



July 15, 2026

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VIA EMAIL

Santa Barbara County
Air Pollution Control District Hearing Board
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**Re: Case No. 2026-07-N (90-Day Variance Rehearing)
Petitioner's Response to CBD's Notice of Contest of Variance;
Applicable Legal Standards**

Dear Chair Dressler, Vice-Chair Colome, and Members of the Hearing Board:

Petitioner Sable Offshore Corp. ("Petitioner") disputes the arguments raised in the Center for Biological Diversity's ("CBD") Notice of Contest of Variance ("CBD Rehearing Notice"), which triggered the upcoming July 17, 2026 full Board rehearing of Petitioner's May 22 Petition for a 90-Day Variance (Case No. 2026-07-N) from District Rule 206 and Part 70 Permit to Operate 9102-R7, Conditions 9.C.3(a), 9.C.3(b)(i), and 9.C.18 (the "Petition"). Petitioner respectfully submits this response to the CBD Rehearing Notice for the Board's consideration at the July 17 rehearing and requests that it be included in the record of the proceeding.

A. Scope Of This Submission

On June 25, 2026, the Chair issued a Variance Order. Petitioner understands that the full Board will rehear the evidence and make its own findings. Petitioner submits this correspondence to address the CBD Rehearing Notice and certain prior public comments that misstate the legal standards applicable to the Board's issuance of variances. Petitioner's references to the June 25 proceedings and the Variance Order are offered to illustrate that the correct standards were applied by the Chair and that the evidence presented amply supported the Chair's predicate statutory findings. Petitioner intends to offer evidence at the rehearing to again support and supplement those findings.

B. The Governing Standards In Health & Safety Code Section 42352

Health & Safety Code section 42352 establishes the findings that Petitioner's evidence must demonstrate for the Board's issuance of a variance. The Board must find as follows:

- (1) That the petitioner for a variance is, or will be, in violation of Section 41701 or of any rule, regulation, or order of the district.
- (2) That, 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. . . .
- (3) That the closing or taking would be without a corresponding benefit in reducing air contaminants.
- (4) That the applicant for the variance has given consideration to curtailing operations of the source in lieu of obtaining a variance.
- (5) During the period the variance is in effect, that the applicant will reduce excess emissions to the maximum extent feasible.
- (6) During the period the variance is in effect, that the applicant will monitor or otherwise quantify emission levels from the source, if requested to do so by the district, and report these emission levels to the district pursuant to a schedule established by the district.

Health & Safety Code section 42352.5 further directs how the Board evaluates finding (2).¹ In determining whether conditions are "beyond the reasonable control of the petitioner," the Board "shall consider the extent to which the petitioner took actions to comply or seek a variance, which were timely and reasonable under the circumstances." (Cal. Health & Saf. Code § 42352.5(a)(1).) In determining whether requiring compliance would result in a taking (2)(A) or the practical closing and elimination of a lawful business (2)(B), the Board "shall consider whether or not an unreasonable burden would be imposed upon the petitioner if immediate compliance is required." (Cal. Health & Saf. Code § 42352.5(a)(2).)

¹ Air Quality—Contaminants—Permits and Variances, 1992 Cal. Legis. Serv. ch. 1126 (A.B. 3790) (West) (enacting Cal. Health & Saf. Code § 42352.5 and providing that "This bill would prescribe factors that the hearing board would be required to consider in making those findings, thereby imposing a state-mandated local program.").

C. The Findings Require Supporting Evidence; Data And Modeling Are Not Required

In public comment at the June 25 hearing, an individual argued that the statutory findings must be supported by “empirical evidence,” “data,” “calculations,” “numbers,” and “comparisons.” That is not the statutory standard. The findings must be supported by “evidence” in the hearing record, but the District’s rules make clear that such evidence is not limited to quantitative data or modeling. The hearing “need not be conducted according to technical rules relating to evidence,” and any relevant evidence “on which responsible persons are accustomed to rely in the conduct of serious affairs” is admissible and may support a finding.² Sworn testimony demonstrating the elements of a finding is precisely that kind of evidence sufficient for the Board to issue a variance. Nothing in Health & Safety Code section 42352 requires emissions modeling, quantitative comparisons, or any particular numeric format as prerequisite evidence for a finding.

D. CBD And Prior Public Comments Object To Certain Findings

Health & Safety Code section 42352(a)(2)(A), (B): taking or practical closing. The CBD Rehearing Notice argues that “Sable did not address the criteria at Section 42352(a)(2)(A) and (B) directly in its petition or present evidence to confirm that the criteria are met,” and that because Permit 9102-R7 states that it conveys no “property rights or exclusive privilege of any sort,” “it is simply not possible for any taking of property to occur in relation to enforcing the terms and conditions of Permit No. 9102-R7.”³

First, Health & Safety Code subsections 42352(a)(2)(A), (B) are disjunctive. The Board need only find *either* an arbitrary or unreasonable taking of property, *or* the practical closing and elimination of a lawful business.

Second, Health & Safety Code subsection 42352.5(a)(2) expressly mandates that, “[i]n determining whether or not requiring compliance would result in either an arbitrary or unreasonable taking of property *or* the practical closing and elimination of a lawful business, the hearing board shall consider whether or not an unreasonable burden would be imposed upon the petitioner if immediate compliance is required.” The June 25, 2026 Variance Order, at Finding 2, confirms that Petitioner presented evidence sufficient to support this prong.

