the level of those impacts.

We would also like to express our support for a wording change suggested by several speakers and SWRCB members at the December 1, 2009, workshop. This wording change would clarify that dry cooling technologies are also a perfectly acceptable form of best technology available (BTA), but that closed-cycle wet cooling was selected as BTA because it appears to be useable at all the sites subject to the Policy as well as for economic considerations. We believe that this wording change will remove any ambiguity for the Permittees who may be considering a modernization or repowering project that could include either cooling technology.

An additional topic of confusion at the December 1, 2009, workshop concerned the "comparable level" clause of Track 2. It is our understanding that achieving at least 90 percent of the reduction in impingement and entrainment mortality required by Track 1 at a Track 2 facility will not result in a reduction of efficacy down to only 83 percent. SWRCB staff clarified at the hearing that an 83 percent reduction was not sufficient. The following is an example of our understanding of how this provision works:

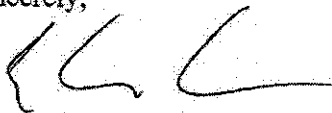
A facility that utilizes once-through cooling technology uses 100 million gallons per day of cooling water. They are required under Track 1 of the Policy to reduce this flow by a minimum of 93 percent by using the BTA, down to a rate of no more than 7 million gallons per day. Therefore, they are permitted to entrain or impinge a number of organisms correlated to this flow, which will be based upon monitoring conducted by the facility. If it is determined that they can not meet the BTA requirement of Track 1, then under Track 2 they must reduce their mortality rates to a comparable level as Track 1 ("at least 90 percent of the reduction . . . required under Track 1"). Given that entrainment rates are generally proportional to intake rates (but ignoring the very important component of seasonality addressed by several presenters), the facility would be permitted to impact an equivalent amount of organisms as if their intake rate was 7.7 million gallons per day (comparable level to Track 1 with some variance because Track 1 is not feasible at this site). They would then be required, under the Immediate and Interim Requirements section of the Policy, to mitigate for their remaining impacts until they can achieve BTA under Track 1 or the production from the facility is replaced by other sources and it ceases operation.

If this interpretation is correct, then it is more proper to state that Track 2 facilities may receive an additional variance in allowable levels of impact up to, but no greater than ten percent from Track 1 levels. Please inform us if this interpretation is incorrect as that would represent a significant change from the July 2009 version of the Policy.

We again congratulate the SWRCB staff for their hard work over the several years it took to develop the Policy which will protect the marine and estuarine beneficial uses in a manner that will not compromise electrical reliability in the state of California. We would also like to acknowledge the dedication of the SWRCB members in dealing with this contentious and

complicated issue. These efforts are both important and groundbreaking. We hope that SWRCB will continue to work diligently on the Policy so that it may be finished by the targeted January or February 2010 SWRCB meeting. If there are any questions regarding this letter please contact Joe Dillon of my staff at (707) 575-6093 or Joseph.J.Dillon@noaa.gov.

Sincerely,



Steven A. Edmondson
Northern California Habitat Supervisor
Habitat Conservation Division

cc: Rod McInnis, NMFS, Long Beach, CA
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