

Scoping Process

ATTACHMENT A

Notice of Intent



PUBLIC NOTICE

**US Army Corps
of Engineers®**

RECEIPT OF APPLICATION FOR A CORPS
PERMIT, NOTICE OF INTENT TO PREPARE A DRAFT
EIS/EIR AND HOLD A PUBLIC SCOPING MEETING

LOS ANGELES DISTRICT

Public Notice/Application No.: SPL-2010-00142-LLC

Comment Period: June 21, 2010 through July 24, 2010

Project Manager: Lanika Cervantes; 760.602.4838; Lanika.L.Cervantes@usace.army.mil

Applicant and Contact

Kim Nicol
California Department of Fish and Game
78078 Country Club Drive, Suite 109, Bermuda
Dunes, CA 92203
(760) 200-9178

Location

The proposed project would be located within the Salton Sea in Imperial and Riverside County, California.

Activity

The U.S. Army Corps of Engineers (Corps), in conjunction with the California Natural Resources Agency, is preparing an Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the construction of the Salton Sea Species Conservation Habitat (SCH) Project. The SCH project consists of the creation of a shallow habitat pond complex that would be constructed in phases depending on funding and land availability. Habitat would be constructed over multiple years, as the Sea recedes, until the targeted acreage of habitat was reached. It is currently anticipated that about 2,400 acres of habitat would be created as part of the SCH Project, although the actual amount may vary depending on the outcome of the alternatives development process. For more information, see page 3 of this notice.

Interested parties are hereby notified that an application has been received for a Department of the Army permit for the activity described herein and shown on the attached drawings. Interested parties are invited to provide their views on the proposed work, which will become a part of the record and will be considered in the decision. This permit will be issued or denied under Section 404 of the Clean Water Act (33 U.S.C. 1344). Written comments should be mailed to:

Comments should be mailed to:

U.S. Army Corps of Engineers, Los Angeles District
Regulatory Division
ATTN: 2010-00142-LLC
6010 Hidden Valley Road, Suite 105
Carlsbad, CA 92011

Alternatively, comments can be sent electronically to: Lanika.L.Cervantes@usace.army.mil

Evaluation Factors

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit that reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered including the cumulative effects thereof. Factors that will be considered include conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food production and, in general, the needs and welfare of the people. In addition, because the proposed action would discharge dredged or fill material into waters of the U.S., the evaluation of the activity will include application of the U.S. Environmental Protection Agency's Section 404(b)(1) Guidelines (40 C.F.R. Part 230) as required by Section 404 (b)(1) of the Clean Water Act.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition, or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. In this case, comments will be used in the preparation of an Environmental Impact Statement (EIS) pursuant to the National Environmental Policy Act. Comments are also used to determine the overall public interest of the proposed activity.

Preliminary Review of Selected Factors

EIS Determination- A determination has been made that an environmental impact statement (EIS) is required for the proposed activities, based on the Corps's independent determination that the proposed action could result in potentially significant impacts. It is expected that a Draft EIS will be prepared and published by early-2011.

Water Quality- The applicant is required to obtain water quality certification, under Section 401 of the Clean Water Act, from the California Regional Water Quality Control Board (RWQCB). Section 401 requires that any applicant for an individual Section 404 permit provide proof of water quality certification to the Corps of Engineers prior to permit issuance. For any proposed activity on Tribal land that is subject to Section 404 jurisdiction, the applicant will be required to obtain water quality certification from the U.S. Environmental Protection Agency.

Coastal Zone Management- For those projects in or affecting the coastal zone, the Federal Coastal Zone Management Act requires that prior to issuing the Corps authorization for the project, the applicant must obtain concurrence from the California Coastal Commission that the project is consistent with the State's Coastal Zone Management Plan. This project is located outside the coastal zone and is not expected to affect coastal zone resources.

Cultural Resources- The Corps and the Applicant are still in the process of collecting information of the potential sites and will continue to evaluate potential effects on cultural resources. Consultation with the State Historic Preservation Officer, pursuant to Section 106 of the National Historic Preservation Act of 1966, as amended, will occur for any anticipated effects of the proposed activities on cultural resources eligible for listing or listed on the National Register of Historic Places.

Endangered/Threatened Species- Preliminary determinations indicate that the proposed activities may affect federally listed endangered or threatened species, or their critical habitat. Federally listed species known or having high potential to occur in the areas selected around the Salton Sea, based on previous survey results, include least Bell's vireo (*Vireo bellii pusillus*), southwestern willow flycatcher (*Empidonax traillii extimus*), desert pupfish (*Cyprinodon macularius*), Yuma Clapper rail (*Rallus longirostris yumanensis*), and California Least tern (*Sterna antillarum browni*). Additional on-site surveys for federally listed species are being conducted at this time to provide current information. Thus, formal consultation under Section 7 of the Endangered Species Act appears to be required.

Public Meeting/Hearing- The Corps and the Natural Resources Agency will jointly conduct a series of public scoping meetings to receive public comments regarding the appropriate scope and content of the SCH Project DEIS/DEIR and to assess public concerns. Parties interested in being added to the electronic mail notification list for any projects associated with the Salton Sea can register at: <http://www.spl.usace.army.mil/regulatory/> under the Public Notice tab, Distribution List registration. This list will be used in the future to notify the public about scheduled hearings and availability of future public notices. Parties interested in obtaining additional information about the SCH Project can also visit the Natural Resources Agency website at http://resources.ca.gov/restoring_the_salton_sea.html.

The scoping meetings will be held at:

1. Palm Desert—**July 7, 2010 at 1:00 P.M.** at University of California, 75-080 Frank Sinatra Drive, Room B200, Palm Desert, CA 92211.
2. Thermal—**July 7, 2010 at 6:30 P.M.** at Torrez-Martinez Tribal Administration Building, 66-725 Martinez Road, Thermal, CA 92274.
3. Calipatria—**July 8, 2010 at 1:00 P.M.** at Calipatria Inn and Suites, 700 North Sorenson Avenue, Calipatria, CA 92233.
4. Brawley—**July 8, 2010 at 6:30 P.M.** at Elks Lodge #1420, 161 South Plaza, Brawley, CA 92227.

During these public scoping meetings, anyone wishing to make a statement will be allocated a certain amount of time to provide information on the proposed project. The amount of time each person is allowed will be directly dependent on the number of people who wish to make verbal

comments. At this time, we estimate that individuals will be given 2 or 3 minutes to provide their comments verbally. We would like to encourage interest groups to designate an official spokesperson to present the group's views. We will allocate a larger amount of time to official representatives of such groups upon request.

Groups wishing to designate an official representative must notify the Corps in writing prior to, but no later than **July 1, 2010**. The determination of this extended speaking time will be based on the number of responses received by the Corps. This rule will be strictly enforced at the discretion of the Corps' hearing officer.

The public scoping meetings will provide the opportunity for the public to provide comments on the proposal that will be entered into the administrative record. In addition, the Corps will be receiving written comments into the record from anyone who wishes to provide them until **July 24, 2010** (i.e., the close of the comment period for this public notice).

The Corps also anticipates holding a public hearing to obtain input on the Draft EIS/EIR when it becomes available and is circulated to the public (expected by early-2011).

Proposed Activity for Which a Permit is Required

CDFG, as the project applicant, proposes to construct, operate, and maintain the SCH project; approximately 2,400 acres of exposed playa of the Salton Sea will be converted to shallow pond and wetland complexes. The SCH project would impact areas within the Ordinary High Water Mark of the Salton Sea and adjacent wetlands.

Basic Project Purpose- The basic project purpose comprises the fundamental, essential, or irreducible purpose of the proposed project, and is used by the Corps to determine whether the applicant's project is water dependent. The basic purpose of the proposed SCH Project is to create aquatic habitat to protect the fish and wildlife species dependent on the Salton Sea in accordance with California Fish and Game Code, Section 2932. This project is a water dependent activity.

Overall Project Purpose- The overall project purpose serves as the basis for the Corps' Section 404(b)(1) alternatives analysis and is determined by further defining the basic project purpose in a manner that more specifically describes the applicant's goals for the project, and which allows a reasonable range of alternatives to be analyzed. The overall project purpose is to develop a range of aquatic habitats that will support fish and wildlife species dependent on the Salton Sea.

Additional Project Information

Background information- The Salton Sea is located in both Imperial and Riverside counties in southeastern California, approximately 35 miles north of the U.S. Mexico border and 50 miles west of the Colorado River. Preliminary evaluations of potential sites indicate that SCH ponds could be constructed at either the north end of the Salton Sea near the Whitewater River, or the south end of the Salton Sea near the New and Alamo rivers, or in both areas.

As the Sea recedes and becomes more saline, fish species will not be able to survive. Simultaneously, the fish-eating birds, including several species of special concern, will lose their forage base and begin to disappear. As the Sea continues to become more saline, current invertebrate species will become less diverse and be replaced by species tolerant of hyper-saline environments

(e.g., brine flies and brine shrimp).

The SCH Project would provide habitat for both fish and invertebrate species, which in turn would provide forage for the numerous bird species dependent on the Salton Sea ecosystem. Salinity would be managed to support various assemblages of invertebrates and fish to diversify the prey base for as wide a variety of bird species as possible. The SCH ponds would be designed to serve those piscivorous bird species that are expected to experience significant declines as functional Salton Sea habitat is lost due to increasing salinity.. For many of these species, a significant proportion of their population uses the Salton Sea.

