



California Regional Water Quality Control Board

San Diego Region



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Item No. 12
Supporting Document No. 3

ORDER NO. R9-2010-0073

**AN ORDER MODIFYING ORDER NO. R9-2006-0065
NPDES NO. CA0109223
POSEIDON RESOURCES (CHANNELSIDE) LLC
CARLSBAD DESALINATION PROJECT
DISCHARGE TO THE PACIFIC OCEAN VIA
THE ENCINA POWER STATION DISCHARGE CHANNEL**

The California Regional Water Quality Control Board, San Diego Region (hereinafter San Diego Water Board), finds that:

1. On August 11, 2006, the San Diego Water Board adopted Order No. R9-2006-0065, National Pollutant Discharge Elimination System (NPDES) No. CA0109223, establishing waste discharge requirements for Poseidon Resources Corporation to discharge up to 57 million gallons per day (MGD) of a combined waste stream comprised of concentrated saline waste seawater and filter backwash wastewater from the Carlsbad Desalination Project (CDP) into the Pacific Ocean via the Encina Power Station (EPS) cooling water discharge channel. Intake source water for the CDP will be drawn from Agua Hedionda Lagoon (AHL) through the existing EPS intake structure.
2. On May 13, 2009 the San Diego Water Board approved the Flow, Entrainment and Impingement Minimization Plan (Minimization Plan), including a Marine Life Mitigation Plan. The San Diego Water Board also made modifications to the NPDES Order to require the Discharger to implement and comply with the Minimization Plan under specified conditions of operations.
3. The San Diego Water Board was notified on November 16, 2009 that the financing arrangements for the Carlsbad Desalination Project require the project company, Poseidon Resources (Channelside) LLC, be named as the discharger, responsible for compliance with for the NPDES Order rather than the parent company, Poseidon Resources Corporation.
4. On March 1, 2010, the San Diego Water Board received an Assignment and Assumption of Agreement (Agreement) between Poseidon Resources Corporation and Poseidon Resources (Channelside) LLC. The Agreement transfers, conveys

and assigns responsibility for compliance with Order No. R9-2006-0065, NPDES No. CA0109223, including the implementation of the Minimization Plan, from Poseidon Resources Corporation to Poseidon Resources (Channelside) LLC as of February 26, 2010.

5. Federal NPDES program regulations [40 CFR 122.63(d)] allow for a change in ownership or operational control of a facility where the San Diego Water Board determines that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted. The transfer of permit responsibility, coverage, and liability, as described in this Order, is considered to be a minor modification (pursuant to 40 CRF 122.63). No other change is necessary in Order No. R9-2006-0065, NPDES No. CA0109223.
6. The San Diego Water Board has notified the Dischargers and all known interested persons of the intent to modify Order No. R9-2006-0065, NPDES No. CA0109223 for transfer of permit responsibility, coverage, and liability.
7. The San Diego Water Board in a public meeting has heard and considered all comments pertaining to the proposed minor modifications to the NPDES Order.

IT IS HEREBY ORDERED, that:

Except as modified or superseded by the permit modifications set forth below, all of the findings, prohibitions, provisions, and other requirements of Order No. R9-2006-0065, NPDES No. CA0109223 remain in full force and effect. The following modifications of Order No. R9-2006-0065, NPDES No. CA0109223 are hereby incorporated and immediately effective:

1. Order No. R9-2006-0065 shall henceforth be titled *Waste Discharge Requirements for the Poseidon Resources (Channelside) LLC, Carlsbad Desalination Project, Discharge to the Pacific Ocean Via the Encina Power Station Discharge Channel*.
2. The Waste Discharge Requirements and NPDES permit, including the implementation of the Minimization Plan, contained in Order No. R9-2006-0065, NPDES No. CA0109223 shall be the responsibility of Poseidon Resources (Channelside) LLC.
3. The term "Discharger" as it appears in Order No. R9-2006-0065, NPDES No. CA0109223 shall hereafter refer to Poseidon Resources (Channelside) LLC.

I, David W. Gibson, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of a Order adopted by the California Regional Water Quality Control Board, San Diego Region, on May 12, 2010.

TENTATIVE

David W. Gibson
Executive Officer

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