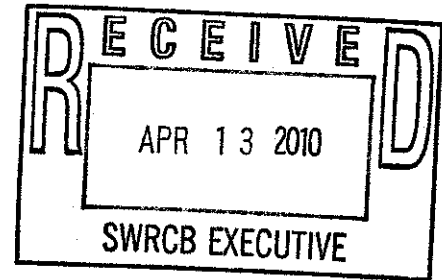




April 13, 2010

Charlie Hoppin, Chair and Board Members  
State Water Resources Control Board  
1001 I Street  
Sacramento, CA 95814

*Via electronic mail: commentletters@waterboards.ca.gov*



**Re: Comments on Draft Final Substitute Environmental Document and Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (March 22, 2010)**

Dear Chair Hoppin and Board Members:

On behalf of the Natural Resources Defense Council (NRDC) which has 1.3 million members and activists, over 250,000 of whom live in California, we respectfully submit the following comments on the State Water Resources Control Board ("Board") Draft Substitute Environmental Document for the Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling ("SED") and the March 22, 2010 draft Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling ("Policy"). We welcome the opportunity to comment on the significant revisions to the policy.

Like a number of other parties, we were generally supportive of the revised draft Policy issued November 23, 2009. The November draft Policy addressed many of the concerns raised by the June 30, 2009 draft and appeared to be near final. Importantly, the previous drafts had the support of both the state energy agencies and the ISO, with narrow requests for revisions. The March 22, 2010 draft Policy is a surprising and marked step backwards from previous versions.

Other environmental organizations have submitted thorough comments on the various flaws of the Policy. By writing separately we in no way intend to minimize the importance of those comments, but only to highlight our concern over such dramatic changes in the policy.

It is the responsibility of this Board to enforce the Clean Water Act ("CWA") and minimize impacts from power generation to coastal waters, without undermining electric grid reliability. After years of negotiation and analysis, the former Policy largely met those goals. That view was shared by the state energy agencies and ISO.<sup>1</sup> LADWP also provided some comments related to

<sup>1</sup> Joint Comment of the CEC, CPUC and ISO, September 30, 2009:

[http://www.waterboards.ca.gov/water\\_issues/programs/npdes/docs/cwa316\\_2009sept/comments/karen\\_douglas.pdf](http://www.waterboards.ca.gov/water_issues/programs/npdes/docs/cwa316_2009sept/comments/karen_douglas.pdf); ISO Comments on the Draft Policy, December 8, 2009:

[http://www.waterboards.ca.gov/water\\_issues/programs/npdes/docs/cwa316\\_2009dec/andrew\\_ulmer.pdf](http://www.waterboards.ca.gov/water_issues/programs/npdes/docs/cwa316_2009dec/andrew_ulmer.pdf). In its December Comments, made two requests: that the state energy agencies or ISO be able to seek a stay in compliance deadlines when necessary to maintain grid reliability; and that the compliance date for the South Bay power plant.



LADWP's responsibility as a balancing authority.<sup>2</sup> The Board should have made only minor amendments to ensure that LADWP could adequately inform the Board of any potential reliability risks in order for the Board to make any necessary alterations to the compliance schedule to ensure grid reliability. The significant changes made in the current Policy are both unnecessary and substantially undermine objective of minimizing impacts on coastal waters.

The Policy has a number of key changes that have no support in law or the record. The current draft Policy rolls back or eliminates a number of critical features included in previous drafts to ensure consistency with the CWA. The current policy removes the CWA-mandated requirement that facilities attempt to implement the Best Technology Available "BTA" for minimizing adverse environmental impacts from once through cooling ("OTC").<sup>3</sup> It then allows facilities to pursue an alternative compliance track that contains significantly weaker provisions for lessening OTC's adverse environmental impacts.

The Board should reinstate the preference for Track 1 by requiring facilities to incorporate the BTA of closed-cycle cooling absent a showing that such changes are infeasible. Elimination of the feasibility test renders the BTA alternative an option, not a *requirement* as mandated by the CWA.

For facilities that are eligible for Track 2, the Policy must close the CWA loopholes created by the most recent revisions. Specifically, the Policy should require that entrainment/impingement ("E/I") reductions be measured on a unit basis, not on a facility-wide basis which would allow for continued substantial adverse impacts from existing equipment. E/I reductions must also be measured in terms of monthly "generational" flow rather than "design" flow; the former being a representative of actual intake and output volumes.

We strongly recommend the Board consider returning to the November 23, 2009 Policy, with only minor revisions.

Thank you for the opportunity to comment on this important matter.

Noah Long  
Energy Program Attorney

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<sup>2</sup> LADWP Comments on Draft Policy, December 8, 2009:

[http://www.waterboards.ca.gov/water\\_issues/programs/npdes/docs/cwa316\\_2009dec/aram\\_benjamin.pdf](http://www.waterboards.ca.gov/water_issues/programs/npdes/docs/cwa316_2009dec/aram_benjamin.pdf).

<sup>3</sup> See 32 U.S.C. § 1326(b).