Project description- The SCH Project is being developed as a proof-of-concept project for future restoration to verify that the core ideas are functional and feasible prior to attempting a full scale restoration of the Salton Sea. The SCH Project would help establish viability, technical issues, and overall direction, as well as providing feedback for costs and requirements of construction, operations and management. The SCH Project would be created in phases as the Sea recedes by constructing dikes below the elevation of -228 feet mean sea level (msl) using material excavated from the sea bed. Rivers, which have better water quality than agricultural drain water, would provide the primary source of water for the ponds.

Habitat ponds would vary in size, and several ponds could be constructed in each phase depending on funding and land availability. Habitat would continue to be constructed in subsequent years as the Sea continues to recede until the targeted acreage of habitat was reached. It is currently anticipated that about 2,400 acres of habitat would be created as part of the SCH Project, although the actual amount may vary depending on the outcome of the alternatives development process. The SCH would be designed with varying ranges of salinity in order to maximize biological productivity and minimize adverse effects associated with water quality. Ponds would be designed to optimize fish habitat and maximize fish productivity to provide a sustainable prey base for piscivorous birds. Ponds could also be managed to optimize invertebrate production to enhance the prey base for shorebirds and wading birds.

The depth of water in the ponds is dependent on the slope of the sea bed, but could range up to approximately 6 feet, depending on the areas available for development as the surface water elevation declines. Deeper areas could be created by excavating materials from within the ponds for construction of the dikes or islands. The dike separating adjacent ponds at similar elevations could also be modified to form larger ponds in the future, with portions of the original dike left intact to form islands.

A sedimentation basin could be constructed on lands above elevation -228 msl, or the first SCH pond could function as a sedimentation basin in addition to providing habitat. The first pond may need to be drained periodically for vegetation management and sediment removal; triggers for such actions will be developed as part of the adaptive management plan. Water discharged from the first pond would flow into other ponds, and from there into further ponds and/or into the Salton Sea.

A variety of methods for managing salinity will be thoroughly evaluated in the EIR/EIS. Several methods are currently under consideration, although additional methods may be identified as part of the scoping process and as a result of special studies that are underway. The method currently being considered is evapo-concentration of salts, which would result in higher salinity in each subsequent pond until the maximum salinity suitable for optimal biological productivity was achieved. Once the maximum desired salinity was achieved, the next series of ponds could again initially be supplied by

river water. Saline water from the earlier ponds could be blended with river water to obtain targeted salinities in some of the newer ponds. If not needed for blending in the next phase of ponds, saline water from the ponds would discharge to the Salton Sea. This process would result in a mix of salinities throughout the SCH complex, with salinities being managed by balancing river inflow, evaporation, and discharge. Higher salinities in the initial ponds, if needed, could be achieved by temporarily blending diverted river water with saline water pumped from the Salton Sea. If necessary, temporary pumping could also be used to initially achieve the targeted salinities in subsequent series of ponds, but longer-term salinity management would be maintained by balancing inflows, evaporation, and discharge. If additional salt water were needed in future years to maintain salinity, saline water from the higher salinity ponds could be recirculated to the lower salinity ponds.

Siting SCH ponds adjacent to the confluence of the New, Alamo, or Whitewater rivers and the Salton Sea would minimize the need for conveyance facilities to transport freshwater from these rivers to the ponds. Water flow from the rivers and between the ponds could be controlled with valves to be able to respond to varying evaporation or seepage rates and to allow changes in operations to modify salinity or water depth goals. The precise method of conveying water will be evaluated as part of the engineering design and environmental review process.

Monitoring and evaluation would commence upon completion of the ponds in the first year and would continue thereafter. A monitoring and adaptive management plan would be implemented to monitor and evaluate biological and water quality parameters, habitat function, and engineering performance of the SCH Project. Information obtained from monitoring and evaluation would be used to refine the engineering design, wildlife management criteria, and adaptive strategies for continued development of subsequent phases of the SCH Project. Adaptive and flexible strategies would reduce the risks and uncertainties associated with operating larger complexes and facilitate managing or mitigating observed issues and problems.

Through the EIS/EIR process, feasible environmental mitigation measures will be developed to reduce potential environmental impacts. Measures to reduce construction impacts would be implemented through construction contract specifications and permit requirements.

Issues- There are several potential environmental issues that will be addressed in the Draft EIS/EIR. Additional issues may be identified during the scoping process. Issues initially identified for evaluation in the Draft EIS/EIR as potentially significant or that are believed to be of local concern include:

1. Agricultural Resources: impacts from conversion of farmland to non-agricultural use, and dust due to construction.
2. Air Quality: impacts during construction, operations, and maintenance, and also the beneficial impact on fugitive dust from covering exposed playa with water.
3. Biological Resources: impacts on fish and wildlife during construction, operations, and maintenance.
4. Cultural Resources: potential impacts to archaeological resources, human remains, and sacred sites activities.
5. Environmental Justice: potential effects on the Torres Martinez Desert Cahuilla Indian Tribe and other local communities from construction, operations, and maintenance activities.

6. Geology and Soils: impacts during construction, operations, and maintenance
7. Greenhouse Gas Emissions/Climate Change: impacts during construction, operations, and maintenance.
8. Hazards and Hazardous Materials: impacts during construction, maintenance, and operations.
9. Hydrology and Water Quality: impacts during construction, operations, and maintenance.
10. Indian Trust Assets: effects on Torres Martinez Tribe's trust assets from development of the sites near the Whitewater River.
11. Land Use: potential conflicts with other existing or planned land uses and local plans, policies, and ordinances.
12. Noise: impacts during construction, operations, and maintenance.
13. Paleontological Resources: potential impacts from ground-disturbing activities.
14. Transportation and Traffic: impacts during construction, operations, and maintenance.

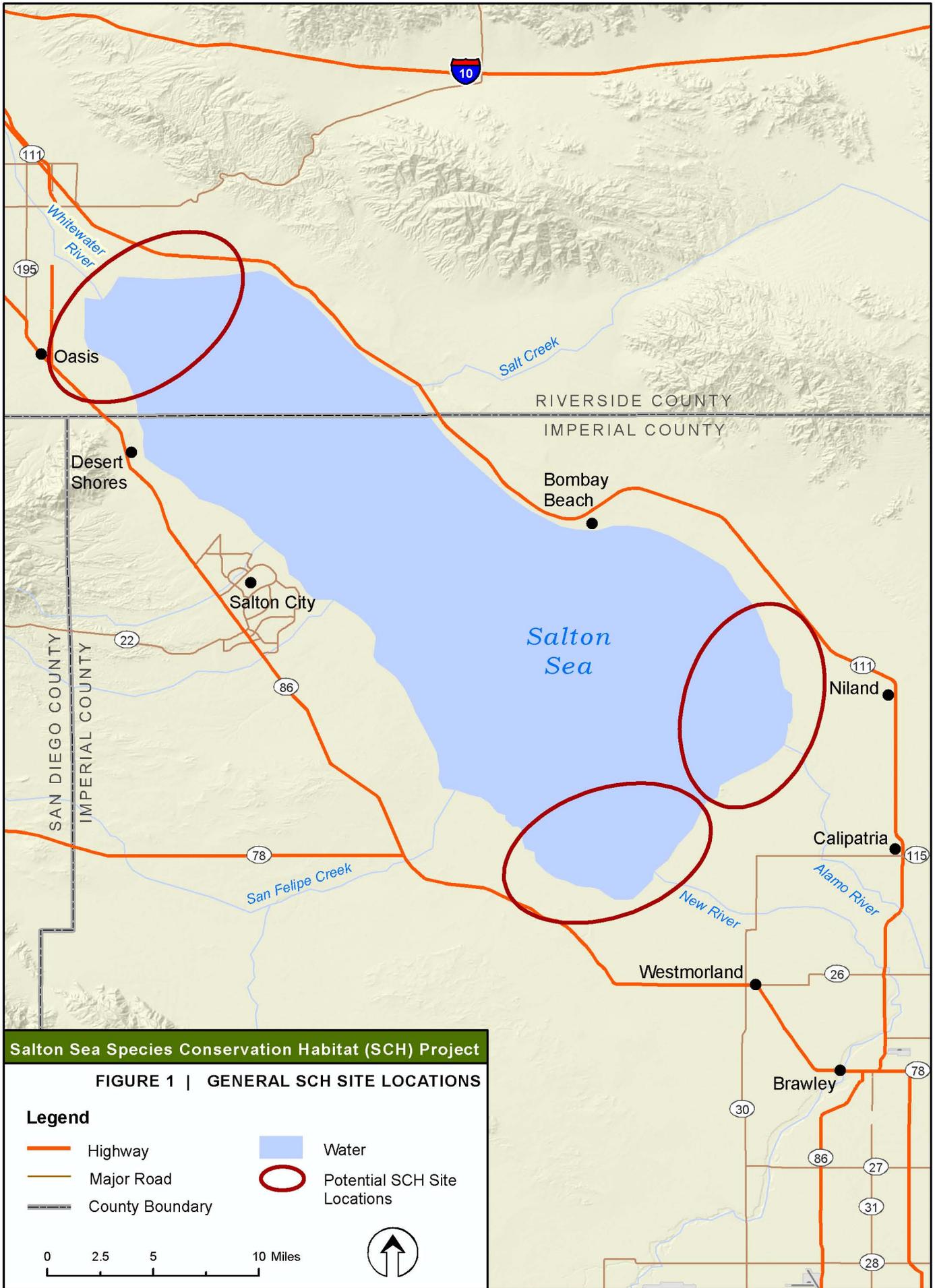
Alternatives- Several alternatives are being considered for the proposed action. The EIS/EIR may include a co-equal analysis of the project alternatives considered. Alternatives initially being considered for the SCH Project include: (a) alternative locations (at the confluence of the New, Alamo, or Whitewater rivers and the Salton Sea, or a combination of sites); (b) different acreages of created habitat; (c) different pond sizes and configurations; (d) different ranges of salinity within the ponds; and (e) no action. The range and characteristics of the alternatives addressed in the EIS/EIR will be further developed based on input from the scoping process and special studies that are underway.

