

Environmental Health Coalition

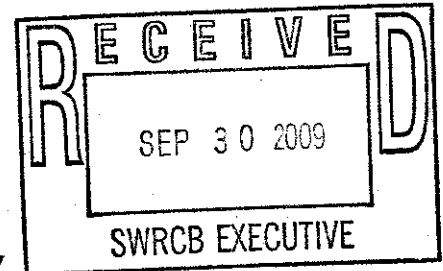
COALICION de SALUD AMBIENTAL

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Public Hearing (9/16/09)
Once Through Cooling
Deadline: 9/30/09 by 12 noon

September 30, 2009

Chairman and Members of the State Board
Attn: Ms. Jeanine Townsend, Clerk of the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814



RE: Environmental Health Coalition Comments -OTC Policy

Dear Chair and Members of the State Water Board:

Environmental Health Coalition (EHC) a 30-year old environmental justice organization working for community and environmental health in the San Diego/Tijuana region. We welcome the opportunity to offer the following comments on the Draft Once-Through Cooling policy. Our key input can be summarized as follows.

1. South Bay Power Plant is a special case, has damaging impacts to a sensitive marine area, and should be scheduled for termination immediately.
 2. Environmental Justice should be a strong factor and basis for establishing your compliance priorities.
 3. SBPP is not needed after Otay Mesa Power Plant goes on-line. The State Board should make own assessment about RMR status and the appropriate schedule for compliance.
 4. As a 'once-through cooling' policy, the policy overall should target elimination of OTC discharges and intakes not merely reduction of intake.
 5. The State Board should define air cooling as Best Technology Available (BTA) for the state.
-
1. **South Bay Power Plant is a special case, has damaging impacts to a sensitive marine area, and should be scheduled for termination immediately.**

Our primary concern is the long horizon you have allotted for South Bay Power Plant in the draft policy. We appreciate the reasons for phased compliance schedule, however, there is no reason that the South Bay Power Plant should be given until the end 2012 to come into compliance for the reasons listed below.

There are significant water quality issues that warrant the State Board acting to shorten the timeline for the SBPP.

SBPP is an especially severe case needing attention. There are many physical and biological attributes of the south San Diego Bay that make the impacts of once-through cooling on South Bay more devastating and insidious than some other plants. South San Diego Bay is warmer, shallower, more biologically diverse and sensitive than the receiving waters of virtually all of the other OTC plants. The low tidal exchange (30 days) and flushing makes all of the impacts worse.

The evidence is clear and compelling – the discharge has major, negative impacts on water quality.

All of the evidence in the record agrees on one thing – SBPP has a significant and devastating impact of the beneficial uses of the Bay on many levels. Many of these impacts were outlined in detail in the findings of the 2004 permit for the plant. Excerpted below are some of the exact findings of the adopted permit that detail the damage and degradation caused by the discharge.

Waste Discharge Impacts

14. The biotic communities in the immediate vicinity of the discharge point and in the discharge channel have been degraded by exposure to the once-through-cooling water discharge from the SBPP. The degradation to the biotic communities is due to several factors, including elevated temperature, flow volume, and flow velocity.

The degradation to biotic communities includes a lower diversity of benthic invertebrates residing in the near field stations of the discharge channel compared to those in reference stations outside the discharge channel. Furthermore, certain invertebrate species (including polychaete worms and amphipods) are largely absent in near field stations of the discharge channel. These species were found in abundant quantities in reference stations outside the discharge channel. The absence of these species from the discharge channel demonstrates that these species cannot survive under the warm thermal regimes of the discharge channel and were being adversely impacted.

In addition to a degradation of benthic invertebrates, up to 104 acres of critical eelgrass habitat has been precluded from the discharge channel and other areas of south San Diego Bay due to the redistribution of turbidity in the Bay from the SBPP discharge.

15. The Beneficial Uses (as defined by the *Basin Plan*) that may be impaired due to the effect of the SBPP discharge on water quality include: Estuarine Habitat; Marine Habitat; Wildlife Habitat; Preservation of Rare and Endangered Species; Preservation of Biological Habitats of Special Significance; and Shellfish Harvesting. It is evident that the impacts on Beneficial Uses due to the discharge of once-through-cooling water cannot be completely eliminated except through termination of the discharge. The adverse impacts are due to the individual and combined effects of the elevated temperature and the volume and velocity of the discharge.

20. The location, design, construction and capacity of the existing cooling water intake structures at SBPP fail to reflect the Best Technology Available (BTA) for minimizing adverse environmental impact as required by new regulations promulgated by U.S. EPA to implement Section 316(b) of the Clean Water Act at large existing electric generating plants (*Phase II rule*).

As indicated in the technical study report titled "*SBPP Cooling Water System Effects on San Diego Bay, Volume II: Compliance with Section 316(b) of the Clean Water Act for the South Bay Power Plant, August 2004*" submitted by Duke Energy, approximately 27 percent of the goby complex and 50 percent of the longjaw mudsucker larval source water populations are lost annually due to entrainment in the SBPP. Furthermore, approximately 13 percent of equivalent adult anchovy and 15 percent equivalent adult silverside fish populations are also lost annually due to larval entrainment losses. These losses of larval and adult fish populations due to entrainment in the SBPP constitute a significant adverse environmental impact.

Further, the function of the bay as a fish nursery makes the impacts worse than a plant that discharges to the open ocean or at the mouth of an estuary. Consider that south San Diego Bay is a very shallow estuary. On a very hot day with the plant operating and with the tide out-- it is a recipe for destruction. The heat and turbidity destroys over 100 acres of eel grass in the South Bay. Studies of the distribution of juvenile halibut revealed that there are many fewer juveniles in shallow waters of San Diego Bay compared to Mission Bay even though it is many times larger. The halibut density in shallow water habitats (less than 1 meter in depth) was found to be 66 per hectare in Mission Bay and less than 1 per hectare in San Diego Bay.¹ Juvenile halibut are also known to be sensitive to heat.

