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ADDENDUM TO COMMISSION PACKET

FOR

ENERGY, OCEAN RESOURCES, and

FEDERAL CONSISTENCY

For Friday, October 15, 2010

Item No. F 5a **E-06-013**, Condition Compliance
Poseidon Resources (Channelside) LLC

- Staff Report Modifications
- Correspondence
- Ex Parte Communications

Item No. F 6a **CD-045-10**
Missile Defense Agency

- Staff Report Modifications
- Correspondence

CALIFORNIA COASTAL COMMISSION

45 FREMONT, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200
FAX (415) 904-5400



F5a

October 14, 2010

TO: Coastal Commissioners and Interested Parties

FROM: Alison Dettmer, Deputy Director
Tom Luster, Environmental Scientist
Kate Huckelbridge, Analyst

SUBJECT: Addendum to Staff Report on Condition Compliance for E-06-013, Special Condition 8 – Poseidon Resources (Channelside) LLC

This addendum includes several revisions to the September 22, 2010 staff report on Poseidon's proposed mitigation site and preliminary restoration plan, as well as ex parte disclosures and comments and correspondence received regarding the proposed mitigation site. These revisions do not change staff's recommendation that the Commission approve the proposed site and preliminary restoration plan.

CORRESPONDENCE RECEIVED: Staff received the following correspondence (attached):

- 9/20/2010 – Greg Cox, County Supervisor representing South San Diego County
- 10/4/2010 – Ben Hueso, San Diego City Council President
- 10/4/2010 – Jerry Sanders, Mayor of San Diego
- 10/4/2010 – Andy Yuen, San Diego National Wildlife Refuge
- 10/12/2010 – Poseidon's response to staff report
- 10/12/2010 – Brian Bugsch, State Lands Commission

EX PARTE DISCLOSURES: Commissioners submitted the following disclosures (attached):

- 9/25/2010 – Briefing materials provided by Poseidon to all commissioners
- 10/1/2010 – Chair Neely
- 10/7/2010 – Commissioner Sanchez
- 10/8/2010 – Chair Neely

REVISIONS TO FINDINGS: Staff recommends modifying the staff report as shown below in strikeout/underline:

Page 2, first partial paragraph, make the following change:

“...It appears that most of these constraints are likely to be resolved to allow for successful wetland restoration; however, the ~~proposed~~ site, as proposed, will only meet the requirements and objectives of the MLMP if the intakes and outfalls at the nearby South Bay Power Plant cease to operate....”

Page 4, first partial paragraph, add the following sentence:

“With the current proposal at the Otay River Floodplain site, Poseidon is proposing to provide all 66.4 acres of required mitigation acreage during Phase I. The Commission’s approval is based on all the required mitigation being provided during this single phase.”

Page 11, section 4.3.1, add the following sentences:

“...The land is owned by the State of California, and there are no known restrictions on using the property for wetland mitigation, although, in order to implement the proposed plan, the USFWS will be required to amend its lease with the State Lands Commission. In addition, the current lease held by the USFWS for this portion of the property terminates after 49 years (the maximum lease term available from the State Lands Commission), at which point the USFWS can apply to renew the lease.

Page 12, first partial paragraph, last sentence, make the following changes:

“Although this issue does not affect the site’s potential for providing successful wetland restoration, ~~it is something that Poseidon will need to address as it continues to develop its plans for restoration at this site~~ Poseidon will be expected to resolve this issue with the Conservancy before it submits a CDP application for the final mitigation proposal at this site.”

Page 13, second full paragraph, make the following changes:

“...If the intakes and outfalls at the South Bay Power Plant continue to operate, it is possible that this site will not provide adequate mitigation for the impacts at the Carlsbad desalination plant and thus, will not meet the requirements and objectives of the MLMP or constitute compliance with the conditions of the CDP. Thus, the Commission’s approval of the Otay River Floodplain site is necessarily contingent upon the termination of use of the intakes and outfalls at the South Bay Power Plant before Poseidon completes construction of its mitigation site. If the intakes and outfalls at the South Bay Power Plant do not cease to operate, as is expected, then Poseidon will need to seek Commission approval for an alternative mitigation site or additional mitigation at this site.”

Page 13, new paragraph after second full paragraph:

On September 29, 2010, CA ISO decided that the South Bay Power Plant will continue to operate under a “reliability must-run,” or RMR contract through 2011. CA ISO has indicated that it is waiting for additional facilities (i.e., the Sunrise Powerlink project and other system improvements) to be developed, at which point it expects to be able to release the remaining units at the South Pay Power Plant from the RMR contract. Once the units are released, they can be decommissioned. If project timelines remain on track, the CA ISO should be able to release the units from the RMR contract during 2011. However, if, contrary to expectations, the intakes and outfalls at the South Bay Power plant continue to operate, the ability of the Otay River Floodplain site to mitigate for entrainment impacts at the Carlsbad desalination facility will be diminished. Thus, the

Commission's approval would be invalid, and, as stated above, Poseidon would need to seek approval from the Commission for a new alternative mitigation site or additional mitigation at this site.



GREG COX
SUPERVISOR, FIRST DISTRICT
San Diego County Board of Supervisors

September 15, 2010

The Honorable Bonnie Neely
and Members of the Commission
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Re: October CCC Hearing Agenda Item - Selection of a Mitigation Site for the Carlsbad Desalination Project

Dear Chairwoman Neely and Members of the Commission:

As the County Supervisor representing South San Diego County, it is my pleasure to strongly support the selection of the Otay River Floodplain as the mitigation site required by the Marine Life Mitigation Plan for the Carlsbad Desalination Project.

The proposed restoration project will have significant positive impacts on bird, fish, and plant populations and on the overall health of South San Diego Bay by creating approximately 66 acres of new marine wetlands habitat.

The proposed restoration site is located within the U.S. Fish and Wildlife Service San Diego Bay National Wildlife Refuge, which is approximately 3,940 acres and serves as a vital wildlife link for numerous endangered and threatened species of plants and animals. This proposed site not only helps enhance the wildlife refuge but is also consistent with the efforts of the Otay Valley Regional Park to provide passive recreational amenities and preserve vital open space habitat within the urban city limits. The Otay Valley Regional Park is a 13 mile urban river park that stretches from south San Diego Bay to Otay Lakes and is managed by a Joint Powers Agreement between the City of Chula Vista, City of San Diego and the County of San Diego.

I appreciate your consideration on this matter and urge your support in selecting this location as a suitable wetland mitigation site for the Carlsbad Desalination Project.

Sincerely,


GREG COX
Supervisor, First District

cc: Tom Luster, California Coastal Commission



THE CITY OF SAN DIEGO

COUNCIL PRESIDENT BENJAMIN HUESO

DISTRICT EIGHT

September 9, 2010

Honorable Chair Neely and Commissioners
California Coastal Commission
45 Fremont Street
Suite 2000
San Francisco, CA 94105-2219

RE: **October California Coastal Commission Hearing -- Agenda Item
"Selection of a Mitigation Site for the Carlsbad Desalination Project"**

Dear Chair Neely and Commissioners:


As San Diego City Council President, I am writing to support Poseidon Resources' proposed selection of the Otay River Floodplain as the candidate mitigation site pursuant to the Marine Life Mitigation Plan ("MLMP") associated with the Carlsbad Desalination Project. It is the highest ranked restoration site among the 12 sites under consideration, and one I am familiar with, as it is located in my council district.

The desalination project's value in helping to address our region's critical need for a reliable supply of potable water has been well documented throughout the local and state permitting process. Today, I'd like to highlight the project's unique environmental benefits and the role the project will play in helping to restore and enhance our vulnerable coastal wetlands habitat.

The MLMP establishes a plan to restore approximately 66 acres of tidal wetlands. The Otay River Floodplain site is centrally located within the U.S. Fish and Wildlife Service San Diego Bay National Wildlife Refuge and adjacent to the Otay Valley Regional Park. The proposed restoration of the site to inter and sub-tidal wetlands will have significant positive impacts on the overall health of the South San Diego Bay by establishing new marine wetlands habitat that will be beneficial to bird, fish, and plant populations within the Refuge.

I urge the California Coastal Commission to approve the selection of the Otay River Floodplain site as the preferred site for the wetland mitigation for the Carlsbad Desalination Project.

Sincerely,



Ben Hueso

Cc: Tom Luster





RECEIVED

OCT 04 2010

CALIFORNIA
COASTAL COMMISSION

JERRY SANDERS
MAYOR

September 24, 2010

Honorable Chair Neely and Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

RE: October CCC Hearing -- Selection of a Mitigation Site: Carlsbad Desalination Project

Dear Chair Neely and Commissioners:


As Mayor of the City of San Diego, I am writing in support of Poseidon Resources' proposed selection of the Otay River Floodplain, located within the City of San Diego, as the candidate mitigation site pursuant to the Marine Life Mitigation Plan (MLMP) associated with the Carlsbad Desalination Project.

As you are aware, I have closely followed the desalination project through the local and state permitting process and today I want to call your attention to the project's unique environmental benefits. So much focus has been placed on the regional importance of this project in terms of a drought-proof water supply, but also important for many of us in region is the role the project will play restoring and enhancing important coastal wetlands habitat.

The MLMP establishes a plan to restore approximately 66 acres of tidal wetlands. The Otay River Floodplain site is the highest ranked restoration site among the 12 sites under consideration. The property is centrally located within the U.S. Fish and Wildlife Service San Diego Bay National Wildlife Refuge and is adjacent to other restoration activities underway. The proposed restoration of the site to inter and sub-tidal wetlands will have significant positive impacts on the overall health of the South San Diego Bay by establishing new marine wetlands habitat that will be beneficial to bird, fish, and plant populations within the Refuge.

I ask that the Commission approve the selection of the Otay River Floodplain site as the preferred site for the wetland mitigation for the Carlsbad Desalination Project.

Sincerely,


JERRY SANDERS
Mayor

cc: Tom Luster



United States Department of the Interior



FISH AND WILDLIFE SERVICE
San Diego National Wildlife Refuge Complex
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011

RECEIVED

September 28, 2010

OCT 04 2010

CALIFORNIA
COASTAL COMMISSION

Mr. Peter Douglas
Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Subject: Poseidon Resources and San Diego Bay National Wildlife Refuge

Dear Mr. Douglas:

The San Diego National Wildlife Refuge Complex has been working closely with Poseidon Resources since December 2008 to identify and evaluate opportunities for restoring degraded coastal wetland habitats at the San Diego Bay National Wildlife Refuge-South San Diego Bay Unit. Our collaboration with Poseidon Resources is driven by our goal to restore coastal wetland and estuarine habitats within South San Diego Bay in a cost-efficient manner that is consistent with our 2006 San Diego Bay National Wildlife Refuge Comprehensive Conservation Plan (Conservation Plan). This project, along with our recent partnership with River Partners, will dramatically restore estuary, coastal wetland, and riparian woodlands to the lower Otay River floodplain and thereby provide significant benefits to fishes, migratory birds, and endangered and threatened species.

