

MC 5/18

5/17/06

ATTACHMENT 3

Charles Cheng

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

pls ensure this is
sent to Bd. Member for



Ms Norma J Wolk
2457 Levante St
Carlsbad, CA 92009

2006 MAY 18 P 12:33

item 11 for 14 June Re: NCR: 02-1429.02
Bd. mtg. CJC

California Regional Water Quality
Control Board, San Diego Region.

As I work full time, I cannot attend your
meetings in the area, covering the desalination
project in Carlsbad.

I object to this project, as being too expensive,
as well as harming the seawater and destroying
marine life.

I know of no working, successful plant
built or operated by Poseidon.

A fraud on the County.

In the early 90's or late 80's I sat in on
a board meeting of the Capucos Sewer district,
where Poseidon offered to build a plant
at their cost. We had a sewer outfall
line to the sea, owned jointly with Morro Bay.
We felt a community of 2400, should
maintain the outfall line. We turned them
down. San Diego will regret this boondoggles.
The " Saudis " want to sell theirs, costs more
than Oil a barrel.

Norma J. Wolk

From: "Edward Kimura" <emkimura@earthlink.net>
To: <ccheng@waterboards.ca.gov>
Date: 5/31/2006 3:55:48 PM
Subject: Tentative Order R9-2006-0065

Dear Charles Cheng;

I've have attached Sierra Club comments for the Tentative Order -2006-0065
NPDES Permit CA0109223 for the Poseidon Desalination Plant at Carlsbad,

Ed Kimura

858-569-2025



Main Office: (619) 299 1743
Chapter Coordinator: (619)-299-1741
Fax: (619)-299-7142
Email: creiff@sierraclubsandiego.org
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San Diego Chapter
Serving the Environment in San Diego and Imperial Counties
3820 Ray Street
San Diego, CA 92104

*E-mail received 5/31/06
3:55 pm*

May 31, 2006

California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353
Attention: Mr. Charles Cheng

Subject: Tentative Order No. R9-2006-0065, NPDES No. CA0109223
Waste Discharge Requirements for the Poseidon Resource Corp, Carlsbad Desalination
Project, Discharge to the Pacific Ocean Via the Encina Power Station Discharge Channel

Dear Chairman Minan and Members of the Board:

The Sierra Club review of the subject Tentative Order finds that it is flawed and recommends that the Regional Water Quality Control Board reject it. The reasons are described below.

1. It is premature to issue the Tentative Order

The Carlsbad Desalination Project (CDP) is to be co-located at the Encina Power Station in order to use the cooling water discharge for its feedwater source and to use the power plant ocean outfall to discharge the brine concentrate into the ocean. The Encina Power Station NPDES permit has expired. We believe that it is premature to issue the permit until the Encina Power Station NPDES discharge permit has been approved by the Regional Board. The information in the renewal permit will contain important information by which to evaluate the CDP waste discharge requirements and the influence of the provisions to comply with the Clean Water Act Section 316(b) on the CDP operations.

2. The facility description of the CDP is incomplete

The Tentative Order, Findings, page 5, states that the design of the pretreatment filter has not been selected. There are two designs proposed. The Tentative Order fails to provide the flow schematic of the CDP in Attachment C. The Tentative Order requires the Discharger to submit a flow schematic 90 prior to the discharge of wastewater authorized under this permit. Given that it will take at least five years to get the plant on line, there is no assurance that the discharger would make substantial revisions to whichever of the two pretreatment filter design options is selected during this period. In effect we are asked to evaluate the Tentative Order without key information about the plant operation and how it would impact the quality of the discharged effluent from the CDP.

3. The Tentative Order fails to support the claim that the Clean Water Act Section 316(b) does not apply.

Attachment F-Fact Sheet, Rationale for Provisions, page F-42, paragraph 4 states that 316(b) applies exclusively for cooling purposes. Therefore, no special conditions related to 316(b) are implemented in this Order. It fails to note that 316(b) was enacted to limit the impingement and

entrainment harm to aquatic life caused by the water intake structure used to provide cooling water. It was also enacted when seawater desalination was uncommon in the U.S. We believe that this is a narrow interpretation of 316(b) as it fails to protect the beneficial uses of the receiving waters. It is immaterial in our view whether the end use of the water intake is used for industrial cooling or other purposes such as the water source for a desalination plant. Furthermore, these receiving waters are held in public trust. (Please refer to the California Coastal Commission report on desalination¹.) As such the Regional Board has the responsibility to uphold the doctrine of public trust to protect the beneficial uses of the receiving waters.

4. Recommend influent oil and grease monitoring

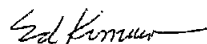
We recommend that Table 3 of Attachment E, Monitoring and Reporting Program include oil and grease. The reason is to avoid damage to CDP and contaminate the potable water product.

5. Expected Maximum Parameter Concentrations not adequate

Attachment F- page 8 states that the method detection limits used for several of the pollutants in the analytical results reported by CDP were greater than the corresponding minimum level established in the Ocean Plan. Please provide the list of these pollutants and the MDL used.

Thank you for your consideration.

Sincerely,



Ed Kimura
Sierra Club
San Diego Chapter

¹ See California Coastal Commission "Seawater Desalination and the California Coastal Act , March 2004, Chapter 4, Coastal Act Policies Related to Desalination" <http://www.coastal.ca.gov/energy/14a-3-2004-desalination.pdf>

From: "Peter MacLaggan" <pmaclaggan@poseidon1.com>
To: <ccheng@waterboards.ca.gov>, <jrobertus@waterboards.ca.gov>
Date: 5/31/2006 5:00:44 PM
Subject: Poseidon RWQCB Comment Letter

Attached is Poseidon's comment letter on Tentative Order No. R9-2006-0065.

A hard copy is in the mail to you and will be there tomorrow.

If you have any questions please let me know,

Peter

Peter M. MacLaggan
Senior Vice President
Poseidon Resources
501 W. Broadway #840
San Diego, CA 92101
Ph. 619-595-7802
Fax 619-595-7892
pmaclaggan@poseidon1.com

P O S E I D O N R E S O U R C E S

May 31, 2006

E-mail received
5/31/06 5:00 pm

Mr. John H. Robertus
Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

Subject: Tentative Order No. R9-2006-0065 (NPDES CA0109223)
Poseidon Carlsbad Desalination Project

2006 JUN -2 P 2:32
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

Dear Mr. Robertus:

Tentative Order No. R9-2006-0065 (NPDES CA0109223) would regulate the discharge of reverse osmosis brine and filter backwash water from Poseidon Resources' Carlsbad Desalination Project (CDP) to the Pacific Ocean via the Encina Power Station (EPS) effluent channel. This letter presents Poseidon Resources' comments on proposed Tentative Order No. R9-2006-0065, proposed Monitoring and Reporting Program No. R9-2006-0065, and the NPDES Fact Sheet (Appendix F to the Tentative Order).

Our two most important comments on the Tentative Order and Tentative Monitoring and Reporting Program No. R9-2006-0065 relate to acute toxicity monitoring procedures and flow requirements.

Acute Toxicity. The *Ocean Plan* establishes a receiving water acute toxicity objective of 0.3 TUa, which applies to the edge of a mixing zone defined as being 10 percent of the distance from the outfall structure to the edge of the chronic mixing zone (Zone of Initial Dilution). "Effluent Limitations and Performance Goal B.2" of the Tentative Order No. R9-2006-0065 (page 11 of the Tentative Order) proposes an acute toxicity performance goal of 0.765 TUa. This 0.765 TUa performance goal is derived using Equation 2 of the *Ocean Plan* and an assigned initial dilution of 15.5 to 1. Poseidon agrees with the imposition of a 0.765 TUa receiving water toxicity objective that applies at the edge of the acute toxicity mixing zone.

To properly assess compliance with this receiving water performance goal, however, modifications of the acute toxicity monitoring procedures are required within Section V.A (entitled "Whole Effluent Toxicity Testing Requirements") of Tentative Monitoring and Reporting Program No. R9-2006-0065. Acute toxicity monitoring conducted in accordance with the current provisions of Tentative Monitoring and Reporting Program No. R9-2006-0065 would result in artificially inflated acute toxicity values that would not be representative of the actual discharge quality prior to discharge to the ocean.

Poseidon Resources Corporation

501 West Broadway, Suite 840, San Diego, CA 92101, USA
619-595-7802 Fax: 619-595-7892

Executive Office: 1055 Washington Boulevard, Stamford, CT 06901

As described on pages F-7 and F-8 of the Fact Sheet, the Poseidon discharge is diluted by Encina Power Station (EPS) cooling water effluent prior to discharge to the ocean. Salinity concentrations of the combined EPS/Poseidon discharge flow (prior to discharge to the ocean and prior to initial dilution) will normally be in the range of 35 to 37 parts per thousand (ppt). During rare occasions when EPS flows are at historical minimum, salinity concentrations in the combined EPS/Poseidon discharge flow are projected to range from 40 to 41 ppt. (See Table 4 on page F-8 of the Fact Sheet)

Salinity is projected to be the key factor influencing toxicity within the Poseidon discharge. High salinity concentrations can cause acute toxicity both in native marine species and in designated acute toxicity test species. Initial toxicity studies conducted by Poseidon indicate that salinity-related acute toxicity effects can start to occur at a salinity threshold of slightly above 40 ppt.

Monitoring and Reporting Program No. R9-2006-0065 requires that Poseidon's acute toxicity monitoring be conducted at Discharge Point M-001. At this point, the Poseidon discharge has not been mixed with the EPS cooling water. Depending on the method of pretreatment technology used, the combined pretreatment and reverse osmosis flows that comprise the Poseidon discharge (see Table 3 of the Fact Sheet) would normally contain salinity concentrations in excess of 60 ppt. Acute toxicity tests of a 60 ppt effluent would show significant acute toxicity that is not representative of toxicity of the actual ocean discharge.

Without taking into account dilution provided by the EPS flow, acute toxicity tests of the effluent at Discharge Point M-001 would not be representative of the acute toxicity in the combined EPS/Poseidon discharge flow, and would not be representative of acute toxicity that would occur at the edge of the acute toxicity mixing zone. Dilution provided by EPS cooling water flows needs to be taken into account as part of the acute toxicity monitoring provisions of Monitoring and reporting Program R9-2006-0065. Otherwise, artificially inflated acute toxicity values (due to high salinity in the undiluted Poseidon effluent) would result that are not representative of the quality of effluent that is discharged to the ocean.

To make the acute toxicity test more representative of actual discharge conditions (and to eliminate salinity-related toxicity effects artificially created by sampling the >60 ppt flows at Discharge Point M-001, it is recommended that requirement V.A of Monitoring and Reporting Program No. R9-2006-0065 be revised as follows:

- A. Acute toxicity testing shall be performed using either a marine fish or invertebrate species in accordance with procedures established by the USEPA guidance manual, *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, 5th Edition, October 2002 (EPA-821-R-02-012). For the testing, 100 percent effluent shall be defined as a sample that consists of effluent from Discharge Point M-001 diluted with seawater in proportion to the ratio of the Poseidon effluent flow to the EPS effluent flow. For example, if the Poseidon flow contributes 50 mgd and the EPS discharge contributes 100 mgd to create a total combined discharge of 150 mgd, the

“100 percent effluent” acute toxicity sample shall be diluted at a ratio of two parts seawater to one part M-001 effluent.

Toxicity Reduction Evaluation. Page 19 of Tentative Order No. R9-2006-0065 provides that the Discharger shall develop a Toxicity Reduction Evaluation (TRE) workplan and submit that workplan to the Regional Water Board *within 180 days of the adoption of the Order*. To ensure that the TRE workplan accurately reflects the final design and planned operating characteristics of the CDP, it is recommended that the submittal date for the TRE workplan (page 19, paragraph 2 and Page F41, paragraph 2b) be revised to read: *no later than 180 days prior to the startup of the CDP*.

Best Management Practices Plan and Pollution Prevention. Page 20 of Tentative Order No. R9-2006-0065 provides that the Discharger shall develop and implement a best management practices (BMP) plan to prevent or minimize the potential for release of hazardous pollutants within 180 days of the effective date of the Order. To ensure that the BMP plan accurately reflects the final design and planned operating characteristics of the CDP, it is recommended that the submittal date for the BMP plan (page 20, paragraph 3 and page F-41 and 42, paragraph 3) be revised to read: *no later than 180 days prior to the startup of the CDP*.

Process Flows. Average and maximum flows listed in Tables 2 and 3 of the Fact Sheet and Table 7 of Discharge Specification A.4 of Tentative Order No. R9-2006-0065 represent average day and maximum day discharge flows during periods when the desalination facility is producing and delivering potable water. During initial start-up operations and immediately before or after certain onsite maintenance operations, it may be necessary to temporarily return all or a portion of the filtered pretreated seawater back into the EPS effluent channel instead of routing the filtered seawater flow to the reverse osmosis units. Additionally, during such start-up periods or periods when it is not feasible to deliver product water to the regional potable water system, it may be necessary to temporarily discharge product water from the reverse osmosis process back into the EPS effluent channel.

Scheduled maintenance operations may require temporary shutdown of the desalination facility every few weeks. Start-up operations to bring the desalination facility online may require either pretreatment water or reverse osmosis product water to temporarily be discharged back into the EPS effluent channel for periods ranging from a few minutes to several hours. Circumstances that may require temporarily routing reverse osmosis water back into the EPS effluent channel are also projected to be rare, but could occur as part of maintenance start-up operations or during temporary conditions in which it is not possible to deliver demineralized treated water to the regional potable water system.

In addition to periodic scheduled maintenance, treated flows from the pretreatment facilities or demineralized product water from the reverse osmosis facilities would be discharged to the EPS effluent channel as part of initial facilities testing and start-up. Such initial start-up operations may last a number of weeks.

The flow and salinity of the additional CDP effluent under operating conditions when either pretreatment process water or reverse osmosis product water is directed back into the EPS effluent channel would be identical to the flow and salinity of the source water directed to the CDP during such temporary periods. As a result, no water quality impacts would occur as a result of such temporary process water diversions.

To address such temporary periods when either filtered seawater or reverse osmosis product water is returned to the EPS effluent channel, it is recommended that the footnotes to Table 7 of Tentative Order R9-2006-0065 be revised to the following:

Table 7. Monthly Average Flow Limitation Based on Pretreatment Technology

Pretreatment Technology	Maximum Monthly Average Flow Rate ^{1,2}
Granular Media Filtration	54 MGD
Membrane Filtration	57 MGD

- 1 During times when demineralized product water is being produced and delivered to the regional water supply system, effluent flows shall be limited to the flow rates indicated in this table based on the pretreatment technology option selected by the Discharger and reported to the Regional Water Board as specified in Section VI.C.2 of this permit.
- 2 Pretreatment process flows or reverse osmosis product flows may be temporarily discharged back into the Pacific Ocean during initial plant start-up, during or after plant maintenance, or periods when it is otherwise not possible to deliver demineralized product water to the regional water system. During such temporary periods, maximum allowable flows returned to the ocean shall not exceed 120.6 MGD for the granular media filtration option, or 129 MGD for the membrane filtration pretreatment option. Temporarily returning pretreatment process flows or reverse osmosis flows to the ocean during such periods does not constitute a "bypass" as defined by Section G of Appendix D of this permit.

For consistency, it is recommended that a footnote identical to Footnote 2 above be added to Table 2 of the Fact Sheet.