Since 2004, the considerable analysis done by the State Board confirms these findings. The State Board's July 2009 Draft Substitute Environmental Document (DSED), in support of their Proposed Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling, calls out South Bay specifically regarding damage from impingement and entrainment. It states:

"As an example of a conventional power plant, the South Bay Power Plant in San Diego, assuming full operation, has an estimated annual impingement of 390,000 fish, 93 percent of which were anchovies. Impingement of certain invertebrates was also assessed at this plant; an estimated 9,019 crustaceans (shrimps, lobsters, crabs) and cephalopods (octopus and squid) were impinged annually. Annual estimated entrainment for 2003 was 2.4 billion fish larvae. Fish species most represented in the entrainment studies were gobies (arrow, cheekspot, and shadow) anchovy, combtooth blennies, longjaw mudsuckers, and silversides." (emphasis added)

--DSED at 30.

Also in the DSED, Table 2: Estimated Annual Entrainment shows South Bay as having the third worst entrainment numbers in the state due to the high concentration of larval fish per cubic meter in the water.

Low capacity does not mean low impacts to marine life.

The operators may bring up the idea that they are current operating at low capacity and, therefore, are not damaging the bay. However, operating capacity utilization rate (CUR) is often not an indicator of damage to a marine environment. The DSED states,

"A facility's CUR is not necessarily indicative of the impact it may have on the aquatic environment since the potential for harm is not equally distributed throughout the year, particularly for entrainment; spawning typically peaks in spring and early summer throughout the state....Data show, however, that is it

possible to operate less than 15 percent of the time and cause a greater impact than would be assumed if entrainment was uniform at all times."

-- DSED at 51

This is key for San Diego Bay given the extreme 'back bay' shallow water nature of where the water is taken from and discharged. Again the DSED shows the significant differences in the larval fish abundance between bay harbor environments and open ocean.

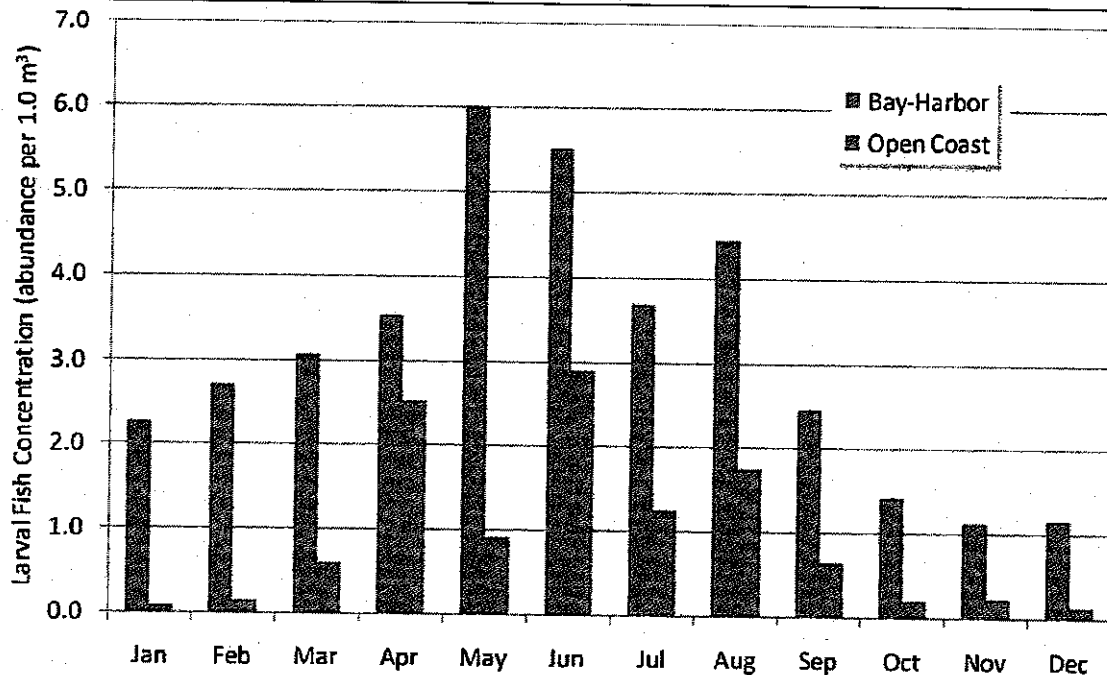


Figure 13: Larval Fish Concentrations at Southern OTC Facilities

--DSED at 52.

2. Environmental Justice should be a strong factor and basis for establishing your compliance priorities.

If SBPP is not shut down when Otay Mesa goes on-line (expected in October), it will exacerbate a clear environmental injustice for communities in the South Bay region. The State Board's Environmental Justice policy states the Board will integrate EJ considerations into the development and enforcement of policies and to ensure effective cross-media coordination in making your decisions.ⁱⁱ Attached is a map we presented at the workshop relating to this issue. The map shows the federal metropolitan statistical areas (MSA) with overlays of number of fossil-fuel MWs per 10,000 and concentration of people of color. ⁱⁱⁱ The map shows that the South Bay area has more energy infrastructure per 10,000 people than any other area of San Diego County, as

measured by total online megawatts from natural gas or landfill gas energy plants. This remains true whether official population counts from the 2000 Census or updated estimates are used. Although the population of the South Suburban MSA has increased more than that of other MSAs in the years between 2000 and 2007, the per capita impact in this MSA still remains larger than in other MSAs. This MSA also has the greatest proportion of nonwhite population.

The map clearly shows a disproportionate correlation between concentrated energy infrastructure and a greater proportion of nonwhite population together in the same region.

If your policy allows South Bay to continue to operate once Otay Mesa goes on-line, your action will be the cause of significant environmental injustice. We ask that you take this issue to heart and act to prevent it.

3. **SBPP is not needed after Otay Mesa Power Plant goes on-line. State Board should make their own assessment about RMR status and the appropriate schedule for compliance.**

We appreciate your desire to coordinate with the energy agencies, however you must not take their input as gospel and need to make your own assessment of when power plants can be removed. The California Independent Systems Operator (ISO) is not a public agency subject to the same input and accountability as the State Board so you need to make your own assessment. They have their own narrow mission that does not take into consideration things like environmental impacts, community health, or community impacts.

What we have learned in our 10 years of experience with ISO is that their positions are subject to radical changes and their accounting is not transparent or objective. We understand that it is easier for them to keep SBPP. But it is not easier for us, for the people who live in the region and have to live with the plant. We understand that ISO wants to keep all options open – forever. However, that does not work for the community or the Bay.