Poseidon Resources has worked closely with us to ensure that their proposed salt marsh and estuary restoration project is consistent with our 2006 Conservation Plan that envisioned restoring tidally-influenced wetlands within the Otay River floodplain. Our original proposal included the excavation of approximately 725,000 cubic yards to 970,000 cubic yards of material from the Otay River floodplain in order to restore between 60 acres to 90 acres of salt marsh. Our plan included the disposal of the excavated material on approximately 61 acres of disturbed upland habitat within the Otay River floodplain. The proposed project by Poseidon Resources provides a similar amount of salt marsh and estuarine habitats, and in fact, is an improvement over our design since their project would avoid the disposal of excavated material within the Otay River floodplain.

The Memorandum of Understanding we signed with Poseidon Resources on September 28, 2010 signifies our partnership and our ongoing cooperation in restoring the Otay River floodplain. Our collaboration with Poseidon Resources will allow the restoration and monitoring of significant salt marsh and estuarine habitats in a timely and efficient manner without the expenditure of public funding. We continue to strongly support this project and the significant benefits to fish and wildlife that will result from the restoration of the Otay River floodplain.

Sincerely,

Andrew Yuen
Project Leader

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IN AMERICA 

MEMORANDUM OF UNDERSTANDING

Between

**U.S. FISH AND WILDLIFE SERVICE
SAN DIEGO NATIONAL WILDLIFE REFUGE COMPLEX**

And

POSEIDON RESOURCES

This Memorandum of Understanding (“MOU”) is entered into between the U.S. Fish and Wildlife Service, San Diego National Wildlife Refuge Complex (“Service”) and Poseidon Resources (Channelside) LP (“Poseidon”) (individually as “Party” and together as the “Parties”) for mutual benefits to be derived from the restoration and enhancement of a portion of the South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge (“Refuge”).

Whereas, authority for the Service to participate in this MOU is provided in the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997;

Whereas, the Service’s purpose for the Refuge is to protect, manage, and restore habitats for federally listed endangered and threatened species and migratory birds and to maintain and enhance the biological diversity of native plants and animals; and

Whereas, the Service has completed a Comprehensive Conservation Plan (“CCP”), Environmental Impact Statement, and Record of Decision in 2006 to determine the best course of action to enhance, preserve, and manage the Refuge; and

Whereas, Poseidon is the developer of a 50-million gallon per day desalination facility in the City of Carlsbad, California, received regulatory approval for their project from the California Coastal Commission and the San Diego Regional Water Quality Control Board and did not require any permits under section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act; and

Whereas, a permit condition for the desalination facility is to provide 66 acres of estuarine wetland restoration that includes functioning wetlands and habitat for fish and other species; and

Whereas, the Service believes that a partnership with Poseidon will have significant positive impacts on the overall health of the Refuge and develop new habitat that will be beneficial to bird, fish, and plant populations within the Refuge; and

Whereas, Poseidon and the Service have entered into this MOU to create a partnership to facilitate the restoration of property within the Refuge consistent with the CCP and Poseidon’s permit requirements.

Now therefore, the Parties hereto agree to cooperate, and to work in good faith effort, in the restoration and enhancement of wetlands in the Refuge; and

To which the Service will:

1. Make the property shown in Exhibit 1 available to Poseidon for restoration as tidal wetlands.
2. Make available existing data and biological studies that will aid in the development of a restoration plan.
3. Act as lead agency under National Environmental Policy Act (NEPA) for implementation of the restoration plan, and work collaboratively with Poseidon to ensure compliance with NEPA and other applicable regulations and policies.
4. Assist in the coordination with State and Federal agencies to obtain all permits necessary for the implementation of the restoration plan.

To which Poseidon will:

1. Work cooperatively with the Service to design a restoration plan that complies with the objectives of the CCP and Poseidon's permit requirements.
2. Provide the resources necessary to prepare and process all required technical reports, NEPA and California Environmental Quality Act (CEQA) documents, NEPA and CEQA public notices and outreach, and permit applications.
3. Provide the Service with all data, studies and other documents obtained or produced by Poseidon regarding the property.
4. Provide the resources necessary to complete development, and implementation of the approved restoration plan, as well as all required mitigation, permit conditions, monitoring, reporting, and maintenance.

It is mutually understood and agreed by and among the parties that:

The Service is working with River Partners to restore riparian habitats on Refuge lands within the Otay River floodplain adjacent to the property shown in Exhibit 1 that is to be made available to Poseidon. The Service does not foresee any conflicts with the projects proposed by Poseidon and River Partners since they are geographically and hydrologically discrete. The Service will coordinate with Poseidon and River Partners to resolve any potential conflicts, share information as appropriate, and ensure that both projects are able to meet their permit requirements and objectives.

Public access to Federal records shall not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to FOIA regulations (5 U.S.C. 552).

No United States member of, or United States delegate to, Congress shall be admitted to any share or part of this instrument, or benefits that may arise therefrom, either directly or indirectly (41 U.S.C. 22).

This agreement involves no exchange of funds between the Parties. Financial support for any activities must be covered in separate written agreements among or between the Parties and subject to ordinary budgetary and administrative procedures of each Party.

The parties shall develop a dispute resolution process to resolve conflicts between the California Coastal Commission and San Diego Regional Water Control Board performance requirements, Poseidon, and our management of Refuge lands.

This agreement shall be effective on the date of the last signature and shall continue until notification by one of the Parties as noted below.

Modifications to this MOU may be proposed by either Party and shall become effective upon the written concurrence of the Parties.

This agreement may be terminated by Poseidon or the Service following 90 days written notification to the other.

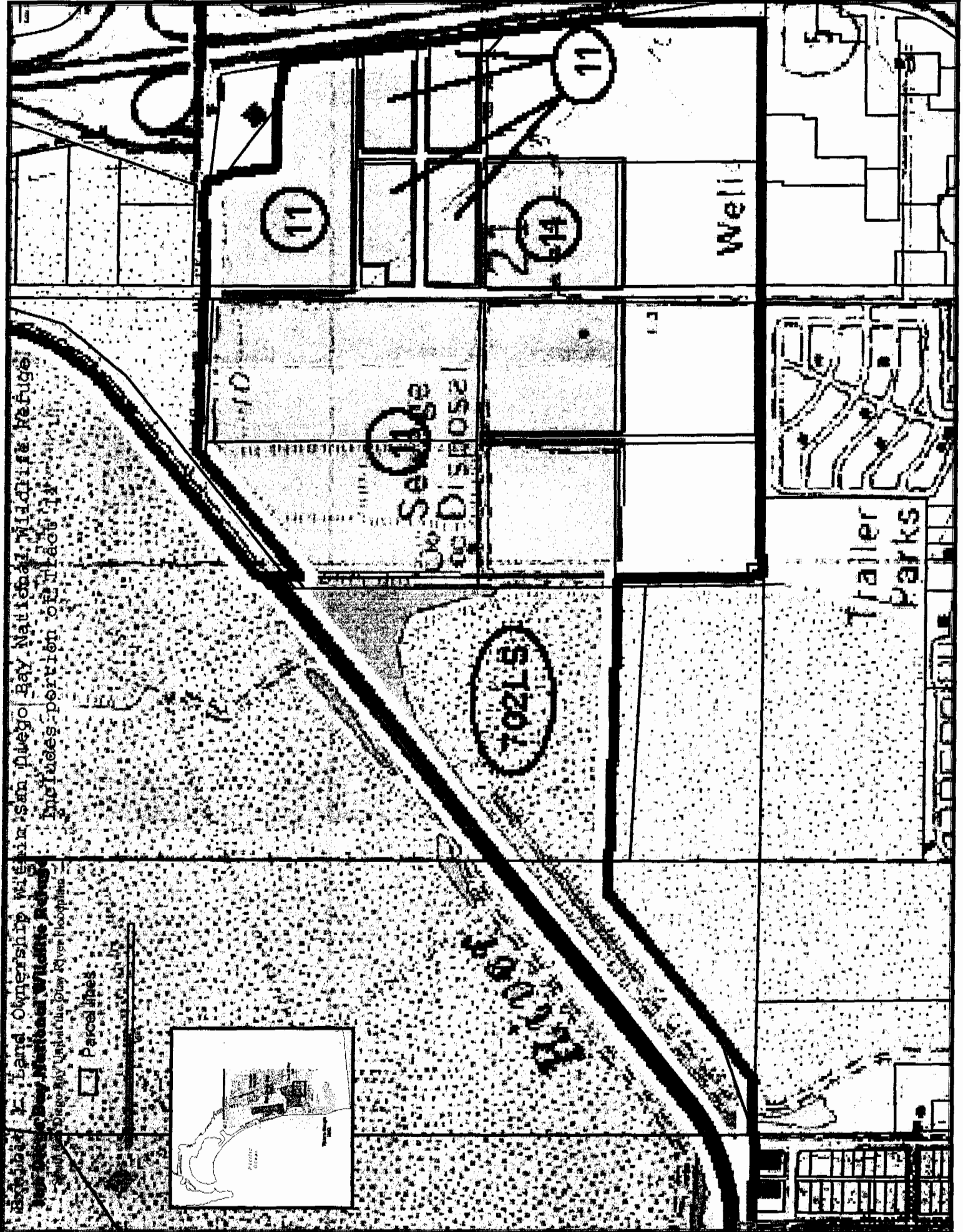
U.S. Fish & Wildlife Service:

Signature: Andrew Ynew Date: 9/28/10

Poseidon Resources (Channelside) LP:

Signature: Pete MacLaggan Date: 9/29/10

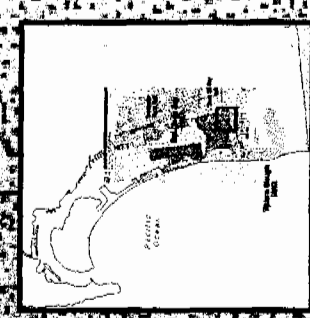
09/28/10



San Diego Bay National Wildlife Refuge
 Includes portion of Parcel 11

San Diego Bay National Wildlife Refuge
 Includes portion of the Play River Floodplain

Parcel lines



70215

Salvage
& Dispose

Well

Trailer
Parks



POSEIDON RESOURCES

October 11, 2010

Agenda Item F5a

VIA OVERNIGHT DELIVERY

Chairperson Neely and Honorable Commissioners
California Coastal Commission
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Re: Condition Compliance for CDP No. E-06-013, Special Condition 8
Response to September 22, 2010 Staff Report

Dear Chairperson Neely and Honorable Commissioners:

On behalf of Poseidon Resources (Channelside) LLC ("Poseidon"), this letter responds to the Coastal Commission Staff Report dated September 22, 2010, regarding Poseidon's proposed Mitigation Site and Preliminary Restoration Plan, which are requirements of the Marine Life Mitigation Plan ("MLMP") for the Carlsbad Desalination Project (the "Project").

