BIO-4 with Proposed Changes Shown.

~~Prior to commencement of commercial operation,~~ Pursuant to the Phase II 316(b) regulations promulgated by US EPA on July 9, 2004 and at the sole discretion of the Los Angeles Regional Water Quality Control Board (LARWQCB) the project owner shall complete the following steps:

1. Submit a request for a compliance schedule to the LARWQCB by February 1, 2005, as described and authorized by Part 125.95(a)(2)(ii) in the Phase II 316(b) regulations. The request for schedule shall include the date by which the Proposal for Information Collection and the Comprehensive Demonstration Study, as described in the Phase II 316(b) regulation, shall be submitted to the LARWQCB;

2. Submit a Proposal for Information Collection (PIC), as described by Part 125.95(b)(1) in the Phase II 316(b) regulations, including an impingement (I) and entrainment (E) sampling plan for a new, one year long I&E characterization study, to the LARWQCB pursuant to the schedule approved by LARWQCB noted above in this condition. In the event that the schedule is not approved in writing by the LARWQCB by May 1, 2005, project owner shall submit the PIC to the LARWQCB by August 1, 2005;

3. Commence I&E characterization sampling by January 1, 2006, pursuant to the LARWQCB approved PIC and sampling plan. In the event that the LARWQCB has not approved the PIC and sampling plan by November 1, 2005, the project owner is entitled to delay commencement of the I&E characterization sampling beyond the January 1, 2006 target date, provided the study is commenced within 60 days of when the PIC and sampling plan is approved in writing by the LARWQCB;

4. Submit a Comprehensive Demonstration Study (CDS) to the LARWQCB pursuant to the LARWQCB approved schedule, but no later than January 7, 2008. The CDS shall include the specific technology, operational measures, and/or restoration measures that shall be utilized to attain the applicable I&E standards required by the Phase II 316(b) regulations and this condition of certification.

While recognizing the authority of the LARWQCB to determine the final 316(b) I&E characterization study design, the Commission directs the Applicant to consult with other agencies, including the California Coastal Commission, the National Marine Fisheries Service, and the California Department of Fish and Game, as well as the CPM in the development of the 316(b) study design.

Project owner shall reduce entrainment through the ESGS cooling water intake #1 by at least 60 percent and impingement by at least 80 percent, both from the Calculation

Baseline (as defined by the Phase II 316(b) regulation) ~~both from unmitigated levels,~~ or implement alternative actions as directed and required by the LARWQCB ~~under~~ pursuant to the Phase II 316(b) regulations promulgated by US EPA on July 9, 2004 ~~section 316(b) of the federal Clean Water Act. Pursuant to the implementation of federal regulations enacted under sectin3 16(b) of the Clean Water Act and at the direction of the LARWQCB, project owner shall conduct a study of the entrainment effects of intake #1~~. Project owner shall place $7 Million into an escrow account at the point when construction of the new facility is 50% complete, as determined by the CPM. The escrow account shall be for the sole purpose of funding technology, operational controls, and/or restoration measures, as ultimately determined by the final LARWQCB approved CDS to meet the new I&E standards required by the Phase II 316(b) regulation and this condition. Project owner may remove funds from the escrow account at any time for funding the permitting, engineering, material procurement, construction, consultants, or any other costs related to implementing the Phase II 316(b) regulation I&E standards. In the event that project owner completes expenditures for the above Phase II 316(b) categories prior to the initial funding of the $7 Million escrow account, project owner may reduce the initial funding by an amount equal to those expenditures already completed. In the event that the total actual compliance costs associated with the Phase II 316(b) regulation are less than the $7 Million escrow account, the left over funds shall be transferred to the Santa Monica Bay Restoration Commission for environmentally beneficial projects as described in BIO-1.

~~While recognizing the authority of the LARWQCB to determine the final 316(b) study design, the Commission directs the Applicant to consult with other agencies, including the California Coastal Commission, the National Marine Fisheries Service, and the California Department of Fish and Game, as well as the CPM in the development of the 316(b) study design.~~ The facility-wide flow cap required by Condition of Certification **BIO-3** shall expire upon completion of the requirements of this Condition, including any flow cap required by the LARWQCB.

Verification: Project owner shall submit proposed changes to this Condition, as required, to correspond with final regulations issued under section 316(b) of the federal Clean Water Act. Project owner shall submit to the CPM copies of all correspondence and submittals to the LARWQCB related to the implementation of section 316(b) regulations. Project owner shall inform the CPM of all 316(b)-related decisions by the LARWQCB and steps taken by the project owner pursuant to LARWQCB direction. Project owner shall report to the CPM when 316(b) regulations and corresponding entrainment or flow reductions or restoration measures have been implemented.

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