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June 6, 2018

Re: Orange County Coastkeeper Comments on Revised Poseidon Term Sheet:

OCWD Board members,

Orange County Coastkeeper is an environmental organization with the mission to promote and restore water resources that are drinkable, swimmable, fishable and sustainable. We have reviewed the proposed revised Term Sheet and have many concerns. First of all, any vote on the Term Sheet should be postponed until the public has had adequate time to review and comment on the Term Sheet. The Term Sheet was released to the public on Friday evening, leaving only a few days to review and draft comments. This is unacceptable for a project of this scale and importance. The June 6th OCWD board meeting should serve as a workshop to present the Term Sheet and take initial public comment while allowing at least another week for written comments to be submitted and for board members to communicate with their constituents. If a vote is taken on June 6th, it is clear to us that that OCWD is not interested in public input on the Term Sheet.

We have the following initial comments on the Term Sheet: In the summary section OCWD assumes a 2022 water cost of \$1,916 for the project. Water from the Poseidon Carlsbad project currently water costs over \$2,400. This does not add up as OCWD states several times in the agenda materials that the revised term sheet is modeled after the SDCWA agreement with Poseidon. How will Poseidon produce water in Huntington Beach for so much less than in Carlsbad?

Graphs in the summary section show Poseidon water "crossing the line" with a high range cost projection for MWD water in 2035 or 2036. Poseidon has been saying these lines would cross for over fifteen years and yet desalinated water in Carlsbad is still about two times the cost of imported water. Also, the narrative for the graphs only discusses the 6.25% OCWD estimate for MWD water, not the more likely MWD estimate of 4.1% in which the lines never cross.

The financial discussion in the summary assumes Poseidon can produce 56,000 Acre Feet/Year. This is unrealistic considering the performance of Poseidon Carlsbad and other desalination plants in the United States. To date, Poseidon has not delivered what it has promised. Are we now supposed to just believe Poseidon when they say they can produce that much water? Coastkeeper believes other lower production assumptions are needed for the financial calculations.

The summary states that the Replenishment Assessment (RA) for pumpers will go up by \$100-\$250 per acre foot. That is a 20% to 50% increase in the current RA. Three of the major pumpers recently complained about a proposed \$27 RA increase this year and got it reduced. Does OCWD really expect Anaheim, Santa Ana and Fullerton to accept a \$100 to \$250 RA increase? The summary states that the "average" residential water bill increase is predicted to be \$3-\$6 per month, Based on what? That is a

\$100% difference. How is that justified? What would be the “average cost” to business water bills, how much more will a 200 room hotel or a 100 seat restaurant have to pay for Poseidon’s water?

In the Future Board Actions and Schedule section of the summary, it says that if the Term Sheet is approved, then OCWD is committed to taking 56,000 Acre Feet/Year of water from Poseidon. It is important for OCWD to always clarify the Term Sheet is a non-binding framework for a potential Water Purchase Agreement and not a firm commitment to buy water. OCWD and Poseidon should not mislead the public and regulators of this fact.

In the revised Term Sheet the Terminology section, part 4 states, “The current delivery System is described in the SEIR, as defined below”. That is incorrect as OCWD has stated in writing to the State Lands Commission that “At this time OCWD has not reached any conclusions or made any decisions regarding how desalinated water could be used by the district and distributed to the local community, so no specific conveyance or utilization option has been formally selected” So using OCWDs own statement it is clear that any distribution option is speculative at best, including those in the 2010 Huntington Beach SEIR and the 2017 State Lands Commission SEIR.

In section 1 of the revised Term Sheet under Conditions Precedent, Condition F “The Desalination Plant in the City of Carlsbad will have demonstrated 90 days or more of successful operation” has been eliminated. Currently the Carlsbad plant is not operating successfully as promised. In 2017 Poseidon was short on water production to the point they had to pay a \$3.5 million dollar penalty to SDCWA. Poseidon also had 32 self-reported violations of their NPDES permit. This section should be kept and re worded to say that the Poseidon Carlsbad plant must demonstrate the ability to produce and deliver the agreed upon minimum volume of water and meet all water quality permit requirements before OCWD moves forward with a Water Purchase Agreement.

In closing it is clear that there is a lot of work to be done to identify actual cost and delivery options for the project and it is unclear at this time that Poseidon can successfully produce the promised volume of water while meeting water quality permit requirements. Orange County Coastkeeper respectfully requests that OCWD postpone a vote on the revised Term Sheet until OCWD identifies a distribution plan for the projects water and provides the public with the time to adequately review and comment on the revised Term Sheet.

Respectfully,

A handwritten signature in black ink that reads "Raymond F. Hiemstra". The signature is written in a cursive, flowing style.

Ray Hiemstra
Associate Director
Orange County Coastkeeper