Otay Mesa Generating Station is the replacement infrastructure for SBPP

The fact that once the Otay Power plant goes on-line the SBPP is no longer needed adds another level of imperative for the State to hasten its demise. When the Port purchased the power plant in 1999, it did so with a plan for closure of it in 2009. When the Otay Mesa Energy Center, scheduled to come on line in October, 2009, becomes operational the South Bay Power Plant will no longer be a key contributor to the State's electrical power supply. At a hearing on September 9, 2009 Dynegey, the power plant operators, and the ISO stated before the Regional Board that the water use can be reduced by 60-85% in the fourth quarter of this year once the Otay Mesa Generating Station goes on-line.

Also at the September 9 hearing, ISO presented evidence that the 'gap' left in the peak demand after Otay Mesa was on-line was 186 MW.^{iv} However since that date, the California Energy Commission (CEC) finalized its demand forecasts this month. Importantly, the peak demand for San Diego for 2010 dropped from 5134 MW to 4963 or 171 MW demand^v. This effectively eliminates the gap that would provide any excuse for SBPP to continue operation. With the revised forecasts and Otay Mesa going on-line the need for SBPP has evaporated.

When the Board develops the policy and compliance schedule for SBPP, we ask that you use the updated and lowered peak numbers for your calculation of whether SBPP is needed at all in 2010. In our case, ISO has other options for closing any gaps in energy need. We have outlined several options in a letter to ISO^{vi} such as recalculation of the G-1^{vii} and demand response programs recently contracted.

Operators received a 2004 permit that was a 'deal' based on allegations that the plant would only last 5 more years.

We also believe it to be significant that the SBPP operators have had more than sufficient time to develop a compliance action. In 2004, operator allegations during the permitting process allowed avoidance of either eliminating the discharge or upgrading the cooling technology and resulted in exacerbating the water quality problems in South San Diego Bay. This is yet another reason to shorten their compliance time now. We agree that the State Board basis for action is impacts to water quality alone. However, we also suggest that the commitment and the decision not to require alternative cooling technology five years ago (based on allegations that the plant was going away) should be part of the Board's consideration.

We think this point must be underscored. Perhaps the most important statements in the record appear in the 2004 Fact Sheet where the feasibility of implementing alternative cooling systems that would protect the Bay was rejected:

...Furthermore, the report claimed that the cost/benefit analysis conducted for the wet/dry hybrid cooling towers indicated that the costs (amortized over the 5-year, expected, remaining life of the plant) were wholly disproportionate to the environmental benefits gained based on the entrainment/impingement data collected in 2003. (emphasis added)

—Fact Sheet at 32.

Fish protection improvements were avoided using the same argument.

Once again, a cost/benefit analysis conducted for these systems indication that the costs (amortized over the 5-year, expected, remaining life of the plant) were wholly disproportionate to the environmental benefits gained..... (emphasis added)

We gave them a pass on developing alternative cooling technology over the past five years. It is important that we don't let them skip out of water quality protection again. Their time is up.

4. The policy in general should target elimination of OTC discharges and intakes not just reduction.

One problem with the approach that the state is taking on this policy is that, while it is called an OTC policy, it is really proposed only as a 'water intake policy', leaving the impacts of OTC discharges unaddressed. We are concerned that the policy does not have as a goal the elimination of these destructive discharges even though the elimination of the use of marine waters for cooling is reasonable and achievable. We further believe that the water quality laws argue for such elimination of these discharges. For example, Porter-Cologne Water Code section 13142.5(a) identifies as the policy of the State:

Wastewater discharges shall be treated to protect present and future beneficial uses, and, where feasible, to restore past beneficial uses of the receiving waters. Highest priority shall be given to improving or eliminating discharges that adversely affect any of the following:

- 1. Wetlands, estuaries, and other biologically sensitive sites.*
- 2. Areas important for water contact sports.*
- 3. Areas that produce shellfish for human consumption.*
- 4. Ocean areas subject to massive waste discharges. (emphasis added)*

In addition, the federal standard prohibits the discharge of toxic pollutants in toxic amounts.

All waters shall be maintained free of toxic substances in concentrations that are toxic to, or that produce detrimental physiological responses in human, plant, animal, or aquatic life.

(San Diego Basin Plan)

Heat at levels discharged by SBPP are toxic. Chlorine, applied directly into waters of the state (even if inside a power plant) is a toxic discharge. Elimination of these impacts, both intake and discharge, should be our goal and, thus, should be the goal of a 'once-through cooling' the policy.

5. **The State Board should re-define Best Technology Available (BTA) for the state as air cooling.**

We understand that Section of the Clean Water Act 316(b) requires that cooling water intake structure reflect the *Best Available Technology* (BAT) for minimizing adverse environmental impacts. What we know now is that, in virtually all applications, the best-off-the-shelf cooling system with respect to water resources on the whole is air or dry-cooling. Air cooling can be further enhanced by pre-cooling or chilling units for the air intakes which is being done to combined cycle plants in our region. If these units are solar powered, the impact of the system is reduced even further. This should be the BAT standard for existing power plants.

6. **Other Recommendations.**

Community should be included in OTC Advisory Committee

We recommend that local community representatives, the people who live with the impacts of these plants, be included in the Statewide Advisory Committee on Cooling Water Intake Structures.

Wholly Disproportionate Demonstrations should not be allowed.

We do not believe that the policy should allow any Wholly Disproportionate Demonstration (WDD) for plants over 40 years old. We agree that this will be the focus of many power plant operators who will not try to meet the other standards. The State Board should foreclose this option. If you keep it, any WDD that is allowed should be amortized over 50 years – the actual life of a power plant even if designed for only 30 years.

Continued operation due to alleged reliability needs should be charged commensurately.

Many of these aging power plants enjoy lucrative contracts from the ISO for reliability purposes. In the case of SBPP, the operators received \$32 million this year – down from \$33 million last year. The water boards should increase the fees significantly for permitting these facilities due to the extended impacts to water quality and their known non-compliance with Best Technology Available. Clearly, the revenues enjoyed by the owners of the plants will be sufficient to pay increased fees. The additional funds should be used to restore degraded water bodies in the region.

An assessment of intake impacts should not trump assessment of discharge impacts.

