



**Monterey Bay Air Resources District**

**HEARING BOARD MEETING**

**MICHAEL GUTH, CHAIR**

**FRIDAY, MARCH 10, 2023 - 2:00 P.M.**

**24580 Silver Cloud Court, Monterey, CA - Boardroom**

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**REMOTE MEETING OPTION FOR PUBLIC**

**Link to meeting:** <https://us02web.zoom.us/j/84871987480>

**Webinar ID: 848 7198 7480**

**By Phone (audio only, Webinar ID required): 1-669-900-6833**

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Members of the public that wish to participate in the hearing may do so by joining the Zoom Webinar ID or in-person at 24580 Silver Cloud Ct. Monterey. Should you have any questions, please contact Sirie Thongchua, Executive Assistant, at 831-718-8028 or by email at [sirie@mbard.org](mailto:sirie@mbard.org).

**To Provide Public Comment via Zoom teleconference/video conference:** During the meeting live verbal public comments may be made by members of the public joining the meeting via Zoom. Zoom access information is provided above. Use the “raise hand” feature (for those joining by phone, press \*9 to “raise hand”) during the public comment period for the agenda item you wish to address. Members of the public participating via Zoom will be muted during the proceedings and may be unmuted to speak during public comment after requesting and receiving recognition by the Chair. Please clearly state your full name for the record at the start of your public comment.

**Before the Meeting:** Persons who wish to address the Hearing Board for public comment of an item not on the agenda are encouraged to submit comments in writing to Sirie Thongchua, Executive Assistant, at [sirie@mbard.org](mailto:sirie@mbard.org) by 5:00 p.m. on Tuesday, March 7, 2023. Comments received will be distributed to the Hearing Board prior to the meeting.

## SUMMARY OF ACTIONS

1. CALL TO ORDER – **The meeting was called to order by Chair Guth at 2:30 p.m.**
2. ROLL CALL – **Present:** Daniel Dodge Jr., Michael Guth, John A. Villegas.  
**Absent:** Emmett Linder.
3. PUBLIC COMMENT FOR ITEMS NOT ON AGENDA – **None.**

### CONSENT AGENDA

**Motion:** Approve items on the Consent Agenda. **Action:** Approve. **Moved by** John A. Villegas, **Seconded by** Michael Guth. **Vote:** Motion carried **unanimously (summary: Yes = 3)**. **Yes:** Daniel Dodge Jr., Michael Guth, John A. Villegas. **Absent:** Emmett Linder.

4. **Accepted and Filed** Summary of Actions for the Hearing Board Special Meeting of August 18, 2022
5. **Accepted and Filed** Summary of Actions for the Hearing Board Meeting of August 18, 2022

### REGULAR AGENDA

6. **Discussed** Establishing Regular Meeting Schedule  
**Motion:** Direct staff to draft a Regular Meeting Schedule for the second Friday of every month at 2:00 p.m. **Action:** Approve. **Moved by** Michael Guth, **Seconded by** John A. Villegas. **Vote:** Motion carried **unanimously (summary: Yes = 3)**. **Yes:** Daniel Dodge Jr., Michael Guth, John A. Villegas. **Absent:** Emmett Linder.
7. **Discussed** Updating Regulation VI Hearing Board Rules  
**Motion:** Direct staff to draft an update of Regulation VI Hearing Board Rules. **Action:** Approve. **Moved by** John A. Villegas, **Seconded by** Daniel Dodge Jr. **Vote:** Motion carried **unanimously (summary: Yes = 3)**. **Yes:** Daniel Dodge Jr., Michael Guth, John A. Villegas. **Absent:** Emmett Linder.
8. **Conducted** Public Hearing  
Docket 23-001: Pellecure Technologies, Inc, Regular Variance  
Project Site: California Flats Solar, Turkey Flat Rd, Parkfield

- a. Chair Guth administered oath to all persons who provided testimony for Docket 23-001: Petitioner Marc Van Patten, SVP, Business Development, Pellucere Technologies, Inc., Amy Clymo, Engineering and Compliance Manager, Mary Girauda, Engineering Supervisor.
- b. Petitioner Presented Case – Marc Van Patten provided verbal testimony.
- c. Staff Presented Report – Mary Girauda provided verbal testimony.
- d. Public Comment Related to Docket 23-001 – **None.**
- e. Hearing Board Discussed and Asked Questions
- f. Hearing Board Decision/Order
  - i. Made Findings

