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From: Halter, Amanda (OC)
Sent: Tuesday, March 03, 2009 3:27 PM
To: 'PWyels@waterboards.ca.gov'; 'Catherine Hagan (George)'
Cc: 'Peter MacLaggan'; Garrett, Christopher (SD); Singarella, Paul (OC)
Subject: Poseidon: Proposed Notices

Attachments: Agenda Notice(999762_2_OC).DOC; Public Hearing Notice(999763_1_OC).DOC

Phil and Catherine,

Attached are proposed notices for the April hearing. Items highlighted in yellow, including hearing date and location of hearing, may need to be updated based on the Board's hearing schedule.

Thanks,

Amanda Halter

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Agenda



Public Hearing

Agenda Notice(999762_2_OC).DOC; Public Hearing Notice(999763_1_OC).DOC



ATTACHMENT

Agenda Notice for April 2009 Hearing

Compliance with California Water Code Section 13142.5(b) and related permit revisions and amendments to Waste Discharge Requirements: Waste Discharge Requirements for Poseidon Resources Corporation, Proposed Carlsbad Desalination Project, Order No. R9-2006-0065, NPDES No. CA0109223 – The Regional Board will consider approval of the Revised Flow, Entrainment, and Impingement Minimization Plan (Minimization Plan) for Poseidon Resources Corporation's (Poseidon) proposed Carlsbad Desalination Project (CDP), and the associated Marine Life Mitigation Plan. Approval of these plans will require a determination that they comply with California Water Code Section 13142.5(b). If the Regional Board approves the plans, the Regional Board plans to take corresponding action to amend and revise Poseidon's NPDES Permit, Order No. R9-2006-0065, NPDES No. CA0109223, to incorporate the plans in order to ensure their enforceability and to specify the limited conditions under which the EPS intake structure may be operated when the cooling water discharge from the EPS is less than 304 MGD, in order to provide feedstock water to the CDP. Any such final actions would be to satisfy California Water Code Section 13142.5(b) and Section VI.C.2(e) of Order No. R9-2006-0065, and would serve to supersede Resolution No. R9-2008-0039.



ATTACHMENT

**CALIFORNIA REGIONAL WATER QUALITY CONTROL
BOARD**

SAN DIEGO REGION

9174 Sky Park Court, San Diego, CA 92123

April 9, 2009

PUBLIC HEARING

concerning

**COMPLIANCE WITH CALIFORNIA WATER CODE SECTION 13142.5(B); RELATED
PERMIT REVISIONS AND AMENDMENTS TO WASTE DISCHARGE
REQUIREMENTS, ORDER NO. R9-2006-0065
(NPDES No. CA0109223)**

FOR

**POSEIDON RESOURCES CORPORATION
PROPOSED CARLSBAD DESALINATION PROJECT
SAN DIEGO COUNTY**

Poseidon Resources Corporation proposes to construct the Carlsbad Desalination Project (CDP) at a location adjacent to the Encina Power Station (EPS) and the Agua Hedionda Lagoon in the City of Carlsbad. Poseidon proposes to obtain the feed water for the CDP from the existing intake structure serving the EPS, resulting in the diversion of approximately 304 million gallons per day (MGD) of seawater from Agua Hedionda Lagoon for desalination at CDP.

On August 16, 2006 the Regional Board adopted Order No. R9-2006-0065, NPDES No. CA0109223, establishing waste discharge requirements for the CDP. Section VI.C.2(e) of Order No. R9-2006-0065, NPDES No. CA0109223, required Poseidon to submit for Regional Board approval a Flow, Entrainment, and Impingement Minimization Plan (Minimization Plan) to "assess the feasibility of site specific plans, procedures, and practices to be implemented and/or mitigation measures to minimize the impacts to marine organisms when the CDP intake requirements exceed the volume of water being discharged by the EPS." The Minimization Plan is to ensure that the CDP complies with California Water Code Section 13142.5(b), which requires Poseidon to use the best available site, design, technology, and mitigation measures feasible to minimize the intake and mortality of all forms of marine life.

The Regional Board considered Poseidon's proposed Minimization Plan at a public meeting on April 9, 2008, at which point the Regional Board adopted Resolution No. R9-2008-0039, "Conditional Approval of Revised Flow, Entrainment, and Impingement Minimization Plan." The Resolution required Poseidon to, among other things, develop

and submit an amendment to the Minimization Plan presenting a "specific proposal for mitigation of the impacts, by impingement and entrainment upon marine organisms resulting from intake of seawater from Agua Hedionda Lagoon." The Resolution also required Poseidon to resolve the concerns identified in the Regional Board's February 19, 2008 letter to Poseidon, and the following additional concerns:

- a) Identification of impacts from impingement and entrainment;
- b) Adequate monitoring data to determine the impacts from impingement and entrainment;
- c) Coordination among participating agencies for the amendment of the Plan as required by Section 13225 of the California Water Code;
- d) Adequacy of mitigation; and
- e) Commitment to fully implement the amendment to the Plan.

