

 <p>air pollution control district SANTA BARBARA COUNTY</p>	<b>Case No / Date</b>	<b>2020-17-N</b>	<b>10/7/2020</b>
	<b>Petitioner</b>	<b>California Asphalt Production, Inc.</b>	
	<b>Permit #</b>	<b>8259-R11</b>	
	<b>Date Rec'd</b>	<b>9/11/2020</b>	
	<b>Time Rec'd</b>	<b>1200 hours</b>	
	<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  
California Asphalt Production, Inc. for  
a 90-Day Variance from District Rule  
364.D.1 and 364.H.1.a.

)  
)  
)  
)  
)  
)  
)

**H.B. Case No. 2020-17-N**  
  
**VARIANCE FINDINGS**  
  
**AND ORDER**

California Asphalt Production, Inc. filed a Petition for a 90-Day Variance on September 11, 2020. A hearing of the above-entitled matter was held on October 7, 2020 in accordance with Health and Safety Code §40808. Julio Corona and Bart Leininger, P.E., represented the Petitioner, Aimee Long represented the Santa Barbara County Air Pollution Control District (District), and Robert J. Saperstein represented the Hearing Board for 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 subject to the Variance request at the Santa Maria Asphalt Refinery located at 1660 Sinton Road, Santa Maria, CA.
4. District Rule 364 requires refineries operating within Santa Barbara County to submit a *Fenceline Air Monitoring Plan* and fee by August 21, 2020. The Petitioner was in the process of obtaining bids for the *Fenceline Air Monitoring Plan*, when they experienced significant disruptions due to the COVID-19 pandemic. Key refinery employees were

diagnosed with COVID-19 and were unable to work for a significant amount of time. It was not until earlier summer when the Petitioner discovered the bids were too high for consideration. As a result, the Petitioner solicited more reasonably priced bids. During this time, the Petitioner continued to evaluate the design of the monitoring system so a plan could be prepared. The Petitioner engaged a third party to begin the process of designing a monitoring system. Much of the preliminary design work has been completed, and development of the plan is ongoing. However, delays due to COVID-19 impacted the finalization of the design and preparation of the monitoring plan. As a result, the Petitioner was unable to meet the deadline and submitted a 90-Day Variance request.

5. Without Variance coverage, the Petitioner will be in violation of District Rule 364.D.1 and 364.H.1.a.
6. Due to conditions beyond the reasonable control of the Petitioner, immediate compliance with the District Rule would result in an arbitrary or unreasonable taking of property.
7. The closing or taking would be without a corresponding benefit in reducing air contaminants in that there are no emissions associated with the granting of this Variance, as compliance with the installation of a fenceline monitoring system is expected to meet Rule 364 timelines.
8. The Petitioner has considered curtailing operations; however, this is an Administrative requirement. The cessation of operations would not have an impact on developing and finalizing the *Fenceline Air Monitoring Plan*.
9. During the Variance period, excess emission are not expected and therefore there is no need to require a reduction in emissions.
10. During the Variance period, there are no parameters to monitor.
11. If, due to reasons beyond the control of the Petitioner, the *Fenceline Air Monitoring Plan* and fee is not submitted during the Variance period, additional relief will be sought.
12. A nuisance as defined in District Rule 303 is not expected to occur as a result of this Variance.

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

That a 90-Day Variance be granted for the continued operation of the Petitioner's refinery without submittal of a *Fenceline Air Monitoring Plan* and fee in violation of District Rule 364.D.1 and 364.H.1.a from September 11, 2020 through October 15, 2020, or the date compliance is achieved, whichever occurs first, with the following conditions:

1. Petitioner shall submit a final written report to the Hearing Board and District, to [variance@sbcapcd.org](mailto:variance@sbcapcd.org), by October 30, 2020, or within fifteen (15) days of compliance, whichever occurs first. The report shall include the date the *Fenceline Air Monitoring Plan* and fee was submitted to the District.
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 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: October 7, 2020

*Robert Saperstein*

Robert Saperstein (Oct 8, 2020 15:02 PDT)

---

Vice-Chair, Robert J. Saperstein  
Santa Barbara County Air Pollution Control District  
Hearing Board