Billing Code 4333–15

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–R–2016–N117; FF08RSDC00–167–F1611MD–FXRS12610800000]

Otay River Estuary Restoration Project, South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge, California; Draft Environmental Impact Statement

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of availability, request for public comment.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), announce the availability of a draft environmental impact statement (EIS) for a proposed project to restore coastal wetlands at the south end of San Diego Bay. The Otay River Estuary Restoration Project (ORERP) is located within the South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge (Refuge or NWR), in San Diego County, California. The U.S. Army Corps of Engineers is participating in the process as a cooperating agency. This notice advises the public that the draft EIS is available for public review and comment. The draft EIS, which we prepared in accordance with the National Environmental Policy Act of 1969 (NEPA), describes the alternatives identified to restore two portions of the South San Diego Bay Unit of the San Diego Bay NWR to coastal wetlands to benefit native fish, wildlife, and plant species.

DATES: We will accept comments received or postmarked on or before December 5, 2016.

ADDRESSES: *Document Availability*: You may obtain copies of the documents in the following places:

- *Internet*:

  https://www.fws.gov/refuge/San_Diego_Bay/what_we_do/Resource_Management/Otay_Restoration.html

- *In Person*:
  - San Diego Bay National Wildlife Refuge Complex Headquarters, 1080 Gunpowder Point Drive, Chula Vista, CA 91910; telephone: 619–476–9150, extension 103.
  - Chula Vista Public Library, Civic Center Branch, 365 F Street, Chula Vista, CA 91910; telephone: 619–691–5069.
  - San Diego County Library, Imperial Beach Branch Library, 847 Encina Avenue (temporary location), Imperial Beach, CA 91932; telephone: 619–424–6981.
  - Chula Vista Public Library, South Chula Vista Branch, 389 Orange Avenue, Chula Vista, CA 91911; telephone: 619–585–5755.

Submitting Comments: You may submit written comments by one of the following methods:

Email: Otay_EIS@fws.gov. Include "Otay Estuary EIS" in the subject line of the message.

Fax: Attn: Brian Collins, 619–476–9149.

U.S. mail: Brian Collins, USFWS, San Diego National Wildlife Refuge Complex, P.O. Box 2358, Chula Vista, CA 91912.

In-Person Drop-off: You may drop off comments at the San Diego National Wildlife Refuge Complex Headquarters between 9 a.m. and 4 p.m.; please call 619–476–9150, extension 103, for directions.

FOR FURTHER INFORMATION CONTACT: Brian Collins, Refuge Manager, San Diego Bay National Wildlife Refuge at 619–575–2704, extension 302 (telephone) or

brian_collins@fws.gov (email); or Andy Yuen, Project Leader, 619–476–9150, extension 100 (telephone), or andy_yuen@fws.gov (email). For any issues specific to the U.S. Army Corps of Engineers, please send comments by one of the methods described in **ADDRESSES**, as the agencies will coordinate comment review.

SUPPLEMENTARY INFORMATION:

Project Location

The proposed action site is located at the south end of San Diego Bay, San Diego County, California, within the South San Diego Bay Unit of the San Diego Bay National Wildlife Refuge. Restoration activities will occur at two separate locations within the Refuge: the Otay River Floodplain Site and the Pond 15 Site. Specifically, the approximately 33.5-acre Otay River Floodplain Site is located west of Interstate 5 (I-5) between Main Street to the north and Palm Avenue to the south in San Diego. The Pond 15 Site consists of an approximately 90.9-acre solar salt pond located in the northeast portion of the Refuge, to the northwest of the intersection of Bay Boulevard and Palomar Street in Chula Vista.

The DEIS, which we prepared in accordance with the NEPA, describes and analyzes the alternatives identified for the Otay River Estuary Restoration Project. In addition to our publication of this notice, the U.S. Environmental Protection Agency (EPA) is publishing a notice announcing the draft EIS, as required under section 309 of the Clean Air Act (CAA) (42 U.S.C. 7401 *et seq.*). The publication date of EPA's notice of availability is the start of the public comment period for the draft EIS. Under the CAA, EPA also must subsequently announce the final EIS via the **Federal Register**.