Special Condition 8 of the Project's Coastal Development Permit required Poseidon to obtain Commission approval of an MLMP to address the Project's potential impacts to marine life. The Commission approved the MLMP on August 8, 2008, which requires Poseidon to submit a proposed Mitigation Site and Preliminary Restoration Plan to the Commission for review and approval. As explained in the Staff Report, Poseidon has timely submitted both documents, which propose that Poseidon restore the Otay River Floodplain site in the San Diego National Wildlife Refuge (the "San Diego NWR") to satisfy the MLMP's requirements. **Poseidon concurs with the Staff Report's conclusion that the Otay River Floodplain site has the greatest likelihood of meeting the MLMP's requirements and objectives compared to the 11 other potential mitigation sites Poseidon evaluated, and therefore, consistent with Commission staff's recommendation, respectfully requests that the Commission approve Poseidon's proposed Mitigation Site and Preliminary Restoration Plan.**

I. BACKGROUND

The MLMP requires Poseidon to provide up to 66.4 acres of estuarine wetland restoration in two phases.¹ MLMP Section 2.0 requires Poseidon to submit to the Commission for review

¹ While the MLMP requires Poseidon to provide up to 55.4 acres of estuarine wetland restoration in two phases (37 acres in phase one, and up to an additional 18.4 acres in phase two), Poseidon has voluntarily agreed to provide an additional 11 acres of restoration (5.5 acres in each phase),

These materials have been provided to Coastal Commission Staff

and approval a proposed mitigation site or sites within the Southern California Bight based on an evaluation of the site(s) against the minimum standards and objectives set forth in MLMP Sections 3.1 and 3.2. The selected site(s) must provide for the restoration of at least the 42.5 acres² required in the MLMP's first phase, but may provide for up to 66.4 acres of restoration to satisfy mitigation obligations in both of the MLMP's two phases. As discussed above, Poseidon evaluated 12 potential restoration sites within the Southern California Bight against the MLMP's minimum standards and objectives.³ Poseidon's evaluation confirmed that the Otay River Floodplain site would best achieve compliance with the MLMP criteria, and after consultation with Commission staff and the Commission's Scientific Advisory Panel ("SAP"), staff and the SAP recommended that Poseidon move forward with the preparation of a Preliminary Restoration Plan for this site.

II. THE PRELIMINARY RESTORATION PLAN

The Preliminary Restoration Plan involves the restoration of a former solar evaporation pond and disturbed uplands in the Otay River Floodplain subarea of the South San Diego Bay Unit of the San Diego NWR into intertidal salt marsh, intertidal mudflats and subtidal habitats. The U.S. Fish and Wildlife Service ("USFWS"), which manages the San Diego NWR, approved a Comprehensive Conservation Plan ("CCP") and Environmental Impact Statement ("EIS") in 2006, to provide a 15-year strategy for managing the entire Refuge – including the Otay River Floodplain subarea – which includes restoration alternatives. USFWS owns part of the Otay River Floodplain site and leases part of the site from the State of California exclusively for the restoration of coastal wetlands and associated uplands.

Poseidon has prepared three preliminary restoration concepts for the Otay River Floodplain site that are consistent with the USFWS' CCP and EIS. Each of these three concepts can provide up to 66.4 acres of estuarine wetland restoration and thus could satisfy both phases of wetland restoration required under the MLMP. To accomplish this restoration, Poseidon would restore the site to the elevation of adjacent intertidal habitats. It is expected that no hard structures, such as jetties, would be needed during site work and that regular maintenance dredging would not be required due to the low sediment load in the Otay River. A more detailed description of the Preliminary Restoration Plan is attached hereto as Exhibit A. Should the Commission approve Poseidon's Preliminary Restoration Plan, Poseidon will continue to evaluate all three preliminary restoration concepts in developing a Final Restoration Plan, which Poseidon will present to the Commission for review and approval as required by the MLMP.

which was made an enforceable part of the MLMP. (See Staff Report, Condition Compliance for CDP No. E-06-013, Special Condition 8, Agenda Item F5a, at p. 4 fn. 3.)

² This 42.5 acres represents the 37 acres required under phase one in the MLMP, plus 5.5 acres pursuant to Poseidon's voluntary commitment.

³ The study, "Comparison of Selected Southern California Tidal Wetlands as Potential Sites for Mitigation of Impacts Associated with Poseidon Resources Proposed Carlsbad Desalination Plant," was submitted to Commission Staff in January 2010, and is attached to the Staff Report as Exhibit 5.

These materials have been provided to Coastal Commission Staff

III. AGENCY CONSULTATION

In addition to consulting with Commission staff and the SAP regarding the selection of the Otay River Floodplain site, Poseidon also has consulted with the California Department of Fish and Game, the San Diego Regional Water Quality Control Board and USFWS. Each of those organizations supports Poseidon's selection of the site, and USFWS has explained to the Commission that "[o]ur collaboration with Poseidon Resources will allow the restoration and monitoring of significant salt marsh and estuarine habitats in a timely and efficient manner without the expenditure of public funding. We continue to strongly support this project . . ." (See Exhibit B, attached hereto.)

IV. POSEIDON SUPPORTS THE STAFF'S RECOMMENDATION

While Poseidon concurs with the Staff Report's recommendation that the Commission approve the selection of the Otay River Floodplain site and the Preliminary Restoration Plan, we also would like to clarify statements in the Staff Report with additional information set forth in Exhibit C. Exhibit C specifically addresses: (1) the performance standards and remedial measures set forth in the MLMP to alleviate any potential concerns associated with the potential short-term, continued operation of the South Bay Power Plant; (2) the Preliminary Restoration Plan's consistency with the USFWS' CCP for the San Diego NWR; and (3) the Preliminary Restoration Plan's ability to achieve of the MLMP's buffer requirements.

We appreciate the Commission's consideration of these important issues and respectfully request that the Commission approve the Otay River Floodplain site and Preliminary Restoration Plan for both phases of Poseidon's restoration obligations under the MLMP.

Sincerely,



Stan Williams
Poseidon Resources

Attachments

cc: Kate Huckelbridge
Rick Zbur, Esq.

These materials have been provided to Coastal Commission Staff

EXHIBIT A

SUMMARY OF PROPOSED OTAY RIVER FLOODPLAIN PRELIMINARY RESTORATION PLAN

Poseidon's Preliminary Restoration Plan for the Otay River Floodplain site involves the restoration of tidally-influenced estuarine wetlands on a parcel of land known as the Otay River Floodplain, which is located south of the Otay River between Ponds 20 & 22 and Interstate 5 in the San Diego National Wildlife Refuge (NWR) in San Diego County. Part of the Otay River Floodplain site is owned by the U.S. Fish and Wildlife Service (USFWS) and part of the site is leased by the USFWS from the State of California. USFWS manages the entire site exclusively for restoration of coastal wetlands and associated uplands.

This proposed restoration project involves the conversion of a portion of a former solar evaporation pond and adjacent lands at the Otay River Floodplain site to intertidal salt marsh and mudflats and subtidal habitats. The proposed project will be a partnership between Poseidon and the USFWS and would be designed to preserve and enhance the biological diversity of the site in compliance with Coastal Commission's requirements in the Carlsbad Desalination Project's Marine Life Mitigation Plan (MLMP), and to be consistent with the objectives of the programmatic Environmental Impact Statement and Comprehensive Conservation Plan for the San Diego Bay NWR.

This project would provide up to 66.4 acres of estuarine wetlands restoration that includes functioning wetlands and habitat for fish and other wildlife species. The major goals of the proposed restoration are to protect, manage, enhance and restore open water coastal wetlands and native upland to benefit native fish, wildlife and plant species supported within the refuge unit and to provide habitat for salt-marsh dependent species.

This restoration would be accomplished by excavating to the elevation of target subtidal and intertidal habitats. There are no hard structures needed, such as jetties, as the site is not subject to coastal erosion or deposition by wave action. The proposed restoration would have a triangular foot print and would receive its marine source water from south San Diego Bay through a connection with the Otay River at the western vertex of this triangular basin. The project would restore native habitats to support a variety of species.

The fisheries of South San Diego Bay are recognized as a valuable resource that will be enhanced by this restoration project. Intertidal salt marsh, intertidal mudflat, and subtidal habitat are regionally valuable habitats targeted for restoration/creation in the Southern California Bight. The extensive shallow water habitat and eelgrass beds of the South San Diego Bay provide important habitat for a variety of fish, including midwater schooling fishes, such as northern anchovies, slough anchovies, and topsmelt. These species, in turn, represent a major forage resource for predatory fish and avian species. The south end of San Diego Bay also functions as an important nursery area for juvenile California halibut and young spotted and barred sand bass. The American Bird Conservancy has designated the South San Diego Bay Unit as a Globally Important Bird Area due to the presence of globally significant populations nesting gull-billed terns, and continentally significant populations of surf scoters, Caspian terns and western snowy plovers. The entire southern end of San Diego Bay has been recognized as a Western Hemisphere Shorebird Reserve Network Site. These values will all be enhanced by the proposed

project. Furthermore, the intertidal mudflats created by the project will provide breeding habitat for the goby species that are prevalent in Agua Hedionda Lagoon where the intake for the Carlsbad Desalination Project is located.



United States Department of the Interior

FISH AND WILDLIFE SERVICE
San Diego National Wildlife Refuge Complex
6010 Hidden Valley Road, Suite 101
Carlsbad, California 92011



September 28, 2010

Mr. Peter Douglas
Executive Director
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Subject: Poseidon Resources and San Diego Bay National Wildlife Refuge

Dear Mr. Douglas:

The San Diego National Wildlife Refuge Complex has been working closely with Poseidon Resources since December 2008 to identify and evaluate opportunities for restoring degraded coastal wetland habitats at the San Diego Bay National Wildlife Refuge-South San Diego Bay Unit. Our collaboration with Poseidon Resources is driven by our goal to restore coastal wetland and estuarine habitats within South San Diego Bay in a cost-efficient manner that is consistent with our 2006 San Diego Bay National Wildlife Refuge Comprehensive Conservation Plan (Conservation Plan). This project, along with our recent partnership with River Partners, will dramatically restore estuary, coastal wetland, and riparian woodlands to the lower Otay River floodplain and thereby provide significant benefits to fishes, migratory birds, and endangered and threatened species.

Poseidon Resources has worked closely with us to ensure that their proposed salt marsh and estuary restoration project is consistent with our 2006 Conservation Plan that envisioned restoring tidally-influenced wetlands within the Otay River floodplain. Our original proposal included the excavation of approximately 725,000 cubic yards to 970,000 cubic yards of material from the Otay River floodplain in order to restore between 60 acres to 90 acres of salt marsh. Our plan included the disposal of the excavated material on approximately 61 acres of disturbed upland habitat within the Otay River floodplain. The proposed project by Poseidon Resources provides a similar amount of salt marsh and estuarine habitats, and in fact, is an improvement over our design since their project would avoid the disposal of excavated material within the Otay River floodplain.

The Memorandum of Understanding we signed with Poseidon Resources on September 28, 2010 signifies our partnership and our ongoing cooperation in restoring the Otay River floodplain. Our collaboration with Poseidon Resources will allow the restoration and monitoring of significant salt marsh and estuarine habitats in a timely and efficient manner without the expenditure of public funding. We continue to strongly support this project and the significant benefits to fish and wildlife that will result from the restoration of the Otay River floodplain.

