

City of Morro Bay

City Council Agenda

Mission Statement

The City of Morro Bay is dedicated to the preservation and enhancement of the quality of life. The City shall be committed to this purpose and will provide a level of municipal service and safety consistent with and responsive to the needs of the public.

REGULAR MEETING – SEPTEMBER 28, 2009

**CLOSED SESSION – SEPTEMBER 28, 2009
CITY HALL CONFERENCE ROOM – 4:45 P.M.
595 HARBOR ST., MORRO BAY, CA**

CS-1 GOVERNMENT CODE SECTION 54956.8; REAL PROPERTY TRANSACTIONS: Instructing City's real property negotiator regarding the price and terms of payment for the purchase, sale, exchange, or lease of real property.

Property: 781 Market Street and the Corner of Pacific Street and Market Street.
Negotiating Parties: George Salwasser and the City of Morro Bay.
Negotiations: Purchase and Sale Conditions.

**IT IS NOTED THAT THE CONTENTS OF CLOSED SESSION MEETINGS
ARE CONFIDENTIAL AND EXEMPT FROM DISCLOSURE.**

**PUBLIC SESSION – SEPTEMBER 28, 2009
VETERANS MEMORIAL HALL - 6:00 P.M.
209 SURF ST., MORRO BAY, CA**

ESTABLISH QUORUM AND CALL TO ORDER
MOMENT OF SILENCE
PLEDGE OF ALLEGIANCE
MAYOR AND COUNCILMEMBERS ANNOUNCEMENTS & PRESENTATIONS
CLOSED SESSION REPORT

PUBLIC COMMENT PERIOD - Members of the audience wishing to address the Council on City business matters (other than Public Hearing items under Section B) may do so at this time.

To increase the effectiveness of the Public Comment Period, the following rules shall be followed:

- When recognized by the Mayor, please come forward to the podium and state your name and address for the record. Comments are to be limited to three minutes.
- All remarks shall be addressed to Council, as a whole, and not to any individual member thereof.
- The Council respectfully requests that you refrain from making slanderous, profane or personal remarks against any elected official, commission and/or staff.
- Please refrain from public displays or outbursts such as unsolicited applause, comments or cheering.
- Any disruptive activities that substantially interfere with the ability of the City Council to carry out its meeting will not be permitted and offenders will be requested to leave the meeting.
- Your participation in City Council meetings is welcome and your courtesy will be appreciated.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk, (805) 772-6205. Notification 72 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

A. CONSENT CALENDAR

Unless an item is pulled for separate action by the City Council, the following actions are approved without discussion.

A-1 RESOLUTION NO. 49-09 APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH; (ADMINISTRATIVE SERVICES)

RECOMMENDATION: Adopt Resolution No. 49-09.

A-2 PROCLAMATION DECLARING OCTOBER 2009 AS RIDSHARE MONTH"; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Proclamation.

A-3 STATUS REPORT ON APPLICATIONS FOR ECONOMIC STIMULUS FUNDING; (ADMINISTRATION)

RECOMMENDATION: Accept the status report for file.

B. PUBLIC HEARINGS, REPORTS & APPEARANCES

B-1 POLICY DISCUSSION ON WATER SERVICES OUTSIDE OF CITY LIMITS; (PUBLIC SERVICES)

RECOMMENDATION: Review policies for providing water service outside of the City limits, and provide direction to staff on whether or not to continue to provide water services outside of the City limits.

C. UNFINISHED BUSINESS

C-1 RESOLUTION DETAILING STRATEGIES TO PREVENT AND REDUCE VACANCIES ON THE EMBARCADERO AND TO STIMULATE BUSINESS; (HARBOR)

RECOMMENDATION: Adopt Resolution No. 47-09 approving strategies to prevent and reduce vacancies on City properties on the Embarcadero and to stimulate business.

C-2 CONTINUED DISCUSSION ON STATE WATER RESOURCES CONTROL BOARD ONCE-THROUGH COOLING STATEWIDE POLICY; (PUBLIC SERVICES)

RECOMMENDATION: Discuss and direct staff accordingly.

D. NEW BUSINESS

D-1 DECLARATION OF A WATER EMERGENCY AND INSTITUTION OF MANDATORY CONSERVATION REQUIREMENTS DURING THE STATE WATER PROJECT SHUTDOWN; (PUBLIC SERVICES)

RECOMMENDATION: Adopt Resolution No. 50-09 declaring a water emergency during the State Water Project annual maintenance shutdown and instituting mandatory conservation requirements.

D-2 APPROVAL OF RESOLUTION 51-09 REGARDING CITY'S INTENTION TO SELL THE CITY-OWNED PROPERTY AT 781 MARKET AND THE CITY-OWNED PROPERTY AT THE CORNER OF PACIFIC AND MARKET IN MORRO BAY, CALIFORNIA; (CITY ATTORNEY)

RECOMMENDATION: Adopt Resolution No. 51-09 regarding the City's intention to sell real property owned by the City.

D-3 DISCUSSION OF CITY'S NOTICING POLICY; (ADMINISTRATION)

RECOMMENDATION: Approve the outlined procedure for notification of stakeholders in City capital projects that require an environmental impact report.

E. DECLARATION OF FUTURE AGENDA ITEMS

F. ADJOURNMENT

THIS AGENDA IS SUBJECT TO AMENDMENT UP TO 72 HOURS PRIOR TO THE DATE AND TIME SET FOR THE MEETING. PLEASE REFER TO THE AGENDA POSTED AT CITY HALL FOR ANY REVISIONS OR CALL THE CLERK'S OFFICE AT 772-6200 FOR FURTHER INFORMATION.

MATERIALS RELATED TO AN ITEM ON THIS AGENDA SUBMITTED TO THE CITY COUNCIL AFTER DISTRIBUTION OF THE AGENDA PACKET ARE AVAILABLE FOR PUBLIC INSPECTION AT CITY HALL LOCATED AT 595 HARBOR STREET; MORRO BAY LIBRARY LOCATED AT 625 HARBOR STREET; AND MILL'S COPY CENTER LOCATED AT 495 MORRO BAY BOULEVARD DURING NORMAL BUSINESS HOURS.

IN COMPLIANCE WITH THE AMERICANS WITH DISABILITIES ACT, IF YOU NEED SPECIAL ASSISTANCE TO PARTICIPATE IN A CITY MEETING, PLEASE CONTACT THE CITY CLERK'S OFFICE AT LEAST 24 HOURS PRIOR TO THE MEETING TO INSURE THAT REASONABLE ARRANGEMENTS CAN BE MADE TO PROVIDE ACCESSIBILITY TO THE MEETING.



AGENDA NO: A-1

MEETING DATE: 09/28/09

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 22, 2009

FROM: Susan Slayton, Administrative Services Director

SUBJECT: Resolution No. 49-09 Approving the Form of and Authorizing the Execution and Delivery of a Purchase and Sale Agreement and Related Documents with Respect to the Sale of the Seller's Proposition 1A Receivable from the State; and Directing and Authorizing Certain Other Actions in Connection Therewith

RECOMMENDATION:

Council to adopt Resolution No. 49-09.

MOTION: I move that Council adopt Resolution No. 49-09, approving the form of and authorizing the execution and delivery of a purchase and sale agreement and related documents with respect to the sale of City's Proposition 1A receivable from the State, and other aspects of the Resolution.

FISCAL IMPACT:

By participating in the CA Communities Prop 1A Securitization Program, the City will receive the \$301,206 in the fiscal year 2009/10 as anticipated. What the City will lose is the 3 years' worth of interest earnings it would receive in 2012/13 when the \$301,206 is paid off by the State, which is approximately \$7,000.

SUMMARY:

In response to the decisions made at the State level, CA Communities is sponsoring a program that will allow tax-exempt bonds to be issued, and the proceeds to be distributed to all participating cities to cover the loss of property tax revenue that the State is borrowing. By enacting Resolution No. 49-09, the City agrees to sell its property tax receivable in the amount of \$301,206 to CA Communities and the rights to the interest on that receivable that the State has promised to pay in 2012/13.

BACKGROUND:

On July 28, 2009, Governor Arnold Schwarzenegger signed the State's 2009/10 fiscal year budget that contained, along with other cuts, a \$1.8 billion shift of city, county and special district property taxes, which impacts Morro Bay by \$301,206. This take-away from the cities led to the Prop 1A Securitization Program sponsored by California Statewide Communities Development Authority (CSCDA or CA Communities), a joint powers authority sponsored by the California State Association of Counties and the League of California Cities. CA Communities' mission is to provide

Prepared By: _____ Dept Review: _____

City Manager Review: _____

City Attorney Review: _____

local governments and private entities access to low-cost, tax-exempt financing for projects that provide a tangible public benefit, contribute to social and economic growth and improve the overall quality of life in local communities throughout California.

DISCUSSION:

When Governor Schwarznegger signed the State's 2009/10 fiscal year budget, he enacted the following cuts to California cities, counties and special districts:

- \$1.7 billion Redevelopment property tax take (\$1.35b in FY2009/10) and (\$350m in 2010/11);
- A \$1.8 billion shift of city, county and special district Proposition 1A property taxes; and
- The taking of most (~96%) of city and county Highway Users Tax Act (HUTA) gas tax revenues to fund state transportation debt (LEGISLATION TO OVERTURN PENDING).

The impact of the Prop 1A property tax shift to Morro Bay's General Fund is \$301,206, which the General Fund is unable to cover with current revenues. Staff decided to ask Council to participate in a program sponsored by CA Communities, which will backfill this shift, making Morro Bay whole. CA Communities will give us a check for \$301,206 in exchange for the \$301,206 IOU from the State, and the interest that the State has promised to pay on the \$301,206 in 2012/13 (approx \$7,000).

To participate in the CA Communities Prop 1A Securitization Program, the City must adopt the Resolution presented with this staff report.

The alternative to participating in this program is to borrow the money from the Risk Management Fund or the General Fund Accumulation Fund.

RESOLUTION NO. 49-09

A RESOLUTION APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, pursuant to Section 25.5 of Article XIII of the California Constitution and Chapter 14XXXX of the California Statutes of 2009 (Assembly Bill No. 15), as amended (the "Act"), certain local agencies within the State of California (the "State") are entitled to receive certain payments to be made by the State on or before June 30, 2013, as reimbursement for reductions in the percentage of the total amount of ad valorem property tax revenues allocated to such local agencies during the State's 2009-10 fiscal year (the "Reimbursement Payments"), which reductions have been authorized pursuant to Sections 100.05 and 100.06 of the California Revenue and Taxation Code; and

WHEREAS, the City of Morro Bay, a local agency within the meaning of Section 6585(f) of the California Government Code (the "Seller"), is entitled to and has determined to sell all right, title and interest of the Seller in and to its "Proposition 1A receivable", as defined in Section 6585(g) of the California Government Code (the "Proposition 1A Receivable"), namely, the right to payment of moneys due or to become due to the Seller pursuant to Section 25.5(a)(1)(B)(iii) of Article XIII of the California Constitution and Section 100.06 of the California Revenue and Taxation Code, in order to obtain money to fund public capital improvements or working capital; and

WHEREAS, the Seller is authorized to sell, or otherwise dispose of, its property as the interests of its residents require; and

WHEREAS, the California Statewide Communities Development Authority, a joint exercise of powers authority organized and existing under the laws of the State (the "Purchaser"), has been authorized pursuant to Section 6588(x) of the California Government Code to purchase the Proposition 1A Receivable; and

WHEREAS, the Purchaser desires to purchase the Proposition 1A Receivable and the Seller desires to sell the Proposition 1A Receivable pursuant to a purchase and sale agreement by and between the Seller and the Purchaser in the form presented to this City Council (the "Sale Agreement") for the purposes set forth herein; and

WHEREAS, in order to finance the purchase price of the Proposition 1A Receivable from the Seller and the purchase price of other Proposition 1A Receivables from other local agencies, the Purchaser will issue its bonds (the "Bonds") pursuant to Section 6590 of the California Government Code and an Indenture (the "Indenture"), by and between the Purchaser and [TRUSTEE], as trustee (the "Trustee"), which Bonds will be payable solely from the proceeds of the Seller's Proposition 1A

Receivable and other Proposition 1A Receivables sold to the Purchaser by local agencies in connection with the issuance of the Bonds; and

WHEREAS, the Seller acknowledges that (i) any transfer of its Proposition 1A Receivable to the Purchaser pursuant to the Sale Agreement shall be treated as an absolute sale and transfer of the property so transferred and not as a pledge or grant of a security interest by the City of Morro Bay to secure a borrowing, (ii) any such sale of its Proposition 1A Receivable to the Purchaser shall automatically be perfected without the need for physical delivery, recordation, filing or further act, (iii) the provisions of Division 9 (commencing with Section 9101) of the California Commercial Code and Sections 954.5 to 955.1 of the California Civil Code, inclusive, shall not apply to the sale of its Proposition 1A Receivable, and (iv) after such transfer, the Seller shall have no right, title, or interest in or to the Proposition 1A Receivable sold to the Purchaser and the Proposition 1A Receivable will thereafter be owned, received, held and disbursed only by the Purchaser or a trustee or agent appointed by the Purchaser; and

WHEREAS, the Seller acknowledges that the Purchaser will grant a security interest in the Proposition 1A Receivable to the Trustee and any credit enhancer to secure payment of the Bonds; and

WHEREAS, a portion of the proceeds of the Bonds will be used by the Purchaser to, among other things, pay the purchase price of the Proposition 1A Receivable; and

WHEREAS, the Seller will use the proceeds received from the sale of the Proposition 1A Receivable for any lawful purpose as permitted under the applicable laws of the State.