EPA's Role in the EIS Process

The EPA is charged, under section 309 of the CAA (42 U.S.C. 7401 *et seq.*), to review all Federal agencies' environmental impact statements (EISs) and to comment on the adequacy and the acceptability of the environmental impacts of proposed actions in the EISs.

EPA also serves as the repository (EIS database) for EISs prepared by Federal agencies and provides notice of their availability in the **Federal Register**. The Environmental Impact Statement (EIS) Database provides information about EISs prepared by Federal agencies, as well as EPA's comments concerning the EISs. All EISs are filed with EPA, which publishes a notice of availability on Fridays in the **Federal Register**.

The notice of availability is the start of the public comment period for draft EISs, and the start of the 30-day "wait period" for final EISs, during which agencies are generally required to wait 30 days before making a decision on a proposed action. For more information, see https://www.epa.gov/nepa. You may search for EPA comments on EISs, along with EISs themselves, at https://cdxnodengn.epa.gov/cdx-enepa-public/action/eis/search.

Background

In 2006, we completed a comprehensive conservation plan (CCP) and EIS/Record of Decision (ROD) to guide the management of the San Diego Bay NWR over a 15-year period (71 FR 64552, November 2, 2006). The wildlife and habitat management goal of the selected management alternative in the CCP for the South San Diego Bay Unit is to "Protect, manage, enhance, and restore . . . coastal wetlands . . . to benefit the native fish, wildlife, and plant species supported within the South San Diego Bay Unit." One of the strategies identified to meet this goal is to restore native habitats in the Otay River floodplain and the salt ponds. The proposed restoration project represents step-down restoration planning for the western portion of the Otay River floodplain and one of the salt ponds within the Refuge's solar salt pond complex. This

site-specific EIS tiers from the programmatic EIS and ROD prepared for the CCP. Funding for the proposed restoration is being provided by the Poseidon Resources Carlsbad Desalination Project (Poseidon) to fulfill part of their mitigation requirement for the construction of a desalination plant in Carlsbad, California.

On November 15, 2007, the California Coastal Commission (Commission) approved a coastal development permit (CDP No. E-06-013) for Poseidon's proposal to construct and operate a desalination facility in Carlsbad. As part of that approval, the Commission required Poseidon, through special condition 8, to submit for additional Commission review and approval a marine life mitigation plan (MLMP) to address the impacts to be caused by the facility's use of estuarine water and its entrainment of marine organisms. The MLMP was conditionally approved by the Commission on August 6, 2008 (CCC 2008). With the incorporation of the Commission's revisions, the MLMP was finalized on November 21, 2008. The MLMP requires that Poseidon submit a proposed mitigation site and preliminary restoration plan that achieves the following mitigation requirements:

- Create or substantially restore tidal wetland habitat, preferably in the San Diego Region,
- Provide at least 66.4 acres of mitigation at a maximum of two sites,
- The chosen site must be available and protected against future degradation, and
- Fish productivity must be at least 1,717.5 kg/year.

On September 29, 2010, the San Diego National Wildlife Refuge Complex and Poseidon Resources entered into a memorandum of understanding (MOU) to establish a partnership to facilitate the restoration of property within the San Diego Bay Refuge, consistent with the CCP and Poseidon's Commission permit requirements.

Alternatives

We analyzed three alternatives in the draft EIS:

Alternative A: No Action Alternative

Under the No Action Alternative, the disturbed areas within the Otay River Floodplain Site would not be restored or enhanced to coastal wetlands to benefit native species, and the Pond 15 Site would not be restored to tidally influenced subtidal and intertidal habitat. Under this alternative, Pond 15 would remain part of an existing commercial solar salt operation, and periodic maintenance would continue to occur on the Otay River Floodplain Site in conjunction with ongoing management of the Refuge.

