

State of California
Santa Ana Regional Water Quality Control Board

Minutes of the April 23, 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 9:00 a.m.

Board Members Present at Virtual Board Meeting:

Lana Peterson, Chair
William Ruh
Tom Rivera
Daniel P. Selmi
Kris Murray
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 III, 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
Marc Gutierrez, Spanish Interpreter
Aldo Renteria, Spanish Interpreter

Virtual Public Attendance by Virtual Speaker Cards Received

Kate Huckelbridge, California Coastal Commission; Tom Luster, California Coastal Commission; Scott Maloni, Poseidon; Nikki Buffa, Latham & Watkins; Senator Barbara Boxer, Stan Williams, Kevin O'Brien, B of A Securities, Inc.; Gloria Alvarado, Water is a Right; Shirley Dettloff, Amigos de Bolsa Chica; Mike Posey, City Council Huntington Beach; Steve Sheldon, Orange County Water District; Jose Barrera, League of United Latin American Citizen; Cathy Green, Orange County Water District; Ernesto Medrano, LA/OC Building Trades; Jordan Brandman, City Council Anaheim; Staley Prom, Surfrider; Mandy Sackett, Surfrider; K.C. Fockler, Surfrider; Ray Hiemstra, Orange County Coastkeeper; Sean Bothwell, Orange County Coastkeeper; Garry Brown, Orange County Coastkeeper; Joe Geever, Residents for Responsible Desal; Deborah Sivas, Residents for Responsible Desal; Andrea Leon-Grossman, Azul and Oak View ComUNIDAD; Adriana Maestras, Azul and Oak View ComUNIDAD; Oscar Rodriguez, Azul and Oak View ComUNIDAD; Brett Korte, Azul and Oak View ComUNIDAD; Alejandro Sobrera Barboza, Sunrise Movement Orange County; Kyler Chin, Sunrise Movement Orange County; Lydia Ponce, Tribal Members from Tongva, Chumash & Achejeman Tribes; Stan Rodriguez, Tribal Members from Tongva, Chumash & Achejeman Tribes; Frankie Orona, Tribal Members from Tongva, Chumash & Achejeman Tribes; Conner Everts, Desal Response Group; Martha Camacho Rodriguez, See-LA; Jill Cagle, OC Wise; Casey Anderson, OC Farm Bureau; Mayor Matt Hall, City of Carlsbad; William Butts, Monica Guzman, Green New Now; Bill Workman, Ryan Fowkes, Lori Carnes, Debbie Workman, Ethan Senser, Food & Water Watch; Bobby McDonald, Black Chamber of Orange County; Joyce Endo, Orange Co. Association of Realtors; Doug Davert, East Orange Co. Water District; Sandra Jacobs, Santa Margarita Water District; Susan Jordan, CA Coastal Protection Network Questions and Comments; Al Nederhood, Yorba Linda Water District; Juan Velasco, Robert Kramer, Phyllis Raines, Lisa Rodman, Agua Hedionda Lagoon Foundation; Patrick Brenden, City Council Member; Barbara Delgleize, Council Member Huntington Beach; Shawn Dewane, Mesa Water District; Luwana Klarstrom, Chris Cagle, Ray Baca, Jennifer Ward, OCBC; Jeff Thomas, Municipal Water District of Orange County; Doug Mangione, IBEW; Dan Makeana, Armando Cervantes, Nohemi Gutierrez, Vivian Cervantes-Herrera, John Hanna, Michael Wellborn, Friends of Harbors, Beaches & Parks; Greg Carrow, Dan Silver, Endangered Habitats League; Stacey Taylor, Terrell E. Koken, Jeanne Whitsell, Paul Shoenberger, Mesa Water District; Dave Hamilton, Residents for Responsible Desalination; Leslie Manderscheid, Bonnie Benton, Peter Gevorkian, Carlos Barahona, OC Hispanic Chamber of Commerce; Dr. Allan Bernstein, OC Wise; Jim Bieber, Keith Bohr, Sherri Butterfield, Joe Carchio, Dirissy Doan, Orange Co Association of Realtors; Kelsey Eiben, Orange County Taxpayers Association; Adrian Esparza, Laborers Local 652; Charles Falzon, Amigos de Bolsa Chica; Tom Geller, Adam Kelly, Herb Kleeman, Streamfitters Local 250; Steve LaMotte, Building Industry Association of So California; Rich Gomez, Southwest Regional Council of Carpenter; Maria Gonzalez, Jessica Walden, Hank Castignetti, R4RD; Jan Madnick, Glen Brooks, Jeremy Crutchfield, San Diego County Water Authority; Don Bentley, Metropolitan Water District of So California; LuisAndres Perez, Water is a Right; Zeke Hernandez, LULAC; Neal Lauzon, Jim Leach, Santa Margarita Water District; Vic Leipzig, Amigos de Bolsa Chica; Jenn Lowe, Association of Calif Cities, Orange Co; John Mayberry, Tanya Park, Tom Morton, Jack Monger, Valerie Nera, California Chamber of Commerce; Roger Quintal, Steve Aceti, California Coastal Coalition; Rudy Rodriguez, Robert Ruiz, Local 652; Robert Sulnick, Curt Stanley, South Orange County Economic Coalition; Jose Tirado, Local 652; Dianne