NOW, THEREFORE, BE IT RESOLVED, the City Council of the City of Morro Bay hereby resolves as follows:

Section 1. All of the recitals set forth above are true and correct, and this City Council hereby so finds and determines.

Section 2. The Seller hereby authorizes the sale of the Proposition 1A Receivable to the Purchaser for a price equal to the amount certified as the Initial Amount (as defined in the Sale Agreement) by the County auditor pursuant to the Act. The form of Sale Agreement presented to the City Council is hereby approved. An Authorized Officer (as set forth in Appendix A of this Resolution, attached hereto and by this reference incorporated herein) is hereby authorized and directed to execute and deliver the Sale Agreement on behalf of the Seller, which shall be in the form presented at this meeting.

Section 3. Any Authorized Officer is hereby authorized and directed to send, or to cause to be sent, an irrevocable written instruction to the State Controller (the "Irrevocable Written Instruction") notifying the State of the sale of the Proposition 1A Receivable and instructing the disbursement pursuant to Section 6588.6(c) of California Government Code of the Proposition 1A Receivable to the Trustee, on behalf of the Purchaser, which Irrevocable Written Instruction shall be in the form presented at this meeting.

Section 4. The Authorized Officers and such other Seller officers, as appropriate, are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents, including but not limited to, if required, appropriate escrow instructions relating to the delivery into escrow of executed documents prior to the closing of the Bonds, and such other documents mentioned in the Sale Agreement or the Indenture, which any of them may deem necessary or desirable in order to implement the Sale Agreement and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution; and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 5. All consents, approvals, notices, orders, requests and other actions permitted or required by any of the documents authorized by this Resolution, whether before or after the sale of the Proposition 1A Receivable or the issuance of the Bonds, including without limitation any of the foregoing that may be necessary or desirable in connection with any default under or amendment of such documents, may be given or taken by an Authorized Officer without further authorization by this City Council, and each Authorized Officer is hereby authorized and directed to give any such consent, approval, notice, order or request, to execute any necessary or appropriate documents or amendments, and to take any such action that such Authorized Officer may deem necessary or desirable to further the purposes of this Resolution.

Section 6. The City Council acknowledges that, upon execution and delivery of the Sale Agreement, the Seller is contractually obligated to sell the Proposition 1A Receivable to the Purchaser pursuant to the Sale Agreement and the Seller shall not have any option to revoke its approval of the Sale Agreement or to determine not to perform its obligations thereunder.

Section 7. This Resolution shall take effect from and after its adoption and approval.

PASSED AND ADOPTED by the City Council of the City of Morro Bay, State of California, this _____ day of _____, 2009, by the following vote:

AYES:
NOES:
ABSENT:

Janice Peters, Mayor

ATTEST:

APPROVED AS TO FORM:

Bridgett Bauer, City Clerk

Robert Schultz, Esq., City Attorney

CITY OF MORRO BAY

Authorized Officers:

Andrea Lueker, City Manager

Susan Slayton, Administrative Services Director

Any designee of any of them, as appointed in a written certificate of such Authorized Officer delivered to the Trustee.

AGENDA NO: A-2

MEETING DATE: 9/28/09

**A PROCLAMATION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY
DECLARING OCTOBER 2009 AS “RIDESHARE MONTH”**

**CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the City of Morro Bay recognizes that 78 percent of commuters in San Luis Obispo County commute to work by driving alone, which significantly contributes to air pollution, congestion and decreased quality of life locally and throughout the state; and

WHEREAS, the City of Morro Bay recognizes transportation choices including carpooling, vanpooling, taking the bus, walking, biking or working from home serve to preserve air and water quality, improve personal health, reduce congestion, reduce commuter cost, reduce parking demand and reduce demand on foreign oil; and

WHEREAS, SLO Regional Rideshare, as a division of the San Luis Obispo Council of Governments, supports clean air, reduced road congestion and transportation choices for people living, working and visiting San Luis Obispo County; and

WHEREAS, SLO Regional Rideshare executes the annual campaign Rideshare Month for SLO County commuters and the 2009 theme is “Commute for Cash Challenge”; and

WHEREAS, Rideshare Month 2009 in San Luis Obispo County, sponsored by SLO Regional Rideshare works with RTA, Paso Express, North County Shuttle, SLO Transit, Cal Poly, Air Pollution Control District, Ride-On Transportation, Enterprise Vanpool and VPSI to encourage people to take the Commute for Cash Challenge; and

WHEREAS, employees and employers are encouraged to register online for the Rideshare Month Commute for Cash Challenge making them eligible to win their commute savings in cash along with random daily and weekly prizes; and

WHEREAS, Rideshare Month will include Transit Week where participants can ride the bus for free, Vanpool Week where vanpools can win grand prizes, Carpool Week where carpools can win free car services and Bike/Walk Week with Bike Breakfasts, safety workshops and free repairs.

NOW, THEREFORE, BE IT RESOLVED, that the City of Morro Bay does hereby declare October 2009 as “Rideshare Month” in the City of Morro Bay.

IN WITNESS WHEREOF I have hereunto
set my hand and caused the seal of the City
of Morro Bay to be affixed this 28th day of
September 2009

JANICE PETERS, Mayor
City of Morro Bay, California



AGENDA NO: A-3

MEETING DATE: 9/28/09

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 22, 2009
FROM: Andrea K. Lueker, City Manager
SUBJECT: Status Report on Applications for Economic Stimulus Funding

RECOMMENDATION:

Staff recommends the City Council review this information and accept this report.

MOTION: I move the City Council accept the Status Report on Applications for Economic Stimulus Funding for file.

FISCAL IMPACT:

Not Applicable.

SUMMARY:

In order to keep the City Council, staff and residents of Morro Bay informed regarding the City's efforts in attracting Economic Stimulus funds, staff will be presenting a status report to the City Council on a monthly basis outlining the applications to date.

BACKGROUND:

On February 17, 2009 President Barack Obama signed into law the American Recovery and Reinvestment Act (ARRA) of 2009. The stated purpose of the ARRA is:

- (1) To preserve and create jobs and promote economic recovery.*
- (2) To assist those most impacted by the recession.*
- (3) To provide investments needed to increase economic efficiency by spurring technological advances in science and health.*
- (4) To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.*
- (5) To stabilize state and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.*

The ARRA provides funds for investments in many programs, including health care, energy,

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City Manager Review: _____	
City Attorney Review: _____	

infrastructure, education, and public safety. The total cost of the package is \$787 billion, and consists of nearly \$355 billion for upgrades to transportation, infrastructure, construction, health care programs, education and housing assistance, and energy efficiency projects, \$144 billion in state and local fiscal relief, and \$288 billion in personal and business tax credits.

Specifically in California, the League of California Cities has compiled a “City Funding Book” to assist cities in their pursuit for funding. There will be regular updates made available on the League’s website at www.cacities.org as more information becomes available.

DISCUSSION:

Attached is a chart of the applications that have been submitted to date for funds related to the Economic Stimulus funding. **The programs listed represent only those which funding has been requested and or applications have been submitted.** Staff is tracking a number of other programs through a spreadsheet as well as “grant tracking report” form whose application dates are forthcoming.

u.w.council.status report economic stimulus 9 28 09



AGENDA NO: B-1

MEETING DATE: 9/28/09

Staff Report

TO: Honorable Mayor and City Council DATE: September 22, 2009

FROM: Dylan Wade, Utilities/Capital Projects Manager

SUBJECT: Policy Discussion on Water Services outside of City limits.

RECOMMENDATION:

It is recommended that the City Council review the Policy for providing water service outside of the City limits and provide direction to Staff on whether or not to continue to provide water services outside of the City limits.

FISCAL IMPACT:

Depending on the course of action the City Council selects, there will potentially be large costs or cost savings for the water users within the City limits. In order to continue to provide water service outside of City limits, significant infrastructure investments will be necessary. Analyzed alternatives could have reoccurring costs of up to several hundred thousand per year, and capital costs approaching two million dollars.

BACKGROUND:

The City of Morro Bay's Municipal Code indicates, "The City will furnish water service in accordance with the regulations contained in this chapter and in accordance with other applicable ordinances, to any property within the City limits and to such areas outside the City limits as the Council may designate."

From time to time since the incorporation of the City, water meters and water services have been provided to customers outside of the City limits. Some of these connections were made following the procedure outlined in the municipal code with a designation by Council, while others were made in order to secure access or water for the City. There are others that have no available records pertaining to their connection.

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City Attorney Review: _____

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Currently the City has a water service at twelve locations outside of the City limits. From an investigation of the existing documentation and from discussions with the property owners over the last year, the City has been able to glean the information about each connection a summary of which is provided in Attachment No. 1.

The City of Morro Bay has four sources that are used to supply water listed in order of supplied volume; State Water, the Chorro Groundwater Basin, the Desalination Plant, and the Morro Groundwater Basin. All of these resources have faced challenges in the last several years to their operation. Both the Morro and Chorro groundwater basins have been impacted by pollution. The Desalination Plant has an iron problem with its seawater feed system and has only been used in the last several years to treat water from the Morro Groundwater Basin to remove nitrates. The State Water Project has had several judicial decisions that have reduced the reliability of that system. Because of the impacts to all of our sources, each of these sources becomes very important to the long-term water supply of the City.

All of the water service connections that are located within the Chorro Valley receive water from a single pumping line as demonstrated in the Attachment No. 2. When the City's wells in the Ashurst and Romero well fields are operating, water from these wells blends in this line and then is used by these customers prior to being transported to the King's tank to blend with water from other sources. When only one well from the Ashurst well field blends with the water from the Romero well it can still meet the nitrate standards, but when more than one Ashurst well is running then the blended water will likely exceed the nitrate limits. When the Chorro Valley wells are not operating, these customers outside of the City limits receive the same blend of water as all other customers within the City limits, which consistently meet drinking water standards. The wells in the Chorro Valley have permit conditions that currently limit their use as a year round source.

At the time that these connections were made, the water quality in the Chorro Groundwater Basin was considered safe for drinking and met the State and Federal regulations governing water quality. In the last decade water quality has deteriorated in the basin while a number of new Federal regulations have come into effect governing water supplies.

