



POSEIDON SURFSIDE

a Poseidon Water company

September 13, 2017

Via Electronic Mail: Hope.Smythe@waterboards.ca.gov

Mrs. Hope Smythe
Executive Officer
California Regional Water Quality Control Board, Santa Ana Region
3737 Main Street, Suite 500
Riverside, CA 92501-3348

Subject: Neutral Third Party Review for Huntington Beach Desalination Project

Dear Hope:

Thank you very much for your September 12, 2017 letter regarding the Huntington Beach Desalination Project's ("Project") proposed Neutral Third Party Review ("NTPR") process. Section M.2.a.(1) of the California Ocean Plan provides that a regional water board "*may require an owner or operator to hire a neutral third party entity to review studies and models and make recommendations to the regional water board.*"

As your letter states, in May of this year the Santa Ana Regional Water Quality Control Board staff ("RWQCB") informed Poseidon that it planned to pursue a NTPR process to confirm the adequacy of certain scientific information, analyses and findings related to the requirements in the Ocean Plan regarding the best available site to minimize intake and mortality of all forms of marine life and identify compensatory mitigation for the loss of all forms of marine life resulting from the construction and operation of the proposed Project.

As you know, on May 4th, during a meeting between Poseidon, State Water Resources Control Board ("State Board") staff, and RWQCB staff, the topic of NTPR was raised and discussed. As an alternative to the State Water Board's typical peer review process, the State Board and RWQCB staffs proposed using the California Coastal Commission staff's process of utilizing a Memorandum of Agreement with the California National Marine Sanctuary Foundation. Poseidon replied within a week that we were amenable to the proposal to expedite the review process by using this alternative approach. Unfortunately, by May 31st we were informed that the Sanctuary Foundation was not interested, and Poseidon and the RWQCB, with support from Concur, Inc., worked together to develop a NTPR process unique to the Project.

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Unfortunately, the general nature of the language in Section M.2.a.(1) of the California Ocean Plan left several issues up to interpretation that Poseidon and the RWQCB could not resolve expeditiously. Specifically, the Ocean Plan does not include a definition of a “neutral third party entity,” specify how the neutral third party entity is selected, or specify the nature and extent of the information from the applicant that is provided to the neutral third party entity. Therefore, we support your decision to move forward with the original NTPR option presented to Poseidon – the State Water Board's peer review process as defined on the State Water Board’s website:

http://www.waterboards.ca.gov/water_issues/programs/peer_review/.

This established process should meet the spirit and intent of the independent and neutral review of Poseidon’s application materials as contemplated by Section M.2.a.(1) of the California Ocean Plan.

Furthermore, we appreciate and support your desire to expeditiously complete the NTPR process. We understand from reviewing the State Water Board’s peer review procedures and from your comments to us that the process is anticipated to be completed within approximately 60 days of commencement. The timeliness of this process is important as the October 3, 2016 Permit Sequence Agreement among Poseidon and the RWQCB, State Lands Commission and Coastal Commission staffs requires issuance of the RWQCB’s draft Order no later than 90 days after the State Lands Commission’s certification of the Supplemental Environmental Impact Report, which is scheduled for October 19th.

Thank you for your leadership on this matter. We look forward to continuing to work collaboratively and productively with the Water Board staff.

Sincerely,



Scott Maloni
Vice President

cc: via e-mail

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