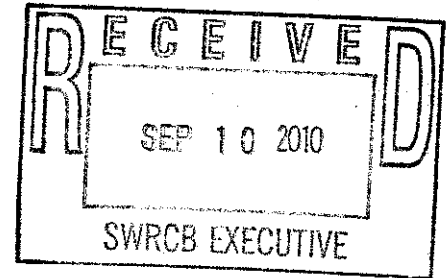




September 10, 2010

State Water Resources Control Board
Division of Water Quality
1001 I Street
Sacramento, CA 95814



VIA E-MAIL

Attn: Ms. Jeanine Townsend, Clerk of the Board

Re: California Ocean Plan Amendment Issue 10 – Desalination Facilities and Brine Disposal

Dear Ms. Townsend,

Given the important role seawater desalination is to play in addressing the future water supply needs of California, we would like to share with you our thoughts regarding the proposed Ocean Plan amendment related to desalination facilities and brine disposal. We understand the State Water Resources Control Board (State Board) staff proposed three alternatives to regulate brine discharges from desalination plants:

1. No Action. Do not change the existing Ocean Plan;
2. Establish a narrative water quality objective where salinity should not exceed a certain percentage of natural background.
3. Establish a numeric water quality objective.

Project specific and site specific conditions are important considerations in establishing the appropriate regulatory framework for desalination facilities. Salinity tolerance of aquatic life depends on the organisms inhabiting the receiving water, the constituents in the discharge, as well as on the length of time of exposure of the marine organisms to the elevated salinity conditions.

The 2005 Ocean Plan and policies of the State Board have provisions that allow the Regional Water Quality Control Boards (Regional Boards) to introduce site-specific water quality objectives or numeric limits for any water quality parameter, including salinity, as necessary for the site-specific conditions of a given waste discharge. A recent example of such Regional Board action is the NPDES Permit for the Carlsbad Seawater Desalination Project (Order No. R-9-2006-0065) adopted by the San Diego Regional Board on August 16, 2006. The Carlsbad NPDES permit contains an effluent limitation for chronic toxicity at the edge of the zone of initial dilution in combination with numeric limitations for average daily and average hourly total dissolved solids (salinity) concentrations of 40 ppt and 44 ppt, respectively at the point of discharge. The effluent limits in the permit are fully protective of the beneficial uses in receiving water. But that does not necessarily mean that the same effluent limits would be appropriate for another project in a different location.

Poseidon Resources

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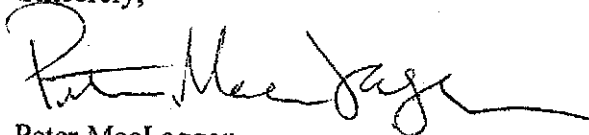
Further complicating matters is that the salinity of the ocean along the coast of California is far from uniform and in many locations the ocean water salinity can vary greatly from one season to the next.

Given these complexities, we are having difficulty understanding how a statewide narrative or numeric water quality objective for salinity would address the site specific considerations described above. In the absence of doing so, the State Board would be forced to adopt a salinity objective that is fully protective of the most sensitive combination of project and site-specific conditions. This would likely lead to overly protective salinity limits in many areas which could render otherwise viable desalination projects infeasible. As a matter of public policy, this is not a desirable outcome.

A more prudent course of action would be for State Board to adopt a modified approach to Alternative 1. Specifically, that the State Board acknowledges that adoption of effluent limits for salinity will continue to be the responsibility of the Regional Boards and that the State Board will provide guidance to the Regional Boards for establishing salinity limits based on project and site-specific conditions.

Thank you for the opportunity to comment on the proposed revisions to the Ocean Plan.

Sincerely,

A handwritten signature in black ink, appearing to read "Peter MacLaggan", with a long horizontal flourish extending to the right.

Peter MacLaggan
Senior Vice President