Thompson, Ricky Vazquez, James Westerfield, Sarah Wiltfong, Deborah Koken, Paul Skinner, Marilyn Skinner, Kevin Arcaris, Rachel Bressler, Caty Wagner, Sierra Club California; Tom Cowperthwait, Margie Johnson, Mark Dixon, R4RD; Scott Smith, Samuel Quinones, Lucia Lopez, Coral Alvarez, Daniela Cervantes, Emmanuel Perez, Jose Gomez, Eddie Hererra, Salvador Barrajas, Diana Mendoza, Valli Febbraro, R4RD; Mary Baretich, Residents for Responsible Desalination; Emma Lee Gomez, Jacobo Gomez, Crystal Pastor, Paulino Pastor, Cecilia Phi, Gustavo Sanchez, Karlo Campana, Lily Pichardo, Ellia Valle, Natalia Campana, Fernando Saavedra, Brian Tressler, Melanie Cohen, Sierra Club Palos Verdes/South Bay; Luis Hernandez, Myla Collier, Sierra Club; Wendy Ridderbush, CalDesal; Ed Mountford, Tri Ta, Orange County Water District; Craig Schaller, Mark Donovan, CalDesal; Stephen Howard, Barclays; Tony Soriano, Surfrider Foundation; Lena Hayashi, Art Montez, LULAC; DruAnn McCluskey, Yvette Orellana, Guillermo Sandoval, Mikel Hogan, Ann Walsh, David Aguilar for Senator Tom Umberg; Mark Lipman, Keila Villegas, Orange County Environmental Justice; Elizabeth Lambe, Los Cerritos Wetlands Land Trust; Milton Dardis, Morgan Goodwin, Sierra Club; Diane Estrada, James DelloRusso, Dr. Tom Williams, Parker Monroe, Daniel Casillan, Gloria Sefton, Saddleback Canyons Conservancy; Steve Ray, Banning Ranch Land Trust; Edward Maurer, Sharon Messick, SEHB Environmental Awareness Project; Eric Yauchzee, Patrick Riley, Patricia Goodman, R4RD; Remmy Sharma, Isabella Ford, Sandra Lipson, Kaelyn Jenkins, Rashelle Zelaznik, William Yarchin, Gregory Nelson, Ronald Smith, Dee Brooks, Devon Campos, Alison Goldenberg, Jim Nasella, ACLU; Celso Morrison, John Earl, Surf City Voice; Clay Epperson, Benito Olamendi, Perennial Wisdom; Denise Wada, Joe Reed, Surfrider Foundation; Susan Schaben, Virginia Gregurek, Cindy Hardin, Daryl Gale, Environmental Advocate; Jason Foo, Damon Nagami, Camille Duong-Zamora, Susan Claudius, Ernie Courter, Robert Leyland, Concerned Citizen, Casey McKeon, Karen Jackle, Lynn Coenen, Jose Trinidad Castaneda, Nicholas Sanders, Sutton Law Firm; Shaz Umer, Lauren Chase, Sarah Spinuzzi, Orange County Coastkeeper; Andrew Yuen, San Diego National Wildlife Refuge Complex; Terry Hoffman, Marilyn Cavener, Marilyn Hendrickson, Tom Williams, Clayton King, Celia CJ Solis, Azul; Mariana Del Valle, Glenn Howland, Donald Slaven, Surfrider Foundation; William Goldstein, Sierra Club; Angelo De Guzman, Mayra Blas, Portia Weiss; Heal the Bay Representative speaker; Remy Weiss, George Lambert, Huntington Beach Realty; Mary Ann Celinder, Diane Trautman, John Mottles, Anna Christensen, Puvunga Wetlands Protectors; Barbara Noffsinger, Meri Van Gorden, Sean Taylor, Aida Ashouri, Erik Weigand, Office of Senator Pat Bates; Ely Khatib, Orange County Coastkeeper; Lou Hobbs, Jack Eidt, SoCal 350 Climate Action; Randy Kokal, Vern Nelson, Orange Juice Blog; Don Hart, Sim-Marcel Bilal, Tom Morrissey, Nancy Buchoz, Roy McCord, MTK; Weikko Wirta, Bolsa Chica Conservancy; Alice McNally, Coalition for nuclear Safety; Melanie Winter, The River Project; Eric Miller, Norma Kurtz, Charlotte Kings, Sunrise Movement OC; John Scott, Jiyoung Carolyn Park, Amer Naik, Amida Brashears, Regina Zweng, Shaheen Mufi, Leah Garland, Yvonne Watson, Sierra Club; Don Albrecht, Brenna Norton, Richard Armendariz, Lysa Denk, Nancy Caruso, Get Inspired; Marilyn Cavener, Jeremy Smith, Steve Grasha, MSWD; Sue Staub, Laura Martinez, Azul; Eric Wilkins, Kathleen Abler, Nancy Nielsen-Mirza.