Last, the State Board should be aware that the staff of our Regional Board (and perhaps others) is attempting to hold off on any action on the NPDES permits until this policy is adopted. However, as mentioned above, this policy does not evaluate the discharge impacts of these systems meaning that the state board's intake policy is effectively trumping the regular, required evaluation of the discharge impacts to surface waters. This is not appropriate and should not be allowed to be the cause of the Regional Boards abandonment

of the NPDES process of re-evaluation of discharges every five years with a goal of eliminating them.


The community considers this issue a high priority.

In 2004, the Regional Board and the community were promised that the lifespan of this plant was five years. Now they have applied for five more years and the local staff of the Regional Board is waiting to see what action the State Board will take. The State Board has the evidence, the discretion, the legal basis, and the responsibility to end the damaging and unnecessary discharges from SBPP immediately. This community has been patient. Now we are united. You have received evidence of broad stakeholder and bipartisan support for removal of the SBPP^{viii}. Please don't think that South Bay communities are shirking our duty. We are not. We have done our part for regional energy. We have accepted another 596 MW powerplant and multiple peaking power plants in the area. Chula Vista has adopted aggressive energy reduction programs and projects. We are doing our part and we are asking the State Board to do their part.

Sincerely,



Laura Hunter, Director
Clean Bay Campaign



Theresa Acerra
President Southwest CV
Civic Association

Rabriel Solmer
Legal Director, San Diego Coastkeeper

Michael and Lynda Helgen
Chula Vista residents

Jose Prochira
National city, resident

Mr. Dan McKoy
SD Resident

cc.

Regional Water Quality Control Board Chairman and Boardmembers

Mr. John Robertus, Executive Officer

Mr. Vincente Rodriguez

Attchs/

ⁱ Kramer, Sharon Hendrix, 1990, Habitat Specificity and Ontogenetic Movements of Juvenile California Halibut, *Paralichthys californicus*, and Other Flatfishes in Shallow Waters of Southern California, A Dissertation, University of California, San Diego, p. 61; Kramer, S.H., "Distribution and Abundance of Juvenile California Halibut *Paralichthys californicus*, in Shallow Waters of San Diego County," p. 119, listed in *The California Halibut, Paralichthys californicus*, Resource and Fisheries edited by Charles W. Haugen, 1990; Kramer, S.H., 1997, Memorandum to Laura Hunter, Environmental Health Coalition.

ⁱⁱ State Water Resources Control Board Environmental Justice Policy.

http://www.swrcb.ca.gov/water_issues/programs/outreach/education/justice.shtml

ⁱⁱⁱ MSA's are geographical entities defined by the federal government's Office of Management and Budget for use by federal statistical agencies, and that metropolitan areas contain a core urban area with 50,000 or more population. The attached maps display the combined online megawatts from all gas-fueled power plants in each metropolitan statistical area ("MSA") in San Diego County, normalized by population. Population figures on the map attached are drawn from the census. The map includes the Otay Mesa Generating Station, which is expected to come on-line in October. The shading of the MSAs indicates the percentage of the population in the MSA that is nonwhite. The MSA with the highest per capita megawatts is the South Suburban MSA. This is also the MSA with the highest percentage of the population that is nonwhite.

^{iv} Document presented to the San Diego Regional Water Quality Control Board titled *San Diego 2010 Load & Resource Profile*, dates August 24, 2009. Submitted with this letter.

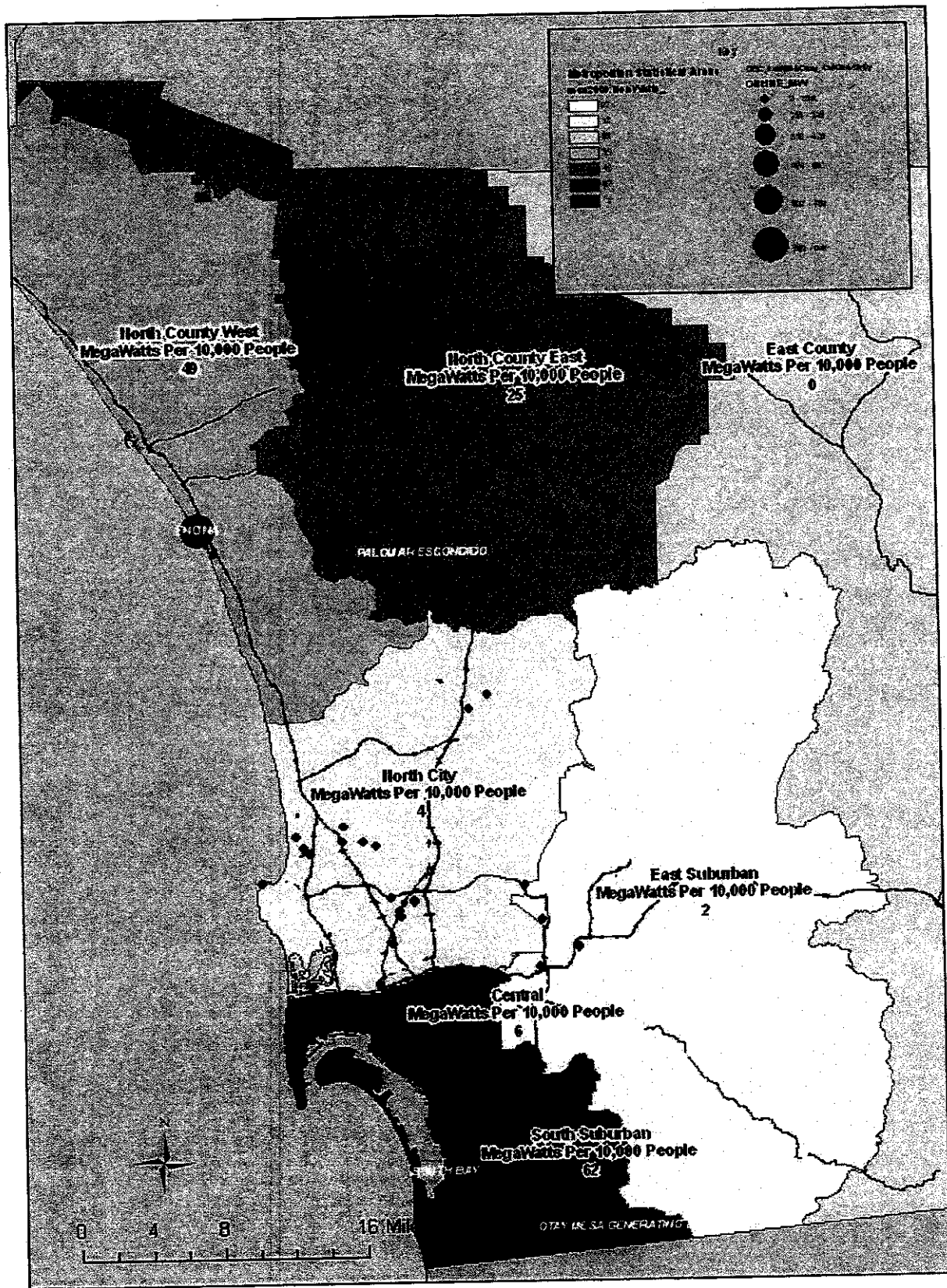
^v CEC Final 2010 to 2020 Energy Demand Forecast. <http://www.energy.ca.gov/2009publications/CEC-200-2009-012/CEC-200-2009-012-SF.PDF>

