Memorandum

Date: December 3, 2009

To: James Goldstene, Executive Officer
California Air Resources Board
1001 I Street
Sacramento, California 95812

From: **Department of Water Resources**

Subject: Comments on Concept Outline for Renewable Electricity Standard

I am writing to provide comments on the Air Resources Board (ARB) Concept Outline for the California Renewable Electricity Standard which was prepared in response to Executive Order S-21-09. In this Order Governor Schwarzenegger directed the ARB to adopt a regulation by July 31, 2010, requiring the state's load serving entities to meet a 33 percent renewable energy target by 2020. I welcome the opportunity to provide feedback, as requested, on whether the Department of Water Resources (DWR) should be a regulated entity under the Renewable Electricity Standard program being developed.

There is no question that DWR's mission is threatened by global warming. It is clear that climate change poses monumental risks to DWR's public service mission through reduced Sierra snowpack, decreased water storage and delivery, and increased risk to Delta levees. In order to best respond to these threats DWR has turned to evaluating its operations, policies and internal processes in order to reduce energy use and impacts to the environment and to orient the state to better adapt to changes brought by shifting climate patterns. The State Water Project (SWP), which supplies drinking water to 25 million Californians and irrigation water to 750,000 acres of agriculture, is a unique facility, making it necessary to carefully deliberate and plan in order to acquire sufficient reliable energy supplies which meet internal sustainability goals and meet or exceed state policies like those included in AB 32. Regulating DWR under AB 32 will offer redundancy that we do not believe will expedite attainment of the state's or DWR's energy and sustainability goals and could in fact lead to delays in meeting those goals.

DWR is already making efforts towards meeting greenhouse gas (GHG) emission reduction goals. As a state agency who is required to consider and implement strategies in response to the administration's efforts to implement AB 32, DWR management has approved a Sustainability Plan that includes a number of steps to reduce its GHG emissions (See Attachment 1).

(1) DWR is a member of the Climate Action Team, and as such, DWR is a team member similar to other state agencies, who are "leading by example".

(2) DWR will meet the first AB 32 goal 12 years early. Carbon dioxide (CO_2) emission levels from SWP operations will meet the AB 32 goal of reducing GHG emissions to 1990 levels in advance of the 2020 deadline. DWR intends to meet the 2050 goal as well.

(3) DWR will phase out the coal-fired Nevada Reid Gardner Plant and acquire less carbon-intensive energy. Since July 1983, DWR has received up to 235 MW from one of four units at Reid Gardner. In May 2007, DWR formally notified the plant's owner that DWR will not renew this agreement, which expires on July 25, 2013. DWR intends to replace this coal-based energy with a combination of cleaner, more efficient resources, improvements to the SWP system, and renewable energy resources, significantly reducing the SWP's emissions.

(4) DWR is pursuing renewable energy resources including partnering with other public entities who have been successful in securing productive renewable generation. This includes:

- DWR issuance of an RFP for wind generation in early 2010
- Partnership with University of California for a pilot program testing development of solar panels along the DWR aqueduct and on land adjacent to plants
- Partnership with Kings River Conservation District in Kern County on 85 MW solar project with phased in operations from 2010 to 2013
- Participation in Northern California Power Agency's green energy pool
- Partnership with SMUD for commercial customer green energy pool and natural gas carbon offsets at DWR retail load locations.

(5) DWR has implemented an energy efficiency program that entails refurbishment or replacement of hydroelectric units at SWP facilities, and which increases the efficiency of these units from an average of approximately 89.5% to as high as 93.3%. This will result in saving approximately 932,000 megawatt hours (MWh) and avoiding 280,000 metric tons (MT) of CO_2 emissions through 2011.

(6) DWR is making regular and transparent emissions reports. DWR reports its emissions in the following ways:

- CARB reporting processes (which include third party verification).
- DWR describes its energy use and purchasing activities, efforts to reduce its emissions and use of renewable energy in three reports to the Governor and Legislature each year.

DWR is not a retail provider or a load serving entity, and attempting to treat DWR as a regulated entity under the Executive Order would require a different approach than that used for other publicly owned or investor owned utilities. It is our understanding that ARB intends to utilize much of the current programs developed by the CPUC and the CEC, but those programs do not fit DWR's role as operator of the SWP. The ARB will face an additional (and in DWR's view, unnecessary) burden to create administrative regulations to fill that void. Furthermore, promulgating formal regulations specific to DWR is not required by law, because the regulations would not be a rule of general application.