Effluent Compliance Monitoring. Poseidon agrees with the proposed approach to utilize Monitoring Location M-001 to monitor the pollutant concentrations within the CDP discharge. Some of the EPS discharge streams (e.g. EPS low volume wastes), however, enter the EPS effluent channel downstream from CDP Monitoring Location M-001. As a result, the combined EPS discharge sampling point includes not only all of the EPS effluent streams, but the CDP effluent stream as well.

It is our understanding that the Regional Board is currently in the process of updating EPS NPDES requirements. As part of updating these requirements, Poseidon understands that the Regional Board will develop monitoring procedures that will allow EPS to monitor effluent compliance independent of the influence of the CDP discharge. One suggested method for

accomplishing this would be for CDP to conduct simultaneous monitoring at Discharge Location M-001 whenever EPS monitors the combined EPS/CDP effluent at the final monitoring pond. In this way, a mass-balance computation could be used by EPS to compute pollutant concentrations within the combined power plant waste stream independent of the CDP discharge.

Poseidon will cooperate with EPS to implement any such plan for coordinating simultaneous sample collection and the exchange of monitoring results. Poseidon also requests that the Regional Board add a specific finding to Order No. R9-2006-0065 that describes the methodology for subtracting CDP monitoring results from the EPS/CDP combined discharge monitoring results for assessing compliance with the revised EPS NPDES permit.

Receiving Water Compliance. As a final item, it is not anticipated that any CDP or EPS operations will result in violations of receiving water standards established in Order No. R9-2006-0065. If such receiving water violations were to occur, however, additional study may be required to determine if the receiving water violations resulted from the CDP discharge, the EPS discharge, both discharges, or conditions not related to either discharge. Poseidon Resources (in consultation with EPS) proposes that the Regional Board add an additional special study under Special Provision VI.C.2 (page 19 of the Tentative Order) to evaluate the nature and cause of any receiving water violations that may occur. The following is suggested:

2.c Receiving Water Violation Assessment

In the event of violation of any receiving water requirements established within this Order, the Regional Board may require the Discharger to perform a special study to investigate nature and cause of the receiving water violation. The receiving water study shall include an evaluation of the nature of the receiving water violation, an assessment of the cause of the violation (including whether the violation resulted from the CDP or EPS effluent discharges), and shall identify compliance measures required to insure future conformance with receiving water standards. The Discharger shall submit the required study to the Regional Board within 90 days of receipt of Regional Board notification of the need to perform the receiving water study.

Please call me if you have any questions about the above comments on Tentative Order No. R9-2006-0065.

Sincerely,



Peter M. MacLaggan
Senior Vice President

cc. Charles Cheng



**SAN DIEGO™
REGIONAL
CHAMBER OF
COMMERCE**

*CC 6/5/06
Charles Cheng
sent to RB members
for RB. agenda item
in Aug.*

EMERALD PLAZA
402 West Broadway, Suite 1000
San Diego, California 92101-3585
Tel 619.544.1300
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JUN -5 P 12:20
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

June 2, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065, Item 11, June 14, 2006

Dear Mr. Robertus:

The San Diego Regional Chamber of Commerce supports the Carlsbad Desalination Project because it addresses the development of our own local supply and presents an environmentally responsible way to increase our water portfolio. We urge the Regional Water Quality Control Board (RWQCB) to issue the permit before you.

The Chamber has been monitoring the development of the proposed project for five years. In reviewing the Environmental Impact Report, we believe that adequate safeguards are in place to address environmental issues, including the impact to marine life which is minimal, and that no endangered or at risk species are located in waters in the project vicinity. This project achieves its stated objectives in an environmentally and economically acceptable manner.

The proposed project implements the desalination element of a comprehensive local and regional water supply strategy that is intended to lessen the reliance on imported water and improve water quality and supply reliability by complementing ongoing water conservation and water recycling efforts.

Additionally, the development of infrastructure through a public-private partnership has the benefit of limiting risk to the citizens and taxpayers of California.

The Chamber concurs with the RWQCB's findings that the proposed order will ensure full protection of beneficial uses of ocean waters in the San Diego region and supports the issuance of the permit.

Sincerely,

Scott D. Alevy
Vice President, Public Policy & Communications

SDA:av

ROBERT SIMMONS
Counselor-at-Law

P.O. Box 19932
San Diego, California 92159-0932

Tel/Fax (619)464-0325
E-mail robsim@netcom.com

JMC 6/5/06
Charles Cheng
pls include in R.B. regard
material

June 2, 2006

Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court
San Diego, CA 92123

Attn.: John Robertus, Executive Officer

Re. Poseidon Desalination Facility
NPDES Permit-Agenda item #18

Officer Robertus and Members of the Board:

I have been a member of the California Bar since 1974, with appearances in the State and Federal trial and appellate courts serving California. I am also certified to appear before the U.S. Supreme Court. For the past twenty years, my legal work has emphasized water supply and wastewater treatment and disposal issues. During the decade beginning in 1990, I was chief counsel for Intervenor Sierra Club in the complex water recycling and wastewater treatment litigation brought by EPA against the City of San Diego.

I am familiar with the proposed Poseidon desalination facility, in Carlsbad, and have reviewed the EIR prepared for that project. Further, I am familiar with the legal and environmental issues involved in the application presently before you for a NPDES permit at the desalination facility.

COMMENT

I strongly support Poseidon's permit application for the following reasons:

1. The thorough fact analysis, study, and assessment, appearing in the "Ocean Impacts" section of the EIR credibly support the finding that no significant or unreasonable impacts will be caused by the facility's effluent discharges.

2. The EIR establishes that the single, potentially harmful, agent in the discharge, i.e., elevated salinity, is so dispersed and mixed within the zone of initial dilution (zid) that impacts on fish, shellfish, and benthos, are not significant.

3. The salinity impact analysis reported in the EIR is based, in part, on a thorough and comprehensive pilot testing program conducted by respected scientists, known to me, affiliated with the Scripps Institute of Oceanography.

4. The terms in the permit drafted by your staff fully comply with the Ocean Plan.

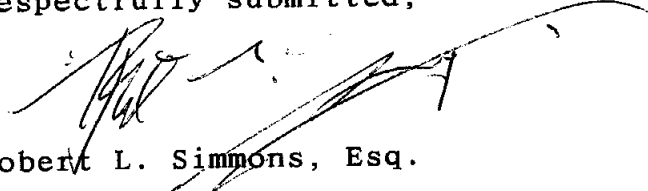
Professor of Law, University of San Diego (Ret.)

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2006 JUN -5 PM 2:21

5. The draft permit authorizes you to reopen the permitting process if any significant condition or unforeseen impacts appear.

6. The fifty million gallons per day (50 mgd) of potable water the Poseidon facility will produce represents a significant beneficial impact upon the region that the Board should consider. This volume of new potable water amounts to 28% of the total volume now consumed within the San Diego Metro water District (174 mgd). Its availability commensurately reduces the region's need to import water from outside the county and will powerfully promote local water independence.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Robert L. Simmons", with a long, sweeping horizontal flourish extending to the right.

Robert L. Simmons, Esq.

JMC 6/5/06
Charles Cherry
pls provide to RB member
on the agenda item



June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

RE: Tentative Order No. R9-2006-0065

Dear John:

I would like to comment on the environmental impact report for the Carlsbad Desalination Project.

Hubbs-SeaWorld Research Institute's Leon Raymond Hubbard, Jr. Marine Fish Hatchery is located on the Agua Hedionda Lagoon, across from the proposed desalination facility. Accordingly, we are concerned that all development along the Lagoon be conducted in a manner to conserve the Lagoon's vital and productive marine life, and to ensure that the conservation program supported by our hatchery facility is not adversely impacted.

Because of our Institute's unique dependence on the Lagoon habitat, I have reviewed the sections of the environmental impact report pertaining to biological impacts. The report's authors conclude that any environmental impacts to the receiving waters, the surrounding habitats and/or the organisms that inhabit those habitats should be insignificant. Based on my review of the methodology and results reported, these conclusions appear to be correct.

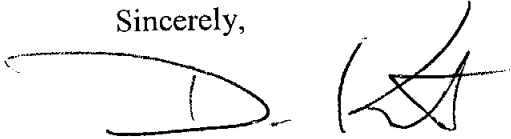
The biological survey work undertaken, the assay experimentation conducted, and the mathematical modeling performed appear to be a scientifically valid and authoritative approach to answering the biological impact questions posed by the environmental review process. The recommendation to conduct on-going environmental sampling should allow the appropriate regulatory agencies to test the assumptions that went into the models and also provide an adequate level of assurance that significant negative impacts are not occurring. Furthermore, this sampling regime should afford a wealth of information, which will be invaluable to resource agencies charged with management of our coastal living marine resources.

In conclusion, I do not believe that the desalination facility will have an adverse impact on the marine environment, the Agua Hedionda Lagoon, or our hatchery's operations.

2006 JUN -5 P 12:24
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

Thank you for affording our Institute the opportunity to provide an opinion on the impacts of the proposed desalination facility during your review of the permit of this project.

Sincerely,

A handwritten signature in black ink, appearing to be 'DK' with a stylized flourish.

Donald B. Kent
President, Hubbs-SeaWorld Research Institute &
Co-Principal Investigator, Ocean Resources Enhancement
and Hatchery Program

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MR 6/5/06
Charles Chong
Pls proceed to Bd Member

Assembly
California Legislature

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GEORGE A. PLESCIA
ASSEMBLY REPUBLICAN LEADER
SEVENTY-FIFTH DISTRICT

June 5, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

2006 JUN -5 P 12:28
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

Dear Mr. Robertus:

I am writing to express my support for the development of the Carlsbad Seawater Desalination Plant scheduled to come before the members of the San Diego Regional Water Quality Control Board later this month.

As you know, one of the greatest challenges facing California is to responsibly balance our water needs with the protection of our environment. Last year, the Department of Water Resources published California Water Plan Update 2005, a comprehensive and specific plan detailing innovative methods for meeting our water needs through conservation, recycling, desalination, and many other strategies.

The report identified desalination, where economically and environmentally appropriate, as one element of a balanced water supply portfolio. By producing drinking water at the point-of-use helps to reduce the need to import water, protecting valuable environmental habitats and reducing the need for new storage and transfer facilities.

With the completion of this project, the City of Carlsbad will establish itself at the forefront of responsible water stewardship, setting a new and innovative standard in the way California communities plan for their water needs.

Thank you for your consideration of my views on this issue. I encourage your continued advancement of this project.

Sincerely,

George A. Plescia

George A. Plescia
Assembly Republican Leader

- STATE CAPITOL
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FAX (760) 599-1650

JK 6/5/06

Assembly Chair Chay

California Legislature



MARK WYLAND
ASSEMBLYMEMBER, SEVENTY-FOURTH DISTRICT

COMMITTEE ASSIGNMENTS
VICE CHAIR:
EDUCATION
ELECTIONS AND REDISTRICTING
MEMBER:
UTILITIES AND COMMERCE

*pls provide to RB Member
w/ copied material*

June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2006 JUN -5 P 12:29

Re: Carlsbad Seawater Desalination Plant

Dear Mr. Robertus:

I am writing to express my support for the development of the Carlsbad Seawater Desalination Plant scheduled to come before you and the members of the San Diego Regional Water Quality Control Board later this month.

As you know, one of the greatest challenges facing California is to responsibly balance our water needs with the protection of our environment. Last year, the Department of Water Resources published California Water Plan Update 2005, a comprehensive and specific plan detailing innovative methods for meeting our water needs through conservation, recycling, desalination, and many other strategies.

The report identified desalination, where economically and environmentally appropriate, as one element of a balanced water supply portfolio. By producing drinking water at the point-of-use helps to reduce the need to import water, protecting valuable environmental habitats and reducing the need for new storage and transfer facilities.

With the completion of this project, the City of Carlsbad will establish itself at the forefront of responsible water stewardship, setting a new and innovative standard in the way California communities plan for their water needs.

Thank you for your consideration of my views on this issue. I encourage your continued advancement of this project.

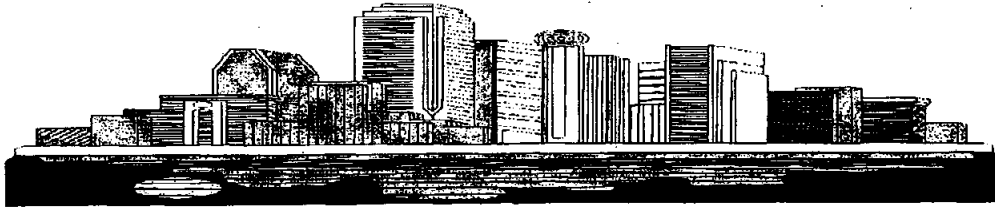
Very truly yours,

Mark Wyland
Assembly Member, District 74

3737 Camino del Rio South, Suite 202
San Diego, CA 92108
619/ 521-2914
619/ 521-2917 fax

San Diego County Building &
Construction Trades Council, AFL-CIO

Fax



To: Mr. John Robertus, , Executive Officer (SDRWQCB) From: Art Lujan, Business Manager

Fax: ⁴⁵³¹ 571-6972 Pages: 2 (inc cover)

Phone: Date: June 5, 2006

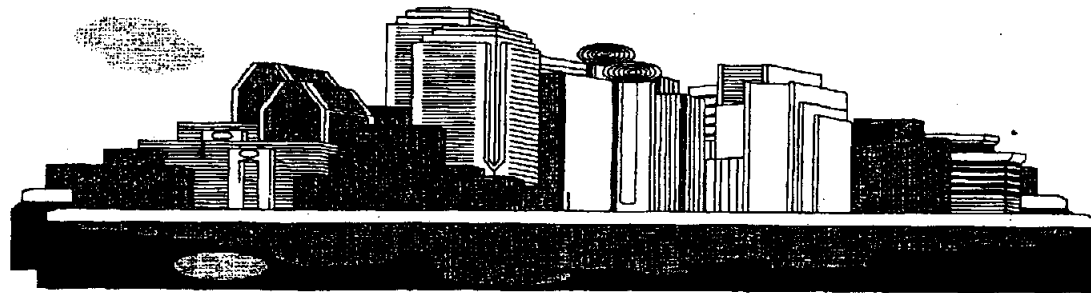
Re: Carlsbad Desalination Project cc:

Urgent For Review Please Comment Please Reply Please Recycle

• Comments:

Please find the attached letter regarding the Carlsbad Desalination Project Tentative Order No. R9-2006-0065

Thanks,
Art Lujan



San Diego County Building & Construction Trades Council, AFL-CIO

June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065, Item 11, June 14, 2006

Dear Mr. Robertus:

We urge your approval of the permit before you for the Carlsbad Desalination Project. This Project will bring this region one step closer to a safe, reliable and cost-effective water supply, which will greatly reduce our region's dependence on imported water.

San Diego's labor community believes in a strong economy and protecting the environment. These goals can be accomplished by reducing our region's dependence on imported water, which is one of the reasons why we support the Carlsbad Desalination project.