^{vi} Letter from EHC to ISO—July 21, 2009, Amended August 21, 2009

^{vii} This is explained in the May 6, 2009 letter from Congressman Bob Filner to the ISO

^{viii} Letters to the Regional Water Quality Control Board dated July 15, 2009, August 14, 2009.

MegaWatts Per 10,000 People, by Metropolitan Statistical Area Natural Gas & Landfill Gas Facilities Only



Sources: CEC (Power plants)
SANDAG: MSA map layer

Feature edit map.mxd
Environmental Health Coalition, 2008.

Environmental Health Coalition

COALICION de SALUD AMBIENTAL

401 Mile of Cars Way, Suite 310 ♦ National City, CA 91950 ♦ (619) 474-0220 • FAX: (619) 474-1210
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July 21, 2009

Amended August 21, 2009

Mr. Gary DeShazo
Director of Regional Transmission North
California Independent Systems Operators
P.O. Box 639014
Folsom, CA 95763-9014

RE: Environmental Health Coalition request that CAISO remove South Bay Power Plant from consideration for RMR designation for 2010

Dear Mr. DeShazo:

Environmental Health Coalition (EHC), residents, businesses, and local elected leaders in South Bay communities are united by our desire to remove the South Bay Power Plant (SBPP) from the Chula Vista Bayfront by 2010. As you know, once the lease with the Port District expires in November of this year, the only reason the power plant will continue to operate is if the CAISO renews the Reliability-Must Run (RMR) designation for part or all of the plant for 2010. We expect that your analysis for granting reliability designations and contracts for 2010 has already begun.

We are writing today to ask, in strongest possible terms, that you remove the South Bay Power Plant from consideration for a 2010 RMR contract for the health and well-being of our region.

South Bay Power Plant is a significant polluter of our air and water.

The SBPP is the largest single polluter of Chula Vista and San Diego Bay. Its use of once-through cooling waters kills up to 50% of some species in the Bay every year. It is emits up to **1,000,000 tons** of toxic and greenhouse gases annually. In the recent past, permitted limits are **650 tons of NO_x which corresponds to 600 tons of PM** annually. It pollutes the air of local elementary schools and homes and has fundamentally altered and degraded the marine ecosystem of San Diego Bay.

The SBPP water discharge permit expires in November of this year and operators face extreme opposition in their efforts to renew the permit. A letter signed by long list of bipartisan federal, state, and local elected officials opposing the permit is attached, evidence of the mounting the opposition to a renewal.

South Bay Power Plant is an economic blight on our Bayfront.

The presence of the SBPP has frustrated quality development on the Chula Vista Bayfront for decades. A 2006 letter from Gaylord Development, citing concerns about development of a \$1 billion project on the Bayfront, notably cautioned the city about the, "*incompatibility of our plans with the continued existence of the power plant in its current location...*" Gaylord has since withdrawn their project. Other attempts to site high-quality development on the Bayfront have failed with the presence of the power plant often cited as the reason the area is undesirable for development.

Once Otay Mesa Generating Station is operational the SBPP is not needed.

We have attached an analysis (conducted with information from last year) of the reliability situation, *Filling the Reliability Gap: An Analysis of the San Diego Area Reliability Requirement and Proposed Measures Sufficient to Remove Reliance on the South Bay Power Plant after 2009*. This analysis was based on CAISO, SDG&E and other agency filings in the public domain. It demonstrates that (assuming the Otay Mesa combined cycle plant is placed in service in 2009) incremental resources in the San Diego area can be developed in quantities sufficient to address any reliability deficiencies. This would allow the CAISO to refrain from placing the South Bay power plant under an RMR contract (or equivalent contract) in 2010.

A comprehensive review of the accounting of all resources in the region demonstrates that the San Diego area reliability deficiencies that need to be filled are 72 MW in 2010 to 93 MW in 2012. These projections are **excluding** SBPP and excluding new high voltage transmission line addition such as, Sunrise Powerlink or TE-VS. This gap is easily filled with recently permitted new peaking resources and reasonable changes (that better reflect reality) to the way that CAISO determines RMR need. These changes include G-1 calculation and inclusion of approved demand response programs in the calculation per your own policy.

More realistic calculation of emergency conditions adds 232 MW to the region.

CAISO currently lists the Palomar Energy Center combined cycle plant as the largest generator in the region for the purposes of the worst-case reliability calculation (G-1, N-1 scenario). However, both the 541 Mw Palomar and the 561 Mw Otay Mesa combined cycle plant are specifically designed to operate in simple-cycle mode with the steam turbine generator in forced outage meaning that, if necessary, the turbines can operate independently.

While operating Palomar Energy or Otay Mesa in simple-cycle mode would be inefficient, it could and would be done in special circumstances like a peak load G-1, N-1 situation where every available megawatt would be necessary to prevent a brownout/blackout situation in SDG&E service territory. The ability of the Palomar Energy and Otay Mesa plants to operate in simple-cycle mode give these plants a minimum "emergency generator" power output capability that must be included in CAISO reliability calculations for the SDG&E service territory.

