

**CALIFORNIA COASTAL COMMISSION**

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**Th9a**

**9-22-0535**

**(Poseidon Resources, Channelside)**

**SEPTEMBER 8, 2022**

**CORRESPONDENCE**

# POSEIDON CHANNELSIDE

September 2, 2022

## Th9a

### VIA EMAIL

Chair Brownsey and Honorable Commissioners  
California Coastal Commission  
Energy and Ocean Resources Unit  
455 Market Street, Suite 300  
San Francisco, CA 94105

RE: September 8, 2022 Meeting Agenda Item Th9a: Poseidon Resources (Channelside) LP,  
Coastal Development Permit Application No. 9-22-0535

Dear Chair Brownsey and Honorable Commissioners:

This letter responds to Coastal Commission staff's August 19, 2022 Staff Report regarding Poseidon Resources (Channelside) LP's ("Poseidon") coastal development permit application for modifications to the intake and discharge system of the approved Carlsbad Desalination Plant (collectively, the "Project") necessary for standalone operations as required by the Desalination Amendment to the Ocean Plan and Regional Water Quality Control Board ("Regional Board") Order No. R9-2019-0003. We appreciate staff's efforts in preparing the Staff Report and fully support staff's recommendation. However, we write to clarify several items in the Staff Report, as described in further detail below.

#### **A. Special Condition 1 – Amended Energy Minimization and Greenhouse Gas Reduction Plan ("GHG Plan")**

Special Condition 1 amends Poseidon's GHG Plan to "remove all references to 'Avoided Emissions from Displaced Imported Water'" based on Commission staff's determination that this concept does not apply to the Carlsbad Desalination Plant. (See Staff Report, pp. 5, 11.) Poseidon agrees with staff's proposal, and has worked with staff to provide additional edits to the GHG Plan to update the calculations in Tables 4 and 7 to reflect the removal of the avoided emissions from displaced water and make other ancillary changes to reflect this intent. Poseidon supports staff's revisions and appreciates the updates that have been made, and understands that a revised version of the GHG Plan incorporating them will be posted on the Commission's website early next week. Accordingly, Poseidon requests that Special Condition 1 be updated to reflect that Commission staff have updated the calculations in the corresponding tables in the GHG Plan, as shown below.

**Amended Energy Minimization and Greenhouse Gas ("GHG") Reduction Plan.** Poseidon's Energy Minimization and Greenhouse Gas ("GHG") Reduction Plan, approved by the Commission on December 10, 2008 pursuant to Special

Poseidon Resources (Channelside) LP

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**These materials have been provided to Coastal Commission staff.**

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Condition 10 of CDP E-06-013, is amended to **(1)** remove all references to “Avoided Emissions from Displaced Imported Water,” including the Plan’s Section II.F, its Table 4 reference to expected credits from “Reducing Water Importation” and its Table 7 reference to “Reduced Water Importation,” **and (2) to update the calculations in Tables 4 and 7 to reflect the removal of the avoided emissions from displaced imported water and (3) to make other ancillary changes, as shown in the revised GHG Plan dated September 2022.**

## **B. Special Condition 3 – Marine Debris Removal and Management Plan**

Special Condition 3 requires Poseidon to prepare a Marine Debris Removal and Management Plan. (See Staff Report, p. 5.) As written, Special Condition 3 unintentionally could be construed to require Poseidon to dispose of all debris – both organic ocean debris, like seaweed, and inorganic debris, like trash, in a landfill. Poseidon’s historic practice has been to dispose of inorganic material via landfill and return organic material to the Pacific Ocean via the Carlsbad Desalination Plant’s discharge pond. Consistent with this historic practice, the Seventh Addendum to the Final Environmental Impact Report explains that the Project’s modified intake design will include “a trash/debris sorting area that will allow trash to be removed before brushing organic debris into the discharge pond.” (Seventh Addendum, p. 11.) Thus, for clarity, Poseidon requests that the Commission modify Special Condition 3 as follows:

**Marine Debris Removal and Management Plan.** PRIOR TO THE START OF CONSTRUCTION, Poseidon shall provide, for Executive Director review and approval, a Marine Debris Removal and Management Plan that describes the measures that will be implemented to ensure ~~marine debris~~ **trash** collected by the floating boom and intake modifications during project construction and facility operations will be removed from coastal waters and disposed of properly. The plan shall describe:

- The expected effectiveness of these systems in collecting and removing trash, garbage, and other **foreign** debris from Agua Hedionda **prior to returning organic marine debris to and the Pacific Ocean via the discharge pond.** This shall include a description of the types, sizes, and volumes of debris the systems are meant to accommodate.
- The ongoing management measures Poseidon will implement to ensure the systems work effectively. This shall include descriptions of the maintenance required, the methods used to remove and dispose of the collected debris, and the disposal locations that will be used.
- The data collection and reporting **practices currently in place by Poseidon to monitor the types and estimates in volumes of trash, garbage, and other foreign will conduct to identify the types, sizes, and volumes of debris collected and disposed of. Such information will be made available if requested by the Executive Director.**

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No changes to the project as approved by the Commission shall occur without an amendment to this permit unless the Executive Director determines that no amendment is legally necessary.

