

 <p><b>Santa Barbara County Air Pollution Control District</b></p>	<b>Case No / Date</b>	2018-01-E	01/12/18
	<b>Petitioner</b>	FMOG	
	<b>Permit #</b>	5704	
	<b>Date Rec'd</b>	01/12/18	
	<b>Time Rec'd</b>	10:31	
<b>FOR OFFICIAL USE ONLY</b>			

**BEFORE THE HEARING BOARD  
OF THE SANTA BARBARA COUNTY  
AIR POLLUTION CONTROL DISTRICT**

In The Matter of the Application of )  
Freeport McMoRan for an Emergency )  
Variance from District Rule 206, )  
Conditions 9.C.12 and 9.C.26 of )  
Permit to Operate 5704. )

**H.B. Case No. 2018-01-E**

**VARIANCE FINDINGS**

**AND ORDER**

Freeport McMoRan (FMOG) filed a Petition for an Emergency Variance on January 12, 2018. A hearing regarding the above-entitled matter was held on January 12, 2018. Mike McKay represented the Santa Barbara County Air Pollution Control District and Dr. Francis Lagattuta represented the Hearing Board for this Emergency Hearing.

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 Gobernador Canyon Road just north east of the City of Carpinteria, California.
4. The Petitioner operates and maintains a monitoring station on Gobernador Road in Carpinteria, CA. This monitoring station failed a calibration on Monday, January 08, 2018. The Petitioner filed a Breakdown with the District for coverage while they assessed the problem. Before technicians could respond to the site, access was prevented through the closure of Highways 101 and 150 due to flooding in the area affected by the Thomas Fire. No access is possible until Monday, January 15, 2018, at the earliest, when highways are scheduled to be reopened. If, due to reasons beyond the control of the

Petitioner, successful equipment repairs are unable to be completed during this Variance period, additional relief will be sought

5. Without Variance coverage, the Petitioner will be in violation of District Rules 206, Conditions 9.C.12 and 9.C.26 of Permit to Operate 5704.
6. The Petitioner will monitor the dates, hours, and all emissions, if any, related to the granting of this Variance.
7. 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.
8. The District staff supports the Petition as conditioned below.
9. Pursuant to Health and Safety Code section 42359.5, I find that "good cause" exists for the granting of Petitioner's request for an Emergency Variance.

**THEREFORE, THE HEARING BOARD ORDERS,** as follows:

That an Emergency Variance be granted for the continued operation of the Petitioner's facility in violation of Rule 206, Conditions 9.C.12 and 9.C.26 of Permit to Operate 5704, from January 12, 2018 through January 26, 2018 or the date compliance is achieved, whichever occurs first with the following conditions:

1. Petitioner shall submit a written report to the Hearing Board and District by February 09, 2018. The report shall include the date compliance was achieved together with a description of the corrective action taken, and emissions (if any) that occurred during the variance.
2. Petitioner shall retain the obligation to comply with all other local, state and federal regulations not specifically referenced in the Order.
3. 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.
4. Each day during any portion of which a violation occurs is a separate offense.
5. The Environmental Protection Agency does not recognize California's Variance program, therefore, this Variance does not protect the Petitioner from Federal Enforcement actions.

DATED: \_\_\_\_\_

1/12/18



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Dr. Francis Lagattuta, Chair  
Santa Barbara County Air Pollution Control District  
Hearing Board