Board Meeting was recorded.

Break: 11:46 a.m. to 11:55 a.m., lunch: 1:41 p.m. to 2:17 p.m., break: 3:39 p.m. to 3:45 p.m., break: 5:32 p.m. to 5:37 p.m., break: 7:26 p.m. to 7:35 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 Number R8-2021-0011

Chair Peterson opened the public hearing regarding the tentative waste discharge requirements and Water Code Section 13142.5(b) determination for intake of seawater and discharges of concentrated seawater and filter backwash to the Pacific Ocean from the proposed Poseidon Huntington Beach Desalination Facility. Chair Peterson reviewed the Order of Proceedings for the hearing.

Chair Peterson, Vice Chair Murray, Board Member Clark, and Board Member Kerr made statements regarding their disclosures of ex parte communications and indicated that they were not biased and that they would base their decision on the record before them.

Santa Ana Board staff gave a presentation with a brief overview of the proposed desalination facility, a summary of Board direction from the August 7, 2021 meeting, an explanation of the changes that were included in the Tentative Order for Board consideration, and a review of the public comments and responses to those comments. Staff also provided the Board with an analysis of Poseidon's proposed alternative to replace certain conditions of the discharge and intake prohibitions related to mitigation.

The public comment period was opened by Chair Peterson. The Santa Ana Regional Water Board Meeting received approximately 305 virtual speaker cards from the public and the speakers were given the opportunity to address their comments to the Board. Public comments began with group presentations by California Coastal Commission, Poseidon Resources, Surfrider Foundation, California Coastkeeper Alliance, Orange County Coastkeeper, Residents for Responsible Desalination, Azul, Oak View ComUNIDAD, Sunrise Movement Orange County, and members from the Tongva, Chumash, and Achejeman Tribes and then moved to individual commenters. After the individual comments, Poseidon Resources was given time for rebuttal comments. Chair Peterson then closed the public comment period.

For the remainder of the meeting, the Board initiated deliberations, asked clarifying questions, and provided direction to staff. The Board did not take action on the item and continued the hearing to April 29, 2021.

Item 12. Closed Session

None.

Adjournment – Chair Peterson adjourned the meeting at 9:33 p.m. to the Special Board Meeting of April 29, 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

/ja

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

/ja