

	Case No / Date	2016-17-R	06/01/16
	Petitioner	FMOG	
	Permit #	PTO 9106	
	Date Rec'd	04/06/16	
	Time Rec'd	14:00	
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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, Condition 9.C.2(c)(iv) of)
 Part 70/Permit to Operate 9106 and)
 the associated Compliance Monitoring)
 Plan.)

*** DRAFT ***

H.B. Case No. 2016-17-R

VARIANCE FINDINGS

AND ORDER

On April 06, 2016, Freeport McMoRan Oil & Gas filed concurrently a Petition for an Interim and Regular Variance. Interim Variance Order 2016-16-I was granted on April 13, 2016 by Hearing Board member David Schmarje, for the period of April 11, 2016 to July 09, 2016, or the date of decision of the Petitioner’s request for a Regular Variance, whichever occurs first. The Regular Variance was heard on June 01, 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 on Platform Irene located on the Outer Continental Shelf (OCS) lease tract OCS-P-0441 approximately 4 miles offshore Pt. Pedernales, California.
4. On January 12, 2016, the Petitioner filed concurrently for an Interim/90-Day Variance requesting enforcement relief from the failed DelMar H₂S analyzer. The analyzer measures

H₂S present in flare gas during planned flaring events. Proper repair of the analyzer requires a certified technician from the manufacturer and the repair was not able to be attempted until late January. On January 19, 2016, Hearing Board Member David Schmarje heard and approved Interim Variance Order 2016-02-I. During the week of January 25, 2016, attempted repair of the analyzer was performed and subsequently unsuccessful. A scheduling conflict prevented 90-Day Variance Order 2016-03-N from being heard until February 01, 2016. At that time, David Schmarje was able to hear and approve the 90-Day Variance. The Petitioner continues to work towards a solution for repair, but all attempts to date have been unsuccessful.

On February 11, 2016, the Petitioner filed an Authority to Construct (ATC) application with the District requesting an update to their Compliance Monitoring Plan. On March 11, 2016, the District deemed the application incomplete. The District's preference is for the continued use of the DelMar Analyzer (or equivalent device). The District will evaluate the requested change proposed by the Petitioner that would allow an updated method for reading H₂S during planned flaring events. The Petitioner subsequently filed for this Interim/Regular Variance for continued relief from the above permit conditions. In the meantime, the Petitioner will continue to monitor all planned flaring events with colorimetric tubes to determine flare emissions.

5. Without variance coverage, the Petition would be in violation of District Rules 328 and 206, Condition 9.C.2(c)(iv) of Part 70/Permit to Operate 9106, and the associated Compliance Monitoring Plan.
6. Due to conditions beyond the reasonable control of the Petitioner, compliance would result in an arbitrary or unreasonable taking of property in that it would require the Petitioner to completely shut down. In addition, a shutdown would cause a loss of more than 5,000 bbls per day production.
7. Closing or taking would be without a corresponding benefit in reducing air contaminants as there are no expected excess emissions as a result of granting of this Variance.
8. The Petitioner has given consideration to curtailing operations, however, curtailing operations will not replace the missing monitoring data.
9. No excess emissions are expected as a result of granting this Variance.
10. The Petitioner will monitor the dates, hours, and all emissions, if any, that are related to the granting of this Variance.
11. 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.
12. 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 Petitioner's Facility in violation of District Rules 328 and 206, Condition 9.C.2(c)(iv) of Part 70/Permit to Operate 9106 and the associated Compliance Monitoring Plan from April 11, 2016 to April 10, 2017, or the date the H₂S analyzer is repaired, or the date the District approves a new method for monitoring H₂S during planned flaring events, 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. Progress reports shall also include a technical report from the analyzer manufacturer stating: status of analyzer repair, actions taken to date, and timing for re-installation of the new or repaired unit.
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