DISCUSSION:

Because of the degradation to the water quality and the changes in regulations, the City no longer has the ability to both maintain the pumping of wells in the Chorro Groundwater Basin while providing water to customers in the basin that meets all State and Federal standards. In order to both provide water to the customers outside the City limits and maintain the Chorro Groundwater resource for the benefit of the customers within the City limits, major modifications to the City's infrastructure would be required. These modifications would be needed to effectively deal with the nitrate contamination while also providing disinfection of the occasional bacteriological contamination events that impact the Chorro Groundwater Basin.

Some alternatives that staff has analyzed to maintain sufficient water resources for the residents of the City from the Romero and Ashurst wells include:

- 1- **Water Treatment Plant Alternative:** Providing point source treatment of the well water produced. This would require treatment at the Ashurst well field for nitrates through either ion exchange or reverse osmosis and disinfection facilities at both the Ashurst and Romero well sites. While the City currently has disinfection facilities in place, additional chlorine contact time will need to be provided through the addition of storage volume. The positive aspect of this project is that the water leaving the well sites would meet all applicable health and safety standards and would be safe to deliver to the customers in the Chorro Valley. The negative aspects of this project would be difficult permitting through the County because of flood plain issues, the capital and ongoing maintenance costs of the project, and the need to add additional staff to cover the operation of these facilities. Installation of sewer disposal facilities to the Ashurst well field or some other method of reject/brine disposal would be required. Capital costs are roughly estimated at \$200,000 at Romero, and \$800,000 at Ashurst excluding design/permitting/legal fees and estimating contingencies. The Water Department's annual operating expenses and staffing levels would also have to increase.
- 2- **New Pipeline Alternative:** Installation of portable distribution pipe main along Quintana Road, through existing easements, all the way out to the Romero well field. This while not an ideal solution from a water quality standpoint (long dead end lines are difficult to flush) this is probably the more technically feasible than Option 1. The approximate length of this pipeline would be 2.7 miles. Costs to install portable water lines are approximately \$100 to \$150 per linear foot depending on the specific location and the restoration requirements. This leads to a total project cost excluding design/permitting/legal fees and estimating contingencies of \$1,400,000 to \$2,100,000. This option would have no projected impact to the Water Department's operating expenses and staffing levels.
- 3- **Nonpotable Water Agreements:** Continuing to provide water to customers outside of the City limits via non-potable water agreements. This alternative will not solve the potential problems of the Chorro Valley customers, as their water will still not meet the standards for potable water at times when the Chorro wells are running. This alternative effectively creates a dual water system of the City's distribution system, and complicates its operation. Dual water systems require higher levels of certification of all of our Water Department staff. These certifications are difficult to obtain and would likely increase City staffing costs. The City would also have to take measures to ensure that this non-potable water is not used for drinking purposes in each and every customers home in the Chorro Valley. The City, as a public water system, cannot install home treatment devices, which while probably capable of treating the water from the Chorro Valley to meet safe drinking water standards, are not a legal solution for the City to implement.

- 4- **Disconnect Customers Outside of the City Limits:** Disconnect customers outside of the City limits from the pumping line. The benefit of removing water services from the pumping line is that blending and disinfection can occur within the pumping line prior to being introduced at the Kings tanks. This will enable a blended and disinfected product to be introduced at the Kings tanks and will protect the City from the liability of providing minimally treated well water to customers who currently are connected to a pumping line. This alternative can be pursued in conjunction with the second alternative or individually. Costs for this alternative are difficult to estimate but are likely to be an order of magnitude less than the other alternatives. This alternative is consistent with Section 13.14.040 of the Municipal Code, which limits the City's liability to provide water outside of the City limits.

Regardless of the direction provided, the degradation of water quality in the Chorro Valley, coupled with the connection of water services to the pumping line, and further complicated by more stringent regulations, will continue to strain the City's water resources until resolved. Staff is requesting that the Council rescind previous direction designating properties outside the City limits for water service. Staff will then negotiate the terms of removal of service with the impacted property owners, in accordance with any existing agreements, and for the benefit of the residents of the City of Morro Bay.

CONCLUSION:

It is recommended that the City Council review the Policy for providing water service outside of the City limits and provide direction to Staff on whether or not to continue to provide water services outside of the City limits.

Attachment No. 1

Water Accounts Outside of the City Limits by Account Number

(Addresses have been removed to protect the identity of the account holders)

1. Account # 78000130- Chorro Creek Road – Service began March 7th 1995 - Water service to this parcel was provided according to the terms of the agreement dated August 10th 1982 that enables the City of Morro Bay to utilize well 9A. This agreement was between the City and a corporation that previously owned the land and may be terminated in accordance with the terms and conditions of that agreement. Termination of this agreement will result in the loss of well # 9A as a water resource for the City, and the City will recover the use of a boat slip on the Embarcadero. The current property owner pays for water consumed per the terms of the agreement.
2. Account # 78000120- Chorro Creek Road – Service began March 1st 1987 - Water service to this parcel was provided according to the terms of the agreement dated August 10th 1982 that enables the City of Morro Bay to well 9A. This agreement is between the City and a corporation that owns the land and may be terminated in accordance with the terms and conditions of that agreement. Termination of this agreement will result in the loss of well # 9A as a water resource for the City, and the City will recover the use of a boat slip on the Embarcadero. Water is provided free of charge to the current property owner.
3. Account # 78000100 – Chorro Creek Road – Service began August 18th 1986 – Water service to this parcel does not appear to be covered by any agreement. The current property owner pays for water consumed.
4. Account # 78000950 – Canet Road – Service began August 1998 – Water service to this parcel was granted as part of an agreement for the use of and easements to well # 8 dated March 5th 1975. The City abandoned the easements and the use of well #8 in 1997 and informed the property owners that service would be disconnected on July 1, 1998. The current property owner pays for water consumed.
5. Account # 78001000 - Canet Road – Service began August 1998 – Water service to this parcel was part of an agreement for an access and pipeline easement to the Romero well field parcel dated November 14th 1967. This easement is in use by the City of Morro Bay. This agreement terminates when the City no longer owns the Romero well field parcel. The current property owner pays for water consumed above a threshold per the terms of the agreement.
6. Account # 78000900 – Chorro Creek Road – Service began August 1998 – Water service to this parcel does not appear to be covered by any agreement, although an investigation of the City’s records did turn up a letter dated March 22, 1978 discussing various options for

an agreement. The current property owner does not pay for water consumed per the historical practice.

7. Account # 15001100 – Adobe Road – Service began July 9th 1968. Water service to this parcel began with an application for service dated June 4th 1964. Water was provided at the rate for services outside the City limits until a letter dated September 11th 1972 modified the account to pay the same rate for service as the water users within the City limits in recognition of an agreement that previously existed for well #8. The current property owner pays for water consumed.
8. Account # 15001050 – Adobe Road – Service began January 1st 1965. Water service to this parcel does not appear to be covered by any agreement. The current property owner pays for water consumed.
9. Account # 78000050 – Chorro Creek Road – Service began January 1996 – Water service to this parcel does not appear to be covered by any agreement. The current property owner pays for water consumed.
10. Account # 78000850 – Quintana Road – Service began October 18th 1993 – Water service was granted to this parcel by City Council action on January 27th 1970. The current property owner pays for water consumed.
11. Account # 15000970 – Quintana Road – Service began October 16th 1988 – Emergency water service was granted to this parcel by City Council action. Water service has been inactive since 1992.
12. Account # 15001300 – Ranch Road – Service began January 1st 1984 – Water service to this parcel does not appear to be covered by any agreement. The current property owner pays for water consumed.

To Kings Tank and Quintana
Road Customer

QUINTANA ROAD



To Romero Well Field, Quintana Road,
Adobe Road, and Canet Road Customers

To Chorro Creek
Road Customers

CHORRO CREEK ROAD

To Ashurst Well Field

Attachment No. 2

WATER LINES
CHORRO CREEK RD.
Not to Scale



**CITY OF
MORRO BAY**
DEPARTMENT OF
PUBLIC WORKS



AGENDA NO: C-1

MEETING DATE: 9/28/2009

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 28, 2009

FROM: Harbor Director

SUBJECT: **Resolution detailing strategies to prevent and reduce vacancies on the Embarcadero and to stimulate business.**

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution #47-09 approving strategies to prevent and reduce vacancies on City properties on the Embarcadero and to stimulate business.

MOTION: **I move that the City Council adopt Resolution #47-09 approving strategies to prevent and reduce vacancies on City properties on the Embarcadero and to stimulate business.**

FISCAL IMPACT:

Unknown but relatively small loss of interest from deferring minimum annual rent payments and lost net rental revenues estimated at less than \$20,000 due to the waiver of CPI increases in minimum rent for certain Lease Sites in Fiscal Year 09-10.

BACKGROUND:

At your September 14, 2009 meeting the City Council reviewed a report on City Tidelands leases, revenues and rental structures and considered a similar resolution. The City Council directed that changes be made to the previous Resolution to allow office uses with no time limit on second floor spaces only and to set Fiscal Year 09-10 minimum annual rents at the same amount as they were in Fiscal Year 08-09, effectively waiving CPI increases in Fiscal Year 09-10. Leases that were due for their 5-year adjustment in 09-10 based on either 75% of the total annual rent paid in the last five years or 8% of the appraised amount of the underlying property shall be adjusted so that the minimum annual rent is either the 5 year adjustment amount or the Fiscal Year 08-09 amount, whichever is lower.

Prepared By: _____

Dept Review:_____

City Manager Review: _____

City Attorney Review: _____

Finally a clause has been added to the Resolution to clarify that the Resolution is for this year only unless the City Council should choose to reinstate this action in future years or take other similar actions at a later date.

CONCLUSION:

Staff recommends that the City Council adopt Resolution #47-09 approving strategies to prevent and reduce vacancies on City properties on the Embarcadero and to stimulate business.

RESOLUTION NO. 47-09

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA
APPROVAL OF RESOLUTION DETAILING STRATEGIES TO PREVENT
AND REDUCE VACANCIES ON THE EMBARCADERO
AND STIMULATE BUSINESS**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the City of Morro Bay is the lessor of certain properties on the Morro Bay Waterfront described as City Tidelands leases and properties; and,

WHEREAS, the local, California and national economies are experiencing the worst economic recession in at least 30 years, which has impacted many local businesses and resulted in vacancies on the City Tidelands lease properties; and,

WHEREAS, vacancies on Tidelands lease properties harm the City wide business environment and reduce direct rents received by the City in the form of percentage of gross sales rent collections; and

WHEREAS, the City Council of the City of Morro Bay desires to outline policies that can be established to support City Tidelands tenants and reduce vacancies for overall City business enhancement and the public good; and,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Morro Bay, California, that City staff is authorized to negotiate payment plans for past due rents and charges under the City Tidelands Lease Sites and to waive penalties and interests that would otherwise be required by the existing Tidelands lease agreements; and,

BE IT FURTHER RESOLVED that City staff is authorized to offer to all City Tidelands Lease Site tenants that they can pay any minimum annual rent payments which are normally due six months in advance the option of making those payments quarterly in advance; and,

BE IT FURTHER RESOLVED that the City Council will support office type uses on the second floor of City Tidelands Lease Site properties for the purpose of reducing vacancies, provided those uses conform with any and all planning and zoning regulations or requirements; and,

BE IT FURTHER RESOLVED that for the Fiscal Year 09-10 the City Council of Morro Bay directs that minimum annual rents for all modern City Leases (not including leases known as Pipkin or County Leases) shall be set at the exact same rate as the minimum annual rents were in Fiscal Year 08-09, except those sites where 5-year

appraisal adjustments have reset minimum annual rents to a level lower than the Fiscal Year 08-09, specifically LS71-74/71W-74W and LS89/89W. The effect of this action is to waive contractually outlined Consumer Price Index adjustments for certain modern City Leases in Fiscal Year 09-10 so that master tenants pass these savings through to subtenants in an effort to reduce vacancies on City Tidelands properties.

