


ATTACHMENT 1

Draft Variance Order 2021-12-R

December 1, 2021

Santa Barbara County Air Pollution Control District
Hearing Board

260 San Antonio Road, Suite A
Santa Barbara, California 93110

 <p>air pollution control district SANTA BARBARA COUNTY</p>	Case No / Date	2021-12-R	12/01/2021
	Petitioner	Mustang Renewable Power Ventures, LLC	
	Permit #	14500-02	
	Date Rec'd	10/15/2021	
	Time Rec'd	1652 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)
Mustang Renewable Power Ventures,)
LLC for a Regular Variance from)
District Rule 206, and Conditions)
9.C.1.b.vii, 9.C.1.c.iv, 9.C.1.d.iv,)
9.C.2.b.iv, 9.C.4.a.i, 9.C.4.a.ii,)
9.C.4.a.iii, 9.C.4.a.v, 9.C.4.a.vi,)
9.C.4.a.viii, 9.C.4.a.x, 9.C.4.a.xi,)
9.C.4.b.i, 9.C.4.b.ii, 9.C.4.b.iii,)
9.C.4.c.i, 9.C.4.c.ii, 9.C.4.c.iii,)
9.C.5.b.i, 9.C.5.b.ii, 9.C.5.b.iii,)
9.C.5.b.v, 9.C.5.b.vi, 9.C.5.b.viii,)
9.C.5.b.xi, 9.C.5.b.xii, 9.C.5.b.xvi,)
9.C.5.c.i, 9.C.5.c.ii, 9.C.5.c.iv,)
9.C.5.c.v, 9.C.5.c.vi, 9.C.5.c.vii,)
9.C.5.c.viii, 9.C.5.c.ix, 9.C.5.c.x,)
9.C.5.d.i, 9.C.5.d.ii, 9.C.5.d.v,)
9.C.5.d.vi, 9.C.5.d.vii, 9.C.5.d.viii,)
9.C.5.d.ix, 9.C.5.d.x, 9.C.6.a.i,)
9.C.6.a.ii, 9.C.6.a.iii, 9.C.6.a.iv,)
9.C.6.b.i, 9.C.6.b.ii, 9.C.6.b.iii,)
9.C.6.c.i, 9.C.6.c.ii, 9.C.6.c.iii,)
9.C.33.a, and 9.C.33.f of Authority to)
Construct 14500-02.)

H.B. Case No. 2021-12-R

VARIANCE FINDINGS

AND ORDER

Mustang Renewable Power Ventures, LLC filed a Petition for a Regular and Interim Variance on October 15, 2021. Interim Variance 2021-11-I, is pending a decision to be tentatively heard on November 29, 2021, by Hearing Board Member Francis Peters, Jr. If granted said order will be effect from October 15, 2021 through January 12, 2022, or the date compliance is achieved, or the date a decision is made on the Regular Variance, whichever occurs first.

A hearing of the Regular Variance Petition was held on December 1, 2021, in accordance with Health and Safety Code §40808. John Dewey represented the Petitioner and Aimee Long represented the Santa Barbara County Air Pollution Control District (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.

HEARING

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. A nuisance as defined in District Rule 303 is not expected to occur as a result of this Variance.
4. If, due to reasons beyond the control of the Petitioner, successful repairs are not completed during this Variance period, additional relief will be sought
5. District staff supports the Petition as conditioned below.

BACKGROUND

1. The Petitioner, Mustang Renewable Power Ventures, operates the equipment described in the Petition at the Santa Barbara County Tajiguas Landfill (Tajiguas Landfill) located at 14470 Calle Real in Goleta, California.
2. The equipment is owned by Santa Barbara County and operated by the Petitioner under contract with the Santa Barbara County Public Works Department, Resource Recovery and Waste Management Division.
3. The Tajiguas Landfill receives refuse from the City of Santa Barbara, City of Goleta, unincorporated areas of Montecito and Summerland, rural area of southern Santa Barbara County, the Santa Ynez Valley and Cuyama Valley.