Proposed Mitigation – The proposed mitigation may change as a result of comments received in response to this public notice, the applicant's response to those comments, and/or the need for the project to comply with the Section 404(b)(1) Guidelines. In consideration of the above, the proposed mitigation sequence (avoidance/minimization/compensation), as applied to the proposed project is summarized below:

Avoidance/minimization: The Applicant is still in the conceptual design phase of their project and will be working closely with the Corps and other permitting Agencies to develop designs that will avoid and minimize potentially negative impacts to aquatic resources to the highest extent practicable.

Compensation: The applicant is proposing to compensate for the impacts to waters/wetlands of the U.S. through the creation of wetlands as part of the project design.

For additional information please call Ms. Lanika Cervantes of my staff at (760) 602-4838 or via e-mail at Lanika.L.Cervantes@usace.army.mil. This public notice is issued by the Chief, Regulatory Division.



ATTACHMENT B

Notice of Preparation

Notice of Completion & Environmental Document Transmittal

Mail to: State Clearinghouse, P.O. Box 3044, Sacramento, CA 95812-3044 (916) 445-0613
 For Hand Delivery/Street Address: 1400 Tenth Street, Sacramento, CA 95814

| |
|--------------|
| SCH # |
|--------------|

Project Title: Salton Sea Species Conservation Habitat (SCH) Project

Lead Agency: Natural Resources Agency Contact Person: Kimberly Nicol/DFG Program Mgr
 Mailing Address: 78078 Country Club Drive, Suite 109 Phone: (760) 200-9178
 City: Bermuda Dunes Zip: 92203 County: Riverside

Project Location: County: Imperial and Riverside counties City/Nearest Community: Calipatria, Niland, & Oasis
 Cross Streets: See Figure 1, General SCH Site Locations Zip Code: Multiple
 Longitude/Latitude (degrees, minutes and seconds): _____ ° _____ ' _____ " N / _____ ° _____ ' _____ " W Total Acres: approximately 2,400
 Assessor's Parcel No.: Multiple Section: Multiple Twp.: Multiple Range: Multiple Base: Multiple
 Within 2 Miles: State Hwy #: 86 and 111 Waterways: New River, Alamo River, and Whitewater River
 Airports: None Railways: Union Pacific Schools: Oasis Elem. School & Saul Martinez School

Document Type:

CEQA: NOP Draft EIR NEPA: NOI Other: Joint Document
 Early Cons Supplement/Subsequent EIR EA Final Document
 Neg Dec (Prior SCH No.) _____ Draft EIS Other: _____
 Mit Neg Dec Other: _____ FONSI _____

Local Action Type:

General Plan Update Specific Plan Rezone Annexation
 General Plan Amendment Master Plan Prezone Redevelopment
 General Plan Element Planned Unit Development Use Permit Coastal Permit
 Community Plan Site Plan Land Division (Subdivision, etc.) Other: _____

Development Type:

Residential: Units _____ Acres _____ Transportation: Type _____
 Office: Sq.ft. _____ Acres _____ Employees _____ Mining: Mineral _____
 Commercial: Sq.ft. _____ Acres _____ Employees _____ Power: Type _____ MW _____
 Industrial: Sq.ft. _____ Acres _____ Employees _____ Waste Treatment: Type _____ MGD _____
 Educational: _____ Hazardous Waste: Type _____
 Recreational: _____ Other: Habitat Restoration
 Water Facilities: Type _____ MGD _____

Project Issues Discussed in Document:

| | | | |
|--|--|---|--|
| <input checked="" type="checkbox"/> Aesthetic/Visual | <input type="checkbox"/> Fiscal | <input checked="" type="checkbox"/> Recreation/Parks | <input checked="" type="checkbox"/> Vegetation |
| <input checked="" type="checkbox"/> Agricultural Land | <input checked="" type="checkbox"/> Flood Plain/Flooding | <input type="checkbox"/> Schools/Universities | <input checked="" type="checkbox"/> Water Quality |
| <input checked="" type="checkbox"/> Air Quality | <input type="checkbox"/> Forest Land/Fire Hazard | <input type="checkbox"/> Septic Systems | <input checked="" type="checkbox"/> Water Supply/Groundwater |
| <input checked="" type="checkbox"/> Archeological/Historical | <input checked="" type="checkbox"/> Geologic/Seismic | <input type="checkbox"/> Sewer Capacity | <input checked="" type="checkbox"/> Wetland/Riparian |
| <input checked="" type="checkbox"/> Biological Resources | <input checked="" type="checkbox"/> Minerals | <input checked="" type="checkbox"/> Soil Erosion/Compaction/Grading | <input checked="" type="checkbox"/> Growth Inducement |
| <input type="checkbox"/> Coastal Zone | <input checked="" type="checkbox"/> Noise | <input checked="" type="checkbox"/> Solid Waste | <input checked="" type="checkbox"/> Land Use |
| <input type="checkbox"/> Drainage/Absorption | <input checked="" type="checkbox"/> Population/Housing Balance | <input checked="" type="checkbox"/> Toxic/Hazardous | <input checked="" type="checkbox"/> Cumulative Effects |
| <input checked="" type="checkbox"/> Economic/Jobs | <input checked="" type="checkbox"/> Public Services/Facilities | <input checked="" type="checkbox"/> Traffic/Circulation | <input type="checkbox"/> Other: _____ |

Present Land Use/Zoning/General Plan Designation:

Salton Sea is a repository for agricultural drainage; surrounding areas are predominantly used for agriculture.

Project Description: *(please use a separate page if necessary)*

The SCH Project would construct habitat configured in a series of interconnected shallow ponds at either the north or south ends of the Salton Sea, or in both areas. The Project size at total build-out is currently expected to be approximately 2,400 acres, which may be constructed over a period of several years. The actual total Project size may vary, and SCH ponds would vary in size. The Project's ponds would be created by constructing dikes below the elevation of -228' msl using material excavated from the Sea bed. Rivers would provide the primary source of water for the ponds. The SCH would be designed with varying ranges of salinity to maximize biological productivity and minimize adverse effects from water quality.

Note: The State Clearinghouse will assign identification numbers for all new projects. If a SCH number already exists for a project (e.g. Notice of Preparation or previous draft document) please fill in.

Reviewing Agencies Checklist

Lead Agencies may recommend State Clearinghouse distribution by marking agencies below with an "X".
If you have already sent your document to the agency please denote that with an "S".

- | | |
|---|--|
| <input checked="" type="checkbox"/> Air Resources Board | <input checked="" type="checkbox"/> Office of Emergency Services |
| <input type="checkbox"/> Boating & Waterways, Department of | <input checked="" type="checkbox"/> Office of Historic Preservation |
| <input checked="" type="checkbox"/> California Highway Patrol | <input type="checkbox"/> Office of Public School Construction |
| <input checked="" type="checkbox"/> Caltrans District # <u>11</u> | <input checked="" type="checkbox"/> Parks & Recreation, Department of |
| <input type="checkbox"/> Caltrans Division of Aeronautics | <input type="checkbox"/> Pesticide Regulation, Department of |
| <input type="checkbox"/> Caltrans Planning | <input type="checkbox"/> Public Utilities Commission |
| <input type="checkbox"/> Central Valley Flood Protection Board | <input checked="" type="checkbox"/> Regional WQCB # <u>7</u> |
| <input checked="" type="checkbox"/> Coachella Valley Mtns. Conservancy | <input checked="" type="checkbox"/> Resources Agency |
| <input type="checkbox"/> Coastal Commission | <input type="checkbox"/> S.F. Bay Conservation & Development Comm. |
| <input checked="" type="checkbox"/> Colorado River Board | <input type="checkbox"/> San Gabriel & Lower L.A. Rivers & Mtns. Conservancy |
| <input checked="" type="checkbox"/> Conservation, Department of | <input type="checkbox"/> San Joaquin River Conservancy |
| <input type="checkbox"/> Corrections, Department of | <input type="checkbox"/> Santa Monica Mtns. Conservancy |
| <input type="checkbox"/> Delta Protection Commission | <input checked="" type="checkbox"/> State Lands Commission |
| <input type="checkbox"/> Education, Department of | <input type="checkbox"/> SWRCB: Clean Water Grants |
| <input checked="" type="checkbox"/> Energy Commission | <input checked="" type="checkbox"/> SWRCB: Water Quality |
| <input checked="" type="checkbox"/> Fish & Game Region # <u>6</u> | <input checked="" type="checkbox"/> SWRCB: Water Rights |
| <input checked="" type="checkbox"/> Food & Agriculture, Department of | <input type="checkbox"/> Tahoe Regional Planning Agency |
| <input checked="" type="checkbox"/> Forestry and Fire Protection, Department of | <input checked="" type="checkbox"/> Toxic Substances Control, Department of |
| <input type="checkbox"/> General Services, Department of | <input checked="" type="checkbox"/> Water Resources, Department of |
| <input checked="" type="checkbox"/> Health Services, Department of | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Housing & Community Development | <input type="checkbox"/> Other: _____ |
| <input type="checkbox"/> Integrated Waste Management Board | |
| <input checked="" type="checkbox"/> Native American Heritage Commission | |