BE IT FURTHER RESOLVED that these actions are unique to Fiscal Year 09-10 and shall not continue or obligate the City to repeat or continue this Resolution in the future without further City Council action.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 28th day of September, 2009 on the following vote:

AYES:

NOES:

ABSENT:

Janice Peters, Mayor

ATTEST:

Bridgett Bauer, City Clerk



AGENDA NO: C-2

Meeting Date: 09/28/09 Action: _____

Staff Report

TO: Mayor and City Council **DATE:** September 28, 2009
FROM: Rob Schultz, City Attorney
SUBJECT: Discussion on State Water Resources Control Board Draft Once Through Cooling Statewide Policy for Power Plants

RECOMMENDATION:

Staff recommends that the City Council discuss and approve the attached comment letter in regard to the proposed Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling.

FISCAL IMPACT:

None.

BACKGROUND:

The State Water Board issued a notice of public hearing to receive comments on the proposed Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling. Attached is the notice and draft Policy. Staff attending the hearing on September 16, 2009 in Sacramento. Final comments must be submitted by September 30, 2009. Attached is the draft comment letter to the draft Policy.

The proposed Policy establishes technology-based standards to implement the Federal Clean Water Act section 316(b) and reduce the harmful effects associated with cooling water intake structures on marine and estuarine life. The proposed policy would apply to the 19 existing power plants (including Morro Bay) that currently have the ability to withdraw over 15 billion gallons per day from the State's coastal and estuarine waters using a single-pass system, also known as once-through cooling. According to the State Water Board Staff, the intent of the proposed Policy is to protect marine and estuarine life from the impacts of once-through cooling without disrupting the critical needs of the State's electrical generation and transmission system. This latest Board draft continues to require the phaseout of once-through cooling systems in existing plants, despite a recent U.S. Supreme Court decision permitting regulators to compare the costs of replacing the systems against the environmental and other benefits resulting from such replacements. The new draft, however, does permit a very limited cost-benefit analysis for operators of nuclear plants and small fossil-fueled

Prepared By: _____ Dept Review: _____
City Manager Review: _____
City Attorney Review: _____

plants.

Basically, according to the draft policy, existing coastal/estuarine plants can follow one of two “tracks”: Track 1—Install either wet or dry closed-cycle cooling; or Track 2—If Track 1 is not “feasible” install controls or operational measures that will achieve a level of performance within 90 percent of wet closed-cycle cooling. Track 2 controls and operational measures could include approaches such as installing screening on intakes and controlling flow rates during certain periods. The Morro Bay Power Plant would have until 2016 to be in compliance with either Track 1 or Track 2.

CONCLUSION:

Staff recommends that the City Council discuss and approve the attached comment letter in regard to Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling.



Linda S. Adams
Secretary for
Environmental Protection

State Water Resources Control Board

Executive Office

Charles R. Hoppin, Chairman
1001 I Street • Sacramento, California 95814 • (916) 341-5603
Mailing Address: P.O. Box 100 • Sacramento, California • 95812-0100
Fax (916) 341-5621 • <http://www.waterboards.ca.gov>



Arnold Schwarzenegger
Governor

NOTICE OF PUBLIC HEARING

PROPOSED WATER QUALITY CONTROL POLICY ON THE USE OF COASTAL AND ESTUARINE WATERS FOR POWER PLANT COOLING

NOTICE IS HEREBY GIVEN THAT the State Water Resources Control Board (State Water Board) will hold a public hearing to receive comments on a proposed statewide policy on the use of coastal and estuarine waters for power plant cooling (Policy). A quorum of the State Water Board may be present; however, no Board action will be taken. The location and time of the hearing are provided below.

Wednesday, September 16, 2009 – 9:00 a.m.
Cal/EPA Headquarters Building
Coastal Hearing Room
1001 I Street, 2nd Floor
Sacramento, CA 95814

BACKGROUND

The proposed Policy establishes technology-based standards to implement federal Clean Water Act section 316(b) and reduce the harmful effects on marine and estuarine life associated with cooling water intake structures. The proposed Policy would apply to the 19 existing power plants (including two nuclear plants) that currently have the ability to withdraw over 15 billion gallons per day from the State's coastal and estuarine waters using a single-pass system, also known as once-through cooling.

Cooling water withdrawals cause adverse impacts when larger aquatic organisms, such as fish and mammals, are trapped against a facility's intake screens (impingement) and when smaller organisms, such as larvae and eggs, are drawn through the cooling system (entrainment) and killed. In California, millions of fish are impinged and billions of larvae and eggs are entrained annually.

Section 316(b) is implemented through National Pollutant Discharge Elimination System (NPDES) permits, issued by the Regional Water Quality Control Boards (Regional Water Boards). Because there currently are no federal or state standards for implementing section 316(b) for existing power plants, permit writers must use their best professional judgment when re-issuing NPDES permits. Due to the resources required to evaluate the complex technical and biological issues related to intake structures, this approach puts a significant permitting burden on the Regional Water Boards and provides the potential for inconsistency in regulation of power plants that contribute to

California Environmental Protection Agency

the statewide power grid. The proposed Policy would provide clear standards and consistency in implementation of section 316(b) in the State's NPDES permit program, and ultimately make better use of both stakeholder and Water Board resources.

The intent of the proposed Policy is to protect marine and estuarine life from the impacts of once-through cooling without disrupting the critical needs of the State's electrical generation and transmission system. In developing this proposed Policy, State Water Board staff has met regularly with representatives from the California Energy Commission (CEC), the California Public Utilities Commission (CPUC), the California Coastal Commission (CCC), the California State Lands Commission, the California Air Resources Board, and the California Independent System Operator (CAISO) to develop realistic implementation plans and schedules that will ensure electric grid reliability. The proposed Policy applies an adaptive management approach that requires that the implementation schedule is reviewed periodically by an advisory committee and reports are submitted to the State Water Board for consideration of any needed action.

The proposed Policy requires an owner/operator of an existing power plant to reduce intake flow rate at each power-generating unit, at a minimum, to a level commensurate with what can be attained by a closed-cycle wet cooling system. Closed-cycle wet cooling uses much less water than once-through cooling because the water is re-circulated. Rather than discharging waste heat from the power plant back to the ocean or estuary, waste heat is transferred from the water to the atmosphere via evaporation in cooling towers. Some intake water is still required to make up for that lost to evaporation. A minimum 93 percent reduction in intake flow rate for each unit is required for compliance, compared to the facility's design intake flow rate. In addition, the through-screen intake velocity must not exceed 0.5 feet per second. Intake velocity influences whether fish are able to detect and escape the physical pull of the intake pumps.

If the owner/operator can demonstrate that it is not feasible to reduce flow rates and velocity to the required levels, the owner/operator must reduce impingement mortality and entrainment impacts for the facility, as a whole, to a comparable level, using operational or structural controls, or both. An ongoing verification monitoring plan must also be implemented.

In limited circumstances, a facility may request alternative requirements if it demonstrates that the costs of compliance would be wholly disproportionate to the benefits to be gained. The proposed Policy contains special provisions for nuclear facilities, and requires them to fund independent, third-party studies to analyze in detail the compliance options available to them, including costs. An oversight committee will review the studies and report to the State Water Board at which time the State Water Board will address the need, if any, to modify the proposed Policy.

DOCUMENT AVAILABILITY

The proposed Policy and supporting documents* are available on the State Water Board's Web site at:

http://www.waterboards.ca.gov/water_issues/programs/npdes/cwa316.shtml.

Alternatively, you may receive a paper copy in the mail by contacting Joanna Jensen at (916) 341-5582. To subscribe to an email list for future notifications about the proposed Policy, go to the State Water Board's Web site at:

http://www.waterboards.ca.gov/resources/email_subscriptions/swrcb_subscribe.shtml, and choose "Ocean Issues – Once-Through Cooling".

SUBMISSION OF WRITTEN COMMENTS

The State Water Board welcomes both written and oral comments on the proposed Policy and the content of the supporting documents. Written comments must be received by **12:00 noon on September 30, 2009** and addressed to:

Jeanine Townsend, Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor
Sacramento, CA 95814

Comment letters may be submitted to the Clerk to the Board via email at commentletters@waterboards.ca.gov (if less than 15 megabytes in total size) or by fax at (916) 341-5620. Please indicate in the subject line: "**Comment Letter – OTC Policy**".

Couriers delivering comment letters must check in with lobby security personnel, who can contact Jeanine Townsend at (916) 341-5602.

PROCEDURAL MATTERS

The hearing will be informal. There will be no sworn testimony or cross-examination of participants, but the State Water Board and its staff may ask clarifying questions. Participants are encouraged to submit written comments prior to the hearing. At the hearing, participants will be given an opportunity to summarize and supplement their written materials with oral presentations. To ensure a productive and efficient process in which all participants have an opportunity to participate, oral presentations may be time-limited. For other presentation recommendations, go to:

http://www.waterboards.ca.gov/board_info/meetings/board_presentations.shtml at the State Water Board's Web site. Questions concerning the hearing may also be directed to Joanna Jensen, Division of Water Quality, at (916) 341-5582.

* The Substitute Environmental Document that supports the policy is projected to be available by July 15, 2009.

PARKING AND ACCESSIBILITY

For directions to the Joe Serna, Jr. (Cal/EPA) Building and public parking information, please refer to the map on the Cal/EPA's Web site at <http://www.calepa.ca.gov/EPAbldg/location.htm>.

The Cal/EPA Building is accessible to persons with disabilities. Individuals requiring special accommodations are requested to contact Joanna Jensen at (916) 341-5582 at least 5 working days prior to the meeting. TDD users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922. A broadcast of the meeting will be available via the internet and can be accessed at: <http://www.calepa.ca.gov/broadcast/>.

All visitors to the Cal/EPA Building are required to sign in and obtain a badge at the Visitor Services Center located just inside the main entrance. Valid picture identification may be required. Please allow up to 15 minutes for receiving security clearance.

ADDITIONAL INFORMATION

Please direct questions about this notice to Joanna Jensen at (916) 341-5582 (jjensen@waterboards.ca.gov) or Dominic Gregorio at (916) 341-5488 (dgregorio@waterboards.ca.gov).

July 9, 2009

Date



Jeanine Townsend
Clerk to the Board

APPENDIX A – STATEWIDE WATER QUALITY CONTROL POLICY ON THE USE OF COASTAL AND ESTUARINE WATERS FOR POWER PLANT COOLING

DRAFT

1. Introduction

- A. Clean Water Act Section 316(b) requires that the location, design, construction, and capacity of cooling water intake structures reflect the best technology available 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.
- B. The State Water Resources Control Board (State Water Board) is designated as the state water pollution control agency for all purposes stated in the Clean Water Act.
- C. The State Water Board and Regional Water Quality Control Boards (Regional Water Boards) (collectively Water Boards) are authorized to issue NPDES permits to point source dischargers in California.
- D. Currently, there are no applicable nationwide standards implementing Section 316(b) for *existing power plants*¹. Consequently, the Water Boards must implement Section 316(b) on a case-by-case basis, using best professional judgment.
- E. The State Water Board is responsible for adopting state policy for water quality control, which may consist of water quality principles, guidelines, and objectives deemed essential for water quality control.
- F. This Policy establishes uniform requirements governing the exercise by the Water Boards of best professional judgment in the implementation of §316(b) for cooling water intake structures at existing coastal and estuarine power plants that must be implemented in NPDES permits.
- G. The intent of this Policy is to ensure that the beneficial uses of the State's coastal and estuarine waters are protected while also ensuring that the electrical power needs essential for the welfare of the citizens of the State are met.
- H. During the development of this Policy, State Water Board staff has met regularly with representatives from the California Energy Commission (CEC), the California Public Utilities Commission (CPUC), the California Coastal

¹ An asterisk indicates that the term is defined in Section 6 of the Policy.

