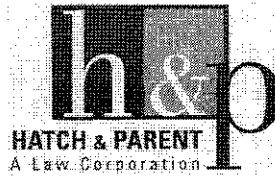


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5/26/07 Scoping Mtg.
CA Ocean Plan Amend.
Deadline: 7/27/07 Noon

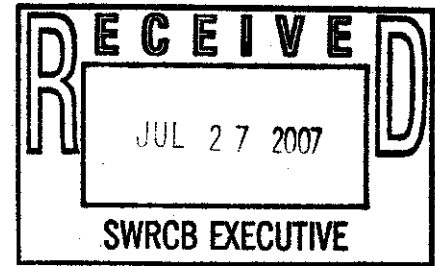
C. Wesley Strickland

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WStrickland@HatchParent.com

July 27, 2007

Via E-Mail

Ms. Song Her
Clerk to the Board
State Water Resources Control Board
1001 "I" Street
Sacramento, CA 95814



Re: Comment Letter - California Ocean Plan Amendment Scoping Document

Dear Ms. Her:

This letter comments on the California Ocean Plan Amendment Scoping Document ("Scoping Document") recently issued by the State Water Resources Control Board ("State Board"). These comments are provided on behalf of American States Water Company and its two primary subsidiaries, Golden State Water Company ("Golden State"), a regulated utility that owns and operates 42 separate public drinking water systems and one electric system in California, and American States Utility Services, which provides water-related contract services to public agencies throughout the United States. Golden State currently relies on its own groundwater and surface water rights and purchased water to provide safe, reliable water supplies for its customers, but in the future expects to utilize desalinated water as a valuable part of its water supply portfolio.

The Scoping Document recommends the establishment of a narrative water quality objective for brine disposal from desalination facilities. Golden State is concerned about the potential impacts of the proposed implementation of such an objective. The State Board's implementation of such an objective could critically impact the potential use of desalinated ocean water as a much-needed water supply source within California. Golden State asks that the Board, in considering whether to implement such an objective, consider the following factors.

Importance of Desalinated Water Supplies

Desalinated of both seawater and brackish water is an important future supply component for Golden State's customers, and California water users in general. This fact has been recognized by other California agencies. For example, the California Desalination Task Force recommended the inclusion of desalination as an element of California's balanced water supply portfolio. See California Department of Water Resources, *Water Desalination - Findings and*

SB 437680 v2.006774.0212

Recommendations 7 (2003). In addition, the California Water Plan assumes that over 400,000 acre-feet per year of additional seawater desalination will be made available by 2030. See California Department of Water Resources, *California Water Plan Update 2005* 6-2, 6-3 (2005).

As California's population continues to grow, the future reliability of existing water supplies is uncertain. One need look no further than the current situation in the Bay-Delta to see the impact that environmental concerns may have on future water supply sources. Additionally, the impacts that climate change may have on the availability of current water supplies is presently unclear. This uncertainty means that the need for desalinated seawater as an additional water supply source for the state will continue to increase. The State Board's regulation of the discharges of desalination plants can have a significant impact on the availability of that supply. We ask that the State Board consider the impact of its proposed Ocean Plan Amendment on the viability of desalination as a future water supply alternative and not include a brine discharge standard that will erect unreasonable barriers to this much-needed supply.

Consistency of Regulatory Standards

The State Board's regulation of desalination should be consistent with the requirements of other regulatory agencies. Desalination plants along the California coastline may be subject to the jurisdiction of many state regulatory agencies, including the California Coastal Commission, the State Lands Commission, the California Energy Commission, the California Public Utilities Commission and the California Department of Health Services. Though all may not regulate the brine discharges proposed to be regulated under the Ocean Plan, the regulations of each will create an intricate web of regulations with which a regulated desalinating entity must comply.

The Desalination Task Force has recommended that, to improve cooperation and consistency in the permitting processes, the review process for each desalination project should be coordinated among regulators. See California Department of Water Resources, *Water Desalination - Findings and Recommendations 8* (2003). As this is not the case at present, the effect of various regulatory requirements placed on ocean desalination may have the effect of frustrating the use of desalination as a water supply option in California. Care should be taken to avoid such a situation. While the State Board plays a limited part in the regulatory framework regarding desalination, to the extent the State Board can harmonize its regulation with that of other regulatory agencies, this will facilitate the use of desalination as a water supply source for Californians.

The Financial Impacts of Any Regulation Should be Analyzed

The State Board's determination of whether and how to regulate the discharges of desalination plants should be subject to a financial impacts analysis. As described above, there are many regulatory agencies that may exercise regulatory jurisdiction over ocean desalination activities. Complying with the regulatory requirements of each could act as a significant hurdle to the utilization of desalinated water as part of California's water supply portfolio.

In addition to ensuring that its regulatory requirements, when viewed as part of the larger regulatory framework, do not create competing obligations for a desalinating entity, the State Board should examine the financial impact of its proposed regulation. The desalination of ocean water is already an expensive venture, the cost of which presently precludes many water purveyors from including desalinated water among their supply sources. See California Department of Water Resources, *California Water Plan Update 2005 6-4* (2005). The financial impact of the water quality objective will determine the extent to which desalinated water will be available as a water supply option. Accordingly, in order to present an accurate picture of the impacts of any State Board brine discharge regulation, the costs of compliance with such a water quality objective should be analyzed and considered in setting the standard.

The State Board Should Consider the Environmental Costs of Regulation

As described above, the State Board's regulation of desalination brine discharges may materially impact the feasibility and cost of desalination, and the State Board should consider this impact in determining whether and how to regulate those discharges. The State Board should also consider the environmental costs of such regulation. While the implementation of a brine discharge water quality objective might serve to protect the ocean environment, it may also lead to adverse environmental impacts based on the inevitable development of alternative water supplies.

The California Water Plan Update 2005, as described above, assumes the development of over 400,000 acre-feet per year of additional desalinated water supply in the coming years. Should a State Board water quality objective frustrate the development of such desalinated supplies, water purveyors would be forced to turn to other supplies to meet their water needs. The development of those alternative water supplies could similarly have adverse environmental impacts, and these environmental costs should be considered by the State Board in its evaluation of potential regulation of seawater desalination.

We appreciate the opportunity to provide comments regarding the Scoping Document. If the members of the State Board or staff have any questions regarding our comments above, please feel free to contact us.

Sincerely,



C. Wesley Strickland
Bradley J. Herrema
For HATCH & PARENT
A Law Corporation