4. In an effort to extend the life of the Tajiguas Landfill, reduce the amount of material landfilled, increase the recovery rate of recyclable materials, and generate renewable energy, the County installed equipment as part of the Tajiguas Resource Recovery Project (TRRP) at the landfill. In addition, SB 1383 requires the Tajiguas Landfill to reduce the amount of organic waste disposed of in the landfill by 50% by 2014. It further requires a 75% reduction in landfilled organics by 2025.
5. The equipment subject to this variance request is associated with the Material Recovery Facility (MRF), which is part of the TRRP and operated by the Petitioner. The MRF building is divided into two areas, the tipping area where municipal solid waste is received, and the materials sorting area where municipal solid waste is sorted into organics, recyclables, and residue.
6. On October 11, 2021, CalFire responded to the Alisal wildfire, located northwest of Refugio Canyon near Hwy 101 along the Gaviota Coast. Due to the wildfire, the area was evacuated, including the Tajiguas Landfill. On October 12, 2021, the Santa Barbara County Board of Supervisors proclaimed a local emergency (Resolution 21-189) as a result of the Alisal Fire.
7. On October 12, 2021, the Alisal Fire impacted the Tajiguas landfill operations in various ways. The embers sparked a fire in the MRF biofilter which consumed the MRF biofilter woodchip media. The fire migrated to the biofilter scrubbers on the north and south side of the biofilter and the acid storage tank on the southside. The acid scrubber vessels and the acid storage tank were destroyed by the fire and generated significant heat contributing to the destruction of the baghouse filter fans on both the north and south side of the biofilter.
8. The permitted equipment impacted by the Alisal Fire at the MRF are:
 - a. Tipping area: baghouse (APCD Device ID 388339), scrubber (APCD Device ID 388799), and biofilter (APCD Device ID 388341); and
 - b. Material sorting area: baghouse (APCD Device ID 388344), scrubber (APCD Device ID 388797), and biofilter (APCD Device ID 388346).
9. Emissions from the TRRP come from several sources within the tipping area and the materials sorting area in the MRF. Emissions are controlled using baghouses (for particulate matter) and scrubbers and biofilters (for Reactive Organic Compounds, PM, ammonia and odors) associated with the waste handling and storage in the MRF.
10. The County is still assessing the impacts of the Alisal Fire and intends to remediate all known impacts. The Petitioner does not have an estimated timeframe for the repairs, replacement and restoration of the biofilter and related equipment. In addition, County Fire has asked the Petitioner to consider an alternative design and/or technologies that do not

utilize woodchip media. Because of the extended timeline for the repair, replacement and restoration of the associated equipment, the Petitioner sought Interim and Regular Variances.

11. The Petitioner's permit requires the baghouses, scrubbers, and biofilters to be in operation when the MRF is receiving/processing waste. While the damages are being assessed and the repairs are being made, the Petitioner requests continued operation of the MRF without the use of the tipping area and material sorting area baghouses, scrubbers, and biofilters.

FINDINGS

1. Without Variance coverage, the Petitioner will be in violation of District Rule 206, and Conditions 9.C.1.b.vii, 9.C.1.c.iv, 9.C.1.d.iv, 9.C.2.b.iv, 9.C.4.a.i, 9.C.4.a.ii, 9.C.4.a.iii, 9.C.4.a.v, 9.C.4.a.vi, 9.C.4.a.viii, 9.C.4.a.x, 9.C.4.a.xi, 9.C.4.b.i, 9.C.4.b.ii, 9.C.4.b.iii, 9.C.4.c.i, 9.C.4.c.ii, 9.C.4.c.iii, 9.C.5.b.i, 9.C.5.b.ii, 9.C.5.b.iii, 9.C.5.b.v, 9.C.5.b.vi, 9.C.5.b.viii, 9.C.5.b.xi, 9.C.5.b.xii, 9.C.5.b.xvi, 9.C.5.c.i, 9.C.5.c.ii, 9.C.5.c.iv, 9.C.5.c.v, 9.C.5.c.vi, 9.C.5.c.viii, 9.C.5.c.ix, 9.C.5.c.x, 9.C.5.d.i, 9.C.5.d.ii, 9.C.5.d.v, 9.C.5.d.vi, 9.C.5.d.vii, 9.C.5.d.viii, 9.C.5.d.ix, 9.C.5.d.x, 9.C.6.a.i, 9.C.6.a.ii, 9.C.6.a.iii, 9.C.6.a.iv, 9.C.6.b.i, 9.C.6.b.ii, 9.C.6.b.iii, 9.C.6.c.i, 9.C.6.c.ii, 9.C.6.c.iii, 9.C.33.a, and 9.C.33.f of Authority to Construct 14500-02.
2. Due to conditions beyond the reasonable control of the Petitioner, requiring compliance would result in either (A) an arbitrary or unreasonable taking of property, or (B) the practical closing and elimination of a lawful business. The Alisal Fire and the resulting damage is beyond the reasonable control of the Petitioner. Immediate compliance would put the facility in non-compliance with other State Regulations, such as SB 1383. SB 1383 requires a 50% reduction of the level of statewide disposal of organic waste from the 2014 level by 2020. It further requires a 75% reduction of organic waste disposal from the 2014 level by 2025. In addition, if the MRF was required to shut down, refuse may have to be diverted to an alternative sorting facility in Ventura County, increasing the cost to ratepayers and contribute adversely to air quality and traffic impacts with numerous trucks added to Highway 101. The estimated cost is approximately \$20 million annually to transport and process at an alternative location. In addition, shutting down the MRF may result in the loss of approximately 80 employees with an annual payroll estimated at approximately \$5 million.
3. The closing or taking would be without a corresponding benefit in reducing air contaminants. The scrubbers are designed to remove ammonia from the MRF air stream. Based on the Petitioner's prior indoor air measurements of ammonia (reported 0.5 ppm average, limit 5.0 ppm) and hydrogen sulfide (highest reading 0.020 ppm, limit 1 ppm average), the Petitioner does not believe that the normal operating conditions of the MRF without the emission and odor control equipment will pose any significant air quality impacts. Because the materials received in the tipping area and material sorting area do not sit for very long, the ammonia concentration is 95% below the permitted limits.