Sincerely,

Andrew Yuen
Project Leader

TAKE PRIDE
IN AMERICA 

MEMORANDUM OF UNDERSTANDING

Between

U.S. FISH AND WILDLIFE SERVICE
SAN DIEGO NATIONAL WILDLIFE REFUGE COMPLEX

And

POSEIDON RESOURCES

This Memorandum of Understanding ("MOU") is entered into between the U.S. Fish and Wildlife Service, San Diego National Wildlife Refuge Complex ("Service") and Poseidon Resources (Channelside) LP ("Poseidon") (individually as "Party" and together as the "Parties") for mutual benefits to be derived from the restoration and enhancement of a portion of the South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge ("Refuge").

Whereas, authority for the Service to participate in this MOU is provided in the National Wildlife Refuge System Administration Act of 1966, as amended by the National Wildlife Refuge System Improvement Act of 1997;

Whereas, the Service's purpose for the Refuge is to protect, manage, and restore habitats for federally listed endangered and threatened species and migratory birds and to maintain and enhance the biological diversity of native plants and animals; and

Whereas, the Service has completed a Comprehensive Conservation Plan ("CCP"), Environmental Impact Statement, and Record of Decision in 2006 to determine the best course of action to enhance, preserve, and manage the Refuge; and

Whereas, Poseidon is the developer of a 50-million gallon per day desalination facility in the City of Carlsbad, California, received regulatory approval for their project from the California Coastal Commission and the San Diego Regional Water Quality Control Board and did not require any permits under section 10 of the Rivers and Harbors Act and section 404 of the Clean Water Act; and

Whereas, a permit condition for the desalination facility is to provide 66 acres of estuarine wetland restoration that includes functioning wetlands and habitat for fish and other species; and

Whereas, the Service believes that a partnership with Poseidon will have significant positive impacts on the overall health of the Refuge and develop new habitat that will be beneficial to bird, fish, and plant populations within the Refuge; and

Whereas, Poseidon and the Service have entered into this MOU to create a partnership to facilitate the restoration of property within the Refuge consistent with the CCP and Poseidon's permit requirements.

Now therefore, the Parties hereto agree to cooperate, and to work in good faith effort, in the restoration and enhancement of wetlands in the Refuge; and

To which the Service will:

1. Make the property shown in Exhibit 1 available to Poseidon for restoration as tidal wetlands.
2. Make available existing data and biological studies that will aid in the development of a restoration plan.
3. Act as lead agency under National Environmental Policy Act (NEPA) for implementation of the restoration plan, and work collaboratively with Poseidon to ensure compliance with NEPA and other applicable regulations and policies.
4. Assist in the coordination with State and Federal agencies to obtain all permits necessary for the implementation of the restoration plan.

To which Poseidon will:

1. Work cooperatively with the Service to design a restoration plan that complies with the objectives of the CCP and Poseidon's permit requirements.
2. Provide the resources necessary to prepare and process all required technical reports, NEPA and California Environmental Quality Act (CEQA) documents, NEPA and CEQA public notices and outreach, and permit applications.
3. Provide the Service with all data, studies and other documents obtained or produced by Poseidon regarding the property.
4. Provide the resources necessary to complete development, and implementation of the approved restoration plan, as well as all required mitigation, permit conditions, monitoring, reporting, and maintenance.

It is mutually understood and agreed by and among the parties that:

The Service is working with River Partners to restore riparian habitats on Refuge lands within the Otay River floodplain adjacent to the property shown in Exhibit 1 that is to be made available to Poseidon. The Service does not foresee any conflicts with the projects proposed by Poseidon and River Partners since they are geographically and hydrologically discrete. The Service will coordinate with Poseidon and River Partners to resolve any potential conflicts, share information as appropriate, and ensure that both projects are able to meet their permit requirements and objectives.

Public access to Federal records shall not be limited, except when such records must be kept confidential and would have been excepted from disclosure pursuant to FOIA regulations (5 U.S.C. 552).

No United States member of, or United States delegate to, Congress shall be admitted to any share or part of this instrument, or benefits that may arise therefrom, either directly or indirectly (41 U.S.C. 22).

This agreement involves no exchange of funds between the Parties. Financial support for any activities must be covered in separate written agreements among or between the Parties and subject to ordinary budgetary and administrative procedures of each Party.

The parties shall develop a dispute resolution process to resolve conflicts between the California Coastal Commission and San Diego Regional Water Control Board performance requirements, Poseidon, and our management of Refuge lands.

This agreement shall be effective on the date of the last signature and shall continue until notification by one of the Parties as noted below.

Modifications to this MOU may be proposed by either Party and shall become effective upon the written concurrence of the Parties.

This agreement may be terminated by Poseidon or the Service following 90 days written notification to the other.

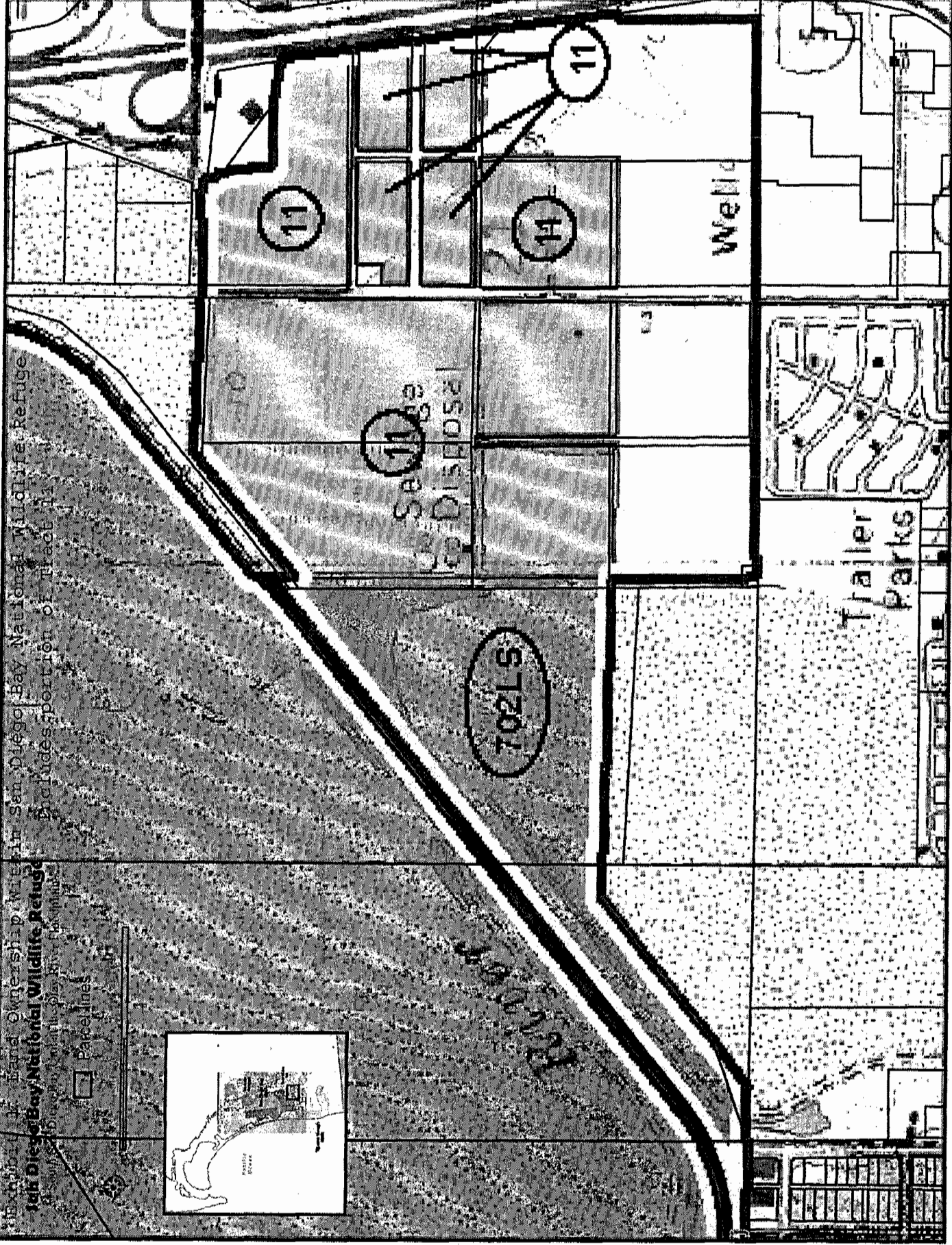
U.S. Fish & Wildlife Service:

Signature: Andrew Grew Date: 9/28/10

Poseidon Resources (Channelside) LP:

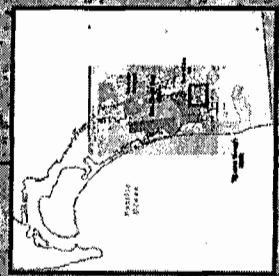
Signature: Pete Marjessen Date: 9/29/10

09/28/10



San Diego Bay National Wildlife Refuge
 Includes portion of tract N
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EXHIBIT C

While Poseidon concurs with the Staff Report's determination that the Otay River Floodplain has the greatest likelihood of meeting the requirements and objectives of the Marine Life Mitigation Plan ("MLMP") for the Carlsbad Desalination Project (the "Project"), Poseidon would like to clarify and supplement certain issues raised in the Staff Report and discussed more fully below.

1. The Otay River Floodplain Will Provide Adequate Mitigation Despite the Short-term, Continued Operation of the South Bay Power Plant

The South Bay Power Plant's operator, Dynegy, Inc., has announced its plans to decommission and shut down the Plant in the near future. (See Exhibit D.) While there is some uncertainty as to the exact timing of the cessation of the Plant's operations, this uncertainty should not preclude the selection of the Otay River Floodplain site. Poseidon notes that the South Bay Power Plant already is operating at significantly reduced levels and some minimal operations do not necessarily compromise the environmental benefits conferred by implementing the MLMP at the Otay River Floodplain site. The MLMP authorizes the Commission's Executive Director to require Poseidon to implement additional remediation measures if the MLMP's performance standards are not met, which provides additional assurance that the MLMP's environmental benefits will be achieved. Accordingly, Poseidon believes that while there is some uncertainty about the timing of the decommissioning of the South Bay Power Plant, this should not preclude the selection of the best mitigation site and any uncertainty about the Plant's cooling water intake can be addressed by a demonstration from Poseidon that the MLMP's environmental benefits can be fully realized at the Otay River Floodplain site at the time the Commission considers Poseidon's Final Restoration Plan. Poseidon has discussed this with Commission staff and believes that Commission staff concurs.

The South Bay Power Plant is located in the Port of San Diego and uses water from the San Diego Bay in its once-through-cooling system. The ageing Plant, built in 1963, is operating at a greatly reduced capacity, and is only operating in emergency situations to ensure electricity supply. For example, as of January 1, 2010, the Plant is discharging "60% less cooling water than has been discharged in the past."¹ In contrast, in 2001 and 2002, the years that were evaluated in an unnamed study referenced in the Staff Report, Plant operations were assumed to be at maximum capacity and cooling water flow rates.² According to that study, the Plant impinged 17% of all larval species present in the San Diego Bay and entrained 385,588 marine organisms under "full operation flow rates" in 2001 and 2002. Since the Plant is now operating at a greatly reduced capacity – the Plant's impacts to marine life are significantly less than the impacts assumed in the Staff Report. Specifically, as determined by the San Diego Regional Water Quality Control Board, the Plant's entrainment intake effects have been reduced by at least 63 percent and the impingement effects have been reduced by 86 percent as of January 1,

¹ California Regional Water Quality Control Board San Diego Region, Attachment I to Order No. R9-2010-0062, Staff Report, Dynegy South Bay, LLC, South Bay Power Plant, Evaluation of Water Intake and Wastewater Discharge Effects on San Diego Bay and Consideration of Termination of Discharge, at p. 24.