Local Public Review Period (to be filled in by lead agency)

Starting Date June 23, 2010 Ending Date July 22, 2010

Lead Agency (Complete if applicable):

| | |
|------------------------|-----------------------|
| Consulting Firm: _____ | Applicant: _____ |
| Address: _____ | Address: _____ |
| City/State/Zip: _____ | City/State/Zip: _____ |
| Contact: _____ | Phone: _____ |
| Phone: _____ | |

Signature of Lead Agency Representative: _____ Date: _____

Authority cited: Section 21083, Public Resources Code. Reference: Section 21161, Public Resources Code.

To: Distribution List

From: State of California,
Natural Resources Agency

Date: June 21, 2010

Re: Notice of Preparation (NOP) of a Draft Environmental Impact
Statement/Environmental Impact Report (EIS/EIR)

Project: Proposed Salton Sea Species Conservation Habitat (SCH) Project
Riverside and Imperial Counties, California

The California Natural Resources Agency is the Lead Agency for preparation of the Salton Sea SCH Project EIR in accordance with the California Environmental Quality Act (CEQA). Because the SCH Project (Project) involves both State and Federal actions, a joint EIS/EIR will be prepared by DFG, under the direction of the Natural Resources Agency, and the U.S. Army Corps of Engineers (Corps) pursuant to CEQA and the National Environmental Policy Act (NEPA). The joint document is being prepared to optimize efficiency and avoid duplication and is intended to be sufficient in scope to address both the Federal and State requirements. A summary of the SCH Project is included as Attachment A.

For the purposes of the EIS/EIR, the State actions are the implementation of conservation measures necessary to protect the fish and wildlife species dependent on the Salton Sea in accordance with California Fish and Game Code, Section 2932, and the potential issuance of incidental take authorization under the California Endangered Species Act (CESA) California, Section 2081, and a Streambed Alteration Agreement under California Fish and Game Code, Section 1602. The primary Federal action is the potential issuance of a permit under Section 404 of the Clean Water Act, which regulates the discharge of dredged, excavated, or fill material in wetlands, streams, rivers, and other U.S. waters.

We request the views of interested parties as to the scope and content of the environmental documentation, including issues that are of interest to an agency's statutory responsibilities in connection with the SCH Project. Agencies may need to use the EIS/EIR when considering permit(s) or other approval(s) for the Project. An Initial Study was not prepared because the Natural Resources Agency has already determined that a joint EIS/EIR is required (CEQA Guidelines, Section 15063(a)).

Due to time limits mandated by State law, your response must be sent at the earliest possible date, but not later than 30 days after receipt of this notice. Please send responses to Ms. Kimberly Nicol, DFG Program Manager, at 78078 Country Club Drive, Suite 109, Bermuda Dunes, CA 92203, or at knicol@dfg.ca.gov; alternatively, they can be sent to U.S. Army Corps of Engineers, Los Angeles District, Regulatory Division, San Diego Field Office, ATTN: CESPL-RG-SS-2010-00142-LLC, 6010 Hidden Valley Road, Suite 105, Carlsbad, CA 92011, or lanika.l.cervantes@usace.army.mil. If you have questions, please contact Ms. Nicol at (760) 200-9178 or Ms. Lanika Cervantes, Corps Project Manager, at (760) 602-4838. Comment letters sent via electronic mail should include the commenter's name and physical mailing

address, and the Project title, "Species Conservation Habitat Project" should be included in the electronic mail's subject line.

Scoping meetings will be held to obtain input to the Draft EIS/EIR, and a public hearing will be held during the public comment period once the Draft EIS/EIR is released. Parties interested in being added to the electronic mail notification list for the SCH Project can register at: <http://www.spl.usace.army.mil/regulatory/> under the Public Notice tab, Distribution List registration. This list will be used in the future to notify the public about scheduled hearings and availability of future public notices. Parties interested in obtaining additional information about the SCH Project can also visit the Natural Resources Agency website at http://resources.ca.gov/restoring_the_salton_sea.html.

The Natural Resources Agency and the Corps will jointly conduct public scoping meetings at the following locations to receive public comment and assess public concerns regarding the appropriate scope of the Draft EIS/EIR.

| Community | Location/Address | Date | Time |
|------------------|--|---------------|-------------|
| Palm Desert | University of California at Riverside, Room B200 75-080 Frank Sinatra Drive | July 07, 2010 | 1:00 P.M. |
| Thermal | Torrez Martinez, Tribal Administration Building 66-725 Martinez St. | July 07, 2010 | 6:30 PM |
| Calipatria | Calipatria Inn and Suites 700 North Sorenson Avenue | July 08, 2010 | 1:00 P.M. |
| Brawley | Elks Lodge #1420, 161 South Plaza | July 08, 2010 | 6:30 PM |

Attachment A

1.0 Description of the Project

Overview

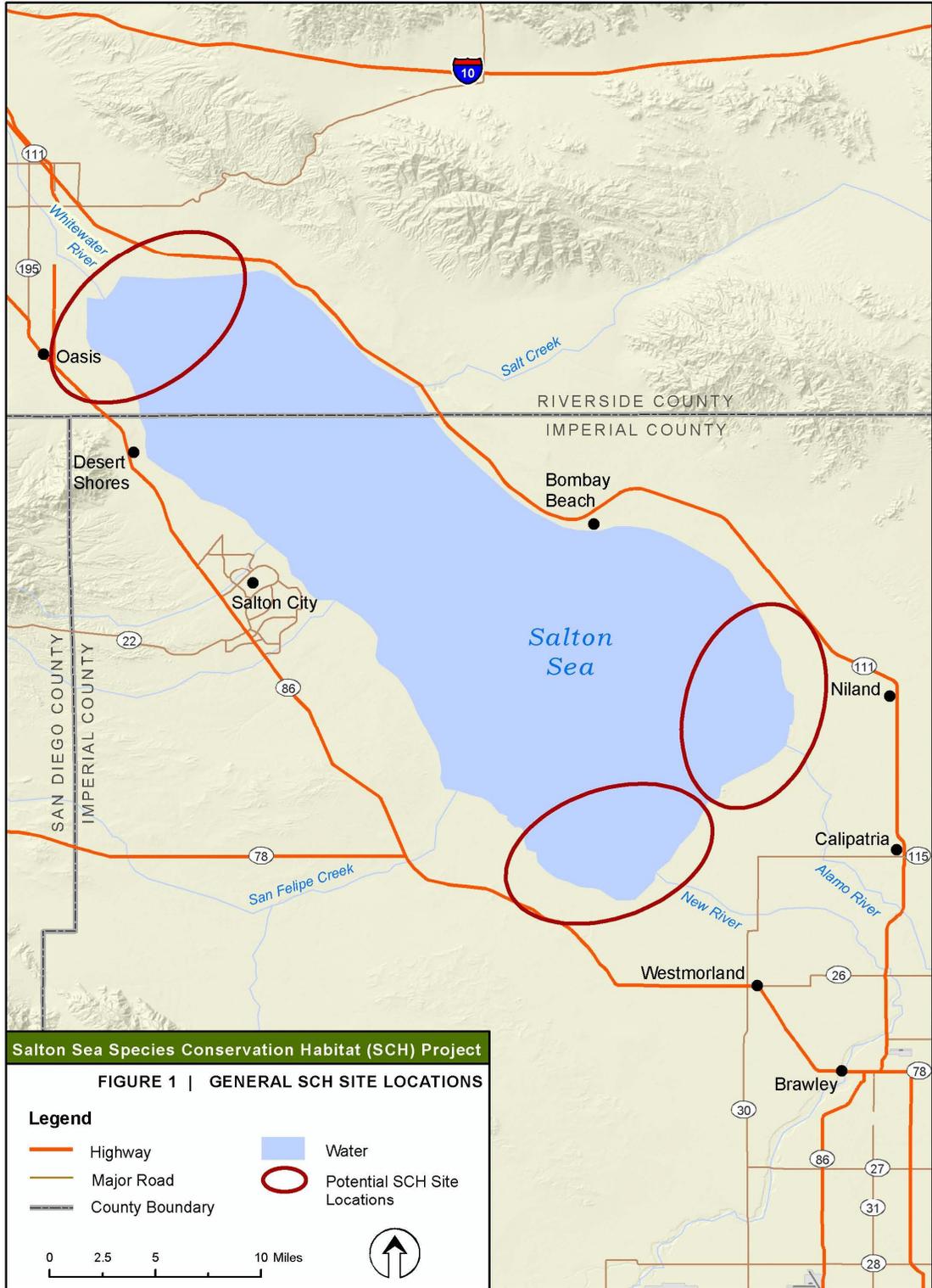
The SCH Project would construct habitat configured in a series of interconnected shallow ponds within the current footprint of the Salton Sea. The Project size at total build-out is currently expected to be approximately 2,400 acres, which may be constructed over a period of several years depending on land availability and cost. The actual total project size may vary depending on the outcome of the alternatives development process. The Project's ponds would be created as the Sea recedes by constructing dikes below the elevation of -228 feet mean sea level (msl) using material excavated from the sea bed. Rivers, which have better water quality than agricultural drain water, would provide the primary source of water for the ponds. Habitat ponds would vary in size, and several ponds could be constructed in each phase depending on land availability. Habitat would continue to be constructed in subsequent years as the Sea continues to recede until the targeted acreage of habitat was reached. Preliminary evaluations of potential siting areas indicate that ponds could be constructed at either the north or south ends of the Salton Sea, or in both areas. Figure 1 shows generalized locations of where the SCH Project could be constructed. The habitat would be designed with varying ranges of salinity in order to maximize biological productivity and minimize adverse effects associated with water quality. Ponds would be designed to optimize fish habitat and maximize fish productivity to provide a sustainable prey base for fish-eating birds. Ponds could also be managed to optimize invertebrate production to enhance the prey base for shorebirds and wading birds. The Project is being developed as a proof-of-concept project with construction planned beginning in late 2011 or early 2012.