If CALISO's calculations were changed to more accurately reflect real conditions on the ground, an additional 212-232 MW would be added to the G-1, N-1 scenario calculation immediately—easily filling any reliability gap.

CAISO should reflect approved demand response programs in its reliability calculation.

Regarding the inclusion of demand response programs in reliability calculations, the CAISO has stated that approved demand response programs can be used to meet identified reliability requirements. Therefore, it is appropriate for the CAISO to reduce its reliability deficiency projections as programs come on-line. This would reduce demand by 118 MW in 2010 to 234 MW in 2012.

Future generation has been approved, others will receive contracts soon.

In the past year, over 140 MW of new peaking power have been approved in North County by the California Energy Commission. CAISO representatives have stated under oath that replacement energy for SBPP can be located anywhere in the county. Recently, SDG&E held a bid conference for a new generation RFO which will likely result in new power generation in the region. Also, several sites have been identified by the city of Chula Vista where replacement generation could be acceptable. SDG&E is on record in their proposed Long-Term Resource Plan that another baseload plant (in addition to Otay Mesa Generating Station) is not needed in the South Bay.

CEC 'heavy summer' peak load projections for SDG&E territory in 2010 and 2015 are lower than earlier ISO and SDG&E forecasts.

The findings of the June, 2009 California Energy Commission (CEC) 2010-2020 Electricity Demand dramatically lowers projections from the CAISO earlier estimates and should be reflected in an updated reliability assessment for the San Diego area. The CAISO's 2006 original estimates were of 4,906 MW in 2010 and a 2015 heavy summer peak of 5,376 MW. However, the SDG&E heavy summer (1 in 10) peak load projected by the CEC in the June 2009 forecast for 2010 is 4,600 MW and for 2015 it is 4,900 MW. According to the most recent CEC forecast, the SDG&E service area will not reach the earlier ISO or SDG&E projections for at least an additional 5 years. (CEC graphic attached)

South Bay has suffered from the impacts of the SBPP long enough. This plant is no longer necessary and its effect not longer supportable. We strongly urge you to deny future RMR contacts with the SBPP. We respectfully request an opportunity to meet with you and your staff to discuss the issues outlined in this letter. We look forward to meeting with you.

Our health is in your hands.

Sincerely,

Laura Hunter, Campaign Director
Environmental Health Coalition

cc.

Congressman Bob Filner
Senator Denise Ducheny
Assemblywoman Mary Salas
Assemblyman Marty Block
Mayor and City Council of Chula Vista
San Diego Council President Ben Hueso
Councilwoman Patricia McCoy

Attchs.



**CITY OF
CHULA VISTA
OFFICE OF THE MAYOR**

August 14, 2009

Richard Wright, Chair
California Region Water Quality Control Board
San Diego - Region 9
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

RE: NPDES Permit Application for Renewal of NPDES Waste Discharge Requirements
For Order No. R9-2004 - 0154, NPDES No. CA0001368
Dynergy South, LLC, South Bay Power Plant Discharge to San Diego Bay

Dear Chair Wright and Board Members,

The Chula Vista City Council is unanimous in its support of the July 15, 2009, letter (Attached) to John Robertus and in its expectation that the discharge permit for the South Bay Power Plant (SBPP) not be renewed or extended. The residents of Chula Vista have shouldered the negative environmental and economic impacts of this regional facility for almost five decades. The plant uses an old technology that constrains public access and economic development plans for 135 acres of bayfront property, and inhibits the restoration and protection of adjacent habitat. The City requests that the Agency reconsider its position and act promptly on neither renewing nor extending this permit.

We are aware that public agencies are facing limited resources, including our own. However, this is a once-in-five-years process that we all had the obligation to plan for. The SBPP is one of the two largest facilities in the region and according to the State Water Resources Board, the most recent study indicates that SBPP uses up to 600,000,000 gallons of bay water per day, kills approximately 390,000 fish through impingement and 2.4 billion larvae through entrainment annually. The RWQCB general statement says, "The primary duty of the Regional Board is to protect the quality of the waters within the Region for all beneficial uses." We ask the RWQCB to make the process for denial of this permit a priority. Failure to process the permit within the five year permit cycle would inappropriately abdicate local authority for one of the largest water bodies and significant natural resources in the region.


Five years ago, as a responsible partner Duke Energy included the City in the process at the very early stages of permit application development. As stated in our letter to Mr. Robertus, the City did not intervene in the RWQCB process and supported Duke and the Port in minimizing impacts and costs to SBPP operation by phasing in minimal standards. That collaboration was based on the founding principle that SBPP would not operate beyond the current lease term, would be decommissioned by February 2010, and would therefore not need or seek an extended permit from the RWQCB. Dynergy's current permit request represents a failure to meet that commitment.

August 14, 2009
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Richard Wright, Chair

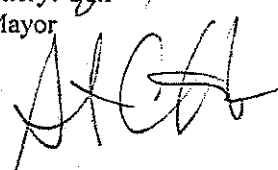
The bay and surrounding habitat will not begin to fully restore itself from 50 years of this facility's impacts until the plant ceases drawing and discharging exceptionally large volumes of water through this closed water body. The community will not realize the financial means to restore and preserve that habitat, provide public access and the economic opportunities the bayfront represents until the SBPP is decommissioned and dismantled, and the adjacent marine habitat has the resources and time to be restored.

Please help us convey in the strongest manner to the SBPP operator and the other state regulatory agencies that 1950s technology and discharge practices of the past century do not meet this region's water quality standards for this unique watershed today. We ask that you provide an open, transparent and inclusive opportunity for South Bay residents to hear from all parties and review the data by conducting these meetings in Chula Vista. Thank you for your consideration.


