


** DRAFT **

	Case No / Date	2016-06-R	04/06/16
	Petitioner	Freeport McMoRan Oil & Gas	
	Permit #	PTO 5704	
	Date Rec'd	03/10/16	
	Time Rec'd	17:27	
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**BEFORE THE HEARING BOARD
OF THE SANTA BARBARA COUNTY
AIR POLLUTION CONTROL DISTRICT**

In The Matter of the Application of)
 Freeport McMoRan Oil & Gas for a)
 Regular Variance from District Rules)
 328 and 206, Conditions 9.B.2,)
 9.C.1(b), 9.C.13, 9.C.15, 9.C.21,)
 9.C.26(n), and 9.D.4 of Part 70/Permit)
 to Operate 5704.

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H.B. Case No. 2016-06-R

VARIANCE FINDINGS

AND ORDER

On March 10, 2016, Freeport McMoRan Oil & Gas filed concurrently a Petition for an Interim and Regular Variance. Interim Variance Order 2016-05-I was granted on March 17, 2016 by Hearing Board member David Schmarje, for the period of March 11, 2016 to June 08, 2016, or the date of decision of the Petitioner’s request for a Regular Variance, whichever occurs first. The Regular Variance was heard on April 06, 2016 in accordance with Health and Safety Code §40808 with Glenn Oliver appearing for the Petitioner and Mike McKay appearing for the Santa Barbara County Air Pollution Control District.

This matter having been fully presented and duly considered, the Hearing Board makes the following findings and gives the following reasons for its decision.

1. Notice of the Hearing was duly given in the manner and for the time required by law.
2. Sworn testimony and argument on behalf of the Petitioner and the Air Pollution Control Officer were made, received and considered.
3. The Petitioner operates the equipment described in the Petition at the Gaviota Oil Heating Facility, located at 17100 Calle Mariposa Reina, Gaviota, California.

4. Freeport McMoRan Oil & Gas (FMOG) is the holder of Permit to Operate 5704-R4. This permit authorizes the operation of the equipment and processes located at the Gaviota Oil Heating Facility, which is part of the Point Arguello Project Stationary Source.
5. As a result of the Plains All American Pipeline (AAPL) Line 901 failure on May 19, 2015, and subsequent shutdown of Line 903, FMOG has experienced facility impacts. Due to these impacts, GOHF is temporarily ceasing operations. Preservation plans for GOHF are in progress and the facility is being placed in a standby and suspended status with operating staff reduced to a minimum safe level; at times this may be an un-manned condition. Although it is unclear when the restart of the Petitioners facility may occur, it is anticipated that all of the equipment will eventually be operated again. There are no expected emissions related to the granting of this variance which is being sought to allow non-performance of the above permit requirements.
6. Without variance coverage, the Petitioner would be in violation of District Rules 328 and 206, Conditions 9.B.2, 9.C.1(b), 9.C.13, 9.C.15, 9.C.21, 9.C.26(n), and 9.D.4 of Part 70/Permit to Operate 5704.
7. Due to conditions beyond the reasonable control of the Petitioner, compliance would result in an arbitrary or unreasonable taking of property as the pipeline closure is outside of the Petitioner's control.
8. Closing or taking would be without a corresponding benefit in reducing air contaminants as there are no expected excess emissions as a result of the granting of this Variance.
9. The Petitioner has curtailed operations in that the entire facility is shut in and will continue to remain shut in until a compliant method of oil shipment is established.
10. There are no expected excess emissions due to the granting of this variance.
11. The Petitioner will monitor the dates, hours, and all emissions, if any, related to the granting of this Variance.
12. A nuisance as defined in District Rule 303 is not expected to occur as a result of this variance and continued operation is not likely to create an immediate threat or hazard to public health or safety.
13. The District staff supports the Petition as conditioned below.

THEREFORE, THE HEARING BOARD ORDERS, as follows:

That a Regular Variance be granted for the continued operation of the Gaviota Oil Heating Facility in violation of District Rules 328 and 206, Conditions 9.B.2, 9.C.1(b), 9.C.13, 9.C.15, 9.C.21, 9.C.26(n), and 9.D.4 of Part 70/Permit to Operate 5704 from March 11, 2016 through March 10, 2017, or the date the facility resumes operations, whichever occurs first, with the following conditions:

1. Petitioner shall submit increments of progress to the Hearing Board and District on the first day of every calendar quarter after the date of approval of the Regular Variance beginning July 1, 2016. The increments of progress report shall include: status of compliance, any corrective action taken to date, and the dates, times, volumes and actual emissions, if any, that occurred during the variance.
2. Petitioner shall submit a final report to the Hearing Board and District within thirty (30) days of the facility returning to compliance. The report shall include the date compliance was achieved together with the corrective actions taken and the dates, times, volumes and actual emissions, if any, that occurred during the variance period. If corrective action would be subject to District permits, then permits must be obtained prior to initiating corrective action.
3. Petitioner shall retain the obligation to comply with all other local, state and federal regulations not specifically referenced in the Order.
4. Failure to abide by all conditions of this Order shall subject the Petitioner receiving the variance to penalties set forth in Health and Safety Code section 42402.
5. Each day during any portion of which a violation occurs is a separate offense.

DATED: _____

AYES:

NOES:

ABSENT:

ABSTAIN:

Chair
Santa Barbara County Air Pollution Control District
Hearing Board