

MEMORANDUM OF AGREEMENT among the State Water Resources Control Board, California Air Resources Board, California Coastal Commission, California Energy Commission, California Public Utilities Commission (CPUC), California State Lands Commission, and California Independent System Operator Corporation (ISO) for Establishment and Operation of a Statewide Advisory Committee on Cooling Water Intake Structures (SACCWIS)

This Memorandum of Agreement (MOA) sets forth principles, procedures and agreements to which the signatory agencies commit themselves in establishing and participating in the Statewide Advisory Committee on Cooling Water Intake Structures (hereinafter SACCWIS), which will hold meetings in order to evaluate compliance planning and provide recommendations to the State Water Resource Control Board (State Water Board) in its implementation of the Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling (Policy). This MOA is effective upon the date that it is executed by all signatories. This MOA may be supplemented, as appropriate, by addenda that will reflect any additional agreements, commitments and understandings arrived at by the members.

I. Background and Scope

Clean Water Act Section 316(b) requires that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available (BTA) for minimizing adverse environmental impact. Section 316(b) is implemented through National Pollutant Discharge Elimination System (NPDES) permits, issued pursuant to Clean Water Act Section 402, which authorize the point source discharge of pollutants to navigable waters. The State Water Board adopted the Policy on May 4, 2010, in order to implement Clean Water Act Section 316(b), establishing BTA for existing coastal power plants in California. The Policy was adopted by State Water Board Resolution No. 2010-0020 (Resolution).

Both the Policy and Resolution directed the formation of the SACCWIS to review plans and schedules provided by dischargers and advise the State Water Board on Policy implementation. The SACCWIS is to be comprised of representatives from the following agencies and entities: the State Water Board, California Air Resources Board, California Coastal Commission, California Energy Commission, CPUC, California State Lands Commission, and the ISO. The Resolution directed that an MOA be negotiated in order to memorialize the role and functioning of the SACCWIS, addressing the following elements: composition of the SACCWIS, meeting requirements, consultation of outside agencies, and formulation of recommendations to the State Water Board.

II. Principles

The agencies and entities comprising the SACCWIS shall commit to working cooperatively towards fulfilling the obligations of the SACCWIS as described in the

Policy. Nothing contained herein shall be construed to limit the rights or authority of any agency or entity participating on the SACCWIS.

III. Duties

The Policy covers 19 existing coastal power plants in California and includes an Implementation Schedule (Policy, Section E, Table 1) that sets forth milestones and due dates for Policy compliance. These milestones include dates for submission of reports as well as dates for specific power plants to reach compliance with the Policy. The SACCWIS will review submissions from these plants and make recommendations for adjustments, if any, to the Implementation Schedule.

The SACCWIS will review implementation plans and schedules submitted to the State Water Board by dischargers pursuant to the Policy and will advise the State Water Board on implementation of the Policy in order to ensure that the implementation schedule takes into account local area and grid reliability, including permitting constraints. The SACCWIS will also assist the State Water Board in evaluating implementation schedules for power plants subject to the Policy that are not under the jurisdiction of the CPUC or operating within the ISO Balancing Authority Area.

Pursuant to these purposes, the SACCWIS will:

- a) Review annual grid reliability studies submitted by ISO and the Los Angeles Department of Water and Power;
- b) Review proposed implementation schedules submitted by facilities covered by the Policy;
- c) Provide annual reports to the State Water Board beginning in 2012, providing recommendations to the State Water Board on implementation of the Policy. Recommendations for changes to the implementation schedule will be based upon review of annual grid reliability studies, proposed implementation schedules, and any other relevant information submitted to the SACCWIS.

IV. Functioning of the SACCWIS

The SACCWIS constitutes a "state body" within the meaning of the Bagley-Keene Open Meeting Act (California Gov. Code §§ 11120 et. seq.) and all meetings will be open to the public and noticed at least ten (10) days in advance of the meeting. Meeting procedures will be governed by the Standard Code of Parliamentary Procedure (Sturgis). A quorum shall consist of four member representatives. The SACCWIS will meet at least annually, or more frequently as needed.

Each agency member of the SACCWIS shall appoint a management-level employee as a representative, with a designated alternate who may attend in place of the primary

representative. Member representatives shall appoint a Chair to conduct business. The State Water Board will provide staff-level support for the SACCWIS, including preparation, noticing and circulation of agenda materials.

All documents generated by SACCWIS or submitted to SACCWIS shall be public documents consistent with provisions of the California Public Records Act (Cal. Gov. Code §§ 6250 et. seq.) unless otherwise exempted by law. (Cal. Gov. Code §11125.1(a)).

V. Consultation of Other Agencies

The SACCWIS may seek additional information from other agencies, including California regional water quality control boards, air quality districts, and the LADWP, in order to more effectively review implementation plans and formulate appropriate recommendations. Requests for information from agencies not a part of the SACCWIS do not require a formal action of the SACCWIS.

VI. Recommendations of the SACCWIS

Annual reports generated by the SACCWIS shall include recommendations on whether or not changes are needed for the implementation schedule, based upon considerations of local area and grid reliability, including permitting restraints. Recommendations made in the annual reports shall reflect the conclusion supported by a majority of the representatives of the SACCWIS.

