

State of California
Santa Ana Regional Water Quality Control Board

Minutes of the April 29, 2021 Board Meeting
Video and Teleconference Meeting
No Physical Meeting Location
(Authorized by and in furtherance of
Executive Orders [N-29-20](#) and [N-33-20](#))

Chair Peterson called the meeting to order at 9:01 a.m.

Board Members Present at Virtual Board Meeting:

Lana Peterson, Chair
William Ruh
Tom Rivera
Daniel P. Selmi
Kris Murray, Vice Chair
Joe Kerr
Letitia Clark

Staff Present at Virtual Board Meeting:

Hope A. Smythe, Executive Officer
Jayne Joy, Assistant Executive Officer
Teresita Sablan, Regional Board Counsel
Ann E. Sturdivant, Division Chief
Mark E. Smythe, Division Chief
Lauma Willis, Division Chief
Terri Reeder, Chief of Basin Planning, Coastal Waters
Julio C. Lara, Chief of Wastewater
Kevin Heinemann, Information Technology Manager
Don Nguyen, Information Technology Associate
Daniel Mefford, Information Technology Specialist I
Jeannie Aguilar, Associate Governmental Program Analyst/Board Clerk
Daniel Ellis, Environmental Scientist, Division of Water Quality
Jennifer Fordyce Assistant Chief Counsel, State Water Board
Marleigh Wood, Attorney IV, State Water Board
Jonathan Bishop, Chief Deputy Director, State Water Board
Phil Wyels, Assistant Chief Counsel, State Water Board

Also Present at Virtual Board Meeting

Marlee Nelson, Court Reporter
Peter Perry, Court Reporter
Leticia Reyna Spanish Interpreter
Aldo Renteria, Spanish Interpreter

Board Meeting was recorded.

Break: 10:45 a.m. to 11:00 a.m., lunch: 11:59 a.m. to 12:42 p.m. break: 2:10 p.m. to 2:25 p.m., extended 2:25 p.m. to 2:33 p.m., break 2:41 p.m. to 2:56 p.m., break: 3:53 p.m. to 4:21 p.m., break 5:29 p.m. to 5:58 p.m.

Item 1. Introductions

Item 2. Renewal of Waste Discharge Requirements and National Pollutant Discharge Elimination System Permit (NPDES Number CA8000403) for Poseidon Resources (Surfside) L.L.C., Huntington Beach Desalination Facility - Order R8-2021-0011

This item was a continuation of the public hearing held on April 23, 2021 for consideration of the Tentative Order and Water Code section 13142.5(b) determination for the intake of seawater and the discharge of concentration seawater and filter backwash from the proposed Huntington Beach Desalination Project. Chair Peterson announced that the public comment period was closed.

To address board member questions from the April 23, 2021 meeting, staff presented more information on the potential mitigation sites evaluated in the area and the rationale for the Palos Verdes artificial reef project. Additionally, per the Board's direction, staff developed and presented a "compromise alternative" to the discharge and intake prohibitions that would incentivize the discharger to complete the marine life mitigation plan for the project. The compromise alternative would allow the Board to consider removal of the prohibitions if the Discharger satisfied certain conditions.

Staff reviewed the proposed language to incorporate the compromise alternative into the Tentative Order. The Board discussed the following section of the proposed language for the compromise alternative in detail:

Proposed Section VI.C.1.h.iv(b) - The proposal for financial assurances must include (1) the cost estimates for all outstanding planning, permitting, construction, operation and maintenance, and monitoring and reporting of the mitigation projects, including operation and maintenance of the mitigation projects for the period of time after the Facility ceases operations that is necessary to satisfy the Discharger's mitigation credit obligations, (2) a substantial contingency amount for future mitigation project design refinements and changes and cost overruns, and (3) a substantial additional incentive equal to 5% of Facility construction and operation and maintenance costs to be returned to the Discharger once the Santa Ana Water Board determines that all of the mitigation projects are meeting their approved performance standards and success criteria. The financial assurances must be available to the Santa Ana Water Board.

Primary Motion: Board Member William Ruh made a motion to adopt Tentative Order R8-2021-0011 as amended by the Errata Sheet and with the proposed revisions to incorporate the compromise alternative, amended to reduce the additional incentive from 5% to 2.5% of facility construction, operation, maintenance costs in Section VI.C.1.h.iv(b)(3), and correct formatting changes on page 19 of the Fact Sheet.

Second: Board Member Daniel Selmi seconded the motion.

Motion to Amend: Board Member Murray made a motion to amend the primary motion to eliminate the additional financial incentive in Section VI.C.1.h.iv(b)(3) of the compromise alternative altogether.

Second: Board Member Clark seconded the motion.

Roll call vote on the Motion to Amend:

Member Letitia Clark - Yes

Board Member Joe Kerr - Yes

Board Member Daniel Selmi - No

Board Member Dr. Tom Rivera - No

Board Member William Ruh – No

Vice Chair Kris Murray - Yes

Chair Lana Peterson – No

The Motion to Amend failed 3 to 4.

Roll call vote on the Primary Motion:

Board Member Letitia Clark – No

Board Member Joe Kerr – No

Board Member Daniel Selmi – Yes

Board Member Dr. Tom Rivera – Yes

Board Member William Ruh – Yes

Vice Chair Kris Murray – No

Chair Lana Peterson – Yes

The Primary Motion carried 4 to 3, and the Board adopted Order R8-2021-0011 as amended by the Errata Sheet and with the proposed revisions to incorporate the compromise alternative, amended to reduce the additional incentive from 5% to 2.5% of facility construction, operation, maintenance costs in Section VI.C.1.h.iv(b)(3), and correct formatting changes on page 19 of the Fact Sheet.

Closed Session

None.

Adjournment – Chair Peterson adjourned the meeting at 6:37 p.m. to the Regular Board Meeting of May 7, 2021 at 9:00 a.m. via video and teleconference. Due to the COVID-19 emergency and the Governor's Executive Order N-33-20, Board meetings have been presented as video and teleconference meetings with no physical meeting location, and solely via remote presence.

Respectfully submitted:

HOPE A. SMYTHE
Executive Officer

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