² Staff Report, Condition Compliance for CDP No. E-06-013, Special Condition 8, Agenda Item F5a, at p. 12.

2010, when compared to the “levels previously calculated based on assumed Plant operations at maximum generating capacity and cooling water flow rates.”³ Accordingly, assuming that the South Bay Power Plant were to continue operating only at these limited levels for the next several years, the Plant’s limited operations are unlikely to significantly impact the ecosystem benefits from Poseidon’s Otay River Floodplain restoration project.

In addition, the South Bay Power Plant will soon be decommissioned, and thus will no longer have once-through-cooling impacts on San Diego Bay. As explained in a July 20, 2010, press release from Dynegy, the Plant’s operator, Dynegy “remains committed to the responsible decommissioning and demolition of the South Bay power plant following the expiration of the plant’s reliability-must-run status with the California Independent System Operator (ISO).” (See Exhibit D, attached hereto.) Dynegy’s recently filed application with the San Diego Regional Water Quality Control Board to renew its discharge permit “is not indicative of plans to operate the South Bay facility indefinitely, but to support near-term operations as dictated by the needs of ISO.” (See Exhibit D.) In an effort to begin the process of decommissioning the Plant, Dynegy filed an application in December 2009 with the Port of San Diego to demolish and remediate the Plant, and has initiated related planning and permitting activities. When ISO makes a final determination that the South Bay Power Plant is no longer needed to support power grid reliability in the San Diego area, Dynegy will begin Plant demolition.

Should the productivity of Poseidon’s Restoration Plan be reduced due to the short-term continued operation of the South Bay Power Plant, this would not change Poseidon’s obligation to achieve the MLMP’s performance standards. If the performance standards are not achieved, MLMP Section 5.4 provides that the Executive Director “shall proscribe remedial measures” in consultation with Poseidon that must be implemented immediately to ensure the performance standards are met. In addition, MLMP Section 5.0 requires that monitoring, management and remediation be conducted over the “full operating life” of Poseidon’s desalination facility, which shall be 30 years from the date “as-built” plans for the Final Restoration Plan are submitted. Thus, regardless of precisely when the Final Restoration Plan goes into effect, Poseidon must remediate and maintain the Otay River Floodplain site for a full 30 years and must implement any necessary remedial measures during that time to ensure the MLMP’s performance standards are met. Accordingly, adequate protections exist in the MLMP to ensure the full productivity of the Restoration Plan for the required 30-year period and that additional measures may be imposed to help ensure the mitigation program is successful.

2. The Preliminary Restoration Plan is Consistent with USFWS’ Comprehensive Conservation Plan

The Staff Report notes that Poseidon’s Final Restoration Plan must be consistent with the USFWS’s Comprehensive Conservation Plan (“CCP”) for the Sweetwater Marsh and South San Diego Bay Units of the San Diego Bay National Wildlife Reserve (“San Diego NWR”) in order

³ California Regional Water Quality Control Board San Diego Region, Attachment 1 to Order No. R9-2010-0062, Staff Report, Dynegy South Bay, LLC, South Bay Power Plant, Evaluation of Water Intake and Wastewater Discharge Effects on San Diego Bay and Consideration of Termination of Discharge, at p. 24.

for Poseidon to use the Otay River Floodplain site for mitigation.⁴ Provided below is supplemental information concerning the Preliminary Restoration Plan's consistency with the CCP.

The Otay River Floodplain is part of the South San Diego Bay Unit of the San Diego NWR. The South San Diego Bay Unit includes 2,300 acres, most of which are leased to USFWS by the State Lands Commission. In 2006, USFWS completed a CCP for both the Sweetwater Marsh and South San Diego Bay Units of the San Diego NWR. The CCP was prepared to provide a 15-year strategy for management of the NWR, including restoration alternatives.⁵ A guiding principal in developing the CCP was to identify opportunities for reversing the trend of historical wetland loss in San Diego Bay.⁶

USFWS has been working collaboratively with Poseidon to coordinate the restoration of degraded coastal wetland habitats in the San Diego NWR consistent with the CCP and supports Poseidon's selection of the Otay River Floodplain site and the proposed Preliminary Restoration Plan. On September 28, 2010, USFWS submitted a letter to the Commission regarding its partnership with Poseidon, which confirms that Poseidon's proposed restoration project will be consistent with USFWS's 2006 CCP that envisions "restoring tidally-influenced wetlands within the Otay River floodplain" and that Poseidon's restoration of up to 66.4 acres "provides a similar amount of salt marsh and estuarine habitats" to the 60-90 acres of restoration contemplated in the CCP.⁷

To further facilitate the restoration of the proposed mitigation site in a manner consistent with the CCP, Poseidon and USFWS entered into a Memorandum of Understanding ("MOU") on September 29, 2010. The MOU provides that Poseidon will work cooperatively with USFWS to design a Restoration Plan that complies with the objectives of the CCP and Poseidon's permit requirements. (See Exhibit B.) The collaborative work between Poseidon and USFWS will ensure that Poseidon's Final Restoration Plan will be consistent with the restoration of the Otay River Floodplain that the CCP envisions.

3. The Preliminary Restoration Plan Will Achieve the MLMP's Buffer Requirements

⁴ Staff Report, Condition Compliance for CDP No. E-06-013, Special Condition 8, Agenda Item F5a, at p. 12.

⁵ The eastern portion of the proposed mitigation site, which is known as the "Egger-Ghio" property, is governed by a Memorandum of Agreement ("MOA") between the Southwest Wetlands Interpretive Association, the California Coastal Conservancy and USFWS. The MOA requires that the Egger-Ghio property be restored and managed in a manner consistent with the Lower Otay River Wetlands Enhancement Plan, which calls for the acquisition, protection and restoration of wetland and riparian habitats. The CCP incorporates the goals, objectives and conceptual plans outlined in the Enhancement Plan.

⁶ San Diego Bay National Wildlife Refuge (Sweetwater Marsh and South San Diego Bay Units) Comprehensive Conservation Plan, p. S-7.

⁷ See Exhibit B.

Section 3.1(d) of MLMP Condition A requires that Poseidon's restoration project provide a buffer zone of a size adequate to ensure protection of wetland values that is at least 100 feet wide, as measured from the upland edge of the transition area. In addition, section 3.2(c) states that the selected site shall achieve the objective of providing a buffer zone of an average of at least 300 feet wide, as measured from the upland edge of the transition area. The Preliminary Restoration Plan provides a buffer zone that averages at least 300 feet wide, and is not less than 100 feet wide, pursuant to the requirements of the MLMP.

More specifically, the Otay River Floodplain site is located within the larger, 2,300-acre South Bay Unit of the San Diego NWR. The areas to the north and west of the Otay River Floodplain site are within the South Bay Unit and consist of a system of large ponds that currently or historically were used for salt production, which USFWS manages. This area effectively creates buffers on the north of the Otay River Floodplain site that exceed 1,000 feet and buffers on the west that arc over 5,000 feet to the edge of the San Diego Bay. To the east of the Otay River Floodplain site is the Otay Delta Habitat Restoration Project. This project is also within the South Bay Unit and also provides a buffer to the Otay River Floodplain site exceeding 1,000 feet.

The only side of the Otay River Floodplain site that would not provide buffers in excess of 1,000 feet is to the south, where both developed and undeveloped properties are located that are owned by the City of San Diego and the Port of San Diego. The buffer that Poseidon's Restoration Plan would provide to the south would only extend to the Otay River Floodplain site's property line, which Poseidon has designed to be 100 feet to comply with the MLMP's minimum standards.

Since buffers on the north, west and east of the Otay River Floodplain site would exceed 1,000 feet, and since these perimeters account for approximately 60% of the site's total perimeter, when these buffers are averaged with the 100-foot buffer that would be provided on the south of the site (approximately 40% of the site's perimeter), the average buffer provided is expected to exceed the 300-foot average objective in the MLMP. Accordingly, the proposed Otay River Floodplain site is expected to meet both the MLMP's minimum standard of a 100-foot buffer, and the MLMP's objective of providing an average 300-foot buffer.



DYNEGY

NEWS RELEASE

Dynergy Inc. ■ 1000 Louisiana Street ■ Suite 5800 ■ Houston, Texas ■ 77002 ■ www.dynergy.com

FOR IMMEDIATE RELEASE

Media contact: David Byford or Christi Dunn
(713) 767-5800

**DYNEGY REMAINS COMMITTED TO DECOMMISSIONING AND DEMOLITION OF
SOUTH BAY PLANT**

Water discharge permit necessary to support short-term operations

CHULA VISTA, CALIFORNIA – July 20, 2010 – Dynergy remains committed to the responsible decommissioning and demolition of the South Bay power plant following the expiration of the plant’s reliability-must-run status with the California Independent System Operator (ISO). Until that time, the facility will continue to operate in a safe, reliable manner, while being in compliance with environmental regulations.

The plant recently applied for a new water discharge permit from the San Diego Regional Water Quality Control Board. A new permit would take effect upon expiration of the existing permit which extends through the end of 2010. Dan Thompson, Vice President of Dynergy’s West Region Operations, said the new multi-year permit application is not indicative of plans to operate the South Bay facility indefinitely, but to support near-term operations as dictated by the needs of the ISO.

“A multi-year permit is standard for a water discharge permit, and Dynergy is preparing for another year of operations in 2011, if necessary, based on a determination to be made by the ISO later this year on whether the plant will be needed to support power grid reliability in the San Diego area,” Thompson said.

Thompson added that under the terms of its lease agreement with the San Diego Unified Port District, Dynergy is obligated to operate the South Bay facility as long as it is designated reliability-must-run by the ISO. The lease agreement also stipulates that Dynergy is responsible for the demolition of the plant when the ISO’s reliability-must-run designation is no longer in effect.

Dynergy filed an application in December 2009 with the Port to demolish and remediate the plant, and has initiated the related planning and permitting activities. Decommissioning and demolishing the plant is a labor and time-intensive process that will take several years and require the coordination with more than a dozen governmental agencies.

The South Bay facility includes two natural gas-fired peaking units with a combined generating capacity of 294 megawatts, as well as a small turbine peaking unit capable of generating 15 megawatts. In late 2009, two additional natural gas-fired peaking units were permanently retired after the ISO determined that they were not necessary for reliability purposes.

Through its subsidiaries, Dynegy Inc. produces and sells electric energy, capacity and ancillary services in key U.S. markets. The power generation portfolio consists of approximately 12,500 megawatts of baseload, intermediate and peaking power plants. In addition to South Bay, the company operates three other power generation facilities in California and provides jobs to more than 200 employees in the state. For more information on Dynegy, go to the company's web site at www.dynegy.com.