Commission, the California State Lands Commission, the California Air Resources Board, and the California Independent Systems Operator (CAISO) to develop realistic implementation plans and schedules for this Policy that will not cause disruption in the State's electrical power supply. The compliance dates for this Policy were developed considering a report produced by the energy agencies (CEC, CPUC, and CAISO), titled "Implementation of Once-through Cooling Mitigation Through Energy Infrastructure Planning and Procurement Changes", and the accompanying table, titled "Draft Infrastructure Replacement Milestones and Compliance Dates for Existing Power Plants in California Using Once-Through Cooling", included in the Substitute Environmental Document for this Policy. The energy agencies' approach seeks to address the replacement, repowering, or retirement of power plants currently using once-through cooling that (1) maintains reliability of the electric system; (2) meets California's environmental policy goals; and (3) achieves these goals through effective long-term planning for transmission, generation and demand resources.

- I. To prevent disruption in the State's electrical power supply when the Policy is implemented, the State Water Board will convene a Statewide Advisory Committee on Cooling Water Intake Structures (SACCWIS), which will include representatives from CEC, CPUC, CAISO, the California Coastal Commission, the California State Lands Commission, and the California Air Resources Board. SACCWIS will assist the Water Boards in reviewing implementation plans and schedules submitted by dischargers pursuant to this Policy.
- J. While the CEC, CPUC and CAISO each have various planning or permitting responsibilities important to this effort, the approach relies upon use of competitive procurement and forward contracting mechanisms implemented by the CPUC in order to identify low cost solutions for most OTC power plants. The CPUC has authority to order the investor-owned utilities (IOUs) to procure new or repowered fossil generation for system and/or local reliability in the Long-Term Procurement Plan (LTPP) proceeding. In response to the Policy, the CPUC anticipates modifying its LTPP proceeding and procurement processes to require the IOUs to assess replacement infrastructure needs and conduct targeted requests for offers (RFOs) to acquire replacement, repowered or otherwise compliant generation capacity. LTPP proceedings are conducted on a biennial cycle and plans are normally approved in odd-numbered years. The next cycle, the 2010 LTPP, is estimated to result in a decision by 2011. The subsequent cycle, the 2012 LTPP, would in turn result in a decision by 2013. Once authorized to procure by a CPUC LTPP decision, the IOUs need approximately 18 months to issue an RFO, sign contracts, and submit applications to the CPUC for approval. Approval by the CPUC takes approximately 9 months. If the contract involves a facility already licensed through the CEC generation permitting process, then financing and construction can begin. A typical generation permitting timeline is 12 months, but specific issues such as ability to obtain air permits can delay the process. IOUs often give preference to RFO bids with permits already (or nearly) in place. From contract approval,

construction usually takes three years, if generation permits are approved, or approximately five years, if generation permits are pending or other barriers present delays. In total, starting from the initiation of an LTPP proceeding (2010 LTPP or 2012 LTPP), seven years are expected to elapse, before replacement infrastructure is operational. Due to the number of plants affected, efforts to replace or repower once-through cooling plants would need to be phased.

- K. Because the Los Angeles region presents a more complex and challenging set of issues, it is anticipated that more time would be needed to study and implement replacement infrastructure solutions. Therefore, total elapsed time is expected to begin in the 2010 and end in 2017 for Greater Bay Area and San Diego regions, which would be addressed beginning in the 2010 LTPP. For the L.A. region, which would be addressed beginning in the 2012 LTPP, total elapsed time is expected to begin in 2012 and end in 2020. A transmission solution is expected to have approximately the same timeframe, but could be delayed by greater potential for significant local opposition. In order to assure that repowering or new power plant development in the Los Angeles basin addresses unique permitting challenges, the SACCWIS will assist the State Water Board in evaluating compliance for power plants not under the jurisdiction of the CPUC or CAISO.
- L. To conserve the State's scarce water resources, the State Water Board encourages the use of recycled water for cooling water in lieu of marine, estuarine or freshwater.

2. Requirements for *Existing Power Plants**

A. Compliance Alternatives

- (1) Track 1. An owner or operator of an *existing power plant** must reduce *intake flow rate** at each unit, at a minimum, to a level commensurate with that which can be attained by a *closed-cycle wet cooling system**. A minimum 93 percent reduction in *intake flow rate** for each unit is required for Track 1 compliance, compared to the facility's design *intake flow rate**. The through-screen intake velocity must not exceed 0.5 feet per second.
- (2) Track 2. If an owner or operator of an *existing power plant** demonstrates to the Regional Boards' satisfaction that compliance with Track 1 is not feasible, the owner or operator must reduce impingement mortality and entrainment of all life stages of marine life for the facility, as a whole, to a comparable level to that which would be achieved under Track 1, using operational or structural controls, or both. For the purposes of this policy, a "comparable level" is a level within 10 percent of the reduction in impingement mortality and entrainment achievable under Track 1. Technology-based improvements that are specifically designed to reduce impingement mortality and/or entrainment and were implemented prior to the effective date of the Policy may be counted towards meeting Track 2 requirements.

B. Final Compliance Dates

*Existing power plants** shall comply with Section 2.A, above, as soon as possible, but no later than, the dates shown in Table 1, contained in Section 3.E, below.

C. Immediate and Interim Requirements

- (1) No later than one year after the effective date of this Policy, the owner or operator of an *existing power plant** with an offshore intake shall install large organism exclusion devices having a distance between exclusion bars of no greater than nine inches, or install other exclusion devices, deemed equivalent by the Regional Water Board.
- (2) No later than one year after the effective date of this Policy, the owner or operator of an *existing power plant** unit that is not directly engaging in *power-generating activities**, or critical system maintenance, shall cease intake flows, unless the owner or operator demonstrates to the Regional Water Board that a reduced minimum flow is necessary for operations.
- (3) The owner or operator of an *existing power plant** must implement measures to mitigate the interim impingement and entrainment impacts resulting from the cooling water intake structure(s), commencing five years after the effective date of this Policy and continuing up to and until the owner or operator achieves final compliance. The owner or operator must include in the implementation plan, described in Section 3.A below, the specific measures that will be undertaken to comply with this requirement. An owner or operator can comply with this requirement by:
 - (a) Demonstrating to the Regional Water Board's satisfaction that the owner or operator is compensating for the interim impacts through existing mitigation efforts, including any projects that are required by state or federal permits as of the effective date of this Policy; or
 - (b) Demonstrating to the Regional Water Board's satisfaction that the interim impacts are compensated for by the owner or operator's participation in funding an appropriate mitigation project; or
 - (c) Developing and implementing a mitigation program for the facility, approved by the Regional Water Board, which will compensate for the interim impingement and entrainment impacts.

D. Nuclear-Fueled Power Plants*

If the owner or operator of an existing *nuclear-fueled power plant** demonstrates that compliance with the requirements for *existing power plants** in Section 2.A, above, of this Policy would result in a conflict with a safety requirement

established by the Nuclear Regulatory Commission (Commission), with appropriate documentation or other substantiation from the Commission, the Water Board will make a site-specific determination of best technology available for minimizing adverse environmental impact that would not result in a conflict with the Commission's safety requirement.

3. Implementation Provisions

A. With the exception of *nuclear-fueled power plants**, which are covered under 3.D, below, within six months of the effective date of this Policy, the owner or operator of an *existing power plant** shall submit an implementation plan to the State and Regional Water Boards.

(1) The implementation plan shall identify the compliance alternative selected by the owner or operator, describe the general design, construction, or operational measures that will be undertaken to implement the alternative, and propose a realistic schedule for implementing these measures that is as short as possible. If the owner or operator chooses to repower the facility to reduce or eliminate reliance upon once-through cooling, or to refit the facility to implement either Track 1 or Track 2 alternatives, the implementation plan shall identify the time period when generating power is infeasible and describe measures taken to coordinate this activity through the appropriate electrical system balancing authority's maintenance scheduling process.

(2) If the owner or operator selects *closed-cycle wet cooling** as a compliance alternative, the owner or operator shall address in the implementation plan whether recycled water of suitable quality is available for use as makeup water.

B. The SACCWIS shall be impaneled within three months of the effective date of this Policy, by the Executive Director of the State Water Board, to advise the State Water Board on the implementation of this Policy to ensure that the implementation schedule takes into account local area and grid reliability.

(1) The SACCWIS shall review the owner or operator's proposed implementation schedule and report to the State Water Board with recommendations within one year of the effective date of this Policy.

(2) The SACCWIS will report to the State Water Board with recommendations on modifications to the implementation schedule every two years starting in 2013.

(3) The State Water Board will consider the SACCWIS' recommendations and direct staff to make modifications, if appropriate, for the State Water Board's consideration.

- C. The Regional Water Boards shall reissue or, as appropriate, modify NPDES permits issued to owners or operators of *existing power plants** to ensure that the permits conform to the provisions of this Policy.
- (1) The permits shall incorporate a final compliance schedule that requires compliance as soon as possible but no later than the deadlines contained in Table 1, contained in Section 3.E, below.
 - (2) The Regional Water Boards shall reopen the relevant permits and modify the final compliance schedules, if appropriate, based on modifications to the policy approved by the State Water Board.
 - (3) If an owner or operator selects Track 2 as the compliance alternative, the NPDES permit shall include a monitoring program that complies with Section 5 of this Policy.
- D. Within three months of the effective date of this Policy the Executive Director of the State Water Board, using the authority under section 13267 of the Water Code, shall issue a request that Southern California Edison (SCE) and Pacific Gas & Electric Company (PG&E) conduct special studies for submission to the State Water Board.
- (1) The special studies shall investigate alternatives for the *nuclear-fueled power plants** to meet the requirements of this Policy, including the costs for these alternatives.
 - (2) The special studies shall be conducted by an independent third party, selected by the Executive Director of the State Water Board.
 - (3) The special studies shall be overseen by a review committee, established by the Executive Director of the State Water Board within three months of the effective date of the Policy, which shall include, at a minimum, representatives of SCE, PG&E, SACCWIS, the environmental community, and staffs of the State Water Board, Central Coast Regional Water Board, and the San Diego Regional Water Board.
 - (4) The review committee, described above, shall provide a report for public comment detailing the scope of the special studies, including the degree to which existing, completed studies can be relied upon, within one year of the effective date of this Policy.
 - (5) The review committee shall provide a report for public comment detailing the results of the special studies and shall present the report to the State Water Board within three years of the effective date of this Policy.

(6) The State Water Board shall consider the results of the special studies in evaluating the need to modify this Policy with respect to the *nuclear-fueled power plants**.

E. Table 1. Implementation Schedule

Milestone		Responsible Entity/Party	Due Date ²
1	Issue a request for information to SCE and PG&E to conduct special studies to investigate compliance options for <i>nuclear-fueled power plants</i> * [Section 3.D]	Executive Director of the State Water Board	[three months after the effective date of the Policy]
2	Establish Review Committee [Section 3.D(3)]	Executive Director of the State Water Board	[three months after the effective date of the Policy]
3	Establish SACCWIS [Section 3.B]	Executive Director of the State Water Board	[three months after the effective date of the Policy]
4	Submit a proposed implementation plan to the State and Regional Water Boards [Section 3.A]	Owner/operators of existing fossil-fueled power plants	[six months after the effective date of the Policy]
5	Provide a report for public comment, detailing the scope of the special studies on compliance options for <i>nuclear-fueled power plants</i> * [Section 3.D(4)]	Review Committee	[one year after the effective date of the Policy]
6	Review the owners or operators' proposed implementation schedules and report to the State Water Board with recommendations [Section 3.B(1)]	SACCWIS	[one year after the effective date of the Policy]
7	Humboldt Bay Power Plant in compliance	Owner/operator	[one year after the effective date of the Policy]

² These compliance dates were developed considering information provided by the California Energy Commission, the Public Utilities Commission, CAISO, and the Los Angeles Department of Water and Power (LADWP).

