

**Note:** A property meets the low-vacancy threshold if it is located in a county that was below the national rental vacancy rate for units affordable to low-income households in 2000 (7.3 percent) and was within the 80th percentile of low-income rental vacancy rates (8.7 percent) as measured by the 2009 5 year ACS (meaning that 80 percent of counties had a vacancy rate below 8.7 percent in the 2009 5 year ACS).

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## DEPARTMENT OF THE INTERIOR

### Fish and Wildlife Service

[FWS-R8-R-2012-N270;  
FXRS1261080000-134-FF08RSDC00]

#### Otay River Estuary Restoration Project; South San Diego Bay Unit and Sweetwater Marsh Unit of the San Diego Bay National Wildlife Refuge, California; Intent To Prepare an Environmental Impact Statement

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of intent; reinitiation of scoping and request for public comment.

**SUMMARY:** We, the U.S. Fish and Wildlife Service (Service), are reinitiating scoping with regard to the environmental impact statement (EIS) for the proposed Otay River Estuary Restoration Project. As originally proposed, the project involved the restoration of estuarine and salt marsh (subtidal and intertidal wetlands) habitats within the western terminus of the Otay River and a portion of the salt ponds in the San Diego Bay National Wildlife Refuge-South San Diego Bay Unit. Based on information developed since the original scoping period, the proposed project may now also include the restoration of a portion of the D Street Fill, located within the San Diego Bay National Wildlife Refuge-Sweetwater Marsh Unit. We originally published a notice of intent on November 14, 2011 (76 FR 70480), and scoping comments were accepted through January 12, 2012. Since then, we have expanded the Area of Potential Effect of the restoration project to include the salt ponds and D Street Fill within the San Diego Bay National Wildlife Refuge. This second notice advises the public that we intend to gather additional information through scoping regarding an EIS for the expanded project. We encourage the public and other agencies to participate in the NEPA scoping process by sending written suggestions and information on

the issues and concerns that should be addressed in the draft EIS, including the range of alternatives, appropriate mitigation measures, and the nature and extent of potential environmental impacts. Comments submitted during the earlier scoping period do not need to be resubmitted.

**DATES:** To ensure that we have adequate time to evaluate and incorporate suggestions and other input, we must receive your comments on or before February 8, 2013.

**ADDRESSES:** Send your comments or requests for more information by one of the following methods.

*Email:* Otay NOI@fws.gov. Please include "Otay Estuary NOI" in the subject line of the message

*Fax:* Attn: Brian Collins, (619) 476-9149

*U.S. Mail:* Brian Collins, U.S. Fish and Wildlife Service, San Diego National Wildlife Refuge Complex, P.O. Box 2358, Chula Vista, CA 91912

**FOR FURTHER INFORMATION CONTACT:** Brian Collins, Refuge Manager (619-575-2704, extension 302), or Andrew Yuen, Project Leader (619-476-9150, extension 100).

#### SUPPLEMENTARY INFORMATION:

##### 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 National Wildlife Refuge 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 wildlife and habitat management goal of the selected alternative for the Sweetwater Marsh Unit is to "Protect, manage, enhance, and restore coastal wetland and upland habitats to benefit native fish, wildlife, and plant species within the Sweetwater Marsh Unit." The proposed restoration project represents step-down restoration planning for the western portion of the Otay River floodplain, salt ponds, and D Street Fill. The site-specific EIS for this project will tier 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

to fulfill part of their mitigation requirement for the desalination project. On November 15, 2007, the California Coastal Commission (Commission) approved a Coastal Development Permit (CDP No. E-06-013) for the Poseidon desalination facility in Carlsbad, San Diego County. As part of that approval, the Commission required Poseidon to implement a Marine Life Mitigation Plan (MLMP).

In early 2010, Poseidon submitted an initial proposal to the Commission identifying possible mitigation sites. The submittal compared about a dozen potential sites in the Southern California Bight and concluded that the Otay River floodplain portion of the San Diego Bay NWR was most suited to provide the type and amount of mitigation the MLMP required. Commission staff and members of the Commission's Scientific Advisory Panel reviewed Poseidon's analysis and concurred that the Otay River floodplain site was most likely to meet the MLMP requirements and objectives. Final site selection required approval by both the Commission and the San Diego Regional Water Quality Control Board (SDRWQCB). On February 9, 2011, the Commission unanimously approved the Otay River floodplain site, and the site was approved by the SDRWQCB on March 9, 2011. On October 15, 2012, the Commission's Executive Director approved an 18-month extension to Poseidon Resources to submit a Coastal Development Permit application based on the potential additional benefits of restoration or partial restoration of salt ponds as part of the Otay River Estuary Restoration Project. The MLMP requirements and objectives are consistent with the goals and objectives set forth in our CCP for the Otay River floodplain, salt ponds, and D Street Fill.

Prior to implementation of the restoration project, the California Coastal Commission must approve a Coastal Development Permit (CDP) for the proposed restoration. In accordance with the California Environmental Quality Act, the CDP process is exempt from the requirement of preparing an environmental impact report. The Commission's staff report and findings related to the CDP application for the project will be the environmental analysis document prepared under the Commission's certified regulatory program. The Commission will allow sufficient opportunity during the CDP process for public review and comment.