4. The Petitioner has given consideration to curtailing operations of the source in lieu of obtaining a variance; however, the MRF is required to meet State Regulations (SB 1383). Furthermore, curtailing operations would increase the cost to ratepayers for landfill diversion.
5. During the period the Variance is in effect, the Petitioner will reduce excess emissions to the maximum extent feasible by expeditiously processing the municipal solid waste and immediately transporting the organics recovered to the Anaerobic Digestion Facility (ADF). According to the Petitioner, the reduced retention time of the waste at the MRF will divert some of the emissions to the ADF where there is an operational scrubber and biofilter. In addition, the MRF indoor exhaust fans will operate at the maximum rating. This ensures there are six air cycles in one hour.
6. During the period the Variance is in effect, the Petitioner will monitor hydrogen sulfide, ammonia, and particulate matter on a weekly basis. Monitoring shall occur at the 13 locations identified in the table below:

Point	Location Description
1	East corner of tip floor rollup door
2	Near residual pile on the tip floor
3	Corridor between MRF and tip floor (air moving from MRF to tip floor)
4	Between C1450 and C520
5	Near C7400
6	Near MRF floor sump
7	Between C500 and eyewash, in front of control room
8	Between T930 and C980
9	Between T290 and T930
10	Between T180 and T120
11	Between M140 and D101
12	Between trommels
13	Between AWS 550s

The Petitioner indicated there may be elevated PM emissions from the MRF while the baghouse filters are inoperable. However, the PM emissions are not expected to exceed the permitted limits. In addition, the ammonia and hydrogen sulfide indoor air monitoring results submitted in the Petition show emissions less than the permitted limits. As a result, the Petitioner does not anticipate excess emissions associated with the granting of this Variance.

THEREFORE, THE HEARING BOARD ORDERS, as follows:

That a Regular Variance be granted for continued operations of the Material Recovery Facility (MRF) without the following equipment that was damaged by the Alisal Fire: MRF baghouses, MRF scrubbers, and MRF biofilters at the Petitioner's facility causing violations of District Rule 206, Conditions 9.C.1.b.vii, 9.C.1.c.iv, 9.C.1.d.iv, 9.C.2.b.iv, 9.C.4.a.i, 9.C.4.a.ii, 9.C.4.a.iii, 9.C.4.a.v, 9.C.4.a.vi, 9.C.4.a.viii, 9.C.4.a.x, 9.C.4.a.xi, 9.C.4.b.i, 9.C.4.b.ii, 9.C.4.b.iii, 9.C.4.c.i, 9.C.4.c.ii, 9.C.4.c.iii, 9.C.5.b.i, 9.C.5.b.ii, 9.C.5.b.iii, 9.C.5.b.v, 9.C.5.b.vi, 9.C.5.b.viii, 9.C.5.b.xi, 9.C.5.b.xii, 9.C.5.b.xvi, 9.C.5.c.i, 9.C.5.c.ii, 9.C.5.c.iv, 9.C.5.c.v, 9.C.5.c.vi, 9.C.5.c.viii, 9.C.5.c.ix, 9.C.5.c.x, 9.C.5.d.i, 9.C.5.d.ii, 9.C.5.d.v, 9.C.5.d.vi, 9.C.5.d.vii, 9.C.5.d.viii, 9.C.5.d.ix, 9.C.5.d.x, 9.C.6.a.i, 9.C.6.a.ii, 9.C.6.a.iii, 9.C.6.a.iv, 9.C.6.b.i, 9.C.6.b.ii, 9.C.6.b.iii, 9.C.6.c.i, 9.C.6.c.ii, 9.C.6.c.iii, 9.C.33.a, and 9.C.33.f of Authority to Construct 14500-02 from December 1, 2021 through October 14, 2022, or the date compliance is achieved, whichever occurs first, with the following conditions:

1. The requested coverage is associated with the Materials Recovery Facility (MRF) and not the Anaerobic Digestion Facility (ADF).
2. Petitioner shall submit monthly written reports to the Hearing Board and District, to variance@sbcapcd.org, starting January 15, 2022 and shall continue on the 15th of every month for the duration of variance coverage. The report shall include an assessment of the damages, estimated dates of repair, replacement and/or restoration of the effected equipment, status of the repair, replacement and/or restoration of the effected equipment, and the results of the weekly hydrogen sulfide, ammonia, and particulate matter monitoring (described in Findings section six of this variance).
3. Petitioner shall submit a written report to the Hearing Board and District, to variance@sbcapcd.org, by November 15, 2022. The report shall include an assessment of the damages, estimated dates of repair, replacement and/or restoration of the effected equipment, and the results of the weekly hydrogen sulfide, ammonia, and particulate matter monitoring (described in Findings section six of this variance).
4. Petitioner shall retain the obligation to comply with all other local, state, and federal regulations not specifically referenced in the Order.
5. 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.
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: _____

Chair
Santa Barbara County Air Pollution Control District
Hearing Board