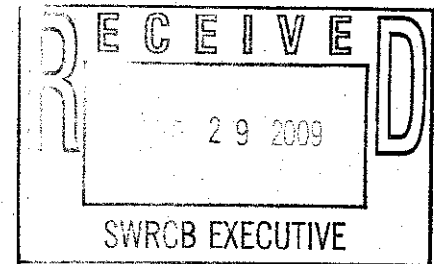




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September 29, 2009

State Water Resources Control Board  
1001 I Street, 24th Floor  
Sacramento, CA 95814



Dear Board Members,

The SLO Coast Alliance, a consortium of 45 environmental organizations on the Central Coast with more than 20,000 members, was formed in 2001 to seek the protection and preservation of the coast and the watersheds that run to the sea. For many years, our members have been deeply troubled about the killing of marine life in the Morro Bay National Estuary by the Morro Bay Power Plant and the resulting impacts on the wildlife that are directly affected by the loss of fish and other aquatic species. We also are concerned about once-through cooling impacts on estuary, bay and ocean water elsewhere on the coast.

We were hopeful that the State Water Resources Control Board would seize the opportunity to adopt a policy on once-through cooling that would prevent these impacts and protect the Morro Bay Estuary. Members and supporters of our organizations cherish the Estuary, but for many years we have been fearful that continued use of once-through cooling could jeopardize its future as a healthy water body, as has happened to bays on the east coast from power plant cooling impacts.

For those reasons, we are particularly disappointed that the draft policy you are considering adopting seems to provide no assurances that the more than 50 years of damage to the Estuary and its wildlife will end, nor are there any reliable expectations that the impacts to other coastal waters and communities in California will stop. Therefore, we respectfully request that you delay adoption of this policy and devote your efforts to revising it into a regulatory document that will prohibit once-through cooling once and for all, and that the millions of residents of the California coast can be proud of.

Your draft policy provides a timeline for requiring power plant owners to ostensibly comply with the policy by phasing out once-through cooling by various dates. But that implementation schedule is unnecessarily prolonged without justification. It calls for the large majority of plants to reach compliance with the policy over the next eight to 13 years. In the case of the Morro Bay plant, the schedule requires compliance by 2015. Yet it states that the "plant is not needed" after 2011 and provides no explanation for why it should be allowed to operate for four more years, especially since the plant now operates only occasionally. Your own study concluded that the state's aging, existing plants are not needed for grid reliability after the next few years. There seems to be no good reason to adopt a schedule that will allow them to continue to operate for so long.

But more importantly, the compliance requirements are so compromised with caveats and opportunities for evasion that there is no assurance that termination of once-through cooling at any one or all affected plants in California will actually occur. For example, under the draft policy, if the owner of a plant using once-through cooling demonstrates to a regional board that achieving compliance under Track 1 (virtually ending the killing fish) of the policy is not feasible, the owner can seek compliance under weaker Track 2 requirements. Then, if the owner believes that Track 2 compliance would be too costly, the owner can seek to comply with "alternative, less stringent requirements." And the regional board can

#### MEMBER ORGANIZATIONS

Santa Lucia Chapter, Sierra Club • Friends of the RanchLand • San Luis Bay Chapter, Surfriders Foundation • Cambria Forum • Life on Planet Earth  
ECOSLO • Santa Margarita Area Residents Together • Ventana Wilderness Alliance • Citizens for a Vehicle Free Nipomo Dunes • CALPIRG  
Planning and Conservation League • Coastwalk • SLO County Chumash Council • Environmental Action Committee of West Marin  
Save Our Shores • People for the Nipomo Dunes • Canyons and Streams Alliance • Wild Nature, Inc. • Access for All • Friends of Point Sal • Wild Nature, Inc.  
Friends of Black Lake Canyon • New World Baroque Orchestra • Friends of Nipomo Community Park • Blue Dolphin Alliance • Pelican Network  
Santa Barbara Chapter, Surfriders Foundation • Coastal Alliance on Plant Expansion • The Ocean Conservancy, Santa Barbara Field Office

grant that relief based on "any relevant information." For its part, the plant must reduce the killing of fish "to the extent practicable."

How much the killing of fish would be reduced and how long the "less stringent" requirements will be the standard for allowing the plant to operate are not addressed.

This seems to be a far cry from what the United States Court of Appeals for the Second Circuit had in mind on Jan. 25, 2007, when it handed down a ruling requiring existing power plants to use technology-based cooling processes and, in effect, banning the use of water from bays, estuaries and the ocean for plant cooling. The decision stated: "Power plants and other industrial operations withdraw billions of gallons of water from the nation's waterways each day to cool their facilities...(and) these operations kill or injure billions of aquatic organisms every year." It also said: "We conclude in any event that the language of (the Clean Water Act's) section 316(b) itself plainly indicates that facilities must adopt the best technology available."

That ruling is the driving force and legal justification behind a new court-ordered once-through cooling policy nationwide. Yet that landmark decision is nowhere mentioned in the state board's policy. That omission may help explain why the proposed policy does not comply with the decision's requirements and allows continued use of once-through cooling by power plants, perhaps indefinitely, given the loopholes contained in the policy's compliance requirements.

We urge you to recast the policy into a clear-cut and timely mandate for the 19 remaining power plants on our coast to terminate once-through cooling, which will help our ocean waters to recover from the many years of destruction that power plants have visited upon them.

Thank you for your attention to this matter,



Andrew Christie  
Board member, SCA