Respectfully,


Cheryl Cox
Mayor

Mayor


Steve Castaneda
Councilmember

Steve Castaneda
Councilmember


Rudy Ramirez
Deputy Mayor

Rudy Ramirez
Deputy Mayor


Pamela Bensoussan
Councilmember

Pamela Bensoussan
Councilmember

Attached: Letter to John H. Robertus

cc: David King, Vice Chair
Eric Anderson, Boardmember
Wayne Rayfield, Boardmember
Gary Thompson, Boardmember
Jim Sandoval, City Manager, Chula Vista

John Robertus, Executive Officer
George Loveland, Boardmember
Grant Destache, Board member
Marc Luker, Boardmember

BOB FILNER
51ST DISTRICT, CALIFORNIA

VETERANS' AFFAIRS COMMITTEE
CHAIRMAN

TRANSPORTATION AND INFRASTRUCTURE
COMMITTEE

AVIATION

HIGHWAY AND TRANSIT

WATER RESOURCES AND ENVIRONMENT



CONGRESS OF THE UNITED STATES
HOUSE OF REPRESENTATIVES

July 15, 2009

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John H. Robertus
Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, # 100
San Diego, CA 92123

Dear John:

We are writing on a matter of significant importance to residents in the South County. As the members of the elected delegation representing South County communities, we are writing to express our concerns and opposition to the proposed five-year extension of the South Bay Power Plant (SBPP) discharge permit into the San Diego Bay.

When the San Diego Regional Water Quality Control Board (Board) renewed the water discharge permit in 2004, we understood that this would be the last time it would grant a renewal. Therefore, we did not object to the permit application.

In 2004, the Board granted the operators a waste discharge permit, which included very lenient conditions that allowed the power plant to continue to operate. It did not require mitigation of known impacts, it did not require Best Available Technology for cooling, and it even allowed the operators three years to come into compliance with the copper standards. With the latest application to renew the water discharge permit, the South County faces five more years of degradation to our Bay, negative impacts to the environmental health of our communities, and continued restrictions to economic development on the bayfront.

The Board's regulations require that permitted water discharge complies with the law and that beneficial uses of San Diego Bay not be unreasonably affected. In the 2004 permit fact sheet, discharge from SBPP degraded the bay's beneficial uses, its intake and discharge structures failed to reflect best technology available, and mitigation for the damage deemed necessary.

John H. Robertus
July 15, 2009
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Since 2004, there have been several legislative and legal decisions made that have implications to any future operation of the power plant's cooling system. In considering the 2009 permit renewal, it should be noted that the operator has yet to address these issues, and has not included proposals in their 2009 application to eliminate the water cooling impacts to San Diego Bay such as changes to include best technology, or commitment to a date to cease operation of the power plant.

While considering any economic impacts of granting this permit, please note that the presence of the power plant has undermined decades of effort to redevelop the Chula Vista Bayfront with quality development. The original agreement tied the purchase of SBPP to a ten year lease term and the repayment of bonds for purchase of the SBPP.

It was widely understood that the ten year timeframe would be sufficient enough for the Otay Mesa Generating Station located in Otay Mesa, San Diego to be permitted and constructed. The bonds are paid and the new plant should be on-line during the fall of this year.

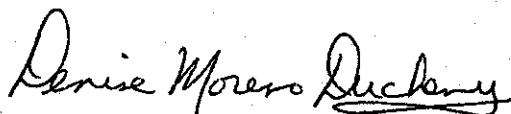
The lease for the power plant site is set to expire in November 2009 with the discharge permit set to expire the same month. We urge the San Diego Regional Water Quality Control Board to reject this permit application for another five-year renewal.

Thank you for your attention to this matter.

Sincerely,



Bob Filner
U.S. Congressman, 51st District

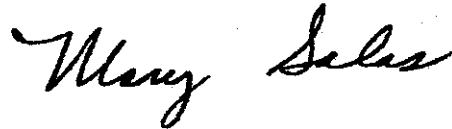


Denise Moreno Ducheny
State Senator, 40th District

John H. Robertus
July 15, 2009
Page 3



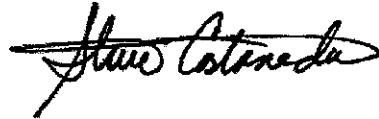
Marty Block
State Assemblymember 78th District



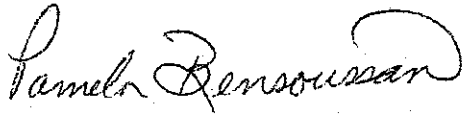
Mary Salas
State Assemblymember, 79th District



Greg Cox
San Diego County Supervisor, District 1



Steve Castaneda
Chula Vista City Councilmember



Pamela Bensoussan
Chula Vista City Councilmember



Ben Hueso
San Diego City Councilmember, District 8

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Excerpt of the CEC Final Staff Report, CEC-200-2009-012-SF

CEC has released their final forecast for the next 10 years (it gets revised every 2 years). The chart below is excerpted from the Final Staff Report, CEC-200-2009-012-SF. It demonstrates that the forecasted electricity demand for the SDG&E area is lower than CEC had predicted in the 2007 demand forecast. These forecasts effectively reduce the area demand by 171 MW for the worst-case extreme peak load. The table has the summary of the new forecast, compared to both the 2007 forecast and the June 2009 draft. The top of the table shows total energy consumption, and the lower half shows the peak demand.

Table 15: SDG&E Planning Area Forecast Comparison

Consumption (GWh)						
	CED 2007 (Oct. 2007)	CED 2009 Draft mid-rate case (June 2009)	CED 2009 Revised (Sept. 2009)	Percentage Difference CED 2009 Revised/CED 2007	Percentage Difference CED 2009 Revised/CED 2009 Draft	
1990	14,926	14,926	14,926	0.00%	0.00%	
2000	19,294	19,294	19,294	0.00%	0.00%	
2008	21,304	20,361	21,411	0.51%	5.16%	
2010	21,991	20,502	21,136	-3.89%	3.09%	
2015	23,643	21,568	22,648	-4.21%	5.01%	
2018	24,567	22,160	23,321	-5.07%	5.24%	
Average Annual Growth Rates						
1990-2000	2.60%	2.60%	2.60%			
2000-2008	1.25%	0.67%	1.31%			
2008-2010	1.60%	0.35%	-0.64%			
2010-2018	1.39%	0.98%	1.24%			
Peak (MW)						
	CED 2007 (Oct. 2007)	CED 2009 Draft mid-rate case (June 2009)	CED 2009 Revised (Sept. 2009)	Percentage Difference CED 2009 Revised/CED 2007	Percentage Difference CED 2009 Revised/CED 2009 Draft	
1990	2,961	2,961	2,978	0.57%	0.57%	
2000	3,471	3,471	3,486	0.40%	0.40%	
2008	4,568	4,596	4,369	-4.36%	-4.94%	
2010	4,714	4,621	4,513	-4.26%	-2.34%	
2015	5,023	4,923	4,845	-3.54%	-1.58%	
2018	5,247	5,115	5,009	-4.54%	-2.07%	
Average Annual Growth Rates						
1990-2000	1.60%	1.60%	1.58%			
2000-2008	3.49%	3.57%	2.87%			
2008-2010	1.59%	0.27%	1.63%			
2010-2018	1.35%	1.28%	1.31%			
Historical values are shaded.						