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CALIFORNIA STATE LANDS COMMISSION

100 Howe Avenue, Suite 100-South
Sacramento, CA 95825-8202

**PAUL D. THAYER, Executive Officer**

(916) 574-1800 FAX (916) 574-1810

California Relay Service from TDD Phone **1-800-735-2929**
from Voice Phone **1-800-735-2922**

Contact Phone: (916) 574-1940

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October 12, 2010

The Honorable Bonnie Neely, Chair
and Commissioners
California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, CA 94105-2219

Dear Chair Neely and Coastal Commissioners:

The California State Lands Commission (CSLC) staff has recently learned that at your October 15, 2010 meeting, you will take up a Condition Compliance (CDP No. E-06-013, Special Condition 8) addressing Poseidon Resources' submittal of a proposed mitigation site and preliminary restoration plan as required by its approved Marine Life Mitigation Plan (MLMP). The MLMP, in turn, was a condition for the Coastal Commission's November 2007 approval of Poseidon Resources' Carlsbad Desalination project.

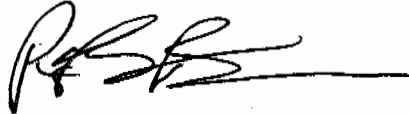
Poseidon Resources is proposing to meet its wetland mitigation requirement at the Otay River Floodplain in the San Diego Bay National Wildlife Refuge (NWR) on lands managed by the U.S. Fish and Wildlife Service (USFWS). Section 4.3.1 (Land Ownership/Restrictions on Use of Site) of the Coastal Commission staff report, indicates that the "MLMP requires that site preservation be guaranteed in perpetuity." This section also states "although the USFWS manages the entire [proposed mitigation] site, it owns just part of the land. The western portion of the site was purchased by the State Lands Commission...and is leased to USFWS for their use as part of the San Diego Bay NWR."

As of the date of this letter, the CSLC has not been approached by USFWS or Poseidon Resources about the proposed mitigation plan or the use of the public trust lands currently under lease to USFWS as part of this proposed mitigation plan. Please note that any such project undertaken by Poseidon Resources in the USFWS leasehold will require Commission approval.

Additionally, while there is no prohibition against using these lands for wetland mitigation, the common law, Public Trust Doctrine prevents the State Lands Commission from dedicating any public trust lands for any purpose "in perpetuity." We have entered into 49-year leases, the maximum term allowed under our regulations, for

other mitigation projects, including the one previously approved for the USFWS. Furthermore, there is no prohibition against entering into another 49-year lease upon expiration of the current 49-year lease.

Sincerely,

A handwritten signature in black ink, appearing to read 'B. Bugsch', with a long horizontal line extending to the right.

Brian Bugsch, Chief
Land Management Division

DJ Moore
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September 25, 2010

VIA FEDEX

Commissioner Khatchik Achadjian
Board of Supervisors
1055 Monterey Street, Room D-430
San Luis Obispo, CA 93408

File No. 036182-0008

Re: Carlsbad Desalination Project, CDP No. E-06-013:
Poseidon's Briefing Materials re Request for Marine
Life Mitigation Site Selection and Preliminary
Restoration Plan Approval

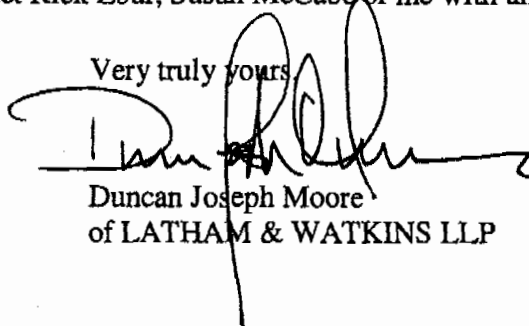
Agenda Item
F 5a

Dear Commissioner Achadjian:

On behalf of Poseidon Resources (Channelside), LLC, enclosed for your review are briefing materials concerning site selection for implementation of Poseidon's Marine Life Mitigation Plan for the above-referenced Coastal Development Permit, which is scheduled for hearing before the Coastal Commission on October 15, 2010. These materials will be used during the briefing that Susan McCabe's office has arranged with you on Monday, September 27, 2010. We have provided these materials to Coastal Commission staff by copy of this letter.

Please do not hesitate to contact Rick Zbur, Susan McCabe or me with any questions.

Very truly yours,



Duncan Joseph Moore
of LATHAM & WATKINS LLP

Enclosure

cc (via email):

Kate Huckelbridge, California Coastal Commission
Peter MacLaggan, Poseidon Resources
Susan McCabe
Rick Zbur

Poseidon Resources (Channelside), LLC

**Carlsbad Desalination Project
Marine Life Mitigation Plan (MLMP)**

CDP No. E-06-013

Briefing Materials for October 15, 2010 Hearing – Agenda Item F5a

***Marine Life Mitigation Site Selection
and Preliminary Restoration Plan***



**POSEIDON
RESOURCES**

These materials have been supplied to the California Coastal Commission Staff

Background: Marine Life Mitigation Plan (MLMP)

- **MLMP approved by Commission in August 2008**
- **Requires up to 55.4 acres of estuarine wetland restoration in two phases**
 - **Poseidon later voluntarily offered an additional 11 acres, resulting in a total of up to 66.4 acres of wetland restoration in both phases**
- **MLMP required submittal of proposed site(s) and preliminary restoration plan within 10 months of Nov. 3, 2009 CDP issuance for Carlsbad Project**
 - **Commission staff concurs that Poseidon satisfied this requirement**

What is Before the Commission?

- MLMP requires Commission approval of proposed sites and preliminary restoration plan before Coastal Development Permit (CDP) process begins
- MLMP Section 2.0 (Site Selection) requires:
 - “[T]he permittee shall submit the proposed site(s) and preliminary wetland restoration plan to the Commission for its review and approval or disapproval . . . The basis for the selection shall be an evaluation of the site(s) against the minimum standards and objectives set forth in subsections 3.1 and 3.2 below.”
- Poseidon will come back to Commission for review of CDP based on final restoration plan

Proposed Restoration Site

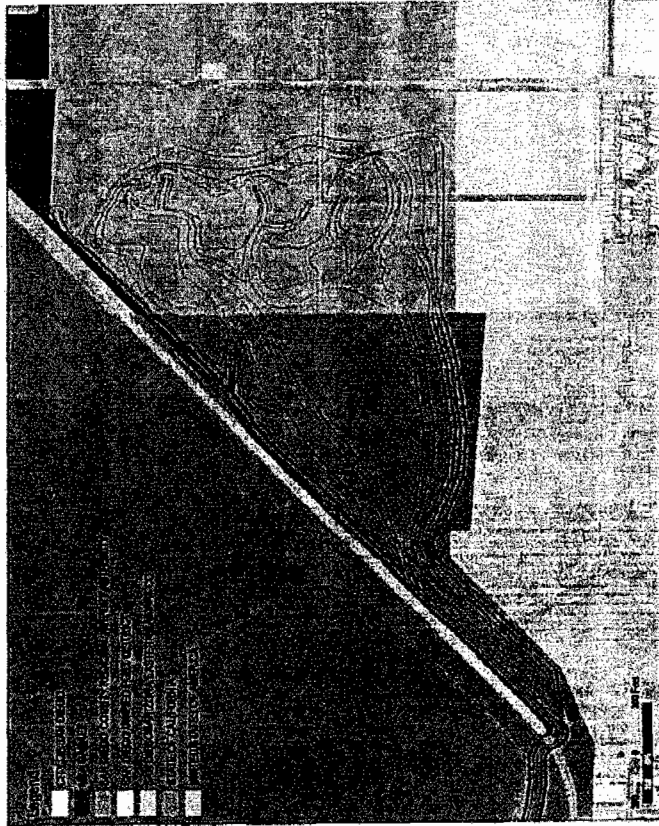
- **Otay River Floodplain Site**
 - **Located in San Diego National Wildlife Refuge**
 - **Provides restoration opportunity for both Phase I and Phase II mitigation obligations - 66.4 acres**
 - **Site contains former intertidal mudflats and salt marsh, and restored habitat would be similar to affected habitat in Agua Hedionda Lagoon**
 - **Meets MLMP minimum standards and best achieves MLMP objectives**
 - **Supported by USFWS, CDFG, Regional Water Quality Control Board staff, Commission staff and the Commission's Scientific Advisory Panel**

Where is the Otay River Floodplain Site?

Site is located in the South San Diego Bay Unit of the San Diego National Wildlife Refuge.



Who Manages/Owns the Otay River Floodplain Site?



- The Otay River Floodplain Site is managed and owned or leased by the USFWS exclusively for restoration of coastal wetlands and associated uplands.
- USFWS has proposed to enter into a partnership with Poseidon to facilitate restoration and enhancement of wetlands.

What is the Preliminary Restoration Plan?

- Restoration of a former solar evaporation pond and adjacent lands to intertidal salt marsh, intertidal mudflats and subtidal habitats
- Site would be excavated to the elevation of adjacent intertidal habitats and no hard structures such as jetties are needed
- As part of the CDP process, Poseidon will evaluate three alternative restoration designs
 - Designs will be considered in consultation with USFWS, Commission staff and the Commission's Scientific Advisory Panel
 - Each alternative provides the opportunity for at least the full 66.4 acres of wetland restoration

What Process Did Poseidon Follow?

- **MLMP required Poseidon to evaluate 11 potential restoration sites within the Southern California Bight**
 - In addition, MLMP provides that Poseidon may consider any other sites recommended by CDFG or agreed to by the Executive Director
- **Poseidon evaluated potential sites based on extensive consultation with the following:**
 - CDFG
 - USFWS
 - San Diego Regional Water Quality Control Board
 - Commission staff and the Commission's Scientific Advisory Panel

What Sites Were Evaluated?

- Poseidon evaluated the following 12 potential sites:
 - Tijuana Estuary in San Diego County
 - San Dieguito River Valley in San Diego County
 - Agua Hedionda Lagoon in San Diego County
 - San Elijo Lagoon in San Diego County
 - Buena Vista Lagoon in San Diego County
 - Huntington Beach Wetland in Orange County
 - Anaheim Bay in Orange County
 - Santa Ana River in Orange County
 - Los Cerritos Wetland in Los Angeles County
 - Ballona Wetland in Los Angeles County
 - Ormond Beach in Ventura County
 - **Otay River Floodplain in San Diego County**

How Were Sites Evaluated?

- **Each potential restoration site was evaluated based on its ability to meet MLMP minimum standards and objectives which included the required timeline, i.e. presentation of a final mitigation plan and proposed Coastal Development Permit within 2 years**
- **Each site was ranked based on the following criteria:**
 - **Status of an existing restoration plan;**
 - **Status of environmental documentation;**
 - **Land ownership; and**
 - **Compliance with MLMP minimum standards and objectives**

How Did Sites Compare?

