	Case No / Date	2019-09-I	4/23/19
	Petitioner	Imerys	
	Permit #	5840-R5	
	Date Rec'd	4/22/19	
	Time Rec'd	1534 hours	
FOR OFFICIAL USE ONLY			

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

In The Matter of the Application of)
 Imerys for an Interim Variance from)
 District Rule 206 and Part 70/Permit to)
 Operate 5840-R5, Part II, Condition)
 9.C.2(a).)

H.B. Case No. 2019-09-I

VARIANCE FINDINGS

AND ORDER

Imerys Filtration Minerals, Inc. filed a Petition for an Interim/90-Day Variance on April 22, 2019. A hearing regarding the above-entitled matter was held on April 23, 2019. Vindi Ndulute appeared for the Petitioner, Aimee Long appeared for the Santa Barbara County Air Pollution Control District, and Terence Dressler appeared for 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 at Imerys Mineral California, Inc., located at 2500 Miguelito Road, Lompoc, California.
4. The Petitioner mines and processes diatomaceous earth at its Lompoc Plant. The Celpure Plant is a specialty plant within the Lompoc facility where scrubbers (scrubber 350 and 370) are utilized to control SO_x emissions. On November 12 and 13, 2018, scrubber 350 (APCD Device ID 106243) was source tested. According to source test result, there was SO₄ exceedance (Permitted limit of 0.24 lb/hr, testing reported 0.27 lb/hr) reported as

sulfate (H₂SO₄). The Petitioner learned of the SO₄ exceedance on April 19, 2019. Source testing is rescheduled for the week of April 29, 2019. The Petitioner is unsure how long it will take to receive the source test data and if it will demonstrate compliance. As a result, the Petitioner filed a request for an Interim/90-Day Variance.

5. The Petitioner requests continued operation of the Celpure scrubber 350 to identify the cause of the exceedance.
6. Without Variance coverage, the Petitioner will be in violation of District Rule 206 and Part 70/Permit to Operate 5840-R5, Part II, Condition 9.C.2(a).
7. Due to the conditions beyond the reasonable control of the Petitioner, requiring immediate compliance with the referenced permit conditions and District Rules would result in an arbitrary or unreasonable taking of property as the equipment is required to operate to identified the cause, implement corrective actions and conduct demonstrate compliance through retesting. The total lost revenue is estimated at \$250,000 - \$300,000 per day.
8. Closing or taking would be without a corresponding benefit in reducing air contaminants, in that according to the Petitioner, the test data indicates there was an upset in conditions during runs 2 and 3 (run 1 – 0.13 lb/hr, run 2 – 0.29 lb/hr, run 3 – 0.41 lb/hr). The excess emissions is 0.03 lb/hr SO₄. Until investigations can be completed, the cause of the upset is unknown.
9. The Petitioner has consider curtailing operations, however, Celpure provides a highly specialized product for medical applications. Curtailment may have adverse impacts for the medical consumer.
10. The Petitioner will reduce the excess emissions to the maximum extent feasible during the required variance period by rearranging the source test schedule to conduct source testing on the 350 scrubber as soon as feasibly possible. The Petitioner has started immediate investigations as to the cause of the exceedance.
11. The Petitioner will monitor the dates, hours, and all emissions, if any, related to the granting of this Variance.
12. The Petitioner filed for a 90-day Variance in conjunction with this Interim Variance. 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.
13. 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.

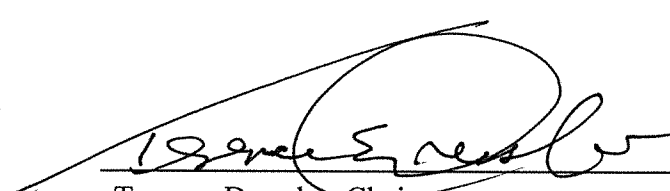
14. The District staff supports the Petition as conditioned below.

THEREFORE, THE HEARING BOARD ORDERS, as follows:

That an Interim Variance be granted for the continued operation of the Petitioner's facility in violation of District Rule 206 and Part 70/Permit to Operate 5840-R5, Part II, Condition 9.C.2(a), from April 19, 2019 through July 17, 2019, 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 August 2, 2019. 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: 4/23/2019



Terence Dressler, Chair
Santa Barbara County Air Pollution Control District
Hearing Board