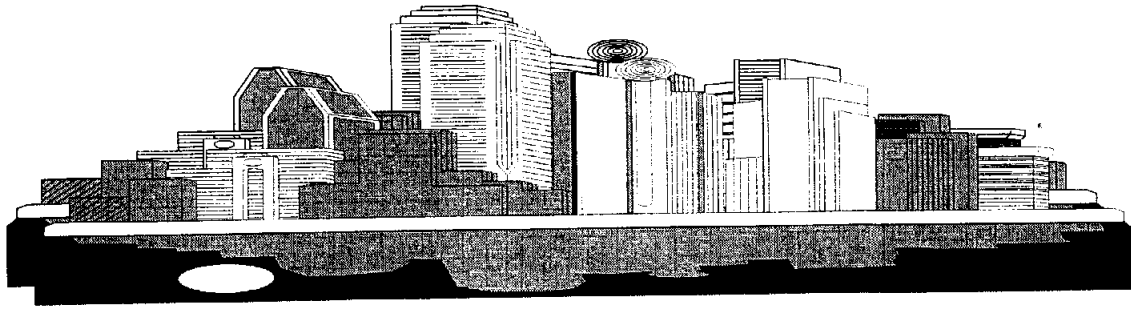
The desalination facility will create jobs, generate much needed tax revenue for local governments, improve our water quality and enhance water reliability with a new drought-proof supply.

Based on our review, the Tentative Order provides sufficient information to conclude the project could be constructed and operated without significant impacts to marine life and ocean water quality.

The Building Trades Council urges the Regional Water Board's adoption of Tentative Order R9-2006-0065.

Respectfully,


Art Lujan
Building Trades Council



San Diego County Building & Construction Trades Council, AFL-CIO

June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

2006 JUN -6 P 2:07
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065, Item 11, June 14, 2006

Dear Mr. Robertus:

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Based on our review, the Tentative Order provides sufficient information to conclude the project could be constructed and operated without significant impacts to marine life and ocean water quality.

The Building Trades Council urges the Regional Water Board's adoption of Tentative Order R9-2006-0065.

Respectfully,


Art Lujan
Building Trades Council



FACSIMILE TRANSMISSION

From: Patti Krebs, Executive Director

To: _____

John Roberts - RWQCB

858-571-6972

Total Pages: 2

Date: 6/5/06



June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

**RE: Carlsbad Desalination Project Tentative Order
No. R9-2006-0065, Item 11, June 14, 2006**

Dear Mr. Robertus:

The Industrial Environmental Association (IEA) promotes environmental responsibility through effective communication and interaction with our members, government, regulatory agencies, business, and the community. We use proven technology, scientific methods, and common sense to achieve a beneficial relationship between environmental protection, public health, and economically sustainable growth.

After reviewing Tentative Order R9-2006-0065, IEA believes that the proposed desalination project can be constructed and operated in an environmentally responsible manner that is fully protective of the beneficial uses of ocean waters in the San Diego region and contributes to a sustainable future.

IEA wholeheartedly supports the Carlsbad Desalination Project and urges approval of the NPDES Discharge Permit for this project.

Sincerely,

A handwritten signature in cursive script that reads "Patti Krebs".

Patti Krebs
Executive Director





Leaders of Environmental Responsibility

June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

2006 JUN -1 P 2:52

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

**RE: Carlsbad Desalination Project Tentative Order
No. R9-2006-0065, Item 11, June 14, 2006**

Dear Mr. Robertus:

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IEA wholeheartedly supports the Carlsbad Desalination Project and urges approval of the NPDES Discharge Permit for this project.

Sincerely,

A handwritten signature in cursive script that reads "Patti Krebs".

Patti Krebs
Executive Director



June 6, 2006

Dr. Charles Cheng – RWQCB

I realized this morning that I had not signed the letter I faxed to you yesterday concerning the discharge permit for the Carlsbad/Poseidon Resources Seawater Desalination Project. So, for the public record, here is the signed letter.

Please feel free to contact me if you should have any questions.



**Gary Arant
General Manager
Valley Center MWD**



VALLEY CENTER MUNICIPAL WATER DISTRICT

A Public Agency Organized July 12, 1954

Board of Directors
 Gary A. Broomell
 President
 Robert A. Polito
 Vice President
 Merle J. Aleshire
 Director
 Charles W. Stone, Jr.
 Director
 Randy D. Haskell
 Director

June 5, 2006

Mr. John Robertus
 Executive Officer
 San Diego Regional Water Quality Control Board
 9174 Sky Park Court, Suite 100
 San Diego, CA 92123-4340

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065, Item 11, June 14, 2006

Dear Mr. Robertus:

I am writing at this time to urge your approval of Tentative Order R9-2006-0065 for the Poseidon Resources Seawater Desalination Project.

Valley Center MWD is a public water agency serving 25,000 residents and 24,000 acres of agricultural land within the unincorporated communities of Valley Center, Jesmond Dene, Hidden Meadows, Circle R and Welk' Village with 40,000 to 50,000 acre feet of imported water annually. 80% of the water we deliver goes to serve a diverse agricultural customer base. In terms of imported water purchases, in most years, we are second only to the city of San Diego. With a 100 square-mile service area, we are the third largest Authority member agency in terms of land area, with only the City of San Diego and the Otay Water District covering more territory.

We, along with the City of Carlsbad and the Rincon del Diablo Municipal Water District, have a 30-year agreement to purchase water from the proposed Poseidon Seawater Desalination Plant. Our agreement calls for my agency to purchase up to 7,500 acre feet of water annually to be used by our domestic and commercial water users.

My Board of Directors was motivated to enter into the purchase agreement for several reasons:

1. Given the onerous political, regulatory and environmental constraints to developing new fresh surface water supplies they believe that the notion of desalting seawater is a good one. To the extent that entering into the agreement with Poseidon furthered that cause, they felt it was the prudent thing to do at this time;
2. By our agreement, water purchased from Poseidon will never be anymore expensive than our imported supplies. In the long-term, water purchased under this agreement has the potential of actually being less expensive than future imported supplies. Consequently, through this agreement we get a higher level of price stability over time and the potential for a price advantage compared to our imported sources.

Mr. John Robertus

June 5, 2006

3. With this agreement, we have the potential of securing a secondary source of supply, thus diversifying our supply portfolio and increasing the overall supply reliability for our growing community. The supply reliability advantage of having some level of alternative local supply has been underscored by the policy principles and allocation formula contained in the Draft SDCWA Drought Management Plan, adopted by the San Diego County Water Authority Board last month. With the availability of the desalinated water, Valley Center's domestic and commercial customers would be immune from imported water cutbacks until the shortages exceed 50%.

Like each of your Board members, I too have served as a member of the San Diego Regional Water Quality Control Board. And, like your Board, our Board struggled with how to balance the implementation of basin plan water quality objectives for groundwater and the need for recycled water development when the real problem was something that was completely beyond our control -- the massive quantities of salt delivered into the basin every year via the imported water delivery system.

The proposed desalination project provides a comprehensive solution for these conflicting objectives. Because the salt content (TDS) of the desalinated water is nearly half that of the imported water, the salt load to the basin due to irrigation return flows will be significantly reduced. The salt load in the wastewater collection system will be similarly reduced. This means the recycled water supply will have a lower salt content which will encourage greater use of this critically needed resource while minimizing the impacts to underlying groundwater quality due to return flows stemming from recycled water use. Seldom in the regulatory arena does one come across such a win-win solution.

This project is important to my agency and the greater San Diego region. It will provide over 50,000 acre feet of a new, high quality and highly reliable water supply which will be needed to meet the needs of our growing population and economy for many decades to come. As such, we would urge you to approve the Tentative Order for the Poseidon Resources Seawater Desalination Plant.

Again, I want to thank you for the opportunity to comment on this important Project and urge your approval of Tentative Order R9-2006-0065.

Sincerely,



Gary Arant
General Manager
Valley Center Municipal Water
District

CARLSBAD CHAMBER OF COMMERCE

5934 Priestly Drive | Carlsbad, CA 92008
TEL: (760) 931-8400 | FAX (760) 931-9153
<http://www.carlsbad.org>

FAX

To:	Dr. Charles Cheng	From:	Michael Babowal, Director of Government Affairs
Fax:	858-571-6972	Pages:	(Including Cover Page)
Phone:		Date:	06/06/2006
Re:	Carlsbad Desalination Plant	CC:	

- Urgent
 For Review
 Please Comment
 Please Reply
 Please Recycle

• **Comments:**

This letter is respectfully submitted for the San Diego Regional Water Quality Control Board's meeting package in support of the proposed Poseidon Resources Carlsbad desalination plant.

CARLSBAD

CHAMBER OF COMMERCE

June 6, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065 , Item 11, June 14, 2006

Dear Mr. Robertus:

For the Carlsbad Chamber of Commerce, a 1,700 plus business membership organization, securing a reliable and affordable potable water supply is one of our top priorities. We urge your approval of the staff recommendation for issuance of the discharge permit for the Carlsbad Desalination Project.

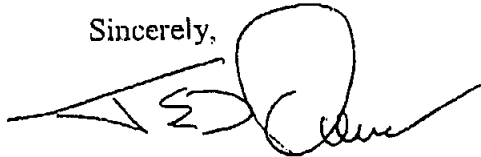
In this regard, the Carlsbad desalination plant is the most important water infrastructure project in Carlsbad's history. The plant's developer, Poseidon Resources, will provide the region with a locally-controlled, high quality, affordable water supply that will ensure future growth can be accommodated in Carlsbad and San Diego County.

Developing an environmentally responsible solution to the region's water needs is a key component to achieving our goal of water reliability. The Tentative Order provides sufficient information to conclude that the desalination project could be constructed and operated in an environmentally responsible manner and includes provisions that will ensure that the beneficial uses of the ocean waters in the San Diego Region will be protected.

The City of Carlsbad's public-private partnership with Poseidon Resources will provide enough water to meet the needs of the City of Carlsbad and surrounding communities, while reducing the burden on San Diego's water supply and our dependence on imported water.

We urge your adoption of Tentative Order R9-2006-0065.

Sincerely,



Ted Owen
President and CEO

5934 Priestly Drive • Carlsbad, California 92008

Phone: (760) 931-8400 • Fax: (760) 931-9153 • E-mail: chamber@carlsbad.org • Web: www.carlsbad.org



06/06/2006 16:33 #184 P.001/002
JM 6/6/06



San Diego
Regional
Economic
Development
Corporation

Charles Cheng
pls include in ribbon
fel

June 5, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065,
Item 11, June 14, 2006

Dear Mr. Robertus:

I am writing on behalf of the San Diego Regional Economic Development Corporation (EDC). For the past 40 years, EDC has worked to develop a diverse, successful, technology-driven economy throughout San Diego. We are focused on issues of regional competitiveness and actively pursue the growth and expansion of high-wage, high-growth industries in the region.

My organization would like to offer our full support of the Carlsbad Desalination Project. We urge you to approve the discharge permit for this project as expeditiously as possible and move our region one step closer to an affordable, high quality water supply.

In a region entirely dependent on imported water, our current and future economic development relies on having an affordable and reliable supply of high quality water. Desalination will help meet these needs, ensuring that infrastructure will be adequate to accommodate future growth and providing valuable economic and environmental benefits to the region.

The Carlsbad desalination project will have significant economic benefit for the region, specifically as it relates to the region's emerging high technology and bio-technology cluster that relies on high-quality water for manufacturing. For the region, the desalination facility will create jobs, generate tax revenue, improve water quality and enhance water reliability with a new drought-proof supply.

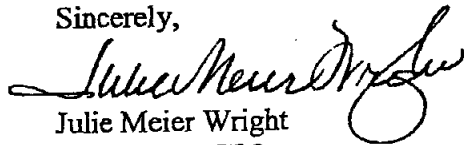
530 B Street
Seventh Floor
San Diego
CA 92101

Ph: 619-234-8484
Fax: 619-234-1935

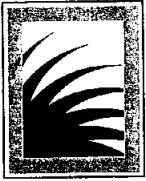
Mr. John Robertus
June 5, 2006
Page Two

Thank you for the opportunity to comment on this important piece of the County's future water infrastructure.

Sincerely,



Julie Meier Wright
President & CEO



San Diego
Regional
Economic
Development
Corporation

June 5, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065,
Item 11, June 14, 2006

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SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2006 JUN - 7 P 2:53

530 B Street
Seventh Floor
San Diego
CA 92101

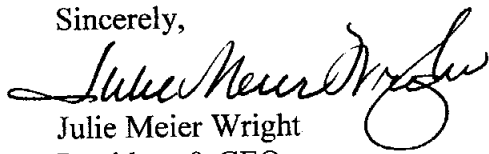
Ph: 619-234-8484
Fax: 619-234-1935

www.sandiegobusiness.org

Mr. John Robertus
June 5, 2006
Page Two

Thank you for the opportunity to comment on this important piece of the
County's future water infrastructure.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Meier Wright". The signature is fluid and cursive, with a large loop at the end.

Julie Meier Wright
President & CEO

WILLIAM J. CARROLL
2315 Rue des Chateaux
Carlsbad Ca. 92008

June 7, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2006 JUN -8 A 11:50

Subject: Carlsbad Desalination Project: Tentative Order No. R9-2006-0065, Item 11
June 14, 2006

Dear Mr. Robertus:

I support the Regional Water Quality Control Board's adoption of Tentative Order R9-2006-0065. I am a citizen of Carlsbad and have read all the Project Reports, both on the Project Design and the Environmental Effects. I believe the Project will be a major benefit to the water resources of the region. I have spent 55 plus years in the Water Resource profession and am a strong believer that the Pacific Ocean will be a sustaining source of water for California in the future decades.

Being a Civil Engineer, and Past President of the American Society of Civil Engineers, I was very pleased when Poseidon's Carlsbad Pilot Plant, incorporating the proposed treatment processes and facilities, won the "2006 Grand Prize for Excellence in Environmental Engineering in the Research Category" of the American Academy of Environmental Engineering. I was also the President of the Academy in 1980, and understand the significance of this award. It is well known that one of the most critical items in the operation of an RO facility using ocean water as a source is the pretreatment process prior to entering the RO membranes. The operation of the Pilot Plant involved the expenditure of considerable time and effort in proving the effectiveness of the pretreatment process selected. Poseidon also utilized knowledgeable experts to determine the impact of higher-salinity waste discharge (only slightly higher due to dilution with the Power Plant's cooling water), and found that the impact was negligible and the marine environment tolerated the discharge very well.

I believe the Regional Water Quality Control Board should adopt Tentative Order R9-2006-0065. Thank you for your consideration.

Sincerely:


William J. Carroll

Crown Quadrangle
559 Nathan Abbott Way
Stanford, CA 94305-8610
Telephone: (650) 725-8571
Facsimile: (650) 723-4426

Charles Cheng

**Stanford Legal Clinics
Environmental Law Clinic**

Fax

To: John Robertus **From:** BRADLEY DANIELS

Fax: 858-571-6972 **Date:** 6/7/06

To: John Minah **Fax:** (650) 723-4426

Fax: 858-571-6972 **Phone:**

Phone: **Pages:**

Re: **CC:**

Urgent For Review Please Comment **Hard Copy to Follow?** Yes No

• **Comments:** SEE ATTACHED

The information contained in this communication is intended for the use of the individual named above, and may contain information that is privileged, confidential, or otherwise protected from disclosure by applicable law. If the reader of this message is not the intended recipient, you are hereby notified that unauthorized use, disclosure or copying of this communication is strictly prohibited and may be unlawful. If you have received this communication in error, please notify the sender immediately by telephone at: (650) 723-4336 and mail the original communication to the above address. Thank you.