Wetland	Status of Restoration Plan	Status of Environmental Documentation	Land Ownership	Ease of Compliance with CCC Objectives	Implementation Risk	Ranking
Tijuana Estuary	Feasibility Study	Needed	California State Parks	Moderate	Moderate	Moderate
San Diego Bay NWR Otay River Floodplain	Conceptual	Programmatic EIS completed	State of California/USFWS	Moderate	Low	High
San Dieguito Lagoon	Conceptual	Needed	San Dieguito JPA	Moderate	(2)	Low
San Elijo Lagoon	Feasibility Study	Needed	State of California	Difficult	High	Low
Buena Vista Lagoon	Feasibility Study	Needed	State of California	(1)	High	Low
Aqua Hedionda Lagoon	None	None	Cabrillo Power-CDFG	(1)	High	Low
Anaheim Bay	CCP (in prep)	None	U.S. Navy	Difficult	High	Low
Santa Ana River	None	None	Private	(1)	High	Low
Huntington Beach Wetlands (Newland Marsh)	Conceptual	Needed	Caltrans	Moderate	(2)	Low
Ballona Wetlands	Feasibility Study	Needed	State of California	Moderate	High	Low
Los Cerritos Wetlands	Conceptual	Needed	Acquisition	Difficult	High	Low
Ormond Beach	Pending	Needed	Acquisition	(1)	High	Low

(1) No existing plan or preferred alternative to evaluate; (2) Wetlands not currently available to Poseidon as potential sites.

Otay River Floodplain Site's Compliance with MLMP Minimum Standards

- a. *Location within Southern California Bight*
 - Located in South San Diego Bay Unit of San Diego Wildlife Refuge
- b. *Potential for restoration as tidal wetland*
 - Would restore intertidal salt marsh and freshwater wetlands
- c. *Creates or restores a minimum of 37 and up to 66.4 acres*
 - Would provide the opportunity for at least 66.4 acres of restored habitat similar to affected habitat in Agua Hedionda Lagoon
- d. *Provides a buffer zone of at least 100 ft. and upland transition zone*
 - Buffer zone meets 100-foot requirement in all directions

Otay River Floodplain Site's Compliance with MLMP Minimum Standards (cont.)

- e. *Any existing site contamination problems would be controlled or remedied and would not hinder restoration*
 - Screening level soil contaminant assessment showed sufficient uncontaminated areas that are suitable for restoration
- f. *Site preservation is guaranteed in perpetuity to protect against future degradation or incompatible land use*
 - Part of site is owned by and part of site is leased to USFWS exclusively for restoration of coastal wetlands and uplands
 - Prior to restoration, agreements will be entered to guarantee site preservation in perpetuity
- g. *Feasible methods are available to protect the long-term wetland values on the site in perpetuity*
 - USFWS will manage restored wetlands to protect their ecological value in perpetuity

Otay River Floodplain Site's Compliance with MLMP Minimum Standards (cont.)

- h. Does not result in a net loss of existing wetlands*
 - Only minimal impact at point of hydraulic connection to Otay River
 - Other portions of site do not contain functioning wetlands
- i. Does not result in an adverse impact on endangered animal species or an adverse unmitigated impact on endangered plant species*
 - Commission staff concurs that “the site as it currently exists has minimal habitat value, and thus it is not likely that this mitigation project will have adverse impacts on existing flora and fauna”
 - Long-term effects of restored habitats on threatened and endangered species would be beneficial

Site Best Meets MLMP Objectives

- a. *Provides maximum overall ecosystem benefits*
 - Historical San Diego Bay maps show currently degraded site as former intertidal mudflats and salt marsh - regionally scarce habitats
 - Restoration would enhance fisheries of South San Diego Bay – a valuable resource that provides habitat for major forage resources (schooling fishes, anchovies and topsmelt) and nursery area for juvenile halibut and spotted and barred sand bass
- b. *Provides substantial fish habitat compatible with other wetland values at the site*
 - Restoration of unvegetated tidal creeks and sloughs would provide fish breeding areas and nurseries
 - Intertidal mudflats created by restoration would provide breeding areas for gobies that are prevalent in Agua Hedionda Lagoon
- c. *Provides a buffer zone of an average of at least 300 ft wide, and not less than 100 ft wide*
 - Restoration site has buffers meeting 100 feet in all directions, and can be designed to meet 300-foot average buffer objective

Site Best Meets MLMP Objectives (cont.)

- d. *Provides maximum upland transition areas*
 - Preliminary plan includes on-site use of excavated soils to create upland and transitional habitats
- e. *Restoration involves minimum adverse impacts on existing functioning wetlands and other sensitive habitats*
 - Only minimal impact at point of hydraulic connection to Otay River
 - Other portions of site do not contain functioning wetlands
- f. *Site selection and restoration plan reflect a consideration of site specific and regional wetland restoration goals*
 - Preliminary plan is consistent with established goals and guiding principles for restoration site, which are consistent with USFWS Refuge purposes, National Wildlife Refuge System (NWRS) goals, the NWRS Improvement Act and USFWS policies

Site Best Meets MLMP Objectives (cont.)

- g. Restoration design is most likely to produce and support wetland-dependent resources*
 - Project is designed to protect, manage, enhance coastal wetlands and provide habitat for salt-marsh species
- h. Provides rare or endangered species habitat*
 - Plan would provide preferred nesting and foraging habitat for light-footed clapper rail, fishery resources that support the California least tern, and habitat for California halibut
- i. Provides for restoration of reproductively isolated populations of native California species*
 - The clapper rail population in San Diego Bay is isolated from other populations and the Plan would provide habitat for this population
 - Plan also would provide opportunity to establish populations of an endangered plant – salt marsh bird's beak – and existing populations are reproductively isolated

Site Best Meets MLMP Objectives (cont.)

- j. Results in an increase in the aggregate acreage of wetland in the Southern California Bight*
 - Will add up to 66.4 acres of restored wetland to the Southern California Bight
- k. Requires minimum maintenance*
 - Site is not subject to coastal erosion or wave action, and sediment load would not require maintenance dredging. Thus, only minimum maintenance is anticipated
- l. Restoration project can be accomplished in a reasonably timely fashion*
 - It is anticipated that site restoration can be accomplished within MLMP timeframes
- m. In proximity to the Carlsbad Desalination project*
 - Located within San Diego County

Commission Staff Concurs with Otay River Floodplain Site Selection

- The Commission's staff report provides:
 - "[T]he Otay River Floodplain site has the greatest likelihood of meeting the requirements and objectives of the MLMF."
 - "The site contains enough area to meet the acreage requirements in the MLMF."
 - "including space for transition and buffer areas."
 - "No [other] funding source has been identified for restoration of this area."
 - Restored site "will be contiguous to a larger complex of critical wetland and shallow water habitat and easily integrated into a larger management structure."

Otay River Floodplain Site Supporters

- **USFWS**
- **CDFG**
- **San Diego Regional Water Quality Control Board staff**
- **Commission's Scientific Advisory Panel**
- **Commission staff**
- **Coastal Conservancy**

Request

- **Poseidon concurs with Commission staff's recommendation**
- **Poseidon requests that the Commission:**
 - **Approve the proposed Otay River Floodplain site and preliminary wetland restoration plan under the MLMP for both Phase I and Phase II restoration obligations**

FORM FOR DISCLOSURE OF EX PARTE COMMUNICATIONS

Name or description of project, LCP, etc: Poseidon Resources Corporation
Carlsbad Desalination Facility
CDP E-06-013, Agenda Item F5a

Date and time of receipt of communication: October 1, 2010; 10:00 am

Location of communication: Telephonic

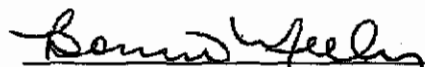
Type of communication (letter, facsimile, etc.): Telephonic meeting with Commissioner
Bonnie Neely

Person(s) initiating communication: Rick Zbur, Latham & Watkins;
Stan Williams, Poseidon Resources, and Anne Blemker, McCabe & Company

Detailed substantive description of content of communication:

Poseidon's representatives covered the topics addressed in the briefing materials provided. Specifically, the representatives discussed Poseidon's proposed mitigation site and Preliminary Restoration Plan to comply with the Marine Life Mitigation Plan ("MLMP") that was approved by the Commission and imposed as a Special Condition of the project's Coastal Development Permit. They indicated that the selected Otay River Floodplain site and the Preliminary Restoration Plan for the site could provide up to 66.4 acres of estuarine wetland restoration to fully comply with the MLMP's acreage requirements and Poseidon's subsequent commitments for both phases of restoration mitigation, and that the site and Plan best satisfy the MLMP's minimum standards and objectives when compared to the 11 other potential restoration sites that Poseidon evaluated. Poseidon's representatives also told me that the Otay River Floodplain site and the Preliminary Restoration Plan are supported by the U.S. Fish and Wildlife Service, the California Department of Fish and Game, the San Diego Regional Water Quality Control Board, and the Coastal Conservancy, as well as Commission staff and the Commission's Scientific Advisory Panel, as indicated in the Staff Report. Poseidon's representatives told me that they support the Staff Report's recommendation that the Commission approve the Otay River Floodplain site and the Preliminary Restoration Plan so that Poseidon may move forward with preparing a Final Restoration Plan for Commission review consistent with the MLMP's terms.

October 1, 2010


Bonnie Neely, Commissioner

**FORM FOR DISCLOSURE OF
EX-PARTE COMMUNICATIONS**

Name or description of the project: **Agenda Item F.5.a. Condition Compliance for Permit No. E-06-013
(Poseidon Resources, LLC, Carlsbad)**

Time/Date of communication: **October 7, 2010, 4:00 pm**

Location of communication: **Oceanside City Hall**

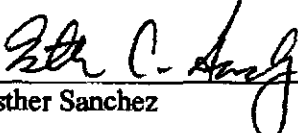
Person(s) initiating communication: **Dave Grubb, speaking for Surfrider San Diego, SD Coastkeeper, CERF
(Coastal Environmental Rights Foundation).**

Person(s) receiving communication: **Esther Sanchez**

Type of communication: **Meeting**

1. Ask that this issue be postponed until after the State Board hears the South Bay Powerplant permit renewal on November 17th, 2010 so that we know if the powerplant will continue to discharge and for how long. We request the Commission hear this issue in January or February so the local community can comment.
2. Poseidon has chosen only one site for the required mitigation/restoration plan. It is a risky site because it is upstream of a cooling water intake and discharge to an existing powerplant. Unless the powerplant ceases to use their cooling system before final approval of the mitigation/restoration plan, this site will not work, because any possible habitat and biological benefits from the project will just be exposed to entrainment - the exact adverse impact on marine life the plan is supposed to mitigate.
3. If the cooling water intake and discharge are discontinued before the final plan is submitted next year, there is no way to do include an adequate monitoring plan (which is mandated in the CDP conditions of approval). When the cooling water intake and discharge stop - that alone will result in benefits to habitat in the site and increased fish populations (regardless of the mitigation/restoration plan). Until those population increases from discontinuing the cooling water intake stabilize, we do not have a baseline to monitor the benefits of the mitigation plan (in isolation of the exact same benefits we'll see from cessation of the cooling water intake). Poseidon is not allowed to take credit for benefits from discontinuing the cooling water intake because they had nothing to do with it. But the plan does not include monitoring provisions that can tease out the benefits of the mitigation project from the benefits of the cooling water intake cessation.
4. Finally, we don't see how these issues can be resolved before the deadline to submit a final mitigation plan (including a monitoring plan) before next year when it is due. So, the Coastal Commission should make it clear, in conditions of approving the preliminary mitigation plan, that complications with the site are readily foreseeable. Poseidon has chosen not to offer an alternative site - so they are effectively assuming the risk this site will not be appropriate in time. If that happens, Poseidon should not be granted an extension on the deadline for submitting the final plan next year because they know NOW that the site may not work.