Project Purpose, Goals, and Objectives

The SCH Project is being developed as a conservation measure for the protection of the fish and wildlife species dependent on the Salton Sea in accordance with California Fish and Game Code, Section 2932. As the Sea recedes and becomes more saline, fish species will not be able to survive. Simultaneously, the fish-eating birds, including several species of special concern, will lose their forage base and begin to disappear. As the Sea continues to become more saline, current invertebrate species will become less diverse and be replaced by species tolerant of hyper-saline environments (e.g., brine flies and brine shrimp).

The Project goals and the objectives are as follows:

| | |
|-------------------|--|
| Goal 1 | Develop a range of aquatic habitats that will support fish and wildlife species dependent on the Salton Sea |
| Objectives | Provide adequate foraging habitat for piscivorous (fish-eating) bird species |
| | Develop habitats required to support piscivorous bird species |
| | Support a sustainable, productive aquatic community |
| | Provide suitable water quality for fish |
| | Minimize adverse effects to desert pupfish |
| | Minimize risk of selenium |
| | Minimize risk of disease/toxicity impacts |



| | |
|-------------------|--|
| Goal 2 | Develop and refine information needed to successfully manage the SCH Project habitat through an adaptive management process |
| Objectives | Identify uncertainties in achieving the objectives |
| | Design science-based means to test alternatives and reduce uncertainty |
| | Develop and implement a monitoring plan |
| | Develop a decision-making framework |
| | Provide proof of concept for future restoration |

The SCH Project would provide habitat for both fish and invertebrate species, which in turn would provide forage for the numerous bird species dependent on the Salton Sea ecosystem. Salinity would be managed to support various assemblages of invertebrates and fish to diversify the prey base for as wide a variety of bird species as possible. The SCH ponds would be designed to serve those piscivorous bird species that would experience significant declines if the amount of Salton Sea habitat were substantially reduced. For many of these species, a significant proportion of their population uses the Salton Sea. Examples of those focal species that the SCH ponds would support are American white pelican, black skimmer, Caspian tern, and double-crested cormorant. If the amount of habitat used by these species at the Sea were substantially reduced, some individuals could use other habitats in the region up to their capacity, but it is unlikely that all of the piscivorous birds using the Salton Sea could find suitable habitat elsewhere.

The SCH ponds would also benefit other bird species, such as the eared grebe, gull-billed tern, western snowy plover, ruddy duck, black tern, and California brown pelican. These species are either not piscivorous (i.e., invertebrate prey is easier to support than fish) and/or only a small proportion of their population depends on the Salton Sea. There are also some subspecies or population segments that would likely use the created habitats as well, such as the least tern (interior subspecies of the California least tern or Mexican least tern, whichever is present at the Salton Sea) and Baja population of the California brown pelican which uses the Salton Sea as a post-breeding site. While the SCH ponds would provide ancillary benefits for these species, they are not the principal species served by the SCH Project, and therefore, their habitat needs would not be criteria for design.

Fish currently existing in the Salton Sea or tributaries are the likely candidates for establishment in the SCH ponds. The ponds would not likely provide suitable habitat for the marine species (orangemouth corvina, gulf croaker, and sargo) previously found in the Salton Sea. Tilapia are currently found in large numbers in the Sea, and would likely be the species providing the primary forage base in the ponds for fish eating birds. Since a primary purpose of the ponds is to provide habitat for fish as forage for birds, the ponds would be managed to maximize fish productivity. However, it is likely that desert pupfish would also become established in the ponds, and management implications would be addressed through consultation with appropriate jurisdictional agencies.

Key Project Components

Depth of water in the ponds is dependent on the slope of the sea bed, but could range up to approximately 6 feet, depending on the areas available for development as the surface water elevation declines. Deeper areas could be created by excavating materials from within the ponds for construction of the dikes or islands. The dike separating adjacent ponds at similar

elevations could also be modified to form larger ponds in the future, with portions of the original dike left intact to form islands.

A sedimentation basin could be constructed on lands above elevation -228 msl, or the first SCH pond could function as a sedimentation basin in addition to providing habitat. The first pond may need to be drained periodically for vegetation management and sediment removal; triggers for such actions will be developed as part of the adaptive management plan. Water discharged from the first pond would flow into other ponds, and from there into further ponds.

A variety of methods for managing salinity will be thoroughly evaluated in the EIS/EIR. Several methods are currently under consideration, although additional methods may be identified as part of the scoping process and as a result of special studies that are underway. The methods currently being considered include evapo-concentration of salts, which would result in higher salinity in each subsequent pond, until the maximum salinity suitable for optimal biological productivity was achieved. Once the maximum desired salinity was achieved, the next phase of ponds could again initially be supplied by river water. Saline water from the earlier ponds could be blended with river water to obtain targeted salinities in some of the newer ponds. If not needed for blending in the next phase of ponds, saline water from the ponds would discharge to the much more saline Salton Sea. This process would result in a mix of salinities throughout the SCH complex, with salinities being managed by balancing river inflow, evaporation, and discharge. Interspersing ponds with freshwater amongst the more saline ponds would provide a drinking water source for birds, especially young birds unable to fly. Higher salinities in the initial ponds, if needed, also could be achieved by temporarily blending diverted river water with saline water pumped from the Salton Sea. If necessary, temporary pumping could also be used to initially achieve the targeted salinities in the subsequent phases of ponds, but longer-term salinity management would be maintained by balancing inflows, evaporation, and discharge. If additional salt water were needed in future years to maintain salinity, saline water from the higher salinity ponds could be recirculated to the lower salinity ponds.

Siting ponds adjacent to the confluence of the New, Alamo, or Whitewater rivers and the Salton Sea would minimize the need for conveyance facilities to transport freshwater from these rivers to the ponds. Water flow from the rivers and between the ponds could be controlled with valves to be able to respond to varying evaporation or seepage rates and to allow changes in operations to modify salinity or water depth goals. The precise method of conveying water will be evaluated as part of the engineering design and environmental review process.

Monitoring and evaluation would commence upon completion of the ponds in the first year and would continue thereafter. A monitoring and adaptive management plan would be implemented to monitor and evaluate biological and water quality parameters, habitat function, and engineering performance of the SCH Project. Information obtained from monitoring and evaluation would be used to refine the engineering design, wildlife management criteria, and adaptive strategies for continued development of the SCH Project. Adaptive and flexible strategies would reduce the risks and uncertainties associated with operating larger complexes and facilitate managing or mitigating observed issues and problems.

2.0 Other Involved Agencies

The Natural Resources Agency and the Corps are developing the SCH Project in close coordination with other agencies, including the Department of Water Resources, DFG, the State Air Resources Board, and the State Water Resources Control Board. The following permits, approvals, and consultations are expected to be required: Clean Water Act section 404

permit/section 401 water quality certification; Endangered Species Act section 7 consultation; National Historic Preservation Act section 106 consultation; CESA section 2081 incidental take authorization; California Fish and Game Code section 1602, Streambed Alteration Agreement; and air quality permits.

3.0 Project Alternatives

Alternatives initially being considered for the SCH Project include the following: (a) alternative locations (at the confluence of the New, Alamo, or Whitewater rivers and the Salton Sea, or a combination of sites); (b) different acreages of created habitat; (c) different pond sizes and configurations; (d) different ranges of salinity; and (e) no project. The range and characteristics of the alternatives addressed in the EIS/EIR will be further developed based on input from the scoping process and special studies that are underway.

