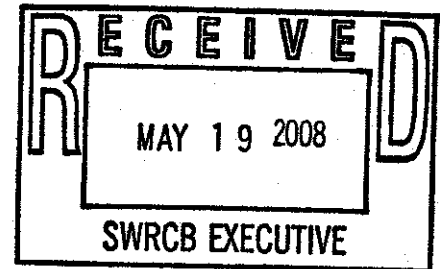




May 19, 2008

To: Commentletters@waterboards.ca.gov
Subject: **Comment Letter - Once Through Cooling Policy**



Thank you for the opportunity to comment on the State Water Resources Control Board draft 316(b) policy scoping document for once through cooling for existing facilities. The Industrial Environmental Association has the following comments on the draft policy.

First, The State Water Resources Control Board should not approve a comprehensive 316(b) policy until the CALISO has completed their grid reliability study, expected to be completed in December 2008. The policy should not be finalized until the SWRCB staff has an opportunity to evaluate the CALISO grid reliability study and the impact the proposed policy will have on grid reliability in the state. The SWRCB should not approve any policy that could potentially have an adverse impact on the grid reliability or generating capacity in the state.

Earlier this year, the Ocean Protection Council (OPC) completed their study on closed cycle cooling. In this study, the OPC determined that there were no technologies that could be used by any of the generating stations that would allow them to comply with track 2 of the policy. So this in effect requires all of the facilities to comply with track 1.

In drafting this policy, the SWRCB should also consider the impact the policy will have on compliance with the AB32 greenhouse gas emissions law. In its current form, the policy would require both nuclear facilities in the state to retrofit with cooling towers by January 1, 2021. This would likely require each nuclear facility (a combined total of over 4,600 MW of greenhouse gas free generating output) to be offline for up to 18 months during the time that the state is required to have a substantial reduction in greenhouse gas emissions. Most of the generating capacity that would be required to make up for this lost generation would be from greenhouse gas emitting power plants. So it is not likely that this policy would allow the state to comply with AB32.

In January 2008, most of the generating stations submitted Comprehensive Demonstration Studies (CDS) to their Regional Water Quality Control Boards that included Impingement and Entrainment Mortality studies. These studies were detailed and comprehensive and were done recently and at a cost to the generating stations of millions of dollars. The current state draft 316(b) policy was not based on any of this recent, comprehensive data. The SWRCB staff and the expert review panel should review this data and determine if the policy that has been drafted is warranted based on the biological impacts that are detailed in these studies.

There are also several permitting difficulties with requiring the generating stations to comply with track 1 of the draft state policy. Due to permitting issues, it is not likely that most of the generating stations could obtain the required permits or approvals at a minimum from the following agencies:

- California Coastal Commission (Coastal Development Permits)
- California Air Resources Board (PM-10 offset credits)
- Public Utilities Commission (Billions of dollars in rate increases not likely to be approved by the commission for SCE and PG&E)
- The U.S. Fish and Wildlife Service (adverse impacts to habitat and endangered species)

Some of these facilities also simply do not have the real estate available to construct cooling towers. Some facilities are very compressed and do not own land that has been suggested to be used for the construction of cooling towers adjacent to their sites. There is also protected habitat around some of these sites. Some facilities are also in the flight path of commercial and military aircraft. These issues and others do not make it physically possible for some of these sites to construct cooling towers.

The draft state policy also requires that during the interim compliance period, that the coastal generating stations install marine mammal protection barriers around their intakes. The National Marine Fisheries Service (NMFS) is the agency that is responsible for regulating marine mammals and turtles. The NMFS is currently working on marine mammal take permits for the coastal generating stations that are expected to be issued later this year. These marine mammal take permits should preclude any need for the coastal generating stations from installing marine mammal protection devices on their circulating water intakes. Some plants are also located near offshore kelp environments that could clog circulating water intakes if marine mammal protection barriers were to be installed. This is especially an issue with the nuclear generating stations, which have nuclear safety issues to consider. Therefore, the SWRCB should leave the issue of regulation of marine mammals to the NMFS and allow that agency to regulate it through the marine mammal take permits that will be issued later this year.

The draft policy also does not allow any of the generating stations to operate main circulating water pumps within two days of plant start up or two days after plant shutdown. This will not make it possible to operate some of these plants within design

specifications. This would also increase corrosion impacts on power plant circulating water piping. Circulating water pumps are very expensive to operate. Power plants do not operate them unless they are necessary for the operation of the plant. So there is no motivation at all for these plants to operate these pumps more than is necessary. This alone results in the plants operating these pumps at the lowest frequency possible. Therefore, this provision should be removed from the policy.

The SWRCB should also delay any approval of this policy to at least late the second quarter of 2009 for the following reasons:

1. The U.S. EPA is currently reworking their 316(b) policy to be compliant with the Second Circuit Court of Appeals decision. The SWRCB should wait until the SWRCB staff and the expert review panel has had enough time to evaluate at least the draft of the new Federal 316(b) policy to ensure that the SWRCB policy does not conflict with it.
2. The U.S. Supreme Court is set to rehear the Riverkeeper II lawsuit on 316(b) for the cost benefit provision of the Federal 316(b) policy. This decision is expected in the first quarter of 2009. The SWRCB should wait until the U.S. Supreme Court ruling to determine whether the site specific cost benefit provision should be a provision included in the state 316(b) policy. Site specific considerations should be included in this policy if allowed by the U.S. Supreme Court to help each of the generating stations address the issues stated in this letter.
3. As stated earlier, the SWRCB should wait on issuing their policy until the CALISO grid reliability study is completed and evaluated by the SWRCB staff. This would also give time for the SWRCB staff and the expert review panel to review the biological data from the Impingement and Entrainment Mortality studies.

The 316(b) scoping document as written could also impact the ability to construct desalination plants on the California coast. Due to future anticipated demand for water in the state of California, the construction of desalination plants on the coast is considered necessary by water authorities to meet the future demand of drinking water in the state. Water authorities are currently considering some electrical generating facilities as locations to build future desalination plants. This rule could have an adverse impact on such plans.

The policy should also contain a variance provision that allows the generating stations to be exempted from the policy if they cannot comply with the policy due to environmental impacts, real estate issues, or permitting issues. In these cases, restoration could be used under a variance option to allow for these facilities to comply with the state 316(b) rule.

In closing, we request that the SWRCB policy be delayed until late in the second quarter of 2009 to allow for the review of the SWRCB staff and the expert review panel of the Federal 316(b) actions and the evaluation of the generating stations recently submitted Impingement and Entrainment Mortality studies and the CALISO grid reliability study.

The policy should also contain a variance provision that will allow each generating station to do a site specific assessment that due to environmental impacts, real estate issues, or permitting issues that could preclude those facilities from constructing cooling towers to be in compliance with the policy, and thus be exempted from the policy.

Sincerely,

Patti Krebs

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