**STANFORD LEGAL CLINICS**

Crown Quadrangle
559 Nathan Abbott Way
Stanford, CA 94305-8610

Environmental Law Clinic
Tel: 650.725.8571
Fax: 650.725.4426

June 5, 2006

VIA U.S. MAIL and
FACSIMILE: (858) 571-6972

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

Mr. John Minan
Chairperson
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

***Comments on Proposed NPDES Permit/Waste Discharge Requirements
for the Poseidon Resource Corporation, Carlsbad Desalination Project,
Discharge to the Pacific Ocean via the Encina Power Station discharge channel,
San Diego County (tentative Order No. R9-2006-0065, NPDES Permit No. CA0109223)***

Dear Messrs. Robertus and Minan:

We write on behalf of Surfrider Foundation, Desal Response Group, Southern California Watershed Alliance, San Diego Coastkeeper, and the Center for Biological Diversity with concerns regarding the June 14, 2006, consideration of the draft NPDES permit for Poseidon Resource Corporation's proposed desalination facility at the Encina Power Station ("EPS") in Carlsbad ("Desalination Permit"). We believe the Desalination Permit should not be considered at this time because there are continuing studies and outstanding issues that would affect the operation of the desalination plant and its discharge into the Pacific Ocean. As you are no doubt aware, as of the date of this letter, the City of Carlsbad has not finalized the EIR for Poseidon's proposed desalination plant. In addition, the San Diego County Water Authority ("SDCWA") has not finalized the EIR for a proposed co-located desalination plant on the EPS site, a project that is similar in virtually all aspects to, and mutually exclusive of, Poseidon's proposed project. Furthermore, the separate NPDES permit renewal for the EPS facility has not been approved and will not be considered until the Regional Board's August 9 hearing. Because all of these concurrent, ongoing processes may alter the receiving water impacts or operations of the proposed project, consideration of the Desalination Permit should be deferred.

Mssrs. John Robertus and John Minan
June 5, 2006

Page 2

Although the Regional Board's issuance of the requested Desalination Permit may not be directly subject to the California Environmental Quality Act ("CEQA") pursuant to California Water Code § 13389, the Regional Board is *not* exempt from the policy provisions of CEQA. The State Water Resources Control Board has concluded that "where an EIR has been prepared by another agency for a project requiring an NPDES permit the Regional Board should consider that EIR." *See In the Matter of the Petition of the Sierra Club, San Diego Chapter, Order No. WQ 84-7* (1984). The State Board also has stated that it "generally believe[s] that, in the absence of compelling considerations to the contrary, the Regional Boards should at least await and consider an EIR for substantial projects which may involve potentially significant environmental effects, some of which may be detrimental, even though the project may at the same time involve substantial benefits." *See In the Matter of the Petition of Robert and Frederick Kirtlan for Review of Order N. 74-492, Order No. WQ 75-8* (1975).

In compliance with CEQA, the City of Carlsbad is producing an EIR for Poseidon's desalination plant, which the Carlsbad City Council will hear for final approval at its June 13 meeting. Because this EIR will not be adopted by June 13, the Regional Board will not have sufficient time to review the finalized product by the June 14 hearing for the Poseidon Desalination Permit. Furthermore, the SDCWA is producing an EIR for its proposed "Regional Seawater Desalination Plant" to be co-located at the EPS site. *See SDCWA's Regional Seawater Desalination Project at Encina DEIR*, Chapter 3.0. The SDCWA project is a separate, mutually exclusive project from the Poseidon proposed desalination plant. However, the SDCWA project is virtually identical in the intake and outflow configurations, as well as the quantity of seawater used in the desalination process. For this reason, the SDCWA EIR addresses many of the same environmental impacts and issues associated with the Poseidon project. Like the City of Carlsbad EIR, the SDCWA EIR has not been finalized and will not be finalized until after the hearing for the Desalination Permit. Thus, the Regional Board does not have full and complete information from the EIR and CEQA process at its disposal when considering the environmental impacts of the desalination plant and its effluent discharge.

In light of these facts, final adoption of the Poseidon Desalination Permit at this time is premature and inconsistent with State Board policy. Additional considerations, data, or issues may become available to the Regional Board as Carlsbad and SDCWA progress through their respective EIR process. Moreover, the construction of both projects with the same combined outfall obviously would have cumulative impacts that the Regional Board should consider when adopting any NPDES permit for either proposed facility. A Regional Board permit decision prior to completion of the EIR processes and local approval of the two desalination projects at issue would clearly thwart CEQA's primary goal "to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." *See Cal. Pub. Res Code, § 21002*. Furthermore, there are no obvious 'compelling considerations' that argue in favor of expedited approval because the proposed project will not even be operational for at least five years. *See Order No. WQ 75-8, supra*.

Adoption of the Desalination Permit is premature at this time for the additional reason that the EPS facility's NPDES permit renewal is scheduled for hearing on August 9, 2006. Pursuant to section 316(b) of the Clean Water Act, 33 U.S.C. § 1326(b) and the "Phase II" rules

Mssrs. John Robertus and John Minan
June 5, 2006

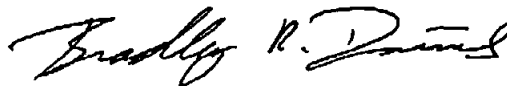
Page 3

for existing power facilities promulgated by the U.S. EPA thereunder, *see* 40 CFR § 125.90 *et seq.*, the EPS cooling water intake structure must reflect the "best technology available for minimizing environmental impact." 33 U.S.C.A. § 1326(b). The application of these requirements may well mandate a change in the conditions of EPS's NPDES permit that could alter the plant's outflow regime and consequently the amount of water available for the Poseidon desalination plant. Furthermore, the NPDES permitting for the EPS may transform how EPS chooses to operate its facility. For example, application of the new Phase II standards may require a modification of the EPS facility to utilize a closed-cycle wet cooling technology, an alternative air cooling technology, or some hybrid of these technologies. Alternatively, the EPS facility owner may chose in that event to decommission rather than retrofit the power plant.

Any change in the EPS flow regime could drastically alter the operating parameters for the proposed Poseidon desalination plant. For example, a decrease in flow volume due to conditions placed by the EPS NPDES permit would have an effect, possibly substantial, on the dilution of the brine effluent at the combined outflow. Thus, any reduction in the EPS outflow regime will force the Regional Board to reconsider and/or revise the Poseidon NPDES permit. Furthermore, if the SDCWA's proposed desalination facility proceeds, the salinity and water quality of the combined effluent discharge also will be significantly impacted. As noted above, there is no compelling reason or urgency to adopt the NPDES permit at this time. Doing so will likely require the Board to reopen and revise the permit once the EPS permitting process is completed, thereby wasting staff time and public resources. Accordingly, we urge the Regional Board to defer consideration of the Desalinization Permit under after renewal of the NPDES permit for the EPS facility in order to ensure that the Board is fully informed of all relevant considerations and impacts associated with the proposed project.

Thank you for your careful consideration of the environmental community's concerns. If you have any questions about these comments, please feel free to contact us at the above-listed telephone number.

Sincerely yours,



Bradley R. Daniels, Law Student
Deborah A. Sivas, Clinic Director

SACRAMENTO OFFICE

STATE CAPITOL
SACRAMENTO, CA 95814-4900
(916) 445-3731
(916) 446-7382 FAX

DISTRICT OFFICES

27126-A PASEO ESPADA
SUITE 1621
SAN JUAN CAPISTRANO,
CA 92675
(949) 489-9838
(949) 489-8354 FAX

2755 JEFFERSON STREET
SUITE 101
CARLSBAD, CA 92008
(760) 434-7930
(760) 434-8223 FAX

WWW.SENATE.CA.GOV/MORROW/

WADE C. TEASDALE
CHIEF OF STAFF

California State Senate

SENATOR
BILL MORROW

THIRTY-EIGHTH SENATORIAL DISTRICT



COMMITTEES:
VETERANS AFFAIRS
CHAIR
ENERGY, UTILITIES
AND COMMUNICATIONS
(VICE CHAIR)
JUDICIARY
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SELECT COMMITTEES:
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FUTURE OF HEALTH CARE
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HIGHER EDUCATION
NEW TECHNOLOGIES

JOINT COMMITTEES:
LEGISLATIVE AUDIT
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2006 JUN - 8 A 11:59

June 5, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Dear Mr. Robertus:

I am writing to express my support for the development of the Carlsbad Seawater Desalination Plant scheduled to come before you and the members of the San Diego Regional Water Quality Control Board later this month.

As you know, one of the greatest challenges facing California is to responsibly balance our water needs with the protection of our environment. Last year, the Department of Water Resources published California Water Plan Update 2005, a comprehensive and specific plan detailing innovative methods for meeting our water needs through conservation, recycling, desalination, and many other strategies.

The report identified desalination, where economically and environmentally appropriate, as one element of a balanced water supply portfolio. By producing drinking water at the point-of-use helps to reduce the need to import water, protecting valuable environmental habitats and reducing the need for new storage and transfer facilities.

With the completion of this project, the City of Carlsbad will establish itself at the forefront of responsible water stewardship, setting a new and innovative standard in the way California communities plan for their water needs.

Thank you for your consideration of my views on this issue. I encourage your continued advancement of this project.

Sincerely,

Bill Morrow
38th Senatorial District

WPM:dc



**A Public Agency
Serving the Greater
Escondido Valley Since 1954**

Dr. Hanno E. G. Ix
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Division IV

Diana L. Towne
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Dr. Gregory M. Quist
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Division I

David A. Drake
Director
Division II

Annette S. Hubbell
General Manager

Redwine and Sherrill
General Counsel

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

June 5, 2006

2006 JUN -8 P 12:01

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

RE: Support of Carlsbad Desalination Project, Tentative Order No.
R9-2006-0065, Item 11, June 14, 2006

Dear Mr. Robertus:

The Rincon del Diablo Municipal Water District is committed to delivering quality water to meet present and future needs in an environmentally and economically responsible manner, maintaining infrastructure integrity and excellence in service as stewards of a natural resource for the public trust, and fostering conservation.

As part of diversifying our water supply in anticipation of future droughts, Rincon recently approved a Water Purchase Agreement involving the Carlsbad desalination plant. With the availability of this new supply, a repeat of the 1989-92 drought would mean a 11% water supply cutback for Rincon customers rather than the catastrophic 30% cutbacks our customers experiences in 1990-91.

This agreement will ensure Rincon will receive 4,000 acre-feet per year of drinking water over a 30-year period, at a price of water not exceed that which would have been paid for the imported water supply from the San Diego County Water Authority. The water will meet or exceed all drinking water regulatory standards under the law, and Rincon will never be obligated to accept or pay for water that does not meet the quantity, quality and reliability standards specified in the Agreement.

Additionally, Poseidon will be responsible for all costs and risks associated with the financing, development, construction, and operation of the plant.

Rincon del Diablo Municipal Water District submits the following comments in response to the Tentative Order:

- The environmental impacts of the proposed project have been found to be less than significant with the added benefit of relieving future pressure on environmentally sensitive imported water systems such as the Sacramento-San Joaquin Bay-Delta and the Colorado River.

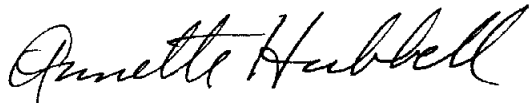
Willis G. Cornelius
Director Emeritus

Mr. John Robertus
June 5, 2006
Page 2

- Co-location with the Encina Power Station provides optimum use of available coastal property. The project achieves the project objectives in an environmentally and economically acceptable manner.
- The proposed project implements the desalination element of a comprehensive local and regional water supply strategy that is intended to reduce the reliance on imported water and improve water quality and supply reliability by complementing ongoing water conservation and water recycling efforts.

This project would support Rincon's ongoing efforts to secure and protect our water resources, and provide our customers with a drought-proof and affordable water supply. We urge the Regional Water Quality Control Board's adoption of Tentative Order R9-2006-0065.

Sincerely,



Annette Hubbell
General Manager
Rincon del Diablo Municipal Water District



June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

2006 JUN - 8 P 12: 03
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065, Item 11, June 14, 2006

Dear Mr. Robertus:

The Agua Hedionda Lagoon Foundation supports the adoption of the Regional Water Quality Control Board Permit recommended by staff for the Carlsbad Desalination Project discharge. This project is good for the environment and the community and it will assure continued stewardship of the Lagoon and surrounding watershed.

The Agua Hedionda Lagoon Foundation was established as a non profit corporation in 1990 to help conserve, restore and enhance the environmental features of the Agua Hedionda Lagoon, marsh, wetlands and watershed area, to protect sensitive land through acquisition or other means and to promote balanced recreational and commercial uses consistent with assured future lagoon vitality. The Foundation serves as an advocate for the lagoon and is a strong supporter of public access, trails and recreational opportunities.

The final environmental impact report for the Carlsbad Desalination Project closely studied numerous issues related to the marine environment and land use around the proposed project site and confirms that the desalination facility can be built and operated in an environmentally responsible manner without significant unmitigated impacts.

The report also confirms that the proposed operation would ensure the continued biological diversity in and around Agua Hedionda Lagoon through sustainable use of marine resources and stewardship the lagoon and surrounding watershed.

Specifically:

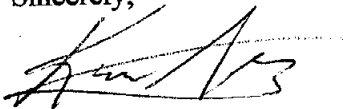
1. The project provides for optimum use of available coastal property through co-location with the Encina Power Station (FEIR Section 4.8.4).
2. The project achieves the project objectives in an environmentally responsible manner without significant unmitigated impacts (FEIR Sections 4.1 through 4.11).
3. The FEIR demonstrates that the proposed project will not cause significant entrainment losses to marine organisms. The FEIR found that the incremental

entrainment effect of larval fishes from the desalination plant operations would be between 0.01 and 0.28 percent. Species of direct recreational and commercial value constitute less than one percent of the entrained organisms, and considering the fact that in general, less than one percent of all fish larvae become reproductive adults, the operation of the desalination plant would not result in significant impacts on those species. (FEIR pages 4.3-35 through 4.3-43).

4. The FEIR and the Tentative Order found that under all operating conditions the desalination plant would not result in salinity levels exceeding the identified thresholds of significance. Therefore, operation of the desalination plant would not result in significant impacts related to elevated salinity levels. A mitigation measure has been included for purposes of requiring monitoring of the combined operations of the desalination plant and the Encina Power Station to ensure that salinity levels remain within the parameters that have been analyzed. (FEIR pages 4.3-43 through 51), Tentative Order R9-2006-0065 Pages F-12 – F-16).
5. The RWQCB has required that the information generated by the ocean monitoring programs described in Monitoring and Reporting Program Requirements would be available to the public (Tentative Order R9-2006-0065 Attachment E).
6. The Development Agreement between the Project Proponent and the City of Carlsbad includes easements for use, leases, or the dedication of land to the City of Carlsbad for general public benefit. These features include the land located on the north side of the lagoon just west of the railroad tracks, next to Hubbs Sea World Research Institute. The site is approximately two acres in size and is proposed to be used as a site for expansion of the fish hatchery and aquatic research uses. (FEIR page 4.11-7).
7. The RWQCB found that the proposed Order will be fully protective of ocean waters in the San Diego Region (Tentative Order R9-2006-0065, Page 7).

The Agua Hedionda Lagoon Foundation supports this project because it is good for the environment and the community and because it will assure continued stewardship of the Lagoon and surrounding watershed.

Sincerely,



Ken Alfrey
Agua Hedionda Lagoon Foundation

5/18

5/17/06

ATTACHMENT 3

Charles Cheng

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

pls ensure this is
sent to all members for
item 11 for 14 June. Re: NCR: 02-1429.02
Bd. mtg. CQC



Ms Norma J Wolk
2457 Levante St
Carlsbad, CA 92009

2006 MAY 18 P 12:33

California Regional Water Quality
Control Board, San Diego Region.