4.0 Probable Environmental Effects of the Project

The Draft EIS/EIR will evaluate the full spectrum of resources potentially affected by the SCH Project. Although additional issues may be identified during the scoping process, issues initially identified as probable environmental effects include:

Agricultural Resources

- Potential conversion of farmland to non-agricultural use.
- Dust from construction.
- Potential zoning conflicts if the Project were implemented on lands zoned for agricultural use.

Air Quality

- Potential exceedance of emissions thresholds from equipment, vehicle traffic, and soil disturbance during construction, operations, and maintenance.
- Beneficial impact on fugitive dust from covering exposed playa with water.
- Potential odors emanating from the ponds, fish kills in the ponds, or bird die-offs.

Biological Resources

- Potential effects on fish and wildlife during construction, operations, and maintenance, such as disruptions from noise and human activity, mortality, effects on nesting birds, and risks to avian and aquatic species and habitat due to selenium and other water quality constituents.
- Potential effects on desert pupfish and other special status species during construction, operations, and maintenance, including mortality, water quality effects, disturbance effects, and effects on movement corridors.
- Removal or degradation of habitat, including riparian vegetation, mudflats, and section 404 and State jurisdictional wetlands.
- Potential for disease (e.g., avian botulism and cholera) and toxicity effects (e.g., from selenium, algal toxins).

Cultural Resources

- Potential for destruction or disturbance of archaeological resources, human remains, and sacred sites activities.

Environmental Justice

- Potential effects on the Torres Martinez Desert Cahuilla Indian Tribe and other local communities from construction, operations, and maintenance activities.

Geology and Soils

- Increased erosion and sedimentation during construction, operations, and maintenance.
- Potential collapse of berms from seismic events, flooding surrounding areas.

Greenhouse Gas Emissions/Climate Change

- Generation of greenhouse gas emissions from equipment and worker vehicles during construction, operations, and maintenance.

Hazards and Hazardous Materials

- Potential accidental release of hazardous materials (e.g., diesel fuel, lubricants) during construction, maintenance, and operations.
- Potential exposure of workers and the public (if public access is allowed) to unexploded ordnance.
- Potential increase in mosquito vectors from standing water.

Hydrology and Water Quality

- Increased erosion and sedimentation in the Salton Sea, nearby rivers, and canals during construction, operations, and maintenance.
- Inadvertent release of hazardous materials into water during construction, construction, operations, and maintenance.
- Changes in water quality of the ponds, including resuspension or dissolution of salts and selenium, seasonal increases or decreases in water temperature, reduced levels of dissolved oxygen, and high concentrations of nutrients.
- Potential reduced freshwater inflow into the Salton Sea, resulting in decreased surface water elevation and increased rate of salination.
- Reduced downstream river flows due to water diversion for ponds.

Indian Trust Assets

- Effects on Torres Martinez Tribe's trust assets from development of the sites near the Whitewater River.

Land Use

- Potential conflicts with other existing or planned land uses and local plans, policies, and ordinances.

Noise

- Noise increases during construction, operations, and maintenance.

Paleontological Resources

- Destruction or alteration of paleontological resources from ground-disturbing activities.

Transportation and Traffic

- Increased traffic during construction, operations, and maintenance.

5.0 Schedule

The joint lead agencies expect the Draft EIS/EIR to be made available to the public by early 2011.

ATTACHMENT C

Scoping Report

Salton Sea Species Conservation Habitat Scoping Report

SUMMARY OF SCOPING MEETING COMMENTS AND RESPONSES TO THE NOTICE OF INTENT AND NOTICE OF PREPARATION

The U.S. Army Corps of Engineers (Corps) and the California Department of Fish and Game (DFG), acting on behalf of the California Natural Resources Agency, have been charged with preparing a joint Environmental Impact Statement/Environmental Impact Report (EIS/EIR) for the Salton Sea Species Conservation Habitat (SCH) Project. The SCH Project would restore approximately 2,400 acres of habitat for piscivorous (fish-eating) birds that are dependent on the Salton Sea. In compliance with the National Environmental Policy Act (NEPA), the Corps issued a Notice of Intent (NOI) for the preparation of the EIS/EIR on June 23, 2010. In compliance with the California Environmental Policy Act (CEQA), the Natural Resources Agency issued a Notice of Preparation (NOP) for the EIS/EIR on June 21, 2010. The NOI and NOP were sent to over 1,300 responsible and involved agencies and interested organizations and individuals. To solicit additional comments on the scope and content of the EIS/EIR, the co-lead agencies held four public scoping meetings in the vicinity of the Salton Sea on July 7 and 8, 2010. The following table lists the logical details for each public meeting.

| Community | Location/Address | Date | Time | Approximate Attendance |
|-------------|---|---------|-----------|------------------------|
| Palm Desert | University of California at Riverside, Room B200 75-080 Frank Sinatra Drive | July 07 | 1:00 P.M. | 32 |
| Thermal | Torrez Martinez, Tribal Administration Building 66-725 Martinez St. | July 07 | 6:30 PM | 8 |
| Calipatria | Calipatria Inn and Suites 700 North Sorenson Avenue Elks Lodge #1420, 161 South Plaza | July 08 | 1:00 P.M. | 11 |
| Brawley | Elks Lodge #1420, 161 South Plaza | July 08 | 6:30 PM | 2 |

This report summarizes the written responses to the NOI and NOP and the major themes and/or comments from various scoping meetings. The four scoping meetings attracted over 50 people, some of whom provided oral comments on the scope and content of the EIS/EIR, including project design and impacts.

Twelve written responses to the NOI and NOP were received during the comment period which ended on June 24¹. The written comments received are attached as an appendix to this report. Table 1 is a listing of those agencies and organizations that submitted written comments.

| Table 1 | Agencies, organizations, and individuals that submitted written comments on the NOI and NOP |
|---|--|
| Federal Agencies (5) | |
| U.S. Bureau of Reclamation (Reclamation) | |
| U.S. Department of Homeland Security, Federal Emergency Management Agency (FEMA), Region IX | |
| U.S. Geological Survey (USGS) | |
| U.S. Environmental Protection Agency (EPA) | |
| U.S. Navy | |
| State of California Agencies (2) | |
| Department of Toxic Substances Control (DTSC) | |
| State Lands Commission | |
| Regional and Local Agencies (4) | |
| Coachella Valley Mosquito and Vector Control District | |
| County of Imperial Public Health Department | |
| Imperial Irrigation District (IID) | |
| San Diego County Water Authority | |
| Organizations (6)^a | |
| Audubon California | |
| California Outdoor Heritage Alliance | |
| Defenders of Wildlife | |
| Desert Protective Council | |
| Pacific Institute | |
| Sierra Club California | |
| Individuals (1) | |
| Patrick Maloney (on behalf of agricultural landowners in the Imperial Valley) | |

Note:

a. These organizations submitted a single, joint letter.

The major themes and/or issue areas expressed as part of written and oral comments on the NOI and NOP are summarized below under “Scope and Content of the EIS/EIR—Major Themes or Topics.” More specific comments on the scope and content of the NOI and NOP are categorized under “Scope and Content of the EIS/EIR—Specific Comments.” Finally, comments or

¹ The organizations listed in Table 1 submitted a single, joint letter.

statements not directly pertinent to the scope and content of the EIS/EIR are summarized under “Other Comments.”

SCOPE AND CONTENT OF THE EIS/EIR—MAJOR THEMES OR TOPICS

Several of the written and oral comments on the NOI and NOP can be summarized or grouped into major themes or topics, including expanding the range of species that would be benefited by the SCH Project, addressing issues associated with selenium exposure, and the need to address the potential creation of breeding habitat for mosquitoes, which are disease vectors. Additionally, a number of commenters, including the EPA, Reclamation, SDCWA, and the non-governmental organizations listed above, expressed overall support for the SCH Project.

Range of Targeted Species

The SCH Project is encouraged to develop as much habitat as practical for species other than the targeted bird species that also use the Salton Sea. To maximize biological productivity of the SCH ponds, they should be designed to optimize invertebrate production to enhance the prey base for shorebirds and wading birds, in addition to optimizing production for fish-eating birds. Accordingly, the ponds should be managed to include a greater range of salinities than tolerable by fish, ranging from the roughly 2-3 gallons per liter (g/L) total dissolved solids (TDS) of the rivers to 140+ g/L TDS. This broad range of salinity would greatly increase the diversity of species residing in and visiting the SCH, improving the resilience of the system as a whole. Ponds managed for salinities around 130 g/L TDS could produce a large number of brine flies and brine shrimp, complementing the invertebrate good base found in the other ponds and in the Sea itself. Managing ponds at these higher salinities would also provide valuable monitoring data and experience for the future.

Selenium Exposure

- The SCH plan calls for use of evapo-concentrated, high-salinity water from one pond to provide saline water for another series of salinity gradient ponds. There may be a selenium risk associated with this practice. The EIS/EIR should include an assessment of effects of using waters (including selenium and pesticides) that have been evapo-concentrated for mixing.
- SCH would create habitats that do not currently exist at the Salton Sea; the increased exposure risk related to selenium in this new habitat relative to existing Salton Sea habitat should be assessed.
- A robust ecological analysis of selenium remediation and avoidance technologies (including a definition of specific endpoints for measuring effects and target action levels) should be included.