Milestone		Responsible Entity/Party	Due Date²
8	Potrero Power Plant in compliance	Owner/operator	[one year after the effective date of the Policy]
9	Install large organism exclusion devices with a distance between exclusion bars of no greater than nine inches, or equivalent device [Section 2.C(1)]	Owner/operators of <i>existing power plants*</i> with offshore intakes	[one year after the effective date of the Policy]
10	Cease intake flows for units not directly engaging in <i>power-generating activities*</i> or critical system maintenance, or demonstrate to the Regional Water Board that a reduced minimum flow is necessary for operations [Section 2.C(2)]	Owner/operators of <i>existing power plants*</i>	[one year after the effective date of the Policy]
11	South Bay Power Plant in compliance	Owner/operator	12/31/2012
12	Report to State Water Board on results of special studies on compliance options for <i>nuclear-fueled power plants*</i> [Section 3.D(4)]	Review Committee	[three years after the effective date of the Policy]
13	Report to State Water Board on status of implementation of Policy [Section 3.B(2)]	SACCWIS	3/31/2013
14	Commence to implement measures to mitigate the interim impingement and entrainment impacts due to the cooling water intake structure(s) [Section 2.C(3)]	Owners/operators of <i>existing power plants*</i>	[five years after the effective date of the Policy]
15	Report to State Water Board on status of implementation of Policy [Section 3.B(2)]	SACCWIS	3/31/2015
16	Power plants in compliance: El Segundo, Haynes, and Morro Bay	Owner/operator	12/31/2015
17	Report to State Water Board on status of implementation of Policy [Section 3.B(2)]	SACCWIS	3/31/2017
18	Power plants in CPUC 2010 LTPP Cycle in compliance: Encina, Contra Costa, Pittsburg, Moss Landing [Section 1.J]	Owner/Operator	12/31/2017
19	Harbor and Scattergood generating stations in compliance	Owner/operator	12/31/2017

Milestone		Responsible Entity/Party	Due Date ²
20	Report to State Water Board on status of implementation of Policy [Section 3.B(2)]	SACCWIS	3/31/2019
21	Power plants in CPUC 2012 LTPP Procurement Cycle in compliance: Huntington Beach, Redondo, Alamitos, Mandalay, Ormond Beach [Section 1.J]	Owner/operator	12/31/2020
22	Report to State Water Board on status of implementation of Policy [Section 3.B(2)]	SACCWIS	3/31/2021
23	Diablo Canyon Power Plant in compliance	Owner/operator	12/31/2021
24	San Onofre Nuclear Generating Station in compliance	Owner/operator	12/31/2022

4. Wholly Disproportionate Demonstration.

At the request of an owner or operator of any existing fossil-fueled power plant with generating units with a heat rate* of 8500 British Thermal Units (BTUs) per Kilowatt-hour (KWhr) or less, or any existing *nuclear-fueled power plant**, a Regional Water Board may consider the establishment of alternative, less stringent requirements, than those specified in Track 1 and Track 2, above, if the Regional Water Board determines that the costs to comply with Track 1 or Track 2 are wholly disproportionate to the environmental benefits to be gained, provided that:

A. The owner or operator of the *existing power plant** bears the burden of providing detailed, site-specific data to the Regional Water Board supporting the request and demonstrating that alternative requirements are justified. The following information must be included, at a minimum, in the request:

- (1) Costs of compliance in terms of dollars per megawatt hour of electrical energy produced over an amortization period of twenty years.
- (2) Environmental benefits of compliance, including:
 - (a) The reduction of entrainment provided in terms of *habitat production foregone**, or some other appropriate method approved by the Regional Water Board;
 - (b) The reduction of impingement mortality; and

- (c) The improvement in receiving water quality due to the reduction of thermal discharge.
 - (3) An analysis of environmental impacts, including, but not limited to, air emissions resulting from compliance with this Policy.
 - (4) Proposed alternative, less stringent requirements.
 - B. The Regional Water Board may consider any relevant information in making this determination, including the compliance costs associated with Track 1 and Track 2, as well as any recent technology and infrastructure investments at the power plant.
 - C. The owner or operator of the *existing power plant** must reduce impingement mortality and entrainment impacts to the extent practicable, as evidenced by the wholly disproportionate demonstration, and as determined by the Regional Water Board. The difference in impacts to marine life resulting from alternative, less stringent requirements shall be fully mitigated.
 - D. If the owner or operator of a nuclear-fueled power plant requests alternative, less stringent requirements under this section, the affected Regional Water Board shall consider the results of the special studies required under Section 3.D of this Policy.
5. Track 2 Monitoring Provisions
- A. Impingement Impacts
 - (1) A baseline impingement study shall be performed, unless the discharger demonstrates, to the Regional Water Board's satisfaction, that prior studies accurately reflect current impacts. Baseline impingement shall be measured on-site and shall include sampling for all species impinged. The impingement study shall be designed to accurately characterize the species currently impinged and their seasonal abundance to the satisfaction of the Regional Water Board.
 - (a) The study period shall be at least 12 consecutive months.
 - (b) Impingement shall be measured during different seasons when the cooling system is in operation and over 24-hour sampling periods.
 - (c) When applicable, impingement shall be sampled under differing representative operational conditions (e.g., differing levels of power production, heat treatments, etc.).

- (d) The study shall not result in any additional mortality above typical operating conditions.
- (2) After the Track 2 controls are implemented, to confirm the level of impingement controls, another impingement study, consistent with section 5.A(1)(a) to (d), above, shall be performed and reported to the Regional Water Board.
- (3) The need for additional impingement studies shall be evaluated at the end of each permit period. Impingement studies shall be required when changing operational or environmental conditions indicate that new studies are needed, at the discretion of the Regional Water Board.

B. Entrainment Impacts

- (1) A baseline entrainment study shall be performed, unless the discharger demonstrates, to the Regional Water Board's satisfaction, that prior studies accurately reflect current impacts. Baseline sampling shall be performed to determine larval composition and abundance in the source water, representative of water that is being entrained. The source water shall be determined based on oceanographic conditions reasonably expected after Track 2 controls are implemented. Baseline entrainment sampling shall provide an unbiased estimate of larvae entrained at the intake prior to the implementation of Track 2 controls.
 - (a) Entrainment impacts shall be based on sampling for all *ichthyoplankton** and *zooplankton** (*meroplankton**) species. Individuals collected shall be identified to the lowest taxonomical level practicable. When *feasible**, genetic identification through molecular biological techniques may be used to assist in compliance with this requirement. Samples shall be preserved and archived such that genetic identification is possible at a later date.
 - (b) The study period shall be at least 12 consecutive months, and sampling shall be designed to account for variation in oceanographic conditions and larval abundance and behavior such that abundance estimates are reasonably accurate.
- (2) After the Track 2 controls are implemented, to confirm the level of entrainment controls, another entrainment study (with a study design to the Regional Water Board's satisfaction) shall be performed and reported to the Regional Water Board.
- (3) The need for additional entrainment studies shall be evaluated at the end of each permit period. Entrainment studies shall be required when changing operational or environmental conditions indicate that new studies are needed, at the discretion of the Regional Water Board.

6. Definition of Terms

Blowdown – Refers to the discharge of either boiler water or recirculating cooling water for the purpose of limiting the buildup of concentrations of materials in excess of desirable limits established by best engineering practice.

Closed-Cycle Wet Cooling System – Refers to a cooling water system, using wet cooling, from which there is no discharge of wastewater other than *blowdown**.

Existing power plant(s) – Refers to any power plant that is not a *new power plant*.*

Habitat Production Foregone – Refers to the product of the average *proportional mortality** and the estimated area of the water body that is habitat for the species' source population. *Habitat production foregone** is an estimate of habitat area production that is lost to all entrained species. For example, if the average *proportional mortality** of estuarine species is 17 percent and the area of the source water estuary is 2000 acres, then the *habitat production foregone** is equal to 17 percent of 2000 acres, which is 340 acres.

Heat Rate – Refers to the overall efficiency of a power plant to convert fuel to electricity, stated in terms of British Thermal Units (BTUs) to generate one Kilowatt-hour (KWhr) of electricity. A lower heat rate indicates a more fuel-efficient power generating unit.

Ichthyoplankton – Refers to the planktonic early life stages of fish (i.e., the pelagic eggs and larval forms of fishes).

Intake Flow Rate – Refers to the instantaneous rate at which water is withdrawn through the intake structure, expressed as gallons per minute.

Meroplankton – Refers to pelagic larvae and eggs of benthic invertebrates.

New power plant – Refers to any plant that is a “new facility”, as defined in 40 C.F.R. §125.83 (revised as of July 1, 2007), and that is subject to Subpart I, Part 125 of the Code of Federal Regulations (revised as of July 1, 2007)(referred to as “Phase I regulations”).

Nuclear-Fueled Power Plant(s) – Refers to Diablo Canyon Power Plant and/or San Onofre Nuclear Generating Station.

Power-generating Activities – Refers to activities directly related the generation of electrical power, including start-up and shut-down procedures, contractual obligations (hot stand-by), hot bypasses, and other critical maintenance activities regulated by the Nuclear Regulatory Commission. Activities that are not considered directly related to the generation of electricity include (but are not

limited to) dilution for in-plant wastes, maintenance of source-and receiving water quality strictly for monitoring purposes, and running pumps strictly to prevent fouling of condensers and other power plant equipment.

Proportional Mortality – the proportion of larvae killed from entrainment to the larvae in the source population.

Zooplankton – those planktonic invertebrates larger than 200 microns (including invertebrates that are planktonic for their entire life cycle, and the pelagic larvae and eggs of benthic invertebrates).

DRAFT



City of Morro Bay

Morro Bay, CA 93442 • 805-772-6200

September 28, 2009

Dorothy R. Rice, Executive Director
State Water Resources Control Board
P.O. Box 100
Sacramento, CA 95812-0100

Re: Comments on the Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling

Dear Executive Director Rice:

The City of Morro Bay welcomes the opportunity to provide comments on your draft “Statewide Water Quality Control Policy on the Use of Coastal and Estuarine Waters for Power Plant Cooling.” In reviewing the City of Morro Bay's comments we encourage the State Water Resources Control Board to recognize the unique characteristic of the Morro Bay Power Plant and its existence next to, and its withdrawal of water from, a National Estuary.

The City agrees with the State Water Board staff recommendation that the state should proceed with developing a statewide policy, and commends your staff for its comprehensive effort to attempt to comply with Section 316 (b) of the Federal Clean Water Act (CWA) by requiring that the location, design, construction and capacity of cooling water intake structures reflect the use of the best technology available for minimizing adverse environmental impacts. There is no need to wait for guidance from the United States Environmental Protection Agency, the state has the legal right and responsibility to regulate once-through cooling (OTC) facilities to protect marine resources and should do so expeditiously.

The City agrees with the staff recommendation that statewide Policy, if properly drafted, should effectively resolve the long-standing inconsistencies in implementation of CWA Section 316(b) technology-based requirements addressing OTC impacts, and lessen the considerable permitting and resource burdens associated with the technical details of the power plant permitting process. Another key feature of the draft Policy is that it contains an implementation plan that addresses potential effects to the State’s electrical generation and transmission system while simultaneously coordinating the efforts of the State and Regional Water Boards to address adverse impacts from OTC systems.