As I work full time, I cannot attend your
meetings in the area, covering the desalination
project in Carlsbad.

I object to this project, as being too expensive,
as well as harming the seawater and destroying
marine life.

I know of no working, successful plant
built or operated by Poseidon.

A fraud on the County.

In the early 90's or late 80's I sat in on
a board meeting of the Carpucos Sewer district,
where Poseidon offered to build a plant
at their cost. We had a sewer outfall
line to the sea, owned jointly with Morro Bay.
We felt a community of 2400, should
maintain the outfall line. We turned them
down. San Diego will regret this boondoggles.
The " Saudis " want to sell theirs, costs more
than Oil a barrel.

Norma J Wolk

From: "Edward Kimura" <emkimura@earthlink.net>
To: <ccheng@waterboards.ca.gov>
Date: 5/31/2006 3:55:48 PM
Subject: Tentative Order R9-2006-0065

Dear Charles Cheng;

I've have attached Sierra Club comments for the Tentative Order -2006-0065
NPDES Permit CA0109223 for the Poseidon Desalination Plant at Carlsbad,

Ed Kimura

858-569-2025



Main Office: (619) 299 1743
Chapter Coordinator: (619)-299-1741
Fax: (619)-299-7142
Email: creiff@sierraclubsandiego.org
www.sierraclubsandiego.org

San Diego Chapter
Serving the Environment in San Diego and Imperial Counties
3820 Ray Street
San Diego, CA 92104

*E-mail received 5/31/06
3:55 pm*

May 31, 2006

California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4353
Attention: Mr. Charles Cheng

Subject: Tentative Order No. R9-2006-0065, NPDES No. CA0109223
Waste Discharge Requirements for the Poseidon Resource Corp, Carlsbad Desalination
Project, Discharge to the Pacific Ocean Via the Encina Power Station Discharge Channel

Dear Chairman Minan and Members of the Board:

The Sierra Club review of the subject Tentative Order finds that it is flawed and recommends that the Regional Water Quality Control Board reject it. The reasons are described below.

1. It is premature to issue the Tentative Order

The Carlsbad Desalination Project (CDP) is to be co-located at the Encina Power Station in order to use the cooling water discharge for its feedwater source and to use the power plant ocean outfall to discharge the brine concentrate into the ocean. The Encina Power Station NPDES permit has expired. We believe that it is premature to issue the permit until the Encina Power Station NPDES discharge permit has been approved by the Regional Board. The information in the renewal permit will contain important information by which to evaluate the CDP waste discharge requirements and the influence of the provisions to comply with the Clean Water Act Section 316(b) on the CDP operations.

2. The facility description of the CDP is incomplete

The Tentative Order, Findings, page 5, states that the design of the pretreatment filter has not been selected. There are two designs proposed. The Tentative Order fails to provide the flow schematic of the CDP in Attachment C. The Tentative Order requires the Discharger to submit a flow schematic 90 prior to the discharge of wastewater authorized under this permit. Given that it will take at least five years to get the plant on line, there is no assurance that the discharger would make substantial revisions to whichever of the two pretreatment filter design options is selected during this period. In effect we are asked to evaluate the Tentative Order without key information about the plant operation and how it would impact the quality of the discharged effluent from the CDP.

3. The Tentative Order fails to support the claim that the Clean Water Act Section 316(b) does not apply.

Attachment F-Fact Sheet, Rationale for Provisions, page F-42, paragraph 4 states that 316(b) applies exclusively for cooling purposes. Therefore, no special conditions related to 316(b) are implemented in this Order. It fails to note that 316(b) was enacted to limit the impingement and

entrainment harm to aquatic life caused by the water intake structure used to provide cooling water. It was also enacted when seawater desalination was uncommon in the U.S. We believe that this is a narrow interpretation of 316(b) as it fails to protect the beneficial uses of the receiving waters. It is immaterial in our view whether the end use of the water intake is used for industrial cooling or other purposes such as the water source for a desalination plant. Furthermore, these receiving waters are held in public trust. (Please refer to the California Coastal Commission report on desalination¹.) As such the Regional Board has the responsibility to uphold the doctrine of public trust to protect the beneficial uses of the receiving waters.

4. Recommend influent oil and grease monitoring

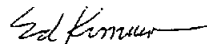
We recommend that Table 3 of Attachment E, Monitoring and Reporting Program include oil and grease. The reason is to avoid damage to CDP and contaminate the potable water product.

5. Expected Maximum Parameter Concentrations not adequate

Attachment F- page 8 states that the method detection limits used for several of the pollutants in the analytical results reported by CDP were greater than the corresponding minimum level established in the Ocean Plan. Please provide the list of these pollutants and the MDL used.

Thank you for your consideration.

Sincerely,



Ed Kimura
Sierra Club
San Diego Chapter

¹ See California Coastal Commission "Seawater Desalination and the California Coastal Act , March 2004, Chapter 4, Coastal Act Policies Related to Desalination" <http://www.coastal.ca.gov/energy/14a-3-2004-desalination.pdf>

From: "Peter MacLaggan" <pmaclaggan@poseidon1.com>
To: <ccheng@waterboards.ca.gov>, <jrobertus@waterboards.ca.gov>
Date: 5/31/2006 5:00:44 PM
Subject: Poseidon RWQCB Comment Letter

Attached is Poseidon's comment letter on Tentative Order No. R9-2006-0065.

A hard copy is in the mail to you and will be there tomorrow.

If you have any questions please let me know,

Peter

Peter M. MacLaggan
Senior Vice President
Poseidon Resources
501 W. Broadway #840
San Diego, CA 92101
Ph. 619-595-7802
Fax 619-595-7892
pmaclaggan@poseidon1.com

P O S E I D O N R E S O U R C E S

May 31, 2006

E-mail received
5/31/06 5:00 pm

Mr. John H. Robertus
Executive Officer
California Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2006 JUN -2 P 2:32

Subject: Tentative Order No. R9-2006-0065 (NPDES CA0109223)
Poseidon Carlsbad Desalination Project

Dear Mr. Robertus:

Tentative Order No. R9-2006-0065 (NPDES CA0109223) would regulate the discharge of reverse osmosis brine and filter backwash water from Poseidon Resources' Carlsbad Desalination Project (CDP) to the Pacific Ocean via the Encina Power Station (EPS) effluent channel. This letter presents Poseidon Resources' comments on proposed Tentative Order No. R9-2006-0065, proposed Monitoring and Reporting Program No. R9-2006-0065, and the NPDES Fact Sheet (Appendix F to the Tentative Order).

Our two most important comments on the Tentative Order and Tentative Monitoring and Reporting Program No. R9-2006-0065 relate to acute toxicity monitoring procedures and flow requirements.

Acute Toxicity. The *Ocean Plan* establishes a receiving water acute toxicity objective of 0.3 TUa, which applies to the edge of a mixing zone defined as being 10 percent of the distance from the outfall structure to the edge of the chronic mixing zone (Zone of Initial Dilution). "Effluent Limitations and Performance Goal B.2" of the Tentative Order No. R9-2006-0065 (page 11 of the Tentative Order) proposes an acute toxicity performance goal of 0.765 TUa. This 0.765 TUa performance goal is derived using Equation 2 of the *Ocean Plan* and an assigned initial dilution of 15.5 to 1. Poseidon agrees with the imposition of a 0.765 TUa receiving water toxicity objective that applies at the edge of the acute toxicity mixing zone.

To properly assess compliance with this receiving water performance goal, however, modifications of the acute toxicity monitoring procedures are required within Section V.A (entitled "Whole Effluent Toxicity Testing Requirements") of Tentative Monitoring and Reporting Program No. R9-2006-0065. Acute toxicity monitoring conducted in accordance with the current provisions of Tentative Monitoring and Reporting Program No. R9-2006-0065 would result in artificially inflated acute toxicity values that would not be representative of the actual discharge quality prior to discharge to the ocean.

Poseidon Resources Corporation

501 West Broadway, Suite 840, San Diego, CA 92101, USA
619-595-7802 Fax: 619-595-7892

Executive Office: 1055 Washington Boulevard, Stamford, CT 06901

As described on pages F-7 and F-8 of the Fact Sheet, the Poseidon discharge is diluted by Encina Power Station (EPS) cooling water effluent prior to discharge to the ocean. Salinity concentrations of the combined EPS/Poseidon discharge flow (prior to discharge to the ocean and prior to initial dilution) will normally be in the range of 35 to 37 parts per thousand (ppt). During rare occasions when EPS flows are at historical minimum, salinity concentrations in the combined EPS/Poseidon discharge flow are projected to range from 40 to 41 ppt. (See Table 4 on page F-8 of the Fact Sheet)

Salinity is projected to be the key factor influencing toxicity within the Poseidon discharge. High salinity concentrations can cause acute toxicity both in native marine species and in designated acute toxicity test species. Initial toxicity studies conducted by Poseidon indicate that salinity-related acute toxicity effects can start to occur at a salinity threshold of slightly above 40 ppt.

Monitoring and Reporting Program No. R9-2006-0065 requires that Poseidon's acute toxicity monitoring be conducted at Discharge Point M-001. At this point, the Poseidon discharge has not been mixed with the EPS cooling water. Depending on the method of pretreatment technology used, the combined pretreatment and reverse osmosis flows that comprise the Poseidon discharge (see Table 3 of the Fact Sheet) would normally contain salinity concentrations in excess of 60 ppt. Acute toxicity tests of a 60 ppt effluent would show significant acute toxicity that is not representative of toxicity of the actual ocean discharge.

Without taking into account dilution provided by the EPS flow, acute toxicity tests of the effluent at Discharge Point M-001 would not be representative of the acute toxicity in the combined EPS/Poseidon discharge flow, and would not be representative of acute toxicity that would occur at the edge of the acute toxicity mixing zone. Dilution provided by EPS cooling water flows needs to be taken into account as part of the acute toxicity monitoring provisions of Monitoring and reporting Program R9-2006-0065. Otherwise, artificially inflated acute toxicity values (due to high salinity in the undiluted Poseidon effluent) would result that are not representative of the quality of effluent that is discharged to the ocean.

To make the acute toxicity test more representative of actual discharge conditions (and to eliminate salinity-related toxicity effects artificially created by sampling the >60 ppt flows at Discharge Point M-001, it is recommended that requirement V.A of Monitoring and Reporting Program No. R9-2006-0065 be revised as follows:

- A. Acute toxicity testing shall be performed using either a marine fish or invertebrate species in accordance with procedures established by the USEPA guidance manual, *Methods for Measuring the Acute Toxicity of Effluents and Receiving Waters to Freshwater and Marine Organisms*, 5th Edition, October 2002 (EPA-821-R-02-012). For the testing, 100 percent effluent shall be defined as a sample that consists of effluent from Discharge Point M-001 diluted with seawater in proportion to the ratio of the Poseidon effluent flow to the EPS effluent flow. For example, if the Poseidon flow contributes 50 mgd and the EPS discharge contributes 100 mgd to create a total combined discharge of 150 mgd, the

“100 percent effluent” acute toxicity sample shall be diluted at a ratio of two parts seawater to one part M-001 effluent.

Toxicity Reduction Evaluation. Page 19 of Tentative Order No. R9-2006-0065 provides that the Discharger shall develop a Toxicity Reduction Evaluation (TRE) workplan and submit that workplan to the Regional Water Board *within 180 days of the adoption of the Order*. To ensure that the TRE workplan accurately reflects the final design and planned operating characteristics of the CDP, it is recommended that the submittal date for the TRE workplan (page 19, paragraph 2 and Page F41, paragraph 2b) be revised to read: *no later than 180 days prior to the startup of the CDP*.

Best Management Practices Plan and Pollution Prevention. Page 20 of Tentative Order No. R9-2006-0065 provides that the Discharger shall develop and implement a best management practices (BMP) plan to prevent or minimize the potential for release of hazardous pollutants within 180 days of the effective date of the Order. To ensure that the BMP plan accurately reflects the final design and planned operating characteristics of the CDP, it is recommended that the submittal date for the BMP plan (page 20, paragraph 3 and page F-41 and 42, paragraph 3) be revised to read: *no later than 180 days prior to the startup of the CDP*.

Process Flows. Average and maximum flows listed in Tables 2 and 3 of the Fact Sheet and Table 7 of Discharge Specification A.4 of Tentative Order No. R9-2006-0065 represent average day and maximum day discharge flows during periods when the desalination facility is producing and delivering potable water. During initial start-up operations and immediately before or after certain onsite maintenance operations, it may be necessary to temporarily return all or a portion of the filtered pretreated seawater back into the EPS effluent channel instead of routing the filtered seawater flow to the reverse osmosis units. Additionally, during such start-up periods or periods when it is not feasible to deliver product water to the regional potable water system, it may be necessary to temporarily discharge product water from the reverse osmosis process back into the EPS effluent channel.

Scheduled maintenance operations may require temporary shutdown of the desalination facility every few weeks. Start-up operations to bring the desalination facility online may require either pretreatment water or reverse osmosis product water to temporarily be discharged back into the EPS effluent channel for periods ranging from a few minutes to several hours. Circumstances that may require temporarily routing reverse osmosis water back into the EPS effluent channel are also projected to be rare, but could occur as part of maintenance start-up operations or during temporary conditions in which it is not possible to deliver demineralized treated water to the regional potable water system.

In addition to periodic scheduled maintenance, treated flows from the pretreatment facilities or demineralized product water from the reverse osmosis facilities would be discharged to the EPS effluent channel as part of initial facilities testing and start-up. Such initial start-up operations may last a number of weeks.

The flow and salinity of the additional CDP effluent under operating conditions when either pretreatment process water or reverse osmosis product water is directed back into the EPS effluent channel would be identical to the flow and salinity of the source water directed to the CDP during such temporary periods. As a result, no water quality impacts would occur as a result of such temporary process water diversions.

To address such temporary periods when either filtered seawater or reverse osmosis product water is returned to the EPS effluent channel, it is recommended that the footnotes to Table 7 of Tentative Order R9-2006-0065 be revised to the following:

Table 7. Monthly Average Flow Limitation Based on Pretreatment Technology

Pretreatment Technology	Maximum Monthly Average Flow Rate ^{1,2}
Granular Media Filtration	54 MGD
Membrane Filtration	57 MGD

- 1 During times when demineralized product water is being produced and delivered to the regional water supply system, effluent flows shall be limited to the flow rates indicated in this table based on the pretreatment technology option selected by the Discharger and reported to the Regional Water Board as specified in Section VI.C.2 of this permit.
- 2 Pretreatment process flows or reverse osmosis product flows may be temporarily discharged back into the Pacific Ocean during initial plant start-up, during or after plant maintenance, or periods when it is otherwise not possible to deliver demineralized product water to the regional water system. During such temporary periods, maximum allowable flows returned to the ocean shall not exceed 120.6 MGD for the granular media filtration option, or 129 MGD for the membrane filtration pretreatment option. Temporarily returning pretreatment process flows or reverse osmosis flows to the ocean during such periods does not constitute a "bypass" as defined by Section G of Appendix D of this permit.

For consistency, it is recommended that a footnote identical to Footnote 2 above be added to Table 2 of the Fact Sheet.

Effluent Compliance Monitoring. Poseidon agrees with the proposed approach to utilize Monitoring Location M-001 to monitor the pollutant concentrations within the CDP discharge. Some of the EPS discharge streams (e.g. EPS low volume wastes), however, enter the EPS effluent channel downstream from CDP Monitoring Location M-001. As a result, the combined EPS discharge sampling point includes not only all of the EPS effluent streams, but the CDP effluent stream as well.