Mosquito/Vector Control

Concerns were raised that restoration efforts would provide breeding habitat for mosquitoes, leading to a possible increase of mosquito populations at the north and south ends of the Salton Sea. The mosquito, *Culex tarsalis* Coquille, is a known vector of the West Nile, Saint Louis encephalitis, and western equine encephalomyelitis viruses, which are active in the Coachella and Imperial valleys. According to the University of California Davis Center for Vector-borne Disease Research data, shoreline habitats along the Salton Sea are the focus of yearly virus amplifications, and the breeding habitat of *Culex tarsalis* covers a wide range of water quality

(from fresh up to 35 parts per thousand). Moreover, the Salton Sea provides a year-round habitat for breeding due to the climate.

Habitats usually do not support mosquitoes if they have running water, deeper water, and no sloped edges. After several years, many man-made wetlands become overgrown with vegetation, the water settles, and water quality changes; the type of emerging submerged and floating vegetation promotes mosquito breeding. There are considerable costs associated with mosquito control. Using specific types of fish to control mosquitoes is challenging because the birds will feed on the fish. Desert pupfish feed on mosquito larvae more aggressively than mosquitofish. The Coachella Valley Mosquito and Vector Control District has facilities where they could be raised, but this would require a permit from DFG.

The following concerns need to be evaluated:

- Who will be responsible for monitoring and treating mosquito populations? What thresholds will be established?
- What jurisdictions will be encountered and what permitting will be needed to control any vector problems that may result? Will the DFG and/or the Corps have the ultimate authority regarding vector operations in relation to endangered species?
- Is there funding for mosquito control with respect to maintaining and monitoring the facility?
- Will a mosquito abatement plant be developed for the project?
- Will the project have a dedicated vector biologist and supporting staff?
- Will a designated party serve as the contact point with the authority to act in the event of unforeseen circumstances during and after construction?

It is suggested that local health and vector control agencies should be further consulted regarding best management practices to address mosquito vectors.

SCOPE AND CONTENT OF THE EIS/EIR—SPECIFIC COMMENTS

The following comments were provided by individual commenters. They focus primarily on the project design, adaptive management and monitoring program, siting criteria, the appropriate baseline condition to use, and project impacts and mitigation measures.

Project Design

- The proposed location of the initial ponds should be clarified.
- The EIS/EIR should include a discussion of fish species proposed to be the principal project focus (natives, invasives, a combination of both?) This is critical when considering a variety of issues including potential depths of ponds.
- The EIS/EIR should include a discussion of what habitat attributes will be built into SCH to provide for desert pupfish.
- The draft plans call for SCH to create deep holes from borrow pits. Steep-sided pits should be avoided since they may promote stratification and anoxia of the deep water. (Construction equipment tends to make steep sides when excavating.) USGS has observed that traps placed in the deeper holes captured no fish. When placed in the exact same area, but at the surface, the trap came back loaded. Unless adequate mixing of the deep water can be ensured, the holes may not sustain habitat.

- A review and citation of literature justifying proposed depths of ponds in SCH should be conducted.
- Design of the SCH Project should include a variety of substrates to increase invertebrate productivity.
- Standards to which berms will be built will need to be clarified.
- The EIS/EIR should assess the potential use of geothermal energy resources to selectively supplement heating of ponds for temperature-sensitive fish.
- The project should evaluate the potential to harvest shallow groundwater for use in the cells.
- The rationale for use of freshwater for SCH (if proposed to be used) to replace saline water habitat at the Salton Sea should be included.
- Specific information such as number of acres of each specific salinity regime that would be created and size of anticipated freshwater area should be included (freshwater being the river water quality).
- The 2008 Flood Insurance Rate Maps (FIRM) for the project area should be reviewed. All buildings within a riverine floodplain (i.e., Flood Zones A, AO, AH, AE, and A1 through A30 as delineated on the FIRM) must be elevated so that the lowest floor is at or above the Base Flood Elevation level in accordance with the effective FIRM.
- If the area of construction is located within a Regulatory Floodway as delineated on the FIRM, any development must not increase base flood elevation levels. The term “development” means any man-made change to improved or unimproved real estate, including but not limited to, buildings, other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, and storage of equipment and materials. A hydrologic and hydraulic analysis must be performed prior to the start of development and must demonstrate that the development would not cause any rise in base flood levels. No rise is permitted within regulatory floodways.
- The project, including its water conveyance systems, should be designed to minimize impacts on the water delivery and drainage infrastructure in place around the rivers, drains, and other agricultural facilities. Any increase in water surface elevations of the drains or rivers would affect field irrigation infrastructure and drainage. Impounded areas such as the SCH ponds may raise water table elevations in the surrounding areas and affect the tile drainage systems in the farm fields.
- The SCH Project alternatives should not conflict with the goals and objectives of the QSA and pursuant to Fish and Game Code section 2932(b) should be consistent with the Salton Sea Restoration study requirements found in Fish and Game Code section 2081.7.
- Any construction or operation on IID property or within its existing and proposed rights of way or easements will require an encroachment permit. No foundations or buildings will be allowed within the right of way.

Water Supplies

- The EIS/EIR should acknowledge that water in the Alamo, New, and Whitewater rivers is not fresh water, but rather composed primarily of agricultural drainage.
- The EIS/EIR should acknowledge that water from the Colorado River is not available for direct delivery to the SCH Project. The lack of available Colorado River supplies is

documented on page 2-8 of the October 2006 Draft Salton Sea Ecosystem Restoration Programmatic EIR.

- Landowners in the Imperial Valley are entitled to continued water service by virtue of the easements predating governmental intrusion into the waters of the Colorado River. The discussion of water rights in the NOI/NOP and scoping documents fail to reflect such unique rights.
- Any discussion of the cause of the Sea's historic size – a potential factor in assessing fiscal liability – is also absent from the notices and analysis documents thus far.
- The fundamental facts about what the documents refer to as “water rights” (e.g., Section 1.1.2 of the document describing the screening process) are wrong; i.e., much of the water use in the Imperial Valley is not under the jurisdiction of the State Water Resources Control Board since such rights are of the pre-1941 variety (*Arizona v. California* (2006) 547 US 150, 175 (recognizing 2.6 million acre-feet of present perfected rights as of 1901). Any review of “water rights” involved would necessarily include the public statements of water diversion filed by those who use Colorado River water in Imperial County.

Adaptive Management and Monitoring

- This "proof-of-concept" project relies on adaptive management to make improvements. Detailed information on monitoring plans should be included.
- Science from the literature and recently completed and ongoing studies should be used in establishing the goals, objectives, and triggers included in the adaptive management plan. Adaptive management is not the same as trial and error.
- The SCH Project may benefit by drawing on science published and available from the USGS/Reclamation shallow habitat project as part of the proof of concept.

Siting Criteria

- To the extent practical, habitat should be located in a manner that maximizes mitigation of dust emissions from the playa.
- The project should be compatible with the mitigation planned for the Quantification Settlement Agreement water transfer and other projects.
- The project should be designed to accommodate other land uses such as alternative energy development, agricultural use, and recreational use.
- The extent to which the SCH Project would conflict with or preclude other existing, planned or proposed habitat construction or air quality management projects at and around the Salton Sea should be a factor in determining the location of the shallow habitat pond complexes. Siting the proposed ponds in locations where other parties would otherwise construct habitat would be a waste of limited resources and dramatically reduce the net habitat value of the proposed project. The SCH Project should be sited at locations whether no other habitat or air quality projects are currently planned or proposed.

Baseline Conditions

- The "current" level of the Salton Sea changes daily, and as of July 22, 2010, is ranging about 0.10 foot above and below -231.20 ft.

- A key factor the Corps should use to determine whether to issue a permit for the SCH Project is the benefit of the project relative to no project. Current conditions are not an appropriate baseline for determining the condition of the Salton Sea in the future, nor are they appropriate for determining the relative benefits of the SCH Project.
- The EIS/EIR should include a detailed, comprehensive list and description of every planned and proposed habitat and air quality project at and around the Salton Sea. These constitute a reasonable baseline against which the SCH Project should be measured.
- The EIS/EIR should include a clear demonstration of compliance with the Clean Water Act section 404(b)(1) guidelines. The existing condition of wetlands and waterways should be described in detail. The effects analysis and assessment of existing conditions should use the California Rapid Assessment Methodology (CRAM) or another applicable assessment method.

Project Impacts and Mitigation Measures

- The EIS/EIR should address all of the issues listed in the NOI and NOP, with particular attention to potential effects on existing Quantification Settlement Agreement agreements, land use policies and plans, water use/quality, biological resources, and air quality.

Agricultural Resources

- The project should be planned and implemented to avoid impacts on area farmers and productive agricultural land.