If any representative to the SACCWIS does not agree with the majority recommendation, that representative may choose to submit an alternative recommendation, including a statement of why that representative does not support the majority view. Alternative recommendations will be included as part of the annual report.

VII. Non-Disclosure of Confidential Materials

Where the State Water Board makes a final or provisional determination that materials submitted to the State Water Board in compliance with the Policy, or portions of those materials, are confidential records and are exempt from disclosure to the public within the meaning of the Public Records Act, the public agencies comprising the SACCWIS hereby agree to treat all such records that are identified as confidential under the Public Records Act and shared with the SACCWIS agencies by the State Water Board as confidential and exempt from disclosure to the public, in accordance with Government Code section 6254.5(e). The agencies agree to protect any such confidential records from disclosure to others to the greatest degree allowed by law. The State Water Board is responsible for its determinations that records are exempt from disclosure to the public within the meaning of the Public Records Act. Agencies with whom such records

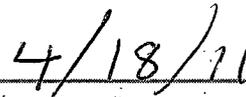
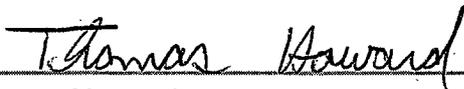
are shared pursuant to Gov. Code Section 6254.5(e) are not responsible for defending the State Water Board's determinations.

The agencies agree to allow access to the records only to those persons who are listed in Attachment A. An agency may amend its list of persons authorized to access records identified by the State Water Board as confidential by submitting a document signed by the agency head or his/her designee that will be attached as an addendum to Attachment A. Such addenda are not required to be signed by other agencies and entities signatory to this Agreement.

The agencies agree to notify the State Water Board promptly of any requests or demands for disclosure of any records submitted in compliance with the Policy that have been identified as confidential and are shared with the SACCWIS agencies pursuant to this agreement.

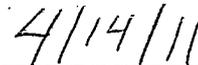
Because the ISO is not a "governmental agency" as set forth in Government Code section 6254.5(e), the ISO will seek to enter into non-disclosure agreements with any entities that have submitted information that is finally or provisionally determined by the State Water Board to be exempt from disclosure.

SIGNATURE LINES



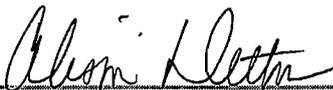
Thomas Howard
Chief Deputy Director
California Water Resources Control Board

Date



Richard Corey
Chief, Stationary Source Division
California Air Resources Board

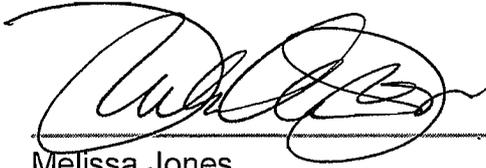
Date



Peter Douglas
Executive Director
California Coastal Commission

Alison Dettmer

Date



Melissa Jones
Executive Director
California Energy Commission

4/13/11

Date



Neil Millar
Executive Director, Infrastructure Development
California Independent System Operator

5/12/11

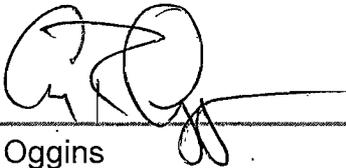
Date



Julie Fitch
Director, Energy Division
California Public Utilities Commission

4/8/11

Date



Cy Oggins
Chief, Division of Environmental Planning and Management
California State Lands Commission

4/8/11

Date

**MEMORANDUM OF AGREEMENT for the Statewide Advisory Committee on
Cooling Water Intake Structures
Attachment A**

Specific Agency Personnel Authorized to Access Information Determined to be
Confidential by the State Water Resources Control Board

California Air Resources Board

Richard Corey
Mike Tollstrup
Dave Mehl
Keith Roderick

California Coastal Commission

Peter Douglas, Executive Director
Susan Hansch, Chief Deputy Director
Hope Schmeltzer, Chief Counsel
Alison Dettmer, Deputy Director
Chris Pederson, Attorney
Louise Warren, Attorney
Jack Gregg, Water Quality Specialist
Tom Luster, Environmental Scientist

California Energy Commission

Mike Jaske
David Vidaver
Lana Wong
Connie Leni
Marc Pryor
Angela Tanghetti
Mark Hesters
Ean O'Neill
Melissa Jones
Dick Ratliff
Caryn Holmes

California Public Utilities Commission

Directors
Nancy Ryan
Julie Fitch

Legal Division

Arocles Agular
Jack Mulligan

Energy Division Staff

Andrew Barnsdale
Amy Baker
Billie Blanchard
Mary Jo Borak
Donald Brooks
Edward Charkowicz
Lily Chow
Kevin Dudney
Paul Douglas
Robert Elliott
Jaime Gannon
Steve Haine
Judith Ikle
Sara Kamins
Rebecca Lee
Charles Mee
Anne Mills
Aram Shumavon
Nathaniel Skinner
Molly Sterkel
Robert Strauss
Keith White

Consumer Protection and Safety Division

Valerie Beck
Winnie Ho
Chris Lee
Brian Leung
Lana Tran

California State Lands Commission

Mark Meier
Kathryn Colson
Jessica Rader
John Dye