It is our understanding that the Regional Board is currently in the process of updating EPS NPDES requirements. As part of updating these requirements, Poseidon understands that the Regional Board will develop monitoring procedures that will allow EPS to monitor effluent compliance independent of the influence of the CDP discharge. One suggested method for

accomplishing this would be for CDP to conduct simultaneous monitoring at Discharge Location M-001 whenever EPS monitors the combined EPS/CDP effluent at the final monitoring pond. In this way, a mass-balance computation could be used by EPS to compute pollutant concentrations within the combined power plant waste stream independent of the CDP discharge.

Poseidon will cooperate with EPS to implement any such plan for coordinating simultaneous sample collection and the exchange of monitoring results. Poseidon also requests that the Regional Board add a specific finding to Order No. R9-2006-0065 that describes the methodology for subtracting CDP monitoring results from the EPS/CDP combined discharge monitoring results for assessing compliance with the revised EPS NPDES permit.

Receiving Water Compliance. As a final item, it is not anticipated that any CDP or EPS operations will result in violations of receiving water standards established in Order No. R9-2006-0065. If such receiving water violations were to occur, however, additional study may be required to determine if the receiving water violations resulted from the CDP discharge, the EPS discharge, both discharges, or conditions not related to either discharge. Poseidon Resources (in consultation with EPS) proposes that the Regional Board add an additional special study under Special Provision VI.C.2 (page 19 of the Tentative Order) to evaluate the nature and cause of any receiving water violations that may occur. The following is suggested:

2.c Receiving Water Violation Assessment

In the event of violation of any receiving water requirements established within this Order, the Regional Board may require the Discharger to perform a special study to investigate nature and cause of the receiving water violation. The receiving water study shall include an evaluation of the nature of the receiving water violation, an assessment of the cause of the violation (including whether the violation resulted from the CDP or EPS effluent discharges), and shall identify compliance measures required to insure future conformance with receiving water standards. The Discharger shall submit the required study to the Regional Board within 90 days of receipt of Regional Board notification of the need to perform the receiving water study.

Please call me if you have any questions about the above comments on Tentative Order No. R9-2006-0065.

Sincerely,



Peter M. MacLaggan
Senior Vice President

cc. Charles Cheng



**SAN DIEGO™
REGIONAL
CHAMBER OF
COMMERCE**

EMERALD PLAZA
402 West Broadway, Suite 1000
San Diego, California 92101-3585
Tel 619.544.1300
www.san-diego-chamber.org

*6/5/06
Charles Cherry
sent to RB members
for RB agenda item
in Aug.*

2006 JUN -5 P 12: 20
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

June 2, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065, Item 11, June 14, 2006

Dear Mr. Robertus:

The San Diego Regional Chamber of Commerce supports the Carlsbad Desalination Project because it addresses the development of our own local supply and presents an environmentally responsible way to increase our water portfolio. We urge the Regional Water Quality Control Board (RWQCB) to issue the permit before you.

The Chamber has been monitoring the development of the proposed project for five years. In reviewing the Environmental Impact Report, we believe that adequate safeguards are in place to address environmental issues, including the impact to marine life which is minimal, and that no endangered or at risk species are located in waters in the project vicinity. This project achieves its stated objectives in an environmentally and economically acceptable manner.

The proposed project implements the desalination element of a comprehensive local and regional water supply strategy that is intended to lessen the reliance on imported water and improve water quality and supply reliability by complementing ongoing water conservation and water recycling efforts.

Additionally, the development of infrastructure through a public-private partnership has the benefit of limiting risk to the citizens and taxpayers of California.

The Chamber concurs with the RWQCB's findings that the proposed order will ensure full protection of beneficial uses of ocean waters in the San Diego region and supports the issuance of the permit.

Sincerely,

Scott D. Alevy
Vice President, Public Policy & Communications

SDA:av

ROBERT SIMMONS
Counselor-at-Law

P.O. Box 19932
San Diego, California 92159-0932

Tel/Fax (619)464-0325
E-mail robsim@netcom.com

JMC 6/5/06
Charles Cheng
pls include in R.B. regard
material

June 2, 2006

Regional Water Quality Control Board
San Diego Region
9174 Sky Park Court
San Diego, CA 92123

Attn.: John Robertus, Executive Officer

Re. Poseidon Desalination Facility
NPDES Permit-Agenda item #14

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2006 JUN -5 PM 5:21

Officer Robertus and Members of the Board:

I have been a member of the California Bar since 1974, with appearances in the State and Federal trial and appellate courts serving California. I am also certified to appear before the U.S. Supreme Court. For the past twenty years, my legal work has emphasized water supply and wastewater treatment and disposal issues. During the decade beginning in 1990, I was chief counsel for Intervenor Sierra Club in the complex water recycling and wastewater treatment litigation brought by EPA against the City of San Diego.

I am familiar with the proposed Poseidon desalination facility, in Carlsbad, and have reviewed the EIR prepared for that project. Further, I am familiar with the legal and environmental issues involved in the application presently before you for a NPDES permit at the desalination facility.

COMMENT

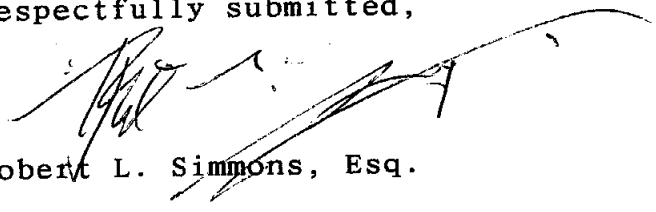
I strongly support Poseidon's permit application for the following reasons:

1. The thorough fact analysis, study, and assessment, appearing in the "Ocean Impacts" section of the EIR credibly support the finding that no significant or unreasonable impacts will be caused by the facility's effluent discharges.
2. The EIR establishes that the single, potentially harmful, agent in the discharge, i.e., elevated salinity, is so dispersed and mixed within the zone of initial dilution (zid) that impacts on fish, shellfish, and benthos, are not significant.
3. The salinity impact analysis reported in the EIR is based, in part, on a thorough and comprehensive pilot testing program conducted by respected scientists, known to me, affiliated with the Scripps Institute of Oceanography.
4. The terms in the permit drafted by your staff fully comply with the Ocean Plan.

5. The draft permit authorizes you to reopen the permitting process if any significant condition or unforeseen impacts appear.

6. The fifty million gallons per day (50 mgd) of potable water the Poseidon facility will produce represents a significant beneficial impact upon the region that the Board should consider. This volume of new potable water amounts to 28% of the total volume now consumed within the San Diego Metro water District (174 mgd). Its availability commensurately reduces the region's need to import water from outside the county and will powerfully promote local water independence.

Respectfully submitted,



Robert L. Simmons, Esq.

JMC 6/5/06
Charles Cherry
pls provide to RB member
on the agenda item



June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

RE: Tentative Order No. R9-2006-0065

Dear John:

I would like to comment on the environmental impact report for the Carlsbad Desalination Project.

Hubbs-SeaWorld Research Institute's Leon Raymond Hubbard, Jr. Marine Fish Hatchery is located on the Agua Hedionda Lagoon, across from the proposed desalination facility. Accordingly, we are concerned that all development along the Lagoon be conducted in a manner to conserve the Lagoon's vital and productive marine life, and to ensure that the conservation program supported by our hatchery facility is not adversely impacted.

Because of our Institute's unique dependence on the Lagoon habitat, I have reviewed the sections of the environmental impact report pertaining to biological impacts. The report's authors conclude that any environmental impacts to the receiving waters, the surrounding habitats and/or the organisms that inhabit those habitats should be insignificant. Based on my review of the methodology and results reported, these conclusions appear to be correct.

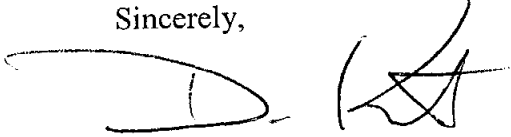
The biological survey work undertaken, the assay experimentation conducted, and the mathematical modeling performed appear to be a scientifically valid and authoritative approach to answering the biological impact questions posed by the environmental review process. The recommendation to conduct on-going environmental sampling should allow the appropriate regulatory agencies to test the assumptions that went into the models and also provide an adequate level of assurance that significant negative impacts are not occurring. Furthermore, this sampling regime should afford a wealth of information, which will be invaluable to resource agencies charged with management of our coastal living marine resources.

In conclusion, I do not believe that the desalination facility will have an adverse impact on the marine environment, the Agua Hedionda Lagoon, or our hatchery's operations.

2006 JUN -5 P 12:24
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

Thank you for affording our Institute the opportunity to provide an opinion on the impacts of the proposed desalination facility during your review of the permit of this project.

Sincerely,

A handwritten signature in black ink, appearing to be 'D. Kent', written over a horizontal line.

Donald B. Kent
President, Hubbs-SeaWorld Research Institute &
Co-Principal Investigator, Ocean Resources Enhancement
and Hatchery Program

STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0075
(916) 319-2075
FAX (916) 319-2175

E-MAIL
assemblymember.plescias@assembly.ca.gov

MR 6/5/06
Charles Chen
Pls forward to Bd Member

Assembly
California Legislature



GEORGE A. PLESCIA
ASSEMBLY REPUBLICAN LEADER
SEVENTY-FIFTH DISTRICT

DISTRICT OFFICE
9909 MIRA MESA BLVD., SUITE 130
SAN DIEGO, CA 92131
(858) 689-6290
FAX (858) 689-6296
WEBSITE
<http://www.assembly.ca.gov/plescias>

June 5, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

2006 JUN -5 P 12:28
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

Dear Mr. Robertus:

I am writing to express my support for the development of the Carlsbad Seawater Desalination Plant scheduled to come before the members of the San Diego Regional Water Quality Control Board later this month.

As you know, one of the greatest challenges facing California is to responsibly balance our water needs with the protection of our environment. Last year, the Department of Water Resources published California Water Plan Update 2005, a comprehensive and specific plan detailing innovative methods for meeting our water needs through conservation, recycling, desalination, and many other strategies.

The report identified desalination, where economically and environmentally appropriate, as one element of a balanced water supply portfolio. By producing drinking water at the point-of-use helps to reduce the need to import water, protecting valuable environmental habitats and reducing the need for new storage and transfer facilities.

With the completion of this project, the City of Carlsbad will establish itself at the forefront of responsible water stewardship, setting a new and innovative standard in the way California communities plan for their water needs.

Thank you for your consideration of my views on this issue. I encourage your continued advancement of this project.

Sincerely,

George A. Plescia
Assembly Republican Leader

- STATE CAPITOL
P.O. BOX 942849
SACRAMENTO, CA 94249-0074
(916) 319-2074
FAX (916) 319-2174
- DISTRICT OFFICE
1800 THIBODO ROAD
SUITE 300
VISTA, CA 92081
(760) 599-1641
FAX (760) 599-1650

ML 6/5/06

Charles Chay

Assembly
California Legislature



MARK WYLAND
ASSEMBLYMEMBER, SEVENTY-FOURTH DISTRICT

COMMITTEE ASSIGNMENTS
VICE CHAIR:
EDUCATION
ELECTIONS AND REDISTRICTING
MEMBER:
UTILITIES AND COMMERCE

*file provided to RB Member
w/ copied material*

June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2006 JUN -5 P 12: 29

Re: Carlsbad Seawater Desalination Plant

Dear Mr. Robertus:

I am writing to express my support for the development of the Carlsbad Seawater Desalination Plant scheduled to come before you and the members of the San Diego Regional Water Quality Control Board later this month.

As you know, one of the greatest challenges facing California is to responsibly balance our water needs with the protection of our environment. Last year, the Department of Water Resources published California Water Plan Update 2005, a comprehensive and specific plan detailing innovative methods for meeting our water needs through conservation, recycling, desalination, and many other strategies.

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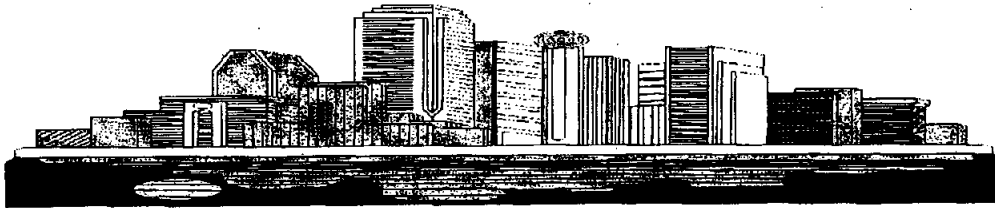
Very truly yours,

Mark Wyland
Assembly Member, District 74

3737 Camino del Rio South, Suite 202
San Diego, CA 92108
619/ 521-2914
619/ 521-2917 fax

San Diego County Building &
Construction Trades Council, AFL-CIO

Fax



To: Mr. John Robertus, , Executive Officer (SDRWQCB) From: Art Lujan, Business Manager

Fax: ⁶⁵⁸¹ 571-6972 Pages: 2 (inc cover)

Phone: Date: June 5, 2006

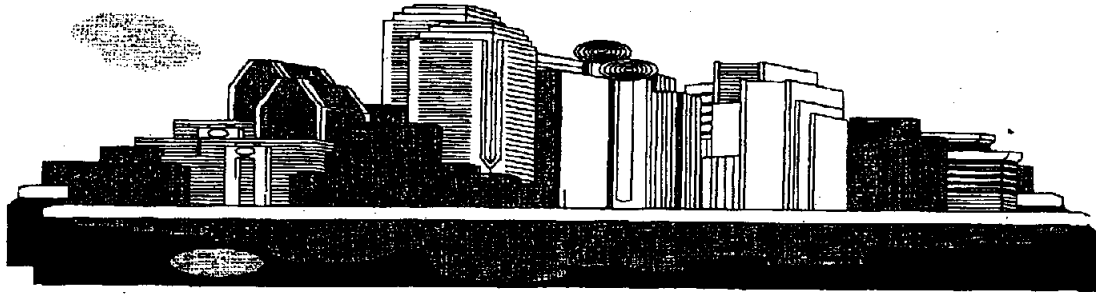
Re: Carlsbad Desalination Project cc:

- Urgent
- For Review
- Please Comment
- Please Reply
- Please Recycle

• Comments:

Please find the attached letter regarding the Carlsbad Desalination Project Tentative Order No. R9-2006-0065

Thanks,
Art Lujan



San Diego County Building & Construction Trades Council, AFL-CIO

June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065, Item 11, June 14, 2006

Dear Mr. Robertus:

We urge your approval of the permit before you for the Carlsbad Desalination Project. This Project will bring this region one step closer to a safe, reliable and cost-effective water supply, which will greatly reduce our region's dependence on imported water.

San Diego's labor community believes in a strong economy and protecting the environment. These goals can be accomplished by reducing our region's dependence on imported water, which is one of the reasons why we support the Carlsbad Desalination project.

