



CALIFORNIA COASTAL PROTECTION NETWORK
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September 12, 2011

The Honorable John Laird, Secretary for Natural Resources
Chair, California Ocean Protection Council
California Natural Resources Agency
1416 Ninth Street, Suite 1311
Sacramento, CA 95814
VIA ELECTRONIC MAIL: opc.comments@scc.ca.gov

Re: Comments on Ocean Protection Council Draft Strategic Action Plan, Industrial Uses Section

Dear Chair Laird and Ocean Protection Council Members:

On August 11th, the Ocean Protection Council (OPC) formally released its proposed draft for the 5-year update of the OPC Strategic Action Plan. This plan, while it wields no direct regulatory power, will serve as guidance to other agencies as they work to create and/or implement policies that will affect the health and wellbeing of California's marine resources for decades to come.

One of the most important issues facing the California coast is the potential proliferation of seawater desalination facilities. Under the current regulatory scheme, there is no coherent statewide policy that provides a legal framework for deciding if, when and where seawater desalination facilities are most appropriate, no guidelines or standards for what would constitute the best available technologies and no requirements that stringent conservation requirements be instituted before communities opt to include desalinated water in their water portfolios. Indeed, it is this default to local government jurisdictions and private for-profit desalination companies that leaves open the strong possibility that California's tangled water supply policies will become even more irrational and complex. When it comes to future water supplies, the state has a responsibility and an interest in making sure that desalination facilities are only approved in a manner in which their long-term impacts to the state's marine resources are minimized and that California consumers are protected. Unless California sets those standards now, we will not be able to turn back the clock.

As stated in the OPC's own Memorandum¹, the role of the OPC is to "coordinate and *lead* ocean management and protection in California (emphasis added)" in part "by developing *forward looking*

¹ Memorandum from Amber Mace, Executive Director, OPC to the Ocean Protection Council, entitled Release of Draft Ocean Protection Council Strategic Action Plan, dated August 11, 2011.

policy recommendations to advance new or refine existing laws and regulations (emphasis added).” The OPC’s draft Strategic Plan holds to this goal in the section on Industrial Uses by recommending no open-ocean intakes for desalination facilities and no co-location with facilities using once through cooling. This position is consistent with the State Water Resources Control Board’s OTC policy that is phasing out the use of power plant open-ocean intakes under the Clean Water Act Section 316 (b) and the OPC’s own resolution supporting that policy.²

But no sooner was the ink dry on the draft plan when hue and cry rose up from the very company who seeks to be the primary water spigot for Southern California along with the local water agencies who will receive a part of the bounty. The problem for Poseidon Resources is that the economics of their business plan, drafted years ago, depends in part on their ability to minimize their infrastructure costs by co-locating with existing power plants in order to utilize their OTC facilities. Poseidon was warned repeatedly in public comments and by relevant agencies of the likelihood of future regulations that would prohibit open ocean intakes for those very power plants, but chose to ignore those warnings leaving them with what is now an outdated business plan and an environmentally flawed design. It is incomprehensible that Poseidon and their supporters can argue at this stage of the process that the SWRCB’s OTC policy for the very power plants they seek to use does not apply to them.

Luckily, California is no longer in a drought, so we have time to carefully plot if, when and how desalination should move forward in this state. Negotiations at the highest levels about a recovery plan for the Delta and a concerted effort to limit imported water all play into a comprehensive approach to water management reform in California. But those who seek to profit the most should not be driving the policy that could propel California into a cycle of greater dependence on a water supply option that the state cannot control.

With that in mind, the California Coastal Protection Network (CCPN) strongly supports the existing language in the OPC Draft Strategic Plan within the Industrial Uses section (Action 9.2.1) that advocates for a position of no open-ocean intakes for desalination facilities and no co-location with facilities using OTC.

CCPN was deeply troubled by statements made by staff at the Sacramento hearing that this section would be less specific in the final version. While it is the role of the opponents to this draft policy recommendation to argue against it, CCPN believes it is the role of the OPC to provide forward thinking and rational leadership that moves California into the future.

If staff decides to edit the current language specifically prohibiting open-ocean intakes in the Draft Strategic Plan, then we agree with our colleagues at Surfrider, the California Coastkeeper Alliance and others that the metric be modified as follows: *Take immediate and appropriate action to formalize OPC’s position regarding open-ocean intakes to be consistent with the law, and the goal of the OPC Resolution on Once Through Cooling, to protect marine ecosystems from the adverse impacts of entrainment and impingement.*

Thank you for your consideration of our comments.

² California Ocean Protection Council, Resolution of the California Ocean Protection Council Regarding the Use of Once-Through Cooling Technologies in Coastal Waters (2006).

A handwritten signature in black ink that reads "Susan Jordan" followed by a decorative flourish.

Susan Jordan, Director