

Power plant has no plans to stop killing fish

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Friday, January 2, 2009

Despite legal threats from the city of San Francisco and protests from environmentalists, regulators have no plans to stop a local power plant from using a cooling system that kills fish, discharges heated water into the bay and stirs up sediment that can be harmful both to wildlife and people.

Mirant Corp.'s permit to draw in bay water and discharge it from the Potrero Power Plant expired Wednesday, but the company has no immediate intention of turning off its power generators or cooling system, located east of Third Street just south of Mission Bay.

One of the generators, known as Unit 3, draws in millions of gallons of water per day from the bay, killing an undetermined number of fish. After being run through the plant, the now-heated water is discharged back into the bay where, studies show, it stirs up harmful substances such as copper, dioxin, mercury and PCBs.

The 40-year-old plant is the subject of a larger, long-running debate about whether it should be retrofitted or closed in favor of a new and cleaner plant that the city would own. In the meantime, however, environmentalists and city officials want Mirant to find an alternative to its cooling system or to shut down its operations.

City Attorney Dennis Herrera joined Supervisors Sophie Maxwell and Aaron Peskin in writing a letter to the Regional Water Quality Control Board on Dec. 12, urging it to reject Mirant's application to continue discharging water from Unit 3.

If the board approves the application, "the city intends to take all appropriate legal action to protect the bay and the public," the officials wrote.

City lawyers declined to specify what the legal action might be, but one option would be for the city to seek an injunction halting the use of the cooling system. Herrera's office also has asked water board members to meet with local officials and residents to come up alternatives to the cooling practice.

"Our view is that Mirant has a permit, and to keep it they must show that their cooling system doesn't hurt the bay, or they have to stop - and they haven't shown that it doesn't hurt the bay," said Theresa Mueller, a deputy city attorney.

Mirant spokesman Chip Little responded to questions about the water permit via e-mail, saying the company "continues to work with the water board to address the potential impacts of its once-through cooling system and welcomes input from public stakeholders in the permit renewal process."

The water board is responsible for implementing federal water laws that relate to power plant pollution. When the agency last extended Mirant's permit in 2006, it said it would bar the company from using the cooling system after 2008 unless the firm could show that its methods had "no significant adverse environmental effects" on the bay.

Bruce Wolfe, executive officer of the water board, said Mirant had not yet done so - but that questions have been raised about the federal law on the issue since the regional agency issued its edict.

According to Wolfe, a pending U.S. Supreme Court case challenging federal water laws has thrown restrictions on power plants into doubt. Until that case is resolved and the rules are clarified, regulations governing cooling systems such as Mirant's are on hold, he said.

"Everything has changed since the suspension of the rules," Wolfe said. "Mirant is not currently required to do the studies."

The Supreme Court is expected to rule by mid-2009, he said, and any changes in federal regulations would not be in place before fall.

Wolfe said he still intended to meet with local officials and community groups in the coming months to discuss their concerns.

Amy Chastain, an attorney for the environmental group San Francisco Baykeeper, said the water board has the authority to impose its own rules while the federal guidelines are hashed out in court.

"This will take a very long time for the case to be resolved and for the federal government to act," Chastain said. "We believe the water board can use its best professional judgment to decide to stop once-through cooling."



Lea Suzuki / The Chronicle