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April 5, 2012

**VIA EMAIL (jjensen@waterboards.ca.gov)**

Ms. Joanna Jensen  
State Water Resources Control Board  
1001 I Street, 15th Floor  
P. O. Box 100  
Sacramento, CA 95814

Re: Comment Letter – Desalination Facilities and Brine Disposal

Dear Ms. Jensen:

As a follow up to the CEQA Scoping Meeting on March 30, 2012, we hereby submit written comments on behalf of South Coast Water District (“SCWD”). As a threshold matter, we believe the Informational Document is vague with respect to the potential amendments to the Ocean Plan regarding brine disposal from desalination facilities and the range of alternatives. As such, it is difficult, if not impossible, to comment on the scoping process. Therefore, SCWD reserves its right to make additional comments once we have a better understanding of the range of alternatives.

As we have previously indicated, with the support of Metropolitan Water District of Southern California (“MWD”), SCWD spent \$5.8 million to construct its groundwater recovery facility (“GRF”) in Dana Point, California which produces approximately 10% of SCWD’s potable water.<sup>1</sup> The GRF treats low quality/brackish groundwater to produce drinking water.

We firmly believe that facilities like the GRF are distinguishable from industrial dischargers and should not be subject to the same Ocean Plan Table A standards given the benefit they confer (development of a local source of water) and the innocuous nature of the brine discharge (non-toxic iron and manganese). In many cases, like the GRF, the brine effluent is most cost-effectively handled by being commingled with other discharges, including wastewater plant effluents and other sources of brine, and then discharged to the ocean.

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<sup>1</sup> SCWD serves approximately 12,500 water accounts with an estimated winter population of 40,000 in the South Laguna and Dana Point areas. Tourism adds an additional 2 million visitors to the SCWD service area on an annual basis. SCWD imports approximately 7,500 acre-feet (6.7 million gallons per day (“gpd”)) of potable water annually. SCWD maintains approximately 32 million gallons of water storage in 14 area reservoirs (an approximately 4.8-day water supply). The SCWD service area has been identified by the Bureau of Reclamation as an area of “Potential Water Supply Crisis” by 2025.

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Indeed, SCWD has established that the brine discharge does not significantly impact the outfall. In contrast, if large volumes of brine discharge must be treated at the wastewater treatment plant (rather than being discharged to the ocean), the brine may impact the production of recycled water, which presents a different environmental impact (e.g., increased energy and cost to produce recycled water and/or reduction in production). Alternatively, filtering the iron and manganese will require sending the materials to landfills, which presents yet another environmental impact. Furthermore, if requiring extensive treatment makes the development of groundwater (or ocean water) infeasible, importing additional water presents other environmental impacts (e.g., increased energy and greenhouse gas emissions, impacts on endangered species, etc.). We believe all of these alternatives and their associated impacts should be analyzed and compared through the CEQA process.

The Delta Smelt cases pointed to the need to consider “the significant detrimental effects visited on the quality of the human environment by implementation of the BiOp's RPA Actions, which impose substantial restrictions on the water supply to California, solely to protect the delta smelt.” *In re: the Consolidated Delta Smelt Cases*, 812 F. Supp. 2d 1133, 1203 (9th Cir. 2011). While this was in the context of NEPA, CEQA similarly requires that a lead agency consider the question: “Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?” (CEQA Guidelines Appendix G Environmental Checklist Form). We believe the CEQA analysis should consider the important value of meeting water supply needs and the impact of restrictions on reducing opportunities to meet waters supply needs with desalination (brackish groundwater and ocean).

It is clear from our engagement in the current Science Panel processes – for intake systems and for discharge – that there is a significant amount of underlying information, but there are also areas where the Panel and/or State Board will need to make projections based on various assumptions. We have tried to provide data to the Science Panel on raw water quality and brine effluent constituents so that the panel has as much information as possible. However, where the Science Panel is assessing impacts whether qualitatively or quantitatively, the information it is relying upon and its methodology should be clear to the public and stakeholders. Moreover, should the State Board deviate from the Science Panel recommendations, those decisions must also be supported by substantial evidence in the record.

Finally, the State Board has previously indicated that that it intends to institute a charge/cost factor for the “area of forgone production” for impacts to the ocean biomass (floatable organisms that may exist in feed water, and which cannot readily escape wedge-wire screens

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or other intake systems). Currently, there are very few studies involving the value of ocean biomass, and as such, we suggest that the State Board include all information it relies upon to establish the potential impacts of intake systems on areas of foregone production to support a nexus between the environmental harm and any fee to be imposed.

In closing, we would reiterate that it is critical that the State Board develop ocean plan policies and standards to address desalination of water (brackish and ocean). We agree that a discussion of statewide impacts is necessary, but we also hope to see an outcome that has flexibility for site specific conditions including raw water quality and intake systems as well as the brine disposal systems (i.e., co-disposal, dilution, etc.) as recommended by Water Desalination Task Force of the Department of Water Resources (the "Task Force"). See [http://www.water.ca.gov/desalination/pud\\_pdf/Findings-Recommendations.pdf](http://www.water.ca.gov/desalination/pud_pdf/Findings-Recommendations.pdf).

Should you have any questions, please feel free to contact us.

Sincerely,

A handwritten signature in black ink, appearing to read 'Patricia J. Chen', with a long horizontal flourish extending to the right.

Patricia J. Chen