

 air pollution control district SANTA BARBARA COUNTY	Case No / Date	2020-04-N	04/09/2020
	Petitioner	HVI CCI/Trustee Michael McConnell	
	Permit #	10166-R7	
	Date Rec'd	03/06/2020	
	Time Rec'd	0945 hours	
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**BEFORE THE HEARING BOARD
OF THE SANTA BARBARA COUNTY
AIR POLLUTION CONTROL DISTRICT**

In the Matter of the Application of)
 HVI Cat Canyon Inc/Trustee Michael)
 McConnell for a 90-Day Variance from)
 District Rules 361.D.1.a, 361.K.1.a,)
 206 and Permit to Operate 10166-R7)
 Condition 2.f.)

H.B. Case No. 2020-04-N

VARIANCE FINDINGS

AND ORDER

HVI Cat Canyon Inc. (HVI CCI)/Trustee Michael McConnell filed a Petition for an Interim/90-Day Variance on March 6, 2020. Interim Variance 2020-03-I was granted on March 9, 2020 by Hearing Board Member Terence Dressler. Said order is in effect from March 6, 2020 through June 3, 2020, or the date compliance is achieved, or the date of decision of the Petitioner's request for a 90-Day Variance, whichever occurs first.

A hearing of the above-entitled matter was held on April 9, 2020. Michael McConnell, Aaron Bush, Tim Skillman and Olivia Marr represented the Petitioner, Aimee Long represented the Santa Barbara County Air Pollution Control District (District), and Terence Dressler represented the Hearing Board at this 90-Day 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 the Chamberlin Lease in the Zaca Field.
4. Crude oil, water and gas produced from five wells is piped to a central processing facility



at the lease. Crude oil is routed to a heater treater for dehydration and sand removal. As of January 1, 2020, the Petitioner is unable to operate the heater treater within the emission limits of District Rule 361, Boilers, Steam Generators and Process Heaters (between 2-5 MMBtu/hr). The Petitioner's Permit to Operate mirrors the Rule 361 language requiring that after January 1, 2020, no owner or operator operate any existing unit with emissions in excess of 30 ppm NOx at 3% O2.

5. In July 2019, HVI CCI filed for Bankruptcy. HVI CCI operated as the debtor in possession until late October 2019 when, at the request of the State of California and other creditors, prior management of HVI CCI was removed and a trustee, Michael McConnell was appointed by the Court. The Trustee oversees and manages all HVI CCI assets in his role as fiduciary. Once appointed, the Trustee requested an in-depth evaluation of the HVI CCI assets including the field equipment and compliance status with regulatory standards. On December 5, 2019, the trustee became aware of the District Rule 361 requirements. It was discovered previous HVI CCI management had begun the process to upgrade the equipment subject to Rule 361 in March 2019, but due to lack of funds, the bankruptcy, and mismanagement, the process was not completed. The Trustee immediately developed a plan to return the equipment (heater treater, APCD Device ID 1533) to compliance. In order to implement the plan, HVI CCI must meet production and sales milestones, which if not met would result in default, jeopardizing the rehabilitation prospects for the facility.

Since becoming aware of the non-compliant heater treater, the Petitioner has initiated procurement of compliant equipment. The Petitioner's Authority to Construct (ATC 15334) to install compliant equipment is being evaluated by the District. The Petitioner does not have compliant heater treaters located at other facilities or other stationary sources operated in the District. The Petitioner has attempted to rent a compliant heater treater without success. As a result, the Petitioner filed an Interim/90-Day Variance request to operate the Rule 361 non-compliant heater treater (APCD Device ID 1533).

6. Without Variance coverage, the Petitioner will be in violation of District Rules 361.D.1.a, 361.K.1.a and 206, Permit to Operate 10166-R7, Condition 2.f.
7. Due to conditions beyond the reasonable control of the Petitioner, requiring immediate compliance with the referenced permit conditions and rule would result in an arbitrary or unreasonable taking of property in that they will not meet the production and sales milestones causing them to default on their financing agreement. Thus, jeopardizing the rehabilitation prospects for the facility.
8. The taking would be without a corresponding benefit in reducing air contaminants in that not allowing the use of the heater treater would result in HVI CC not meeting the production and sales milestones causing them to default on their financing agreement.

Defaulting on the financing agreement would jeopardize the rehabilitation prospects and result in the shutdown of the facility. The shutdown of the facility would result in excess emissions which would far exceed the excess emissions associated with the operation of the heater treater.

9. The Petitioner has given consideration to curtailing operations, however, the Petitioner must meet production and sales milestones to receive additional money from the bank to install compliant equipment.
10. During the period the variance is in effect, the Petitioner will reduce emissions to the maximum extent feasible by expediting the delivery and installation of compliant equipment.
11. The Petitioner will monitor and record on a daily basis, all emissions related to the granting of this variance. Based on the emission factors for this heater treater specified in Permit to Operate 10166-R7, the excess emissions from the granting of this variance are expected to be 226.0 lbs/month.
12. If, due to reasons beyond the control of the Petitioner, installation of compliant equipment is not 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.

THEREFORE, THE HEARING BOARD ORDERS, as follows:

That a 90-Day Variance be granted for the operation of the Petitioner's non-compliant heater treater (APCD Device ID 1533) in violation of District Rules 361.D.1.a, 361.K.1.a and 206, Permit to Operate 10166-R7, Condition 2.f from March 6, 2020 through June 3, 2020, or the date compliance is achieved, whichever occurs first, with the following conditions:

1. Petitioner shall submit weekly updates to the Hearing Board and District on each Friday after the date of approval of the 90-Day Variance. The updates shall include the status of compliance and any corrective action taken to date.
2. Petitioner shall submit a written report to the Hearing Board and District by June 26, 2020. The report shall include the date compliance was achieved, description of the corrective action taken and the dates, times, and actual emissions that occurred during the variance period.
3. Petitioner shall retain the obligation to comply with all other local, state and federal regulations not specifically referenced in the Order.
4. In accordance with District Fees Rule 210, Schedule F.12.e, the Petitioner shall pay excess emission fees for each additional ton of pollutant emissions or portion thereof allowed as the result of the issuance of this Variance.
5. Failure to abide by all conditions of this Order shall subject the Petitioner to penalties set forth in Health and Safety Code section 42402.
6. Each day during any portion of which a violation occurs is a separate offense.
7. The Environmental Protection Agency does not recognize California's Variance program, therefore, this Variance does not protect the Petitioner from Federal Enforcement actions.

DATED: April 9, 2020



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