Date: **October 7, 2010**



Esther Sanchez

**FORM FOR DISCLOSURE
OF EX PARTE
COMMUNICATION**

Date and time of communication:
(For messages sent to a Commissioner by mail or facsimile or received as a telephone or other message, date time of receipt should be indicated.)

October 8, 2010, 10:15am

Location of communication:
(For communications sent by mail or facsimile, or received as a telephone or other message, indicate the means of transmission.)

Commissioner Neely's Eureka Office

Person(s) initiating communication:
Person(s) receiving communication:

Maggy Herbelin, Local ORCA Liaison
Commissioner Bonnie Neely

Name or description of project:

F5a. Condition Compliance for Permit No. E-06-013
(Poseidon Resources (Channelside), LLC, Carlsbad)
Review and possible approval of proposed mitigation site and preliminary restoration plan, as required by the Commission-approved Marine Life Mitigation Plan submitted by Poseidon Resources in compliance with Special Condition 8 of Permit No. E-06-013 for desalination facility at Carlsbad, San Diego County. (KH-SF)

Detailed substantive description of content of communication:
(If communication included written material, attach a copy of the complete text of the written material.)

Our colleagues in ORCA on behalf of Surfrider San Diego, SD Coastkeeper, CERF (Coastal Environmental Rights Foundation), are asking the Commission for postponement until the State Water Board sets a date for closure of the South Bay Power Plan. The decision is expected in November. Bring this back in January or February.

Date: October 8, 2010


Bonnie Neely, Commissioner

If the communication was provided at the same time to staff as it was provided to a Commissioner, the communication is not ex parte and this form does not need to be filled out.

If communication occurred seven or more days in advance of the Commission hearing on the item that was the subject of the communication, complete this form and transmit it to the Executive Director within seven days of the communication. If it is reasonable to believe that the completed form will not arrive by U.S. mail at the Commission's main office prior to the commencement of the meeting, other means of delivery should be used, such as facsimile, overnight mail, or personal delivery by the Commissioner to the Executive Director at the meeting prior to the time that the hearing on the matter commences.

If communication occurred within seven days of the hearing, complete this form, provide the information orally on the record of the proceedings and provide the Executive Director with a copy of any written material that was part of the communication.

CALIFORNIA COASTAL COMMISSION

45 FREMONT STREET, SUITE 2000
SAN FRANCISCO, CA 94105-2219
VOICE AND TDD (415) 904-5200



F 6a

Prepared October 12, 2010 (for October 15, 2010 hearing)

To: Coastal Commissioners and Interested Persons
From: Mark Delaplaine, Manager, Energy, Ocean Resources and Federal Consistency Division
Subject: STAFF REPORT ADDENDUM for Item F 6a

Consistency Determination CD-045-10, Missile Defense Agency (MDA), Docking/Maintenance/Repair of the Sea-based X-Band (SBX) Radar Vessel at the Naval Air Station North Island (NASNI), Coronado

The Commission staff proposes several clarifications to the staff recommendation. [Proposed new language is shown in underline text; language to be deleted is shown in ~~strikeout~~ text.]

Executive Summary, p. 1, last paragraph, make the following change:

The vessel consists of a large spherical antenna sitting atop a large floating platform. The top of the vessel will be 250 ft. above the water line, which makes it appear 36 ft. taller than a CVN. While the length of the SBX would be less than that of a CVN, which is 4 times as long as the SBX, the SBX will nevertheless be quite noticeable while it is in port, both due to its larger height and the fact that it will appear as a unique object in the viewshed. While the vessel would be clearly visible from nearby public parks and from seaward views from the San Diego downtown shoreline across the bay, because the visual impact would be temporary, and because the views of NASNI are highly industrialized, the project would be consistent with the view protection policy (Section 30251) of the Coastal Act.

Project Description, page 3, second paragraph, make the following change:

The MDA is considering three possible sites for the proposed repairs, two in Washington State and the NASNI site. It has not made a final siting decision, a decision which will in part be based on availability of berthing space. The two other Washington State alternatives are Naval Station Everett and Todd Pacific Shipyards. The MDA has most recently indicated a preference for performing the activity at Todd Shipyards, with both NASNI and Everett reserved as contingency alternatives in the event Todd Shipyards is unavailable. The MDA further states that while SBX maintenance/repairs are conducted every five years, future

maintenance may be able to be performed in Pearl Harbor, Hawaii. However, no existing Pearl Harbor site is currently deep enough to accommodate the vessel, and implementation of that alternative would necessitate future dredging and channel deepening.

Public Views Findings, page 7, middle of page, make the following change:

The Commission finds that while the overall bulk would be less than that of a CVN, which is four times as long as the SBX, the SBX will likely appear to be noticeable to the viewer, both due to its larger height and the fact that it will appear as a unique object in the viewshed. While the vessel would clearly be visible from nearby public parks in Coronado, and San Diego downtown public areas across the bay, the Commission nevertheless finds that because the visual impact would be temporary, because the views of NASNI are already highly industrialized, and because it would only be sited at NASNI if one of the CVNs is absent, the project would not adversely affect scenic coastal public views, would be consistent with the character of the surrounding area, and would be consistent with Section 30251 of the Coastal Act.

Public Access and Recreation Findings, page 12, last paragraph, make the following change:

The Commission finds that the noise effects on recreation would be minimal, and that because the work would occur when a CVN is not present, traffic impacts would be less than traffic demand caused by the presence of a CVN (which as noted above, the Commission has previously authorized). The Commission further notes that it recently raised a concern over the need for consideration of siting portions of the Coastal Trail on a nearby Navy base, during its review of a recent Navy proposal further south on the Silver Strand Peninsula (Silver Strand Training, CD-033-10). However, suggestions for a coastal trail at NASNI have not been made, and such a trail would not be compatible with existing Navy operations, as long as they remain at their current intensities at NASNI. Moreover, as discussed above the Navy does allow some public access at NASNI, adjacent to Coronado beaches on the south side of NASNI. In any event, the project's impact would be minor and temporary. The Commission concludes that the that the existing Navy-implemented military restrictions on access at NASNI are necessary and consistent with Coastal Act policy language allowing access limitations based on military security needs, and that project is consistent with the public access and recreation policies (Sections 30210-30212) of the Coastal Act.

Also attached is correspondence from the City of Coronado.



CITY OF CORONADO

1825 STRAND WAY
CORONADO, CA 92118

OFFICE OF THE CITY MANAGER
(619) 522-7335
FAX (619) 522-7846

October 12, 2010

California Coastal Commission
Ms. Neely and Honorable Commissioners
Attn: Mark Delaplaine, Coastal Staff
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

Re: CD-045-10 Consistency Determination for Maintenance and Repair of Sea-based X-Band (SBX) Radar Vessel in Coronado, San Diego County.

Dear Ms. Neely and Honorable Commissioners:

The City of Coronado has received notice of the October 15, 2010, Coastal Commission hearing to be held in Oceanside to consider the Department of Defense, Missile Defense Agency's planned maintenance and repair of a Sea-based X-band (SBX) Radar Vessel at Naval Air Station North Island, Coronado. While it appears that Todd Pacific Shipyards in Seattle has become the preferred alternative for the maintenance project, it is the City's understanding that the Missile Defense Agency is still pursuing a Coastal Consistency Determination for the NASNI site as a back-up location for the project.

The City has reviewed the project and has the following concerns and recommended conditions of project approval:

Summary of Consistency Determination Issues of Interest to Coronado:

Article 4: Marine Environment: Shoreline Alterations and Oil and Hazardous Substance Spills.

1. The application should clearly identify or address how the pumping of bay water discharge back into San Diego Bay has any effect on water quality or the shoreline.
2. The SBX Radar Vessel has a fuel capacity of 1.88 million gallons of diesel. While the document references the project's compliance with *NASNI's Spill Prevention, Control and Countermeasure Plan and Hazardous Waste Management Plan*, the City questions whether the Missile Defense Agency has a Disaster Management Plan specific to the SBX Vessel when repair and maintenance activities occur. The MDA should be required to provide a copy of the MDA's disaster management plans specific to this type of repair activity.



California Coastal Commission
October 12, 2010
Page 2

Article 6: Development: Scenic and Visual Qualities, Minimization of Adverse Impacts

1. The City recognizes that this is a 3-month maintenance project and repairs will occur similar to the typical repairs and maintenance activities that occur for the aircraft carriers homeported at NASNI. However, the SBX Vessel is significantly wider and taller than a normal aircraft carrier. The dome of the radar would extend 36' higher than the top of a ship and would be 22' wider at mast. The City desires to minimize the impacts upon residents who live near Pier P. The City requests that the SBX vessel be located at Pier N rather than Pier P to minimize visual and noise impacts associated with this structure to adjoining residential areas.
2. The 24-hour lighting on the SBX Vessel raises concerns given the structure's increased height, bulk and scale and potential nighttime lighting impacts to neighboring properties. Aircraft carriers do not have the same type of nighttime lighting. The City requests that lighting shields be installed to reduce glare to residential areas.
3. The proposed construction hours for the maintenance and repair activity from 5:30 a.m. to 10:00 p.m. raise concerns for potential noise impacts to neighboring residents. The City requests that the maintenance and repair activities be limited to 7:00 a.m. to 7:00 p.m. Monday through Saturday.
4. The application is not clear how improvements will be made to the Radiate Warning System that involves testing of loud speakers. Testing should be during the day and not after 7 p.m. The MDA should be required to provide the community with advance warning through local media efforts before these warning systems are tested to minimize confusion by community members.

Conclusion: The City is aware that the Commission's review authority is limited to the provisions of the Coastal Zone Management Act (CZMA). The CZMA focuses on areas of public access, recreation, marine environment, land resources, development, and industrial development. The City believes the issues raised within this letter fall within the Commission's CZMA review authority and would appreciate your consideration of the suggested conditions of approval.

Thank you in advance for your attention to issues raised within this letter.

Sincerely,

A handwritten signature in black ink, appearing to read "Blair King", with a stylized flourish at the end.

Blair King
City Manager

BK/mlc

cc: Capt. Yancy B. Lindsey, Commander Officer, Naval Base Coronado
Mayor and City Councilmembers



CITY OF CORONADO

1825 STRAND WAY
CORONADO, CA 92118

OFFICE OF THE CITY MANAGER
(619) 522-7335
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October 12, 2010

California Coastal Commission
Ms. Neely and Honorable Commissioners
Attn: Mark Delaplaine, Coastal Staff
45 Fremont, Suite 2000
San Francisco, CA 94105-2219

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California Coastal Commission
October 12, 2010
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City Manager

BK/mlc

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Mayor and City Councilmembers