Recently enacted legislation mandates the policy of 20% reduction in water use by 2020, codifying measures that were part of both existing state water policy and the ARB's Scoping Plan (2008) under AB 32. Meeting this conservation challenge will assist in reducing energy-related impacts of water use.

In addition to the role of the SWP as a water delivery system and the functions it performs in managing floods, the SWP makes a critical contribution to the reliability and efficiency of the California Independent System Operator wholesale power grid.

(1) The SWP attempts to pump primarily during off-peak hours and generate during peak periods. As a result, clean hydropower provides tremendous flexibility to the grid and in fact replaces "dirty" power sources during peak demand periods.

(2) The SWP participates in California's Demand Response Program. In 2007 and 2008, this resulted in a 3,900 ton reduction of CO_2 emissions. The program reduces the need for the least efficient on-peak thermal generation.

In summary, unlike investor owned and public utilities, DWR participates only in the wholesale energy market for the sole purpose of making water deliveries. It is not a retail seller. Its unique role in state government requires DWR to lead by example to reduce its GHG emissions, which has already been achieved with current emissions below its 1990 level. The SWP relies heavily upon self-generated hydroelectric energy supplies. Hydropower, although not currently recognized in state statute as such, is a renewable resource according to standard definition. On average, 50% of DWR's annual electricity portfolio in a given year consists of clean hydropower. DWR is demonstrating a commitment to state policy goals on GHG reduction by taking independent action to meet the goal of 80% GHG reduction by 2050 and to increase the renewable resources in its power portfolio and is doing so in a transparent manner. Regulation of DWR by the ARB on the topic of renewable energy is neither appropriate nor warranted.

Thank you for considering our comments, if you have additional questions please contact me.

Gerald E. Johns

for Lester A. Snow
Director
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cc: (See attached list.)

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Attachment 1

Department of Water Resources
Sustainability Policy
April 2009

Sustainability[1] of natural resources may be the defining issue of 21st century. It is the policy of the Department of Water Resources (DWR) to become a sustainability leader and ecosystem steward within State government and the California water community. DWR will do so by promoting, advocating, and facilitating sustainability practices throughout its business operations and the State Water Project (SWP). The Department will consider sustainability and ecosystem stewardship in its current and future activities and plans and, in the context of technical feasibility and cost-effectiveness, will make sustainability a criterion in all decision-making processes. Specifically, DWR will:

- Incorporate energy and water efficiency and conservation in all capital and renovation projects, as well as operations and maintenance activities, within budgetary constraints and programmatic requirements;
- Model state-of-the-art water use efficiency practices within State government, with a goal of reducing its per capita water consumption by at least 20% by 2020;
- Maximize the use of technically feasible and cost-effective clean and renewable energy sources for the SWP and DWR's business operations;
- Track and report its greenhouse gas (GHG) emissions to the California Air Resources Board (CARB) and the California Climate Action Registry[2];
- Reduce its GHG emissions to at least 1990 levels by 2020, consistent with the goal set for State government leadership by CARB in the AB 32 Scoping Plan;
- Minimize the amount of waste sent to landfill by maximizing opportunities to reduce, reuse, and recycle materials;
- Develop sustainable business practices for its facilities, fleet, workplaces, procedures, and management decisions, through collaborative opportunities for sustainability with other State agencies and the water industry;
- Utilize its purchasing power to meet its sustainability objectives; and
- Promote sustainability in its grantmaking processes.

With this commitment in mind, DWR will convene a standing, working group on sustainability, which will develop guidelines to implement this Sustainability Policy by April 2010. To ensure this policy's effectiveness, the Department shall keep abreast of best practices for sustainability, monitor progress, and adjust this policy and its implementing guidelines as needed. Each February, the Deputy Directors for the SWP and Business Operations shall prepare an annual report regarding implementation progress, including any recommendations of changes, for the Director's review.

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[1] The *California Water Plan Update 2005* defines "sustainability" as "a specific resource that avoids complete depletion over a specified time horizon" and "the continued feasibility of a specified economic activity over a specified time horizon, usually influenced by management and policy actions".
[2] In 2010, the California Climate Action Registry will become The Climate Registry.