## C. Special Condition Regarding a Cultural Resources Treatment and Monitoring Plan

Poseidon understands that the Rincon Band of Luiseño Indians requested that staff add a Cultural Resources Treatment and Monitoring Plan as part of a Special Condition. Poseidon has provided initial feedback on the proposed condition to Commission staff. Poseidon looks forward to working with staff to continue to refine the condition. In particular, Poseidon requests that any such condition be tied to the commencement of grading, not prior to issuance of the permit, in order to allow Poseidon to commence other work in parallel with the development and approval of the proposed cultural resources treatment and monitoring plan.

## D. Elimination of Marine Impacts from Impingement

In describing the proposed Project modifications, the Staff Report states that the Project “will continue to result in approximately the same type and amount of marine life impacts that were the basis of the Commission’s previously required marine life mitigation plan.” (See, e.g., Staff Report, p. 11; see also *id.*, p. 14.) However, the Staff Report does not acknowledge how the Project’s intake modifications and transition to standalone operations essentially eliminates impingement impacts, as compared with co-located operations. (See, e.g., Regional Board Order, pp. H.2-2 [explaining that the modified intake system “will minimize marine life impacts by avoiding entrapment of marine life within the intake laterals, reducing impingement of marine life to *de minimis* levels, and minimizing entrainment of marine life”].) Indeed, the elimination of such impacts is a key component of the Desalination Amendment. (See, e.g., Ocean Plan, Ch. III.M.2.d.(1)(c)(iv) [specifying requirements to minimize impingement].) Because Poseidon proposed the Project modifications in response to the Desalination Amendment and to further reduce impacts to marine life, the discussion of improvements in the Staff Report (e.g., p. 14) should be clarified to recognize how Project implementation will largely eliminate impacts to marine life from impingement. Proposed clarifications to the Staff Report are provided below.

- **Page 11:** Poseidon’s facility operations will largely remain the same under the stand-alone configuration as they were under the previous co-located configuration. The desalination facility will continue to pull in about the same amount of seawater from Agua Hedionda, will continue to discharge about the same amount of diluted brine through the existing ocean outfall, and **while the impingement impacts will be largely eliminated as a result of the intake modifications, the facility** will continue to result in approximately the same ~~type and amount of~~ **entrainment impacts to** marine life ~~impacts~~ that were the basis of the Commission’s previously required marine life mitigation plan approved as part of CDP E-06-014 (the original CDP).

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- **Page 14:** The operation of the new screening and discharge modifications would result in entrainment impacts similar to those of the co-located facility and which the Commission previously reviewed in approving the original CDP. For example, the co-located and the modified stand-alone facility are designed and operated to take in and discharge about the same volume of seawater and result in about the same level of ~~adverse effects~~ entrainment impacts on marine life. These volumes and their expected effects served as the basis for the Commission’s previous requirements for Poseidon to conduct the type and amount of compensatory mitigation Poseidon will soon be implementing. ~~One~~ Two improvements that the modified screen and discharge system will provide over the current system is that Poseidon will be able to effectively eliminate impingement impacts and collect debris more effectively that might otherwise remain in coastal waters.

## **E. Permanent Impacts from Intake Structure and Deck Construction**

The Staff Report notes that construction of “the intake structure and deck would result in approximately 0.1 acres of permanent loss of benthic habitat.” (See Staff Report, p. 9.) As explained in the Regional Board’s August 4 letter, however, “[p]ermanent habitat loss will be 0.2 acres.” (Letter from Regional Board to Poseidon re: Modified Intake Design (Aug. 4, 2022), p. 3.) “Under the Alternative 21 design [approved by the Regional Board], all 0.2 acres lie within the lagoon. Under the Modified Intake Design, half (0.1 acres) of the total 0.2 acres is comprised of riprap.” (*Ibid.*) The Regional Board has already imposed mitigation for this 0.2 acre permanent impact. (See Regional Board Order, pp. H.1-43, H.1-50.) Further, the proposed Project modifications would eliminate the temporary construction impacts associated with Alternative 21 that would have required Poseidon to install four new large pipeline laterals along 900 feet of the Lagoon bottom (which would have been approximately 2+ acres). Although no additional mitigation is necessary, Poseidon requests that the Staff Report be revised to clarify that the Project will result in 0.2 acres of permanent impact: 0.1 acres to benthic habitat and 0.1 acres to rip rap habitat.