On November 14, 2008, Poseidon submitted a proposed amendment to the Minimization Plan in the form of the Marine Life Mitigation Plan (MLMP), which was considered at a public hearing on February 11, 2009. The Regional Board did not take final action on the proposed amendment that day, and continued the hearing until April 8, 2009. In addition, subsequent to the April 9, 2008 meeting, Poseidon submitted extensive documentation to the Regional Board responding to technical questions raised by Regional Board staff and/or referred to in Resolution R9-2008-0039. Finally, also subsequent to the April 9, 2008 meeting, extensive interagency coordination among the participating agencies regarding the MLMP occurred.

Under California Water Code Section 13142.5(b), the Regional Board is authorized to take final action on the Minimization Plan and the MLMP, including the making of related findings. If the Regional Board approves these plans, the Regional Board plans to take corresponding action to amend and revise Poseidon's NPDES Permit, Order No. R9-2006-0065, NPDES No. CA0109223, to incorporate them in order to ensure their enforceability, and to specify the limited conditions under which the EPS intake structure may be operated when the cooling water discharge from the EPS is less than 304 MGD, in order to provide feedstock water to the CDP. Any such final actions would be to satisfy California Water Code Section 13142.5(b) and Section VI.C.2(e) of Order No. R9-2006-0065, and would serve to supersede Resolution No. R9-2008-0039.

The Regional Board wishes to obtain public input on these matters. The Regional Board will hear oral comments and consider written comments associated with, and limited to, the above-listed proposed actions at its meeting scheduled for:

DATE: April 8, 2009
TIME: 9:00 a.m.
PLACE: Water Quality Control Board
Regional Board Meeting Room
9174 Sky Park Court
San Diego, CA 92123

Interested persons are invited to attend to present comments. Oral statements will be heard, but for the accuracy of the record, significant comments should be submitted in writing.

To ensure that the Regional Board has the opportunity to fully study and consider written material, comments should be received in the Regional Board's office no later than 5:00 P.M. on [Monday, March 30, 2009]. If the submitted written material is more than 5 pages or contains foldouts, color graphics, maps, etc., 20 copies must be submitted for distribution to the Regional Board members and staff. Written material submitted after 5:00 P.M. on [Wednesday, April 1, 2009,] will not be provided to the Regional Board members and will not be considered by the Regional Board. Written comments must be mailed, faxed, or delivered to the Regional Board's office at:

9174 Sky Park Court
Suite 100
San Diego, CA 92123
Phone: (858) 467-2952
Fax: (858) 571-6972

Comments may also be submitted by e-mail subject to the above time deadlines and as long as the total submittal (including attachments) does not exceed five printed pages in length. E-mail comments must be submitted to [RB9agenda@waterboard.ca.gov] to ensure consideration by the Regional Board insert the word ["Agenda"] in the subject line.

Pursuant to Title 23, California Code of Regulations, Section 648.4, the Regional Board may refuse to admit written testimony into evidence if it is not submitted to the Regional Board in a timely manner, unless the proponent can demonstrate why he or she was unable to submit the material on time or that compliance with the deadline would create unreasonable hardship.

Information related to these matters, including a draft of the Poseidon's revised NPDES permit, is currently available and may be reviewed at the Regional Board's office or on the Regional Board's web page at <http://www.waterboards.ca.gov/sandiego>.

For information regarding this matter, please contact [Ms. Michelle Mata at (858) 467-2981 or by email at mmata@waterboards.ca.gov].

The procedures governing Regional Water Board meetings may be found at Title 23, California Code of Regulations, Section 647 et seq. and are available upon request. Adjudicatory matters before the Regional Board are conducted pursuant to Government Code sections 11400 et seq., but not sections 11500 et seq. The procedures may be obtained by accessing http://www.waterboards.ca.gov/laws_regulations/. Questions regarding such procedures should be directed to [name and phone number].

The hearing facilities will be accessible to persons with disabilities. Individuals requiring special accommodations are requested to contact [name and phone number] at least five working days prior to the meeting. TTY users may contact the California Relay Service at 1-800-735-2929 or voice line at 1-800-735-2922.

Please bring the above information to the attention of anyone you know who may be interested in this matter.

JOHN H. ROBERTUS
Executive Officer
March 9, 2009