Source: California Energy Commission, 2009

As shown in Figure 70, CED 2009 Revised consumption is about 5 percent higher than CED 2009 Draft consumption, but still below CED 2007 throughout the forecast period. The dip in the early years of CED 2009 Revised is caused by both the current recession and increased savings from energy efficiency programs.

CEC used the 1-in-2 extreme temperature forecast for the above summary table. Here is the worksheet that shows the 1-in-10 peak as well. The 1-in-10 peak for 2010 is also lower than the one in the June draft: 4,963 MW versus 5,134. Here's the final worksheet:

**Form 1.5 - SDG&E Planning Area
Extreme Temperature Peak Demand (MW)**

Year	1-in-2 Temperatures	1-in-5 Temperatures	1-in-10 Temperatures	1-in-20 Temperatures	1-in-5 Multiplier	1-in-10 Multiplier
2009	4,486	4,834	4,933	5,018	1.078	1.100
2010	4,513	4,863	4,963	5,049	1.078	1.100
2011	4,572	4,927	5,028	5,115	1.078	1.100
2012	4,662	5,024	5,126	5,215	1.078	1.100
2013	4,738	5,105	5,210	5,300	1.078	1.100
2014	4,791	5,163	5,268	5,360	1.078	1.100
2015	4,845	5,221	5,327	5,420	1.078	1.100
2016	4,895	5,275	5,382	5,476	1.078	1.100
2017	4,954	5,338	5,447	5,541	1.078	1.100
2018	5,009	5,398	5,508	5,603	1.078	1.100
2019	5,067	5,461	5,572	5,669	1.078	1.100
2020	5,126	5,524	5,637	5,735	1.078	1.100

BOB FILNER
51ST DISTRICT, CALIFORNIA

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January 16, 2009

Chairman Joseph Kelliher
Chairman
Federal Energy Regulatory Commission
888 First Street, NE
Washington, DC 20426

Subject: Correct definition of G-1 in San Diego Gas and Electric service territory would add 232 MW to local power generation reliability assets

Dear Chairman Kelliher:

I respectfully request that you order the California Independent System Operator (CAISO) to revise the units currently identified by CAISO as G-1, either 542 MW Palomar Energy and 562 MW Otay Mesa combined cycle projects, in San Diego Gas & Electric (SDG&E) service territory. These units both have the ability to operate in simple cycle mode during a forced outage of the steam turbine generator. This means both of these plants can generate approximately 350 MW during a forced outage of the steam turbine generator. CAISO currently assumes these plants generate 0 MW under this operating condition. This error on the part of CAISO is resulting in a significant undercounting of available local power generation resources in the San Diego area that must be corrected.

The local capacity calculated by CAISO as available for grid reliability purposes in an N-1, G-1 event in SDG&E territory assumes the total shutdown of either 541 MW Palomar Energy (in operation) or 561 MW Otay Mesa (online in 2009) in case of a forced outage of the steam turbine generator at either of these two combined cycle plants. If only a partial outage occurs at either of these facilities, the G-1 event would remain what it was prior to 2006, loss of the 329 MW Unit 5 at the Encina Power Plant in Carlsbad, California.¹ SDG&E local capacity is increased by 232 MW if Encina Unit 5 remains the G-1 event.

SDG&E stated in data request responses in the Sunrise Powerlink Phase I proceeding before the California Public Utilities Commission that both Palomar and Otay Mesa combined cycle plants are designed to continue operation under all foreseeable conditions, including forced outage of the steam turbine generator at each plant.² The units are designed so that steam can

¹ 541 MW Palomar Energy Project began operation in 2006.

² A.06-08-010 Sunrise Powerlink Project, SDG&E responses to UCAN Data Request 1. Question 91: "SDGE identifies G-1 as the complete loss of the 541 MW Palomar Energy Project. G-1 later becomes loss of the entire 561 MW Otay Mesa Power Project. Please provide any analysis that has been performed on the cost to retrofit

Chairman Joseph Kelliher

January 16, 2009

Page 2

be vented through the heat recovery steam generator while the turbines continue to operate. It is also my understanding that SDG&E may have petitioned the CAISO to remove the Palomar and Otay Mesa projects as G-1 units precisely because they have the ability to operate in a simple cycle mode during a forced outage of the steam turbine generator.

It is unlikely that SDG&E would choose to vent steam through the heat recovery steam generators and operate either Palomar or Otay Mesa as de facto peaking gas turbine power plants under any condition other than a peak load, emergency N-1, G-1 condition, as this procedure is resource intensive. However, for reliability purposes the capability is there when needed in a peak demand, N-1, G-1 situation.

Recognition by CAISO that both Palomar and Otay Mesa combined cycle plants are designed to allow continued operation of the gas turbines even if a steam turbine failure occurs would immediately add 232 MW to local SDG&E generation capacity. Insufficient local generation is the primary reason that CAISO is requiring that old, inefficient, and polluting steam boiler plants in SDG&E territory stay in-service and available. Proper classification of the G-1 unit in SDG&E territory would be an important step toward the permanent retirement of these old units. Please take prompt action to reclassify the G-1 unit in SDG&E territory as the 329 MW Unit 5 at the Encina Power Plant and advise CAISO to properly credit SDG&E territory with an additional 232 MW of local generating capacity for reliability purposes.

Sincerely,



BOB FILNER
Member of Congress

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Palomar to include bypass stacks or dilution air blowers to allow simple-cycle operation of the gas turbines if the steam turbine is out-of-service. Response 91: "Both facilities already have these attributes embedded in their operation flexibility." See: <http://www.sdge.com/sunrisepowerlink/info/uCanDataResponse1.doc>