ADMINISTRATION
595 Harbor Street

CITY ATTORNEY
595 Harbor Street

FINANCE DEPARTMENT
595 Harbor Street

FIRE DEPARTMENT
715 Harbor Street

HARBOR DEPARTMENT
1275 Embarcadero Road

POLICE DEPARTMENT
870 Morro Bay Boulevard

PUBLIC SERVICES
955 Shasta Avenue

RECREATION & PARKS
1001 Kennedy Way

However, the City of Morro Bay does have grave concerns that the draft Policy often appears to be vague and unclear, allowing opportunities for power plant owners to exercise options made available in the draft Policy to delay and avoid achieving the Board's stated goal of "protecting the state's coastal and estuarine waters." More specifically, the City of Morro Bay provides the following comments and concerns:

- The draft Policy states on Page 2, Paragraph I., that a Statewide Advisory Committee on Cooling Water Intake Structures (SACCWIS) will be convened to advise the Water Board on implementation of the Policy. ***The draft Policy should be amended to include the Coastal Commission, the Ocean Protection Council, and the State Lands Commission.***
- The draft Policy states on Page 3, Paragraph 2.A.(1), that pursuant Track 1, an existing power plant must reduce intake flow rate at each unit to attain a minimum 93 percent reduction in intake flow rate for each unit compared to the facility's design intake flow rate. ***The draft Policy should be amended to clarify whether the design intake flow rate must be calculated at maximum design or average operating capacity levels based on actual historical data for a specific period of time.***
- The draft Policy states at Page 3, Paragraph 2.A.(2), that pursuant Track 2, "if an owner or operator of an existing power plant demonstrates to the Regional Board's satisfaction that compliance with Track 1 is not feasible, the owner or operator must reduce impingement mortality and entrainment of all life stages of marine life for the facility, as a whole, to a comparable level to that which would be achieved under Track 1, using operational or structural controls, or both." ***The draft Policy should be amended to establish criteria for determining feasibility and define operational or structural controls.***
- The draft Policy states at Page 4, Paragraph C. (1), that "No later than one year after the effective date of this Policy, the owner or operator of an existing power plant with an offshore intake shall install large organism exclusion devices having a distance between exclusion bars of no greater than nine inches, or install other exclusion devices, deemed equivalent by the Regional Water Board." ***The draft Policy should be amended to ensure that the definition of "Offshore intake" includes a "bay or estuary".***
- The draft Policy states at Page 4, Paragraph C. (2), that "No later than one year after the effective date of this Policy, the owner or operator of an existing power plant unit that is not directly engaging in power-generating activities, or critical system maintenance, shall cease intake flows, unless the owner or operator demonstrates to the Regional Water Board that a reduced minimum flow is necessary for operations," ***The draft Policy should be amended to include standards and criteria to determine how "necessary for operations" must be demonstrated.***
- The draft Policy states at Page 4, Paragraph C. (3) (b) that "Demonstrating to the Regional Water Board's satisfaction that the interim impacts are compensated for by the owner or operator's participation in funding an appropriate mitigation project". ***The draft***

Policy should be amended to include standards and criteria to determine an "appropriate mitigation project".

- The draft Policy states at Page 10, Paragraph 5, A. (2) for the "Track 2 Monitoring Provisions" that a "baseline entrainment study shall be performed, unless the discharger demonstrates, to the Regional Water Board's satisfaction, that prior studies accurately reflect current impacts." ***The draft Policy should be amended to include standards and criteria to clarify "the Regional Water Board's satisfaction".***

The City of Morro Bay believes the challenges for future power generation for California are filled with exciting possibilities. New technological breakthroughs are within sight. With focused determination, California can create new technologies, new infrastructure, new jobs, new revenue sources, cleaner air and water. We can do this by decreasing our impacts on coastal waters and our dependence on outside power generation sources.

The City of Morro Bay thanks the Board for the time and resources you have committed, and joins other organizations in expressing our appreciation for the commendable job of improving upon the original 2006 policy. This new draft policy moves us one step closer implementing State law and represents a much-needed, and legally required, improvement over the federal Clean Water Act Section 316(b) regulations.

Sincerely,

Janice Peters
Mayor
City of Morro Bay



AGENDA NO: D-1

MEETING DATE: September 29, 2009

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 22, 2009

FROM: Bruce Ambo, Public Services Director
Dylan Wade, Utilities/Capital Projects Manager

SUBJECT: Declaration of a water emergency and institution of mandatory conservation requirements during the State Water Project shutdown.

RECOMMENDATION:

It is recommended that the City Council adopt Resolution No. 50-09 declaring a water emergency during the State Water Project annual maintenance shutdown and instituting mandatory conservation requirements, and authorizing the Public Services Director to take any and all actions that will best conserve water during this emergency.

MOTION: I move that the City Council adopt Resolution No. 50-09 declaring a water emergency during the State Water Project annual maintenance shutdown and instituting mandatory conservation requirements, and authorizing the Public Services Director to take any and all actions that will best conserve water during this emergency.

FISCAL IMPACT:

There will be a reduction in both the water and sewer fees collected during this period as a result. There should be no direct impact to the General Fund, but the General Fund may see reduced tax revenues to the extent that water conservation measures impact commercial activities. The General Fund as one of the largest water users, should recognize an offsetting savings by conserving and reducing water usage and the associated costs.

SUMMARY:

The State Water Project annual maintenance shutdown is tentatively scheduled to begin on October 19, for a three (3) week duration, with water deliveries resuming on November 10. Depending upon when the actual date of the shutdown, staff is recommending that the City initiate mandatory water conservation measures to reduce demand during this critical period and preserve the City's water supply.

BACKGROUND:

The City of Morro Bay has four main sources of water supply. Water sources include the State Water Project, Chorro groundwater, Morro groundwater, and a Desalination Plant. The State water Project undergoes an annual maintenance shutdown. During this time the major water supply source for the City of Morro Bay is unavailable. Contamination with nitrates of our

other water resources by agricultural activities in both the Morro and Chorro groundwater basins has further impacted our water supply. With these three sources offline or severely impacted, the Desalination plant remains as our main water resource.

The State Water Project shutdown is tentatively scheduled for October 19th through November 9th. Historic water demands during this time frame average about 120 acre feet (af) and have been as high as 137 af. This translates to an average flow of 875 gallons per minute (gpm) and a high flow of 1000 gpm. The Desalination Plant has a design flow of 400 gallons per minute and can be pushed to a maximum flow of about 490 gallons per minute. This means that at a minimum, there is a potential deficit of 385 to 510 gallons per minute and that will have to be made up by blending very low nitrate level desal product water with higher nitrate level groundwater.

DISCUSSION:

Mandatory Water Conservation Requirements

Municipal Code Section 13.04.345 sets for the “Mandatory Water Conservation Requirements” with varying levels of water supply emergency or severity that is tied to increasing degrees of mandatory conservation ranging from: Level A) Normal Water Supply Conditions (currently existing), Level B) Moderately Restricted Water Supply Conditions, Level C) Severely Restricted Water Supply Conditions, Level D) Critical Water Supply Conditions, and E) Emergency Water Supply Conditions.

These regulations generally restrict outdoor water use, irrigation, restaurant, and marina and waterfront use of water. For example, washing off sidewalks and other outdoor uses including car washing would be restricted, and restaurants would not serve water and place signs indicating that water would be provided to customers upon their request. For a more detailed itemization of the various levels of conservation and their associated restrictions, please refer to Attachment 1 – “Mandatory Water Conservation Requirements.” Details of how these restrictions would be regulated by Public Works (Services) Director are specified in Section 13.04.340 of the Municipal Code in Attachment 2.

Potential for Nitrate Contamination

As you may know, the City has experienced detections of high nitrates in our well water supply in the past a few years ago. While a certain amount of nitrates are allowed in drinking water, nitrate levels higher than 45 parts per million are a risk to the public health. Conservation efforts during the shutdown period will reduce our total water demand and thereby will reduce the portion of our supply that will have to come from the impacted ground water sources. This will reduce the amount of nitrate levels in our drinking water and will help ensure that we do not approach the nitrate limit.

Community Information

In preparation for the upcoming shutdown staff will provide an informational flyer in the general mail-out that goes to all residences (in addition to water customers) in the community informing them of upcoming shutdown and methods to conserve water. All of this information

is keyed to the exact date of the shutdown and the level of water conservation that is necessary depending upon the available water supply and associated circumstances. As always, there is also an ample amount of information on conservation on the City's website.

CONCLUSION:

Adoption of Resolution No. 50-09 declares a water emergency during the State Water Project shutdown and authorizes the Public Services Director to take any and all actions that will best conserve water during this emergency.

ATTACHMENT 1

13.04.345 Mandatory water conservation requirements.

A. Normal Water Supply Conditions.

1. Outdoor water use for washing vehicles, boats, paved surfaces, buildings or other similar uses shall be attended and have hand-controlled water devices, typically including spring-loaded shutoff nozzles.
2. Outdoor irrigation resulting in excessive gutter runoff is prohibited.
3. Marinas and waterfront installations: all hoses shall have spring-loaded shutoff nozzles or similar controlling devices.
4. Restaurants shall serve drinking water only in response to a specific request by the customer.
5. Newly planted landscaping or newly seeded lawns installed prior to the date these mandatory conservation requirements are imposed may be temporarily exempted from the provisions of subsection A2 of this section; provided, the owner/tenant establishes documentation satisfactory to the city conclusively proving the planting date. Any temporary exemption shall expire when the planting is sufficiently established to survive without excessive gutter runoff. All other conservation measures remain applicable during the temporary exemption.

B. Moderately Restricted Water Supply Conditions.

1. Use of water which results in excessive gutter runoff is prohibited.
2. Outdoor water use for washing vehicles, boats, buildings or other similar uses shall be attended and have hand-controlled water devices, typically including spring-loaded shutoff nozzles.
3. No water shall be used for cleaning driveways, patios parking lots, sidewalks, streets, or other such uses except where necessary to protect the public health or safety.
4. Outdoor Irrigation.
 - a. Outdoor irrigation is prohibited between the hours of ten a.m. and four p.m.
 - b. All consumers are directed to use no more water than necessary to maintain landscaping.
5. Marinas and Waterfront Installations.
 - a. Use of fresh water to wash down boats, docks, or other incidental activities shall be attended and have hand-controlled devices, typically including spring-loaded shutoff nozzles.
 - b. All hoses shall have spring-loaded shutoff nozzles or similar controlling devices.
6. Restaurants shall serve drinking water only in response to a specific request by a customer.
7. Newly planted landscaping or newly seeded lawns installed prior to the date these mandatory conservation requirements are imposed may be temporarily exempted from the provisions of subsection B1 of this section; provided, the owner/tenant establishes documentation satisfactory to the city conclusively proving the planting date. Any temporary exemption shall expire when the planting is sufficiently established to survive without excessive gutter runoff. All other conservation measures remain applicable during the temporary exemption.

C. Severely Restricted Water Supply Conditions.

1. Outdoor Water Use (Except Irrigation).

- a. Use of water which results in excessive gutter runoff is prohibited.
 - b. No water shall be used for cleaning driveways, patios, parking lots, sidewalks, streets, or other such uses except where necessary to protect the public health or safety.
 - c. Washing cars by use of a hose is prohibited. Use of a bucket is permitted subject to nonwasteful applications.
2. Outdoor Irrigation.
 - a. Outdoor irrigation is prohibited between the hours of ten a.m. and four p.m.
 - b. Irrigation of private and public landscaping, turf areas, and gardens is permitted at even-numbered addresses only on Wednesdays and Sundays, and at odd-numbered addresses only on Tuesdays and Saturdays. All consumers are directed to use no more water than necessary to maintain landscaping.
 - c. Newly planted landscaping or newly seeded lawns installed prior to the date these mandatory conservation requirements are imposed may be temporarily exempted from the provisions of subsection (C)(2)(b) of this section; provided, the owner/tenant establishes documentation satisfactory to the city conclusively proving the planting date. Any temporary exemption shall expire when the planting is sufficiently established to survive with twice per week watering. All other conservation measures remain applicable during the temporary exemption.
 3. Marinas and Waterfront Installations.
 - a. Use of fresh water to wash down boats, docks, or other incidental activities is prohibited.
 - b. All hoses shall have spring-loaded shutoff nozzles or similar controlling devices.
 4. Restaurants shall serve water only in response to a specific request by a customer.
 5. Emptying and refilling of swimming pools and commercial spas is prohibited except to prevent structural damage and/or to comply with public health regulations.
 6. Use of potable water for compaction or dust control purposes in construction activities is prohibited.
 7. Any dysfunctional water fixtures in public or commercial facilities shall be repaired within three days of receipt of notification by the city.
 8. All visitor-serving facilities in the city shall prominently display these mandatory water conservation requirements for the benefit and education of visitors to the community. Such display shall be done in a permanent vandal-resistant manner. Visitor-serving facilities shall include, but not be limited to, all motels, restaurants, campgrounds, recreational vehicle parks, mobilehome parks, service stations, public restrooms, etc. The owners or managers of such facilities shall distribute to all customers a printed handout or flyer describing these mandatory water conservation requirements. Such handouts or flyers shall be provided to the owners or managers of such facilities by the city free of charge.

