


# ATTACHMENT 3

DRAFT Variance Order 2021-12-M1

December 7, 2022

Santa Barbara County Air Pollution Control District  
Hearing Board

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

 <div>air pollution control district SANTA BARBARA COUNTY</div>	Case No / Date	2021-12-M1	12/07/2022
	Petitioner	Mustang Renewable Power Ventures, LLC	
	Permit #	14500-05	
	Date Rec'd	10/03/2022	
	Time Rec'd	1525 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, Authority to )  
Construct 14500-05, Conditions )  
9.C.2.b.iii, 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.xv )  
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.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.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.18 (tipping area and )  
materials sorting area biofilters only), )  
9.C.19.b.i, 9.C.19.b.ii, 9.C.19.b.iii, )  
9.C.19.b.iv, 9.C.19.b.v, 9.C.19.b.vi, )  
9.C.33.a, and 9.C.33.f. )

**H.B. Case No. 2021-12-M1**

**VARIANCE FINDINGS**

**AND ORDER**

Mustang Renewable Power Ventures, LLC filed a Petition for a Modification of Final Compliance Date and Modification of Conditions of Regular Variance 2021-12-R on October 14, 2022. A hearing of the Modification of Final Compliance Date and Modification of Conditions of Regular Variance was held on December 7, 2022, in accordance with Health and Safety Code section 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 the County of Santa Barbara 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. On December 1, 2021, Variance Order 2021-12-R, was granted by the Hearing Board for emission controls, maintenance, monitoring and source testing requirements for Material Recovery Facility (MRF) equipment damaged during the Alisal Fire at the Petitioner's facility 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.
6. The equipment subject to this variance request is associated with the 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.
7. 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).
8. 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.
9. The Petitioner's current permit requires the baghouses, scrubbers, and biofilters to be in operation when the MRF is receiving/processing waste.
10. The Petitioner has submitted a permit modification to remove from permit the equipment associated with this variance request. However, the permit application has been deemed incomplete and is awaiting additional information from the Petitioner.
11. During the variance period covered by Regular Variance 2021-12-R, the Petitioner conducted weekly indoor air monitoring at 13 locations at the MRF. The following pollutants were monitored: hydrogen sulfide, ammonia, and particulate matter. According to the Petitioner, ammonia and hydrogen sulfide were measured less than an average of 3 – 5% of the post biofilter control limits.

12. The Petitioner is not pursuing further variance coverage for several permit conditions because they are not out of compliance with the revised permit conditions that were incorporated as part of a permit modification. As a result, the Petitioner requested a Modification of Conditions of Regular Variance 2021-12-R, per Health and Safety Code section 42356.
13. At this time, the Petitioner remains out of compliance with the requirements listed above. In accordance with Health and Safety Code section 42357, the Petitioner is requesting a Modification of Final Compliance Date specified in Variance Order 2021-12-R (per Health and Safety Code section 42357) for continued operation of the Material Recovery Facility (MRF) without the following emission control equipment that was damaged by the Alisal Fire: MRF baghouses, MRF scrubbers, and MRF biofilters.

#### **FINDINGS**

1. Without Variance coverage, the Petitioner will be in violation of District Rule 206, Authority to Construct 14500-05, Conditions 9.C.2.b.iii, 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.xv, 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.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.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.18 (tipping area and materials sorting area biofilters only), 9.C.19.b.i, 9.C.19.b.ii, 9.C.19.b.iii, 9.C.19.b.iv, 9.C.19.b.v, 9.C.19.b.vi, 9.C.33.a, and 9.C.33.f.
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, which would increase 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 refuse 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 monthly reports, even without the emission controls, the indoor ambient air levels of hydrogen sulfide and ammonia are below the permitted limits. The Petitioner believes that the normal operating conditions of the MRF without the emission and odor control equipment will not pose any significant air quality impacts. Because the refuse 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 continue to 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 does not anticipate excess emissions associated with the granting of this Variance.

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

That a Modification of Conditions and Modification of Final Compliance Date of 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, Authority to Construct 14500-05, Conditions 9.C.2.b.iii, 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.xv, 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.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.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.18 (tipping area and materials sorting area biofilters only), 9.C.19.b.i, 9.C.19.b.ii, 9.C.19.b.iii, 9.C.19.b.iv, 9.C.19.b.v, 9.C.19.b.vi, 9.C.33.a, and 9.C.33.f. from October 15, 2022 through October 14, 2023, 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). The Anaerobic Digestion Facility (ADF) is not covered by this variance.
2. The Petitioner shall meet the following Increments of Progress:
  - a. Provide a complete response to the November 10, 2023 ATC 14500-10 incompleteness letter by March 10, 2023;
  - b. Replace and start operating the MRF tipping area and MSW baghouses by July 1, 2023;
  - c. Achieve full compliance with the requirements in this variance either through permit modification or repair/replacement of equipment by October 14, 2023.
3. The Petitioner shall conduct weekly monitoring of hydrogen sulfide, ammonia, and particulate matter on a weekly basis. Monitoring shall occur at the 13 locations described in Findings section six of this variance.
4. The Petitioner shall submit monthly written reports to the Hearing Board and District, to [variance@sbcapcd.org](mailto:variance@sbcapcd.org), starting January 15, 2023 and on the 15<sup>th</sup> of every month thereafter for the duration of variance coverage. The report shall include:
  - a. Status of the actions taken on Increments of Progress (see Condition 2 above).
  - b. Status of repair, replacement and/or restoration of the affected equipment and the estimated completion date.
  - c. Results of weekly hydrogen sulfide, ammonia and particulate matter monitoring (described in Findings section six of this variance)

- d. List of actions completed during the past month.
- e. List of actions to be taken in the next month.
- 5. The Petitioner shall submit a written report to the Hearing Board and District, to [variance@sbcapcd.org](mailto:variance@sbcapcd.org), by November 14, 2023, or within 30 days from the date compliance is achieved, whichever occurs first. This report shall include a summary of all monthly reports and final state of the Petitioner's facility with respect to the variance.
- 6. The Petitioner shall retain the obligation to comply with all other local, state, and federal regulations not specifically referenced in the Order.
- 7. 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.
- 8. Each day during any portion of which a violation occurs is a separate offense.
- 9. The Environmental Protection Agency does not recognize California's Variance Program; therefore, this Variance does not protect the Petitioner from Federal Enforcement actions.
- 10. Petitioner shall submit deviation reports to the District for all violations of federally-enforceable requirements.

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

\_\_\_\_\_  
Chair  
Santa Barbara County Air Pollution Control District  
Hearing Board