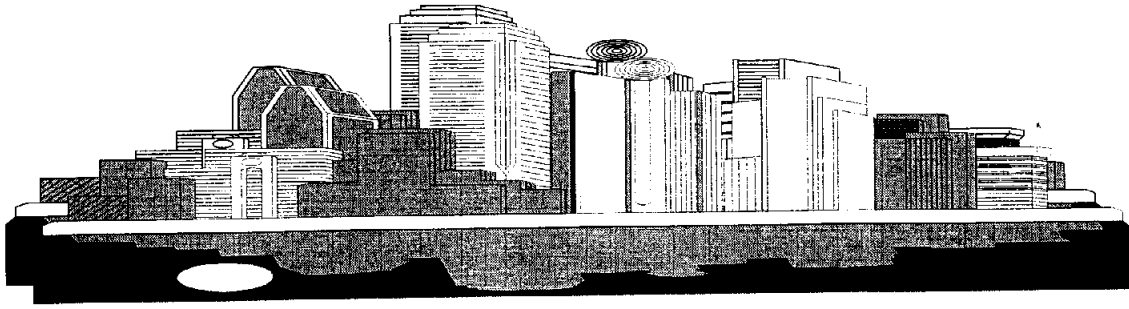
The desalination facility will create jobs, generate much needed tax revenue for local governments, improve our water quality and enhance water reliability with a new drought-proof supply.

Based on our review, the Tentative Order provides sufficient information to conclude the project could be constructed and operated without significant impacts to marine life and ocean water quality.

The Building Trades Council urges the Regional Water Board's adoption of Tentative Order R9-2006-0065.

Respectfully,


Art Lujan
Building Trades Council



San Diego County Building & Construction Trades Council, AFL-CIO

June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

2006 JUN -6 P 2:07
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065, Item 11, June 14, 2006

Dear Mr. Robertus:

We urge your approval of the permit before you for the Carlsbad Desalination Project. This Project will bring this region one step closer to a safe, reliable and cost-effective water supply, which will greatly reduce our region's dependence on imported water.

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The desalination facility will create jobs, generate much needed tax revenue for local governments, improve our water quality and enhance water reliability with a new drought-proof supply.

Based on our review, the Tentative Order provides sufficient information to conclude the project could be constructed and operated without significant impacts to marine life and ocean water quality.

The Building Trades Council urges the Regional Water Board's adoption of Tentative Order R9-2006-0065.

Respectfully,


Art Lujan
Building Trades Council



FACSIMILE TRANSMISSION

From: Patti Krebs, Executive Director

To: _____

 John Roberts - RWQCB

858-571-6972

Total Pages: _____
 2

Date: _____
 6/5/06



June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

**RE: Carlsbad Desalination Project Tentative Order
No. R9-2006-0065, Item 11, June 14, 2006**

Dear Mr. Robertus:

The Industrial Environmental Association (IEA) promotes environmental responsibility through effective communication and interaction with our members, government, regulatory agencies, business, and the community. We use proven technology, scientific methods, and common sense to achieve a beneficial relationship between environmental protection, public health, and economically sustainable growth.

After reviewing Tentative Order R9-2006-0065, IEA believes that the proposed desalination project can be constructed and operated in an environmentally responsible manner that is fully protective of the beneficial uses of ocean waters in the San Diego region and contributes to a sustainable future.

IEA wholeheartedly supports the Carlsbad Desalination Project and urges approval of the NPDES Discharge Permit for this project.

Sincerely,

A handwritten signature in cursive script that reads "Patti Krebs".

Patti Krebs
Executive Director





June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2006 JUN -1 P 2:52

**RE: Carlsbad Desalination Project Tentative Order
No. R9-2006-0065, Item 11, June 14, 2006**

Dear Mr. Robertus:

The Industrial Environmental Association (IEA) promotes environmental responsibility through effective communication and interaction with our members, government, regulatory agencies, business, and the community. We use proven technology, scientific methods, and common sense to achieve a beneficial relationship between environmental protection, public health, and economically sustainable growth.

After reviewing Tentative Order R9-2006-0065, IEA believes that the proposed desalination project can be constructed and operated in an environmentally responsible manner that is fully protective of the beneficial uses of ocean waters in the San Diego region and contributes to a sustainable future.

IEA wholeheartedly supports the Carlsbad Desalination Project and urges approval of the NPDES Discharge Permit for this project.

Sincerely,

Patti Krebs
Executive Director



June 6, 2006

Dr. Charles Cheng – RWQCB

I realized this morning that I had not signed the letter I faxed to you yesterday concerning the discharge permit fir the Carlsbad/Poseidon Resources Seawater Desalination Project. So, for the public record, here is the signed letter.

Please feel free to contact me if you should have any questions.



**Gary Arant
General Manager
Valley Center MWD**



VALLEY CENTER MUNICIPAL WATER DISTRICT

A Public Agency Organized July 12, 1954

Board of Directors
 Gary A. Broomell
 President
 Robert A. Pollio
 Vice President
 Merle J. Aleshire
 Director
 Charles W. Stone, Jr.
 Director
 Randy D. Haskell
 Director

June 5, 2006

Mr. John Robertus
 Executive Officer
 San Diego Regional Water Quality Control Board
 9174 Sky Park Court, Suite 100
 San Diego, CA 92123-4340

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065, Item 11, June 14, 2006

Dear Mr. Robertus:

I am writing at this time to urge your approval of Tentative Order R9-2006-0065 for the Poseidon Resources Seawater Desalination Project.

Valley Center MWD is a public water agency serving 25,000 residents and 24,000 acres of agricultural land within the unincorporated communities of Valley Center, Jesmond Dene, Hidden Meadows, Circle R and Welk' Village with 40,000 to 50,000 acre feet of imported water annually. 80% of the water we deliver goes to serve a diverse agricultural customer base. In terms of imported water purchases, in most years, we are second only to the city of San Diego. With a 100 square-mile service area, we are the third largest Authority member agency in terms of land area, with only the City of San Diego and the Otay Water District covering more territory.

We, along with the City of Carlsbad and the Rincon del Diablo Municipal Water District, have a 30-year agreement to purchase water from the proposed Poseidon Seawater Desalination Plant. Our agreement calls for my agency to purchase up to 7,500 acre feet of water annually to be used by our domestic and commercial water users.

My Board of Directors was motivated to enter into the purchase agreement for several reasons:

1. Given the onerous political, regulatory and environmental constraints to developing new fresh surface water supplies they believe that the notion of desalting seawater is a good one. To the extent that entering into the agreement with Poseidon furthered that cause, they felt it was the prudent thing to do at this time;
2. By our agreement, water purchased from Poseidon will never be anymore expensive than our imported supplies. In the long-term, water purchased under this agreement has the potential of actually being less expensive than future imported supplies. Consequently, through this agreement we get a higher level of price stability over time and the potential for a price advantage compared to our imported sources.

29300 Valley Center Road • P.O. Box 67 • Valley Center, CA 92082
 (760) 749-1600 • FAX (760) 749-6478 • TDD (760) 749-2665 • www.vcmwd.org • e-mail vcwater@vcmwd.org

Mr. John Robertus

June 5, 2006

3. With this agreement, we have the potential of securing a secondary source of supply, thus diversifying our supply portfolio and increasing the overall supply reliability for our growing community. The supply reliability advantage of having some level of alternative local supply has been underscored by the policy principles and allocation formula contained in the Draft SDCWA Drought Management Plan, adopted by the San Diego County Water Authority Board last month. With the availability of the desalinated water, Valley Center's domestic and commercial customers would be immune from imported water cutbacks until the shortages exceed 50%.

Like each of your Board members, I too have served as a member of the San Diego Regional Water Quality Control Board. And, like your Board, our Board struggled with how to balance the implementation of basin plan water quality objectives for groundwater and the need for recycled water development when the real problem was something that was completely beyond our control -- the massive quantities of salt delivered into the basin every year via the imported water delivery system.

The proposed desalination project provides a comprehensive solution for these conflicting objectives. Because the salt content (TDS) of the desalinated water is nearly half that of the imported water, the salt load to the basin due to irrigation return flows will be significantly reduced. The salt load in the wastewater collection system will be similarly reduced. This means the recycled water supply will have a lower salt content which will encourage greater use of this critically needed resource while minimizing the impacts to underlying groundwater quality due to return flows stemming from recycled water use. Seldom in the regulatory arena does one come across such a win-win solution.

This project is important to my agency and the greater San Diego region. It will provide over 50,000 acre feet of a new, high quality and highly reliable water supply which will be needed to meet the needs of our growing population and economy for many decades to come. As such, we would urge you to approve the Tentative Order for the Poseidon Resources Seawater Desalination Plant.

Again, I want to thank you for the opportunity to comment on this important Project and urge your approval of Tentative Order R9-2006-0065.

Sincerely,



Gary Arant
General Manager
Valley Center Municipal Water
District

CARLSBAD CHAMBER OF COMMERCE

5934 Priestly Drive | Carlsbad, CA 92008
TEL: (760) 931-8400 | FAX (760) 931-9153
<http://www.carlsbad.org>

FAX

To:	Dr. Charles Cheng	From:	Michael Babowal, Director of Government Affairs
Fax:	858-571-6972	Pages:	(Including Cover Page)
Phone:		Date:	06/06/2006
Re:	Carlsbad Desalination Plant	CC:	

- Urgent
 For Review
 Please Comment
 Please Reply
 Please Recycle

• **Comments:**

This letter is respectfully submitted for the San Diego Regional Water Quality Control Board's meeting package in support of the proposed Poseidon Resources Carlsbad desalination plant.

CONFIDENTIALITY NOTICE: This fax coversheet and the documents accompanying this fax transmission may contain confidential information belonging to the sender, which is legally privileged. The information is intended only for the use of the individual or entity named above as recipient. If you are not the intended recipient, you are hereby notified that any disclosure, copying, distribution or the taking of any action in reliance on or regarding the contents of this faxed information is strictly prohibited. If you have received this fax in error please notify us immediately by telephone to arrange for return of the original document to us.

CARLSBAD CHAMBER OF COMMERCE

June 6, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065 , Item 11, June 14, 2006

Dear Mr. Robertus:

For the Carlsbad Chamber of Commerce, a 1,700 plus business membership organization, securing a reliable and affordable potable water supply is one of our top priorities. We urge your approval of the staff recommendation for issuance of the discharge permit for the Carlsbad Desalination Project.

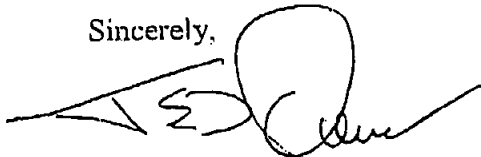
In this regard, the Carlsbad desalination plant is the most important water infrastructure project in Carlsbad's history. The plant's developer, Poseidon Resources, will provide the region with a locally-controlled, high quality, affordable water supply that will ensure future growth can be accommodated in Carlsbad and San Diego County.

Developing an environmentally responsible solution to the region's water needs is a key component to achieving our goal of water reliability. The Tentative Order provides sufficient information to conclude that the desalination project could be constructed and operated in an environmentally responsible manner and includes provisions that will ensure that the beneficial uses of the ocean waters in the San Diego Region will be protected.

The City of Carlsbad's public-private partnership with Poseidon Resources will provide enough water to meet the needs of the City of Carlsbad and surrounding communities, while reducing the burden on San Diego's water supply and our dependence on imported water.

We urge your adoption of Tentative Order R9-2006-0065.

Sincerely,



Ted Owen
President and CEO



06/06/2006 16:33 #184 P.001/002
JM 6/6/06



San Diego
Regional
Economic
Development
Corporation

Charles Chang
pls include in ribbon
fel

June 5, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065,
Item 11, June 14, 2006

Dear Mr. Robertus:

I am writing on behalf of the San Diego Regional Economic Development Corporation (EDC). For the past 40 years, EDC has worked to develop a diverse, successful, technology-driven economy throughout San Diego. We are focused on issues of regional competitiveness and actively pursue the growth and expansion of high-wage, high-growth industries in the region.

My organization would like to offer our full support of the Carlsbad Desalination Project. We urge you to approve the discharge permit for this project as expeditiously as possible and move our region one step closer to an affordable, high quality water supply.

In a region entirely dependent on imported water, our current and future economic development relies on having an affordable and reliable supply of high quality water. Desalination will help meet these needs, ensuring that infrastructure will be adequate to accommodate future growth and providing valuable economic and environmental benefits to the region.

The Carlsbad desalination project will have significant economic benefit for the region, specifically as it relates to the region's emerging high technology and bio-technology cluster that relies on high-quality water for manufacturing. For the region, the desalination facility will create jobs, generate tax revenue, improve water quality and enhance water reliability with a new drought-proof supply.

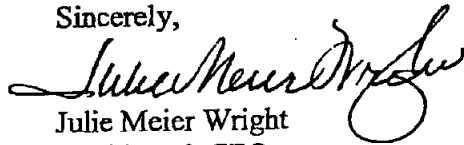
530 B Street
Seventh Floor
San Diego
CA 92101

Ph: 619-234-8484
Fax: 619-234-1935

Mr. John Robertus
June 5, 2006
Page Two

Thank you for the opportunity to comment on this important piece of the County's future water infrastructure.

Sincerely,



Julie Meier Wright
President & CEO



San Diego
Regional
Economic
Development
Corporation

June 5, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065,
Item 11, June 14, 2006

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SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2006 JUN - 7 P 2:53

530 B Street
Seventh Floor
San Diego
CA 92101

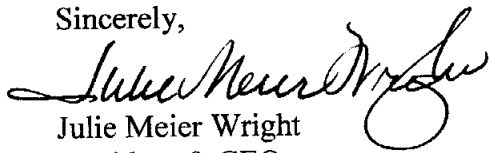
Ph: 619-234-8484
Fax: 619-234-1935

www.sandiegobusiness.org

Mr. John Robertus
June 5, 2006
Page Two

Thank you for the opportunity to comment on this important piece of the County's future water infrastructure.

Sincerely,

A handwritten signature in black ink, appearing to read "Julie Meier Wright". The signature is fluid and cursive, with a large loop at the end of the last name.

Julie Meier Wright
President & CEO

WILLIAM J. CARROLL
2315 Rue des Chateaux
Carlsbad Ca. 92008

June 7, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

Subject: Carlsbad Desalination Project: Tentative Order No. R9-2006-0065, Item 11
June 14, 2006

2006 JUN - 8 A 11:50
SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD

Dear Mr. Robertus:

I support the Regional Water Quality Control Board's adoption of Tentative Order R9-2006-0065. I am a citizen of Carlsbad and have read all the Project Reports, both on the Project Design and the Environmental Effects. I believe the Project will be a major benefit to the water resources of the region. I have spent 55 plus years in the Water Resource profession and am a strong believer that the Pacific Ocean will be a sustaining source of water for California in the future decades.

Being a Civil Engineer, and Past President of the American Society of Civil Engineers, I was very pleased when Poseidon's Carlsbad Pilot Plant, incorporating the proposed treatment processes and facilities, won the "2006 Grand Prize for Excellence in Environmental Engineering in the Research Category" of the American Academy of Environmental Engineering. I was also the President of the Academy in 1980, and understand the significance of this award. It is well known that one of the most critical items in the operation of an RO facility using ocean water as a source is the pretreatment process prior to entering the RO membranes. The operation of the Pilot Plant involved the expenditure of considerable time and effort in proving the effectiveness of the pretreatment process selected. Poseidon also utilized knowledgeable experts to determine the impact of higher-salinity waste discharge (only slightly higher due to dilution with the Power Plant's cooling water), and found that the impact was negligible and the marine environment tolerated the discharge very well.

I believe the Regional Water Quality Control Board should adopt Tentative Order R9-2006-0065. Thank you for your consideration.