D. Critical Water Supply Conditions.

1. Outdoor Water Use (Except Irrigation).
 - a. Use of water which results in gutter runoff is prohibited.
 - b. No water shall be used for cleaning driveways, patios, parking lots, sidewalks, streets or other such uses, except where necessary to protect the public health or safety, and then only by use of a bucket of water and brush.
 - c. Washing cars or other mobile vehicles and equipment, including trailers and boats on trailers, is permitted only by the use of a bucket of water. No use of hoses, even if equipped with a shut-off

- nozzle, is permitted. Commercial car washes are exempt from these provisions.
- d. Use of potable water to wash buildings, houses or mobilehomes is prohibited.
2. Outdoor Irrigation.
 - a. Outdoor irrigation is prohibited between the hours of nine a.m. and five p.m.
 - b. Irrigation of landscaping and gardens is permitted at even-numbered addresses only on Wednesdays, and at odd-numbered addresses only on Tuesdays. Noncommercial food-crop gardens are exempt from these restrictions.
 3. Marinas and Waterfront Installations.
 - a. Use of fresh water to wash down boats or docks, or for other incidental activities, is prohibited.
 - b. All hoses shall have spring-loaded shutoffs or similar devices, and may be used only to fill water tanks of boats or to flush outboard engines.
 4. Restaurants shall serve water only in response to a specific request by a customer.
 5. Emptying and refilling swimming pools and spas is prohibited except to prevent structural damage and/or to comply with public health regulations.
 6. Use of potable water for compaction or dust-control purposes in construction activities is prohibited.
 7. Any dysfunctional water fixtures in public commercial facilities shall be repaired immediately.
 8. All visitor-serving facilities in the city shall prominently display these mandatory water conservation requirements for the benefit and education of visitors to the community. Such display shall be done in a permanent, vandal-resistant manner. Visitor-serving facilities shall include, but not be limited to, all motels, restaurants, campgrounds, recreational vehicle parks, mobilehome parks, service stations, public restrooms, etc. The owners or managers of such facilities shall distribute to all customers a printed handout or flyer describing these mandatory water conservation requirements. Such handouts or flyers shall be provided to the owners or managers of such facilities by the city free of charge.
- E. Emergency Water Supply Conditions. The city council may impose water rationing requirements as it deems appropriate in accordance with Sections 13.04.330 and 13.04.340.

(Ord. 417 § 2, 1992; Ord. 381, 1990; Ord. 374 §§ 2 -- 4, 1990; Ord. 347 § 3, 1989)

ATTACHMENT 2

13.04.340 Public works director powers.

If the city council adopts a resolution declaring the water level low or any emergency in the water system as set out in Sections 13.04.320 and 13.04.330, the public works director is authorized and directed to take any or all of the following actions which in his judgment will best conserve water during the duration of the emergency:

- A. Specify the days and/or hours during which water users may irrigate, to take effect after publication of notice thereof in a newspaper of general circulation distributed in the city or after written notice thereof is given by the city to users;
- B. If there is failure to comply with the limitation on irrigation, the public works department shall turn off the water of any such violator; provided, the public works director shall not terminate any water service until the director gives notice in writing to the customer of the reasons for the proposed termination, and gives the customer an opportunity to respond either orally or in writing;
- C. If in the judgment of the Public works director, there is flagrant waste of water (such as but not limited to water running down gutters), the public works department shall turn off the water of said user; provided, the public works director shall not terminate any water service until the director gives notice in writing to the customer of the reasons for the proposed termination, and gives the customer an opportunity to respond either orally or in writing;
- D. If an owner of property is notified in writing by the public works director of leaks in the water line on the owner's property and has not repaired such leaks within three days after the notification, the public works department shall turn off the water on the property until the leak is repaired;
- E. If specified maximum usages of water are set by the city council during low water months or other emergency conditions in the water system, and if any customer uses more than the specified maximum usage for his category, then such a violation shall result in the penalty applied to the customer in the amount of three dollars per one hundred cubic feet of water used over the specified maximum usage for his category during the period of emergency conditions;
- F. Prohibit the filling or refilling of swimming pools, hot tubs or spas, to take effect upon written notification thereof by the city to users.

(Ord. 336 § 3, 1988; Ord. 13 § 1 (part), 1965; prior code § 9126B)

RESOLUTION NO. 50-09

**RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF MORRO BAY, CALIFORNIA DECLARING A CITY-WIDE WATER
EMERGENCY**

**THE CITY COUNCIL
City of Morro Bay, California**

WHEREAS, the annual maintenance period for the State Water Project shutdown is forthcoming and the City's water supply will at a minimum become constrained; and

WHEREAS, it is in the interest of the health, safety and general welfare of the residents of the City of Morro Bay to conserve the City's water supply during the State Water Project shutdown; and

WHEREAS, in May 1993 the City of Morro Bay proactively established preparations for impending water supply shortages and emergencies by adopting Mandatory Water Conservation Requirements in the Morro Bay Municipal Code Section 13.04.320 et sec; and

WHEREAS, in accordance with Section 13.04.340 the City of Morro Bay Public Works (Services) Director is hereby authorized and directed to take any or all of the necessary actions, which in his judgment will best conserve water during the duration of the emergency.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Morro Bay, California, that it is in the public interest to institute Mandatory Water Conservation Requirements during the State Water Project shutdown; and

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of Morro Bay, California, that the Public Services Director is hereby authorized and directed to take any and all actions outlined in Section 13.04.340 of the Morro Bay Municipal Code that will best conserve water during the State Water Project shutdown.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 28th day of September 2009 on the following vote:

AYES:

NOES:

ABSENT:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT BAUER, City Clerk

The purpose of this resolution is to allow for any person to protest the proposed sale. The protest may be written and delivered to the clerk of the legislative body or delivered orally at the meeting considering the final action. The meeting to consider final action is scheduled for October 12, 2009. (Government Code section 37424.) If no protests are received, or if the legislative body overrules the protests by a four-fifths vote of its members, it may proceed with the sale.

CONCLUSION:

Authorize and adopt Resolution 51-09 regarding the City’s intention to sell the City-owned real property located at 781 Market and the City-owned real property located at the Corner of Pacific and Market in Morro Bay, California.

RESOLUTION NO. 51-09

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORRO BAY, CALIFORNIA
OF ITS INTENTION TO SELL CITY-OWNED REAL PROPERTY LOCATED AT 781 MARKET AND AT
THE CORNER OF PACIFIC AND MARKET IN MORRO BAY, CALIFORNIA**

**THE CITY COUNCIL
CITY OF MORRO BAY, CALIFORNIA**

WHEREAS, the City purchased real property located at the Corner of Pacific and Market Street, Morro Bay, California in 2001; and

WHEREAS, the City purchased real property located at 781 Market Street, Morro Bay, California in 2002; and

WHEREAS, the property located at the Corner of Pacific and Market Street was purchased using parking in lieu funds and was dedicated as a parking lot. Subsequently, the City has determined that this property is underutilized because of its location away from the Embarcadero and Downtown area; and

WHEREAS, the property located at 781 Market Street was part of a purchase that also included the property at 714 Embarcadero. Since the City purchased the properties, the property at 781 Market Street has been vacant and the City has determined that this property has no potential to be developed as a City facility; and

WHEREAS, pursuant to Government Code section 37350, the City wishes to sell the City-owned real property located at 781 Market and the City-owned real property located at the Corner of Pacific and Market in Morro Bay, California for the common benefit of its citizens.

NOW, THEREFORE, be it resolved that the City Council of the City of Morro Bay notices the citizens of the City of Morro Bay of its intention to sell City-owned real property located at 781 Market and at the Corner of Pacific and Market in Morro Bay, California; and

BE IT FURTHER RESOLVED, that the City shall hold a hearing on October 12, 2009 for any person who wishes to protest the sale of the City-owned property located at 781 Market and at the Corner of Pacific and Market in Morro Bay, California; and

BE IT FURTHER RESOLVED, that pursuant to Government Code section 37422, the City shall post proper notice and proper publication of this Resolution; and

BE IT FURTHER RESOLVED, that on October 12, 2009 at the regularly scheduled Council

meeting, final action shall be taken on this matter.

PASSED AND ADOPTED by the City Council of the City of Morro Bay at a regular meeting thereof held on the 28th day of September, 2009 by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JANICE PETERS, Mayor

ATTEST:

BRIDGETT BAUER, City Clerk



AGENDA NO: D-3

MEETING DATE: 9/28/09

Staff Report

TO: Honorable Mayor and City Council **DATE:** September 21, 2009
FROM: Andrea K. Lueker, City Manager
SUBJECT: Discussion of City's Noticing Policy

RECOMMENDATION:

Staff recommends the City Council approve the outlined procedure for notification of stakeholders in City of Morro Bay capital projects that require an Environmental Impact Report.

This recommendation is consistent with the City of Morro Bay Goal Setting Workshop Outcomes for 2009 "Foster Proactive Action and Communication between Staff, Council and the Community."

MOTION: I move the City Council direct to staff to provide Courtesy Noticing to project stakeholders in City Capital Projects that require an Environmental Impact Report.

FISCAL IMPACT:

There will be some impact in terms of staff time for additional noticing.

SUMMARY:

The City Council has discussed the issue of public outreach and noticing throughout the years. The City Attorney, in September 2005, compiled a lengthy and in-depth report on the City's legal requirement on public noticing (attached). From that report, the issue became more narrow and dealt with public noticing for development proposals for which the City Council provided specific direction.

This issue is brought forward to the City Council this evening as a result of some concerns voiced by stakeholders during a recent JPA meeting regarding the Wastewater Treatment Plant upgrade. The chief concern among the stakeholders was their lack of notification of the meeting.

Prepared By: _____ **Dept Review:** _____
City Manager Review: _____
City Attorney Review: _____

DISCUSSION:

As would be expected the City of Morro Bay adheres to the legal requirements in regard to noticing the public. In addition, the City takes an additional step in putting all public meetings on the City's new website under the "Calendar of Events" section on the home page. Upon "clicking" on the specific meeting on the Calendar of Events list, the individual can obtain additional information about the meeting. This notification is significant enhancement over the City's previous website, where information was difficult to find. Lastly, in an attempt to keep the public notified, the City occasionally provides mailers to each address and/or other forms of notification in the event the topic of discussion is of great interest. One specific example is the notification that was done for the Discussion of the Redevelopment Feasibility Study earlier this year. In fact, with the Redevelopment Feasibility Study, the noticing discussion took place during a City Council meeting, to ensure the Council was aware of the amount of noticing and approved of the additional work.

Achieving a balance between the costs of additional noticing including staff time versus the responsibility of the public to inform themselves about issues is difficult. However, staff believes with a few changes made to the current noticing procedures, many of the concerns voiced recently will be addressed and overall the noticing can be improved with not a significant increase in costs. Staff suggests the following:

1. For City of Morro Bay capital projects that require an Environmental Impact Report (EIR) to be conducted, the City will provide Courtesy Noticing (see attachment) for all meetings that pertain to said project. The Courtesy Noticing will be provided to stakeholders in the project who are not otherwise noticed through the legal noticing requirements for the EIR document. Stakeholders will be responsible for providing the City a contact and e-mail address as well as keeping that information updated.
2. The City will amend the homepage of the City's website to change "Calendar of Events" to "Calendar of Meetings & Events". The City will also change the "View all Events" to "View all Meetings & Events".