Alternative B: Intertidal Alternative (Proposed Action)

The Intertidal Alternative, Alternative B, is the proposed action. The proposed action would involve lowering the elevation and contouring the Otay River Floodplain Site to create approximately 29.7 acres of tidally influenced habitat consisting of approximately 5.1 acres of intertidal mudflat, 24.6 acres of intertidal salt marsh habitat through altering elevations on the site, and 0.05 acres of upland transitional habitat. The proposed action would also involve raising the elevation and contouring the Pond 15 Site to create approximately 10.3 acres of subtidal channel, 18.5 acres of intertidal mudflat, 55.8 acres of intertidal salt marsh habitat, and 0.37 acres of upland transitional habitat. Both sites would be planted with a mix of native wetland vegetation that would mature into low marsh, mid marsh, and high marsh vegetative communities. The intertidal areas and the unvegetated mudflat would provide foraging habitat for adult and juvenile fish, which form the basis of the food chain that would benefit larger fish, birds, and other species on and off the site.

Implementation of the proposed action would involve the excavation of approximately 320,000 cubic yards of material from the Otay River Site and the transport of 258,000 cubic yards of this material to the Pond 15 Site for use in creating tidal elevations that would support the desired intertidal habitats.

The combination of the wetlands created at the Otay River Floodplain Site and Pond 15 Site under the proposed action would provide sufficient mitigation credit to meet the MLMP requirements.

Alternative C: Subtidal Alternative

Alternative C, the Subtidal Alternative, would involve lowering the Otay River Floodplain Site to an elevation lower than that proposed under Alternative B (proposed action) to create a subtidal channel within the Otay River Floodplain Site. Under the Subtidal Alternative, the subtidal zone would be surrounded by mudflats and increasing elevation of salt marsh. Specifically, the Subtidal Alternative would involve lowering the elevation and contouring the Otay River Floodplain Site to create approximately 4.5 acres of subtidal channel, approximately 6.4 acres of intertidal mudflat, 18.5 acres of intertidal salt marsh mudflat, and 0.13 acres of upland transitional habitat. The Subtidal Alternative would also involve raising the elevation and contouring the Pond 15 Site to create tidally influenced habitat that would be similar to that proposed under Alternative B, or approximately 10.2 acres of subtidal channel, 18.3 acres of intertidal mudflat, 54.6 acres of intertidal salt marsh, and 0.64 of upland transitional habitat. Both sites would be planted with a mix of native wetland vegetation that would mature into low marsh, mid marsh, and high marsh vegetative communities. The subtidal areas would provide fish spawning and foraging habitat, and the unvegetated mudflat would provide foraging habitat for adult and juvenile fish during high tides. Combined, the subtidal and mudflat areas would

provide habitat for the basis of the food chain that would benefit larger fish, birds, and other species on and off the site.

Implementation of the Subtidal Alternative would involve the excavation of approximately 370,000 cubic yards of material from the Otay River Site and the transport of 312,000 cubic yards of this material to the Pond 15 Site for use in creating tidal elevations that would support the desired intertidal habitats.

The combination of the wetlands created at the Otay River Floodplain Site and Pond 15 Site under the Subtidal Alternative would also provide sufficient mitigation credit to meet the MLMP requirements.

NEPA Compliance

We are conducting environmental review in accordance with the requirements of NEPA, as amended (42 U.S.C. 4321 et seq.), its implementing regulations (40 CFR parts 1500–1508), other applicable regulations, and our procedures for compliance with those regulations. The draft EIS discusses the direct, indirect, and cumulative impacts of the alternatives on biological resources, cultural resources, air quality, water quality, traffic circulation, and other environmental resources. Measures to minimize adverse environmental effects are identified and discussed in the draft EIS.

Public Comments

We request that you send comments only by one of the methods described in **ADDRESSES**. Written comments we receive become part of the public record associated with this action. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment, including your personal identifying information, may be made publicly available at any time.

While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

We will hold one public meeting to solicit comments on the draft EIS. We will mail a separate announcement to the public with the exact date, time, and location of the public meeting. We will also post the time, date, and location of the public meeting on our refuge website at: http://www.fws.gov/refuge/San_Diego_Bay. We will accept both oral and written comments at the public meeting.

Michael Fris

Acting Regional Director,

Pacific Southwest Region.

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