Sincerely:


William J. Carroll

Crown Quadrangle
559 Nathan Abbott Way
Stanford, CA 94305-8610
Telephone: (650) 725-8571
Facsimile: (650) 723-4426

Charles Cheng

**Stanford Legal Clinics
Environmental Law Clinic**

Fax

To: John Robertus	From: BRADLEY DANIELS
Fax: 858-571-6972	Date: 6/7/06
To: John Minah	Fax: (650) 723-4426
Fax: 858-571-6972	Phone:
Phone:	Pages:
Re:	CC:
<input type="checkbox"/> Urgent <input type="checkbox"/> For Review <input type="checkbox"/> Please Comment Hard Copy to Follow? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	

• Comments: SEE ATTACHED

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June 5, 2006

VIA U.S. MAIL and
FACSIMILE: (858) 571-6972

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

Mr. John Minan
Chairperson
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, California 92123-4340

***Comments on Proposed NPDES Permit/Waste Discharge Requirements
for the Poseidon Resource Corporation, Carlsbad Desalination Project,
Discharge to the Pacific Ocean via the Encina Power Station discharge channel,
San Diego County (tentative Order No. R9-2006-0065, NPDES Permit No. CA0109223)***

Dear Messrs. Robertus and Minan:

We write on behalf of Surfrider Foundation, Desal Response Group, Southern California Watershed Alliance, San Diego Coastkeeper, and the Center for Biological Diversity with concerns regarding the June 14, 2006, consideration of the draft NPDES permit for Poseidon Resource Corporation's proposed desalination facility at the Encina Power Station ("EPS") in Carlsbad ("Desalination Permit"). We believe the Desalination Permit should not be considered at this time because there are continuing studies and outstanding issues that would affect the operation of the desalination plant and its discharge into the Pacific Ocean. As you are no doubt aware, as of the date of this letter, the City of Carlsbad has not finalized the EIR for Poseidon's proposed desalination plant. In addition, the San Diego County Water Authority ("SDCWA") has not finalized the EIR for a proposed co-located desalination plant on the EPS site, a project that is similar in virtually all aspects to, and mutually exclusive of, Poseidon's proposed project. Furthermore, the separate NPDES permit renewal for the EPS facility has not been approved and will not be considered until the Regional Board's August 9 hearing. Because all of these concurrent, ongoing processes may alter the receiving water impacts or operations of the proposed project, consideration of the Desalination Permit should be deferred.

Mssrs. John Robertus and John Minan
June 5, 2006

Page 2

Although the Regional Board's issuance of the requested Desalination Permit may not be directly subject to the California Environmental Quality Act ("CEQA") pursuant to California Water Code § 13389, the Regional Board is *not* exempt from the policy provisions of CEQA. The State Water Resources Control Board has concluded that "where an EIR has been prepared by another agency for a project requiring an NPDES permit the Regional Board should consider that EIR." *See In the Matter of the Petition of the Sierra Club, San Diego Chapter, Order No. WQ 84-7* (1984). The State Board also has stated that it "generally believe[s] that, in the absence of compelling considerations to the contrary, the Regional Boards should at least await and consider an EIR for substantial projects which may involve potentially significant environmental effects, some of which may be detrimental, even though the project may at the same time involve substantial benefits." *See In the Matter of the Petition of Robert and Frederick Kirtlan for Review of Order N. 74-492, Order No. WQ 75-8* (1975).

In compliance with CEQA, the City of Carlsbad is producing an EIR for Poseidon's desalination plant, which the Carlsbad City Council will hear for final approval at its June 13 meeting. Because this EIR will not be adopted by June 13, the Regional Board will not have sufficient time to review the finalized product by the June 14 hearing for the Poseidon Desalination Permit. Furthermore, the SDCWA is producing an EIR for its proposed "Regional Seawater Desalination Plant" to be co-located at the EPS site. *See SDCWA's Regional Seawater Desalination Project at Encina DEIR*, Chapter 3.0. The SDCWA project is a separate, mutually exclusive project from the Poseidon proposed desalination plant. However, the SDCWA project is virtually identical in the intake and outflow configurations, as well as the quantity of seawater used in the desalination process. For this reason, the SDCWA EIR addresses many of the same environmental impacts and issues associated with the Poseidon project. Like the City of Carlsbad EIR, the SDCWA EIR has not been finalized and will not be finalized until after the hearing for the Desalination Permit. Thus, the Regional Board does not have full and complete information from the EIR and CEQA process at its disposal when considering the environmental impacts of the desalination plant and its effluent discharge.

In light of these facts, final adoption of the Poseidon Desalination Permit at this time is premature and inconsistent with State Board policy. Additional considerations, data, or issues may become available to the Regional Board as Carlsbad and SDCWA progress through their respective EIR process. Moreover, the construction of both projects with the same combined outfall obviously would have cumulative impacts that the Regional Board should consider when adopting any NPDES permit for either proposed facility. A Regional Board permit decision prior to completion of the EIR processes and local approval of the two desalination projects at issue would clearly thwart CEQA's primary goal "to assist public agencies in systematically identifying both the significant effects of proposed projects and the feasible alternatives or feasible mitigation measures which will avoid or substantially lessen such significant effects." *See Cal. Pub. Res Code, § 21002*. Furthermore, there are no obvious 'compelling considerations' that argue in favor of expedited approval because the proposed project will not even be operational for at least five years. *See Order No. WQ 75-8, supra*.

Adoption of the Desalination Permit is premature at this time for the additional reason that the EPS facility's NPDES permit renewal is scheduled for hearing on August 9, 2006. Pursuant to section 316(b) of the Clean Water Act, 33 U.S.C. § 1326(b) and the "Phase II" rules

Mssrs. John Robertus and John Minan
June 5, 2006

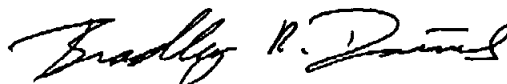
Page 3

for existing power facilities promulgated by the U.S. EPA thereunder, *see* 40 CFR § 125.90 *et seq.*, the EPS cooling water intake structure must reflect the "best technology available for minimizing environmental impact." 33 U.S.C.A. § 1326(b). The application of these requirements may well mandate a change in the conditions of EPS's NPDES permit that could alter the plant's outflow regime and consequently the amount of water available for the Poseidon desalination plant. Furthermore, the NPDES permitting for the EPS may transform how EPS chooses to operate its facility. For example, application of the new Phase II standards may require a modification of the EPS facility to utilize a closed-cycle wet cooling technology, an alternative air cooling technology, or some hybrid of these technologies. Alternatively, the EPS facility owner may chose in that event to decommission rather than retrofit the power plant.

Any change in the EPS flow regime could drastically alter the operating parameters for the proposed Poseidon desalination plant. For example, a decrease in flow volume due to conditions placed by the EPS NPDES permit would have an effect, possibly substantial, on the dilution of the brine effluent at the combined outflow. Thus, any reduction in the EPS outflow regime will force the Regional Board to reconsider and/or revise the Poseidon NPDES permit. Furthermore, if the SDCWA's proposed desalination facility proceeds, the salinity and water quality of the combined effluent discharge also will be significantly impacted. As noted above, there is no compelling reason or urgency to adopt the NPDES permit at this time. Doing so will likely require the Board to reopen and revise the permit once the EPS permitting process is completed, thereby wasting staff time and public resources. Accordingly, we urge the Regional Board to defer consideration of the Desalinization Permit under after renewal of the NPDES permit for the EPS facility in order to ensure that the Board is fully informed of all relevant considerations and impacts associated with the proposed project.

Thank you for your careful consideration of the environmental community's concerns. If you have any questions about these comments, please feel free to contact us at the above-listed telephone number.

Sincerely yours,



Bradley R. Daniels, Law Student
Deborah A. Sivas, Clinic Director

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THIRTY-EIGHTH SENATORIAL DISTRICT



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WATER QUALITY
CONTROL BOARD
2006 JUN -8 A 11:59

June 5, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123

Dear Mr. Robertus:

I am writing to express my support for the development of the Carlsbad Seawater Desalination Plant scheduled to come before you and the members of the San Diego Regional Water Quality Control Board later this month.

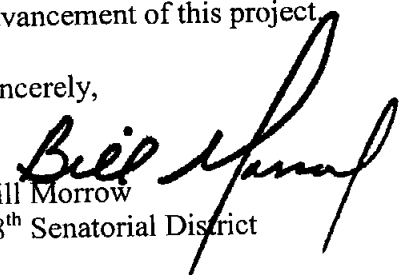
As you know, one of the greatest challenges facing California is to responsibly balance our water needs with the protection of our environment. Last year, the Department of Water Resources published California Water Plan Update 2005, a comprehensive and specific plan detailing innovative methods for meeting our water needs through conservation, recycling, desalination, and many other strategies.

The report identified desalination, where economically and environmentally appropriate, as one element of a balanced water supply portfolio. By producing drinking water at the point-of-use helps to reduce the need to import water, protecting valuable environmental habitats and reducing the need for new storage and transfer facilities.

With the completion of this project, the City of Carlsbad will establish itself at the forefront of responsible water stewardship, setting a new and innovative standard in the way California communities plan for their water needs.

Thank you for your consideration of my views on this issue. I encourage your continued advancement of this project.

Sincerely,


Bill Morrow
38th Senatorial District

WPM:dc



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SAN DIEGO REGIONAL
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June 5, 2006

2006 JUN -8 P 12:01

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA 92123-4340

RE: Support of Carlsbad Desalination Project, Tentative Order No.
R9-2006-0065, Item 11, June 14, 2006

Dear Mr. Robertus:

The Rincon del Diablo Municipal Water District is committed to delivering quality water to meet present and future needs in an environmentally and economically responsible manner, maintaining infrastructure integrity and excellence in service as stewards of a natural resource for the public trust, and fostering conservation.

As part of diversifying our water supply in anticipation of future droughts, Rincon recently approved a Water Purchase Agreement involving the Carlsbad desalination plant. With the availability of this new supply, a repeat of the 1989-92 drought would mean a 11% water supply cutback for Rincon customers rather than the catastrophic 30% cutbacks our customers experiences in 1990-91.

This agreement will ensure Rincon will receive 4,000 acre-feet per year of drinking water over a 30-year period, at a price of water not exceed that which would have been paid for the imported water supply from the San Diego County Water Authority. The water will meet or exceed all drinking water regulatory standards under the law, and Rincon will never be obligated to accept or pay for water that does not meet the quantity, quality and reliability standards specified in the Agreement.

Additionally, Poseidon will be responsible for all costs and risks associated with the financing, development, construction, and operation of the plant.

Rincon del Diablo Municipal Water District submits the following comments in response to the Tentative Order:

- The environmental impacts of the proposed project have been found to be less than significant with the added benefit of relieving future pressure on environmentally sensitive imported water systems such as the Sacramento-San Joaquin Bay-Delta and the Colorado River.

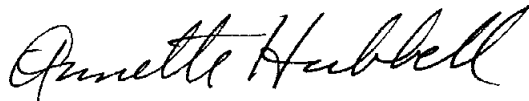
Willis G. Cornelius
Director Emeritus

Mr. John Robertus
June 5, 2006
Page 2

- Co-location with the Encina Power Station provides optimum use of available coastal property. The project achieves the project objectives in an environmentally and economically acceptable manner.
- The proposed project implements the desalination element of a comprehensive local and regional water supply strategy that is intended to reduce the reliance on imported water and improve water quality and supply reliability by complementing ongoing water conservation and water recycling efforts.

This project would support Rincon's ongoing efforts to secure and protect our water resources, and provide our customers with a drought-proof and affordable water supply. We urge the Regional Water Quality Control Board's adoption of Tentative Order R9-2006-0065.

Sincerely,



Annette Hubbell
General Manager
Rincon del Diablo Municipal Water District



June 1, 2006

Mr. John Robertus
Executive Officer
San Diego Regional Water Quality Control Board
9174 Sky Park Court, Suite 100
San Diego, CA. 92123-4340

SAN DIEGO REGIONAL
WATER QUALITY
CONTROL BOARD
2006 JUN - 8 P 12:03

RE: Carlsbad Desalination Project Tentative Order No. R9-2006-0065, Item 11, June 14, 2006

Dear Mr. Robertus:

The Agua Hedionda Lagoon Foundation supports the adoption of the Regional Water Quality Control Board Permit recommended by staff for the Carlsbad Desalination Project discharge. This project is good for the environment and the community and it will assure continued stewardship of the Lagoon and surrounding watershed.

The Agua Hedionda Lagoon Foundation was established as a non profit corporation in 1990 to help conserve, restore and enhance the environmental features of the Agua Hedionda Lagoon, marsh, wetlands and watershed area, to protect sensitive land through acquisition or other means and to promote balanced recreational and commercial uses consistent with assured future lagoon vitality. The Foundation serves as an advocate for the lagoon and is a strong supporter of public access, trails and recreational opportunities.

The final environmental impact report for the Carlsbad Desalination Project closely studied numerous issues related to the marine environment and land use around the proposed project site and confirms that the desalination facility can be built and operated in an environmentally responsible manner without significant unmitigated impacts.

The report also confirms that the proposed operation would ensure the continued biological diversity in and around Agua Hedionda Lagoon through sustainable use of marine resources and stewardship the lagoon and surrounding watershed.

Specifically:

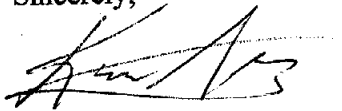
1. The project provides for optimum use of available coastal property through co-location with the Encina Power Station (FEIR Section 4.8.4).
2. The project achieves the project objectives in an environmentally responsible manner without significant unmitigated impacts (FEIR Sections 4.1 through 4.11).
3. The FEIR demonstrates that the proposed project will not cause significant entrainment losses to marine organisms. The FEIR found that the incremental

entrainment effect of larval fishes from the desalination plant operations would be between 0.01 and 0.28 percent. Species of direct recreational and commercial value constitute less than one percent of the entrained organisms, and considering the fact that in general, less than one percent of all fish larvae become reproductive adults, the operation of the desalination plant would not result in significant impacts on those species. (FEIR pages 4.3-35 through 4.3-43).

4. The FEIR and the Tentative Order found that under all operating conditions the desalination plant would not result in salinity levels exceeding the identified thresholds of significance. Therefore, operation of the desalination plant would not result in significant impacts related to elevated salinity levels. A mitigation measure has been included for purposes of requiring monitoring of the combined operations of the desalination plant and the Encina Power Station to ensure that salinity levels remain within the parameters that have been analyzed. (FEIR pages 4.3-43 through 51), Tentative Order R9-2006-0065 Pages F-12 – F-16).
5. The RWQCB has required that the information generated by the ocean monitoring programs described in Monitoring and Reporting Program Requirements would be available to the public (Tentative Order R9-2006-0065 Attachment E).
6. The Development Agreement between the Project Proponent and the City of Carlsbad includes easements for use, leases, or the dedication of land to the City of Carlsbad for general public benefit. These features include the land located on the north side of the lagoon just west of the railroad tracks, next to Hubbs Sea World Research Institute. The site is approximately two acres in size and is proposed to be used as a site for expansion of the fish hatchery and aquatic research uses. (FEIR page 4.11-7).
7. The RWQCB found that the proposed Order will be fully protective of ocean waters in the San Diego Region (Tentative Order R9-2006-0065, Page 7).

The Agua Hedionda Lagoon Foundation supports this project because it is good for the environment and the community and because it will assure continued stewardship of the Lagoon and surrounding watershed.

Sincerely,



Ken Alfrey
Agua Hedionda Lagoon Foundation