Biological Resources

- Potential environmental consequences of establishing a sedimentation basin should be addressed (for example, components of SCH may develop into habitat capable of supporting Yuma clapper rails [YCR]). An evaluation of selenium exposure risk to YCR should be included.
- Impacts of diversions from the rivers on threatened and endangered species (in the rivers at the diversion points) should be assessed.
- The EIS/EIR should evaluate desert pupfish interactions with non-natives that are being encouraged as a forage base. The role of invasive species, termed "novel species" in the SCH summary documents, should be evaluated to understand interactions of anticipated invasive or exotic species in SCH.
- Potential impacts of invasive species should be analyzed.
- The EIS/EIR should describe proposed mitigation for aquatic, wetland, and habitat impacts, and demonstrate compliance with the Corps' IEPA Wetlands Compensatory Mitigation Rule issued in April 2008 (40 CFR Part 230, page 195941).
- The EIS/EIR should evaluate the direct habitat benefits of the SCH Project.
- The EIS/EIR should evaluate water quality effects on current bird diseases such as botulism.

Air Quality

- The EIS/EIR should evaluate the direct and indirect air quality benefits generated by flooding exposed Salton Sea playa and interrupting wind fetch.

- EPA has a strong interest in ensuring restoration practices are consistent with air quality emission mandates.

Greenhouse Gas Emissions/Climate Change

- Regarding the effects of SCH development on greenhouse gases uptake and emissions relative to existing area of the Salton Sea – it is suggested that an assessment of uptake, including positive or negative rate, be included.
- The climate change section should analyze what may occur during the life of the project and any projected impacts from global warming on the Salton Sea and the SCH areas.

Hazards and Hazardous Materials

- The EIS/EIR should evaluate the potential for the SCH Project to attract and increase local bird populations and thus cause an increase in the potential for bird strikes by aircraft from the Naval Air Facility El Centro training ranges. Both project-specific and cumulative impacts should be evaluated.
- Regarding selenium and public access and recreational activities relative to public health threshold levels – would the SCH Project cause a public health risk to humans consuming fishes or birds from the SCH site? The EIS/EIR should evaluate public access and recreation.
- The EIS/EIR should evaluate whether conditions within the project area may pose a threat to human health or the environment, using the EPA’s National Priorities List, Resource Conservation and Recovery Information System, and Comprehensive Environmental Response Compensation and Liability Information System; Envirostor (accessible through DTSC’s website), Solid Waste Information System provided by the California Integrated Waste Management Board (currently the Department of Resources Recycling and Recovery); GeoTracker (maintained by the Regional Water Quality Control Boards); lists of hazardous substances cleanup sites and leaking underground storage tanks maintained by local counties and cities; and the Corps’ list of Formerly Used Defense Sites.
- The EIS/EIR should identify the mechanism to initiate any required investigation and/or remediation for any site within the proposed Project area that may be contaminated, and the government agency to provide appropriate regulatory oversight. If necessary, DTSC would require an oversight agreement to review such documents.
- Any environment investigations, sampling, and/or remediation should be conducted under a work plan approved and overseen by a regulatory agency that has jurisdiction to oversee hazardous substance cleanup. The findings of any investigations, including any Phase I or II Environmental Site Assessment investigations should be summarized in the document. All sampling results in which hazardous substances were found above regulatory standards should be clearly summarized in a table. All closure, certification, or remediation approval reports by regulatory agencies should be included in the EIS/EIR.
- If buildings, other structures, asphalts or concrete-paved surface areas are being planned to be demolished, an investigation should be conducted for the presence of hazardous materials (chemicals, mercury, asbestos-containing materials), and proper precautions should be taken as needed. Contaminants should be remediated in compliance with California environmental regulations and policies.
- Sampling may be required if construction requires soil excavation or filling. Contaminated soils must be properly disposed of, not relocated onsite. Land Disposal Restrictions may be applicable. Imported soil, if any, should be sampled for contamination.

- Human health and the environment of sensitive receptors should be protected during construction/demolition. If necessary, a health risk assessment overseen and approved by the appropriate government agency should be conducted by a qualified health risk assessor to determine if there have been or will be any releases of hazardous materials that may pose a risk to human health or the environment.
- At sites used for agricultural, livestock, or related activities, onsite soils and groundwater might contain pesticides, agricultural chemical, organic waste, or other related residue. Proper investigation, and remedial actions, if necessary, should be conducted prior to construction.
- If hazardous wastes would be generated by SCH operations, they must be managed in accordance with the California Hazardous Waste Control Law (California Health and Safety Code, Division 20, Chapter 6.5) and the Hazardous Waste Control Regulations (California Code of Regulations, Title 22, Division 4.5). Additionally, the facility should obtain an EPA Identification Number. Certain hazardous waste treatment processes or hazardous materials, handling, storage, or uses may require authorization from the local Certified Unified Program Agency.

Hydrology/Water Quality

- Water quality effects to evaluate include nutrient loading, oxygen depletion, temperature fluctuations, pesticide, selenium, and DDT residues; discharges of agricultural chemicals; effects on total management demand loads (TMDLs), water quality standards, and Coachella and Torres Martinez Tribal water quality goals; effects on current bird diseases such as botulism; and the impact of a sudden release of high salinity water into less saline water if a berm fails. EPA has a strong interest in ensuring restoration practices are consistent with TMDL requirements and water quality standards.
- The EIS/EIR should evaluate the potential to restore seeps, creeks, springs, and the river deltas of the Salton Sea.
- The EIS/EIR should evaluate changes in the surface water elevation of the Salton Sea.

Cumulative Impacts

- The Corps should consider the role of a sustainably restored Salton Sea as a vital part of a thriving, healthy Lower Colorado River watershed. The Lower Colorado River Basin, including the Salton Sea and Colorado River Delta, should be considered in its entirety, especially in regards to preserving at-risk migratory birds, because actions taken in one part of the Lower Colorado River Basin could have significant cumulative impacts on other parts of the Basin. It is questionable whether the entire watershed would remain ecologically viable without a comprehensive approach to its restoration. It is recommended that the EIS/EIR describe the proposed project's impacts and benefits within the regional context of the Lower Colorado River Basin and other restoration efforts such as the Lower Colorado River Multi-species Conservation Program and past and current Salton Sea restoration efforts.
- Several other projects would contribute to a cumulative impact associated with bird air strikes. IID is constructing several thousand acres of managed marsh near the Salton Sea, which is intended to attract and provide habitat for avian species affected by decreased Salton Sea levels resulting from agricultural/urban water transfers. Also, a planned development, the Desert Springs Resort, is proposed for construction on the west side of Imperial Valley less than 4 miles from the perimeter of Naval Air Facility El Centro and directly adjacent to their parachute drop range. This project would include over 100 acres of lakes and associated landscaping (golf course), which the Navy believes would attract large numbers of birds.

Other Issues

- If the Draft EIS/EIR does not contain a preferred alternative, it should describe the eventual selection criteria and processes for selection of the preferred alternative in the Final EIS/EIR.
- The SCH Project should reflect the extensive research already conducted on biotic and abiotic elements of the Salton Sea ecosystem.
- Other issues that should be addressed in the EIS/EIR include funding, project management, and engineering questions such as seismic stability of the constructed berms.
- "Special studies" are cited on pages 5 and 7 of the Public Notice. Some additional information on the goals, objectives, scope, and anticipated contributions of special studies should be included.

OTHER COMMENTS

- Water rights and access to water (paper and wet water) should be addressed and secured prior to construction.
- Additional Stakeholder group meetings should be held to discuss the project as the design progresses.
- IID should be notified once specific sites are located.
- Reclamation requests Cooperating Agency status.
- DTSC can provide cleanup oversight through an Environmental Oversight Agreement for government agencies that are not responsible parties, or a Voluntary Cleanup Agreement for private parties.
- A detailed map or site plan showing exactly where the SCH Project improvements would occur should be provided to the State Lands Commission to enable them to determine the State's interest in these locations.
- Upon completion of any development that changes existing Special Flood Hazard Areas, the National Flood Insurance Program directs all participating communities to submit the appropriate hydrologic and hydraulic data to FEMA for a FIRM revision.
- It is recommended that the wetland assessment data be entered into California's Wetland portal.
- The recovery of the Salton Sea as a whole needs to be funded.
- The focus appears to be wholly piecemeal and likely will not garner support from the public. It is essential that an integrated approach be taken that guarantees a rapid solution and involves the parties directed affected.
- The need for an environmental review may not be necessary or advised under the law. Based on the principles announced in the *Nacimiento Regional Water Management Advisory Committee v. Monterey County Water Resources Agency* (1993) 15 Cal.App.4th 200 and Reclamation's recommendations for IID's improvement of its management of diversions from the Colorado River (presented in a Decision resulting from a Part 417 process initiated by Reclamation against IID), the Imperial Valley landowners have no obligation to maintain the Salton Sink as a sea, and no EIR or environmental mitigation is required if the landowners choose to reduce the flow of water into the Salton Sea.

- The notice and scoping documents all lack a critical event since the prior review: the water transfer that is at the heart of all Sea discussion was decreed invalid after a lengthy trial in 2009. Thus, the implicit assumptions about water flow, the availability of money under legislation associated with the transfer, the responsibilities of specific parties (e.g., the Metropolitan Water District of Southern California) for liability all remain unresolved. Given the scope of the trial court's decision, the results on appeal – affirming or reversing – may fundamentally alter the status of the Sea, especially what parties may be liable for any cost of remediation thereof.

Appendix

Written Comments Received in Response to the NOI and NOP

Written comments are available on the California Department of Water Resources' website at:
<http://www.saltosea.water.ca.gov>.