## **F. Aquafarm Access and Parking During Construction**

The Staff Report explains that “[d]uring construction, Poseidon’s activities will restrict access to the nearby Carlsbad Aquafarm,” and that “[a]s part of the project, Poseidon will install two temporary driveways and ramps to allow access for Aquafarm vehicles to and from Carlsbad Boulevard.” (Staff Report, p. 10.) In discussions with the City of Carlsbad, Poseidon has clarified that some temporary Aquafarm parking spaces would be located between the temporary driveways (approximately 5 spaces), which require no additional grading or paving than contemplated in Poseidon’s previous submittals.

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## G. Consistency with Regional Board Order

Poseidon plans to commence the proposed modifications upon receipt of all necessary permits and close of financing. Poseidon proposes clarifying edits to the Staff Report to confirm that Project construction would be undertaken in accordance with the Regional Board Order, as shown below.

Project construction would occur **in accordance with the Regional Board's Order** over an approximately 12-month period starting in early 2023, with the new system expected to be operational by the end of December 2023.

## H. Miscellaneous Items

In addition to the above clarifications, Poseidon proposes the following minor clarifications to the Staff Report.

- **Section IV.A – Project Description and Background:** As part of the Project, Poseidon proposes to demolish or abandon in place several hundred feet of channels. Channel sections closest to the Lagoon will remain in service, while those farther south and closer to the former power plant will be demolished or abandoned in place. Thus, the Staff Report should be clarified as follows on page 10:

Demolition and abandonment-in-place of Intake/discharge channels: Poseidon has relied on using the existing power plant intake and discharge channels since it started operations in 2016. With the power plant's recent shutdown, Poseidon would modify those channels to accommodate its "stand-alone" flow volumes. Poseidon will remove the existing screens and portions of the screen support structures and associated riprap within Agua Hedionda. Additionally, with re-routing of the intake flows from the new screens, Poseidon will demolish **or abandon in place** several hundred feet of the channels ~~closest to the Lagoon~~. Subgrade portions of the channels further inland will be abandoned in place and filled with concrete.

- **Section IV.C – Other Agency Approvals, Section IV.J – California Environmental Quality Act:** Since certifying the Supplement to the Final Environmental Impact Report, in February 2019 and May 2022, San Diego County Water Authority ("Water Authority") staff prepared a Sixth and Seventh Addendum, respectively. References to these addenda should be added to the Staff Report. To clarify the scope of prior environmental analysis, text should be added to page 12 of the Staff Report as follows:

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SDCWA served as the CEQA Lead Agency for the proposed project and prepared and certified the Supplement to the Precise Development Plan and Desalination Plant Project Final Environmental Impact Report (EIR 03-05) (SCH#2004041081 and #2015091060). **SDCWA also adopted the Sixth and Seventh Addendum to the Final Environmental Impact Report.**

Similarly, references to the prior environmental analysis should be added to page 26 of the Staff Report:

Section 13096 of the Commission’s administrative regulations requires Commission approval of coastal development permit applications to be supported by a finding showing the application, as modified by any conditions of approval, to be consistent with any applicable requirements of the California Environmental Quality Act (“CEQA”). **Here, the Project’s proposed intake and discharge modifications have been analyzed in the Supplement to the Precise Development Plan and Desalination Plant Project Final Environmental Impact Report (EIR 03-05) (SCH#2004041081 and #2015091060) and the Sixth and Seventh Addendum to the Final Environmental Impact Report.**

- **Section IV.E – Fill in Coastal Waters:**
  - The CDP No. at the top of page 18 should be revised to refer to CDP E-06-013.
- **Section IV.F – Coastal Access and Recreation:** The Staff Report states that “[t]he proposed project activities would primarily occur within the portion of Agua Hedionda and its shoreline owned by Poseidon.” (Staff Report, p. 22.) Poseidon does not own this portion of Agua Hedionda and shoreline, but rather holds easement rights. As such, the Staff Report should be revised as follows:

The proposed project activities would primarily occur within the portion of Agua Hedionda and its shoreline **within existing easements held ~~owned~~** by Poseidon.

\* \* \* \*

# POSEIDON CHANNELSIDE

We look forward to the Commission's consideration of Poseidon's coastal development permit amendment for the Project and respectfully request that the Commission approve the permit amendment.

Sincerely,



Sachin Chawla  
Poseidon Resources (Channelside) L.P.

cc: Kate Huckelbridge, California Coastal Commission  
Tom Luster, California Coastal Commission  
DJ Moore, Latham & Watkins LLP  
Jennifer Roy, Latham & Watkins LLP