

San Diego Regional Water Quality Control Board

December 2, 2016

Sent Via Email Only

Brian Collins
U.S. Fish and Wildlife Service
San Diego National Wildlife Refuge Complex
P.O. Box 2358
Chula Vista, CA 91912
Otay_EIS@fws.gov

In reply refer to / attn:
640063:breill

Subject: Comments on the Draft Environmental Impact Statement for the Otay River Estuary Restoration Project San Diego Bay National Wildlife Refuge, Chula Vista, CA, EIS No. 20160243

Mr. Collins:

The California Regional Water Quality Control Board, San Diego Region (San Diego Water Board) has reviewed the *Draft Environmental Impact Statement for the Otay River Estuary Restoration Project San Diego Bay National Wildlife Refuge* (Draft EIS) dated October 2016. The Draft EIS evaluates potential environmental impacts associated with implementation of the Otay River Estuary Restoration Project (Project). The proposed Project plans to create and restore at least 55.4 acres of wetlands in south San Diego Bay and the Otay River floodplain as mitigation for entrainment and impingement impacts to marine life from co-located operation of the Carlsbad Desalination Plant owned by Poseidon Resources (Channelside), LLC (Poseidon).

The mitigation is required by the San Diego Water Board through Order No. R9-2009-0038, adopted on May 13, 2009, amending National Pollutant Discharge Elimination System (NPDES) Permit, Order No. R9-2006-0065, *Waste Discharge Requirements for the Poseidon Resources (Channelside), LLC, Carlsbad Desalination Project, Discharge to the Pacific Ocean Via the Encina Power Station Discharge Channel* (NPDES No. CA0109223). Order No. R9-2006-0065, as amended, requires Poseidon to implement an approved Flow, Entrainment, and Impingement Minimization Plan which includes in Part A, the Marine Life Mitigation Plan (MLMP).


In the introduction to the Draft EIS, the MLMP's required minimum standards and objectives are referenced. The draft EIS also references the MLMP's requirement to achieve no less than 1715.5 kg of fish productivity per year commencing four years after construction of the wetlands has been completed. The fish productivity requirement was added to the MLMP through San Diego Water Board Order No. R9-2009-0038. In light of these requirements, the San Diego Water Board offers the following comments on the Draft EIS:

1. The Draft EIS does not discuss how the Project will guarantee that the site will be preserved in perpetuity.
2. The Draft EIS does not discuss whether or not feasible methods are available to protect the long-term wetland functions and services on the site in perpetuity.

3. The Draft EIS describes that Alternative B and Alternative C will implement three potential methods of transporting fill from the Otay River Floodplain Site to pond 15 (by truck, by conveyor belt, and by pipeline). The Draft EIS in section 4.2.5.3 – Water Quality does not specify which method will be used. In regards to the methods of transporting fill, the San Diego Water Board has the following comments:
 - a. The Draft EIS identifies potential management measures to minimize impacts to water quality from each of the three methods of transporting fill from the Otay River Floodplain Restoration Site to the Pond 15 Restoration Site. The Draft EIS does not compare the potential water quality impacts associated with each of the methods. The Draft EIS should be modified to assess and compare the impacts to water quality and existing resources for each of the methods for transporting fill.
 - b. Given the possible impacts associated with each of the methods, the Draft EIS should be modified to assess and compare impacts associated with each of the methods for transporting fill on the Project's ability to achieve the MLMP's standards, objectives, and fish productivity requirements.
4. The draft EIS identifies contaminated sediments on an adjacent parcel and there could be potential for migration of contaminated sediments to the proposed mitigation site. Based on these considerations, the draft EIS would need to identify controls and monitoring to prevent the contaminated soils from impacting the Project's ability to achieve the MLMP's standards, objectives, and fish productivity requirements.

For questions or concerns regarding this letter, please contact Ben Neill at (619) 521-3376, Ben.Neill@waterboards.ca.gov. In the subject line of any response, please include the reference "640063:bneill".

Respectfully,


for James B. Smith, AEO
David Gibson
Executive Officer

DWG:jgs:dtb:bno:bin

cc by email:

Peter MacLaggan, Poseidon Resources (Channelside), PMacLaggan@poseidon1.com
Stan Williams, Poseidon Resources (Channelside), swilliams@poseidonwater.com
Kim Tenggardjaja, State Water Board, Kimberly.Tenggardjaja@Waterboards.ca.gov
Claire Waggoner, State Water Board, Claire.Waggoner@waterboards.ca.gov
Kate Hucklebridge, California Coastal Commission, Kate.Hucklebridge@coastal.ca.gov
Tom Luster, California Coastal Commission, Tom.Luster@coastal.ca.gov
Jamie Marincola, U.S. Environmental Protection Agency, Marincola.Jamespaul@epamail.epa.gov
Andy Yuen, U.S. Fish and Wildlife Service, andy_yuen@fws.gov
Shanti Santulli, U.S. Army Corps of Engineers, Shanti.A.Santulli@usace.army.mil

Tech Staff Info & Use	
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