**Motion:** *Modify Draft Order Stating Finding #2 Cannot Be Made.* **Action:** *Approve.* **Moved by** *Michael Guth, Seconded by* *John A. Villegas.* **Vote:** *Motion carried unanimously by roll call vote (summary: Yes = 3). Yes: Daniel Dodge Jr., Michael Guth, John A. Villegas. Absent: Emmett Linder.*
  - ii. Discussed Conditions

**Motion:** *Deny Regular Variance.* **Action:** *Approve.* **Moved by** *Michael Guth, Seconded by* *John A. Villegas.* **Vote:** *Motion carried unanimously by roll call vote (summary: Yes = 3). Yes: Daniel Dodge Jr., Michael Guth, John A. Villegas. Absent: Emmett Linder.*

9. ADJOURNMENT – **The meeting adjourned at 3:18 p.m.**

*Sirie Thongchua*  
*Executive Assistant*

**Agenda Item No. 4**

BEFORE THE HEARING BOARD  
OF THE  
MONTEREY BAY AIR RESOURCES DISTRICT  
STATE OF CALIFORNIA

IN THE MATTER OF	)	DOCKET NO. 23-001
THE APPLICATION OF	)	
	)	
PELLUCERE TECHNOLOGIES, INC.	)	ORDER DENYING
Project located at:	)	REGULAR VARIANCE
California Flats Solar	)	
Turkey Flat Road, Parkfield, CA	)	
	)	

INTRODUCTION

On February 1, 2023, Petitioner, Pellucere Technologies, Inc. (hereinafter referred to as "Petitioner") filed with this Hearing Board an application for a Regular (Long Term) Variance. Petitioner requested that the Hearing Board grant a variance from the Monterey Bay Air Resources District's (MBARD) Rule 426 Architectural Coatings, Section 7.4 which limits the use of photovoltaic coatings to 27 gallons per day. Petitioner requests to apply up to 63.2 gallons per day of a photovoltaic coating.

NOTICE OF HEARING

Notice of the application and the hearing of March 10, 2023 at 2:00 p.m. have been given pursuant to the provisions of the California Health and Safety Code Section 40826. The request and MBARD staff recommendations were presented to the Hearing Board. MBARD was represented by Amy Clymo, Engineer and Compliance Manager, and Mary Giraud, Supervising Air Quality Engineer. The petitioner was represented by Marc Van Patten, SVP, Pellucere.

BACKGROUND

Pellucere Technologies, Inc. ("Petitioner") is in the business of providing coating services to solar generating plants. The project is to apply a thin silica coating to existing solar modules to help recover some of the solar module degraded performance and provide an anti-soiling property

1 that will also help the performance of the modules and possibly reduce or  
2 eliminate the need for washing the modules in the future.

3 FINDINGS OF FACT

4 The Hearing Board finds pursuant to Health and Safety Code 42352 that:

5 Based on Petitioner's testimony, compliance with Rule 426 Architectural  
6 Coatings, Section 7.4, which limits the use of photovoltaic coatings to  
7 27 gallons per day, would not result in an arbitrary or unreasonable  
8 taking of property or the practical closing and elimination of a lawful  
9 business for reasons that are beyond the Petitioner's reasonable  
10 control and that a finding pursuant to Section 42352(a)(2) cannot be  
11 made to support the issuance of a variance. Petitioner desired to  
12 exceed the daily limits while working at California Flats Solar in  
13 Parkfield, CA. That business is in operation as originally designed  
14 and will continue to be able to do so. Petitioner is not yet in  
15 contract with California Flats Solar, and cost impact estimates are  
16 preliminary and speculative. Petitioner's coating project is able to  
17 proceed while abiding by the daily limits as per Rule 426, although  
18 their timeline will have to be extended.

19 Moved by: Michael Guth, Chair

20 Seconded by: John A. Villegas

21 AYES: Michael Guth, Chair, Daniel Dodge, Jr., John A. Villegas

22 ORDER

23 NOW THEREFORE, THE HEARING BOARD ORDERS THAT ON MARCH 10, 2023,  
24 PELLUCERE TECHNOLOGIES INC is denied a Regular Variance from MBARD Rule  
25 Architectural Coatings, Section 7.4, which limits the use of photovoltaic  
26 coatings to 27 gallons per day.

27 Moved by: Michael Guth, Chair

28 Seconded by: John A. Villegas

**Agenda Item No. 4**

AYES: Michael Guth, Chair, Daniel Dodge, Jr., John A. Villegas

*Michael Guth*

MONTEREY BAY AIR RESOURCES DISTRICT  
MICHAEL GUTH, HEARING BOARD CHAIR

*March 22, 2023*

DATE SIGNED.

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