#### Proposed Project

We propose to convert disturbed uplands within the western portion of the Otay River floodplain and salt ponds

to functional estuarine and salt marsh habitats. We may also restore a portion of the D Street Fill to salt marsh habitat. Upland buffers to be provided around portions of the restored wetlands would be planted with native upland and wetland/upland transitional vegetation. The major goals of the project are to protect, manage, enhance, and restore open water coastal wetlands and native upland to benefit native fish, wildlife, and plant species supported within the South San Diego Bay Unit and Sweetwater Marsh Unit of the San Diego Bay NWR and to provide habitat for migratory shorebirds and other salt-marsh-dependent species.

The uplands portion of the project site, which is located within the City of San Diego to the west of Interstate 5 between Main Street to the north and Palm Avenue to the south, is included entirely within an area managed by the Service as a National Wildlife Refuge. The eastern portion of the uplands site is owned by the Service in fee title, while the western portion is leased to the Service by the State Lands Commission. D Street Fill is located west of Interstate 5 and south of the Sweetwater River. The Salt Ponds are located west of Interstate 5 and south of the Chula Vista Marina.

In order to restore estuarine habitat in the Otay River floodplain, we have initially estimated that approximately 75 acres would need to be graded to provide both the wetland and upland components of the proposed restoration. To achieve elevations appropriate for supporting the desired estuarine habitat types, excavation of 3 to 11 feet of soil over an area of approximately 65 acres would be required, generating an estimated 750,000 to 1 million cubic yards of material. The excavated soil may be used to create estuarine and salt marsh habitats in the salt ponds, with the remainder being transported off site to an approved disposal site. The proposed wetlands would be tidally connected to San Diego Bay, directly and through the existing Otay River channel. Additional grading to potentially deepen and widen the Otay River channel from the western edge of the project site out to the mouth of the river, and potentially dredging channels in the mudflats to increase tidal circulation to the adjacent restored salt ponds, may be needed pending hydraulic modeling. At the D Street Fill, material would be excavated and removed to restore historic salt marsh.

#### Public Comment

We are furnishing this second notice in accordance with section 1501.7 of the NEPA implementing regulations, to

obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the EIS. The Service is currently developing a range of restoration alternatives to be analyzed in the draft EIS, and we invite written comments from interested parties to ensure identification of the full range of alternatives, issues, and concerns. Information gathered through this scoping process will assist us in developing a range of alternatives. A detailed description of the proposed action and alternatives will be included in the EIS. The EIS will also address the direct, indirect, and cumulative impacts of the alternatives on environmental resources and identify appropriate mitigation measures for adverse environmental effects.

Written comments we receive become part of the public record associated with this action. Before including your address, phone number, email 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.

In addition to providing written comments, the public is encouraged to attend a public scoping meeting to provide us with suggestions and information on the scope of issues and alternatives to consider when drafting the EIS. A public scoping meeting will be held in San Diego County, California, in early 2013. We will mail a separate announcement to the public with the exact date, time, and location of the public scoping meeting. Requests to be contacted about the scoping meeting should be directed to the contact provided under **ADDRESSES** above. We will accept both oral and written comments at the scoping meeting. Written comments previously provided in response to the November 2011 notice of intent and during the December 2011 scoping meeting are part of the public record and will be considered during our NEPA review. Comments submitted previously do not need to be resubmitted.

#### NEPA Compliance

We will conduct 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. We anticipate that a draft EIS will be available for public review in the winter of 2014.

**Alexandra Pitts,**

*Acting Regional Director, Pacific Southwest Region.*

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## INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–862]

### Certain Electronic Devices, Including Wireless Communication Devices, Tablet Computers, Media Players, and Televisions, and Components Thereof; Institution of Investigation Pursuant to United States Code

**AGENCY:** U.S. International Trade Commission.

**ACTION:** Notice.

**SUMMARY:** Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on November 30, 2012, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. 1337, on behalf of Ericsson Inc. of Plano, Texas and Telefonaktiebolaget LM Ericsson of Stockholm, Sweden. Letters supplementing the complaint were filed on December 3, December 12, and December 19, 2012. The complaint alleges violations of section 337 based upon the importation into the United States, the sale for importation, and the sale within the United States after importation of certain electronic devices, including wireless communication devices, tablet computers, media players, and televisions, and components thereof by reason of infringement of certain claims of U.S. Patent No. 6,029,052 (“the ‘052 patent”); U.S. Patent No. 6,058,359 (“the ‘359 patent”); U.S. Patent No. 6,278,888 (“the ‘888 patent”); U.S. Patent No. 6,301,556 (“the ‘556 patent”); U.S. Patent No. 6,418,310 (“the ‘310 patent”); U.S. Patent No. 6,445,917 (“the ‘917 patent”); U.S. Patent No. 6,473,506 (“the ‘506 patent”); U.S. Patent No. 6,519,223 (“the ‘223 patent”); U.S. Patent No. 6,624,832 (“the ‘832 patent”); U.S. Patent No. 6,772,215 (“the ‘215 patent”); and U.S. Patent No. 8,169,992 (“the ‘992 patent”). The complaint further alleges that an industry in the United States exists or is in the process of being established as required by subsection (a)(2) of section 337.

The complainants request that the Commission institute an investigation and, after the investigation, issue an