² District Rule 513 (“Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions.”).

³ According to CBD: “This is underscored by the District’s own rules, which require that Part 70 Operating Permits clearly state that ‘the permit does not convey any property rights of any sort, or any exclusive privilege.’ District Rule 1303(D)(o).” As such, to lend credence to CBD’s misplaced argument would effectively mean that a variance would never be lawful in this district.

The CBD Rehearing Notice seeks to write into the statute a requirement that a variance may be granted only if “compliance would somehow lead to the permanent closure or elimination of its business.” (CBD Rehearing Notice at 2.) But the statute contains no such requirement. CBD’s interpretation of the standard contradicts Health & Safety Code section 42352.5(a)(2).

Health & Safety Code section 42352(a)(3): without corresponding benefit. CBD ignored the evaluation by the Chair concluding from the evidence that a shutdown would generate additional emissions. (*Compare* CBD Rehearing Notice at 3 (according to CBD, “it is unclear how curtailed production would not reduce unplanned flaring or otherwise ameliorate any perceived need for a variance”), *with* Variance Order at Findings 2-4.) Section 42352(a)(3) requires the Board to determine whether requiring compliance would be without a corresponding benefit in reducing air contaminants. That determination turns on the evidence to be presented, and it is made on balance. The relevant comparison is between the limited excess emissions covered by the variance and the emissions that would actually result from requiring immediate compliance, assuming eventual restart not permanent shutdown of the platform. The statute requires evidence to support a finding, but the statute does not require any formal emissions model.

Health & Safety Code section 42352(a)(4): consideration of curtailment. CBD misstated that Petitioner “has not given consideration to the curtailment of operations.” (*But see* Variance Order at Findings 2-4.) Section 42352(a)(4) requires consideration of curtailment, not implementation of curtailment options. A petitioner satisfies the finding by considering curtailment alternatives and explaining its conclusions. The finding is made on the evidence presented at the hearing.

Health & Safety Code section 42352(a)(5): maximum extent feasible during brief variance period. Public comment asserted there was “no evidence” Petitioner would reduce excess emissions to the maximum extent feasible during the brief variance period. Section 42352(a)(5) states a feasibility standard. (*See* Variance Order at Finding 5.) This element does not require a fixed percentage reduction, a schedule of numeric milestones, or a formal reduction plan.

Health & Safety Code section 42352(a)(6): monitoring and reporting. Section 42352(a)(6) requires monitoring or other quantification of emission levels if requested by the District and reporting pursuant to a District-established schedule. The June 25, 2026 Variance Order imposes exactly that, including a written report by July 15, 2026 and daily monitoring, recording, and quantification of all emissions related to the variance. (Variance Order at p. 4.)

E. Collateral Matters Are Irrelevant To This Proceeding

The CBD Rehearing Notice incorporates collateral permitting matters that are not before the Board in this proceeding and that have no bearing on the discrete findings governing a variance under Health & Safety Code section 42352. The same is true of public comments directed at Petitioner’s operations generally, including references to unrelated enforcement matters, prior charges, and other allegations concerning Petitioner. These comments reflect general opposition

to Petitioner rather than evidence bearing on the six findings the Board must make under section 42352. The opinions expressed are not relevant to whether the statutory criteria for this variance are satisfied, and they should not be considered. *See* District Rule 513(C) (“irrelevant and unduly repetitious evidence shall be excluded”).

F. The June 25 Proceedings Were Thorough And Properly Conducted

The CBD Rehearing Notice asserts the findings reflect no independent inquiry. The record shows otherwise. The Chair stated at the outset that the findings could be based only on the evidence presented at the hearing and not on the petition or other communications. Testimony was taken under oath. The Chair questioned the witness directly, received the Control Officer’s position supporting the variance based on the testimony, heard public comment, and then made each finding individually, stating his reasons on the record. The written Variance Order contains detailed findings and conditions. That satisfies Health & Safety Code section 40862 and District Rule 517. In any event, because the full Board will hear the evidence anew, attacks on the form of the prior decision provide no basis to deny the variance on rehearing.

G. The Petition Is Sufficient And Should Be Granted Based On The Evidence

The Petition satisfies all applicable requirements. It is submitted on the District’s prescribed Petition for Variance form and addresses each of the criteria set out in District Rule 504, supplying the information necessary for the findings required under Health and Safety Code section 42352. CBD nonetheless argues that the Petition is deficient for purportedly failing to address why compliance is unreasonable and the advantages and disadvantages to District residents. That is incorrect. Both are addressed on the face of the Petition, which explains, among other things, that immediate compliance would require depressurization and shutdown of the system, itself generating substantial flaring emissions, along with other burdens on Petitioner. In any event, Rule 504 requires only that these and the other listed matters be stated “briefly.”

H. CBD Is Not A Party To These Variance Proceedings

CBD is not a party to these variance proceedings. These variance proceedings contemplate the Petitioner, the holder of the permit or variance (if different from the Petitioner), and the Control Officer as the persons entitled to service and to file an answer.⁴ CBD is a member of the public and CBD was duly notified of this matter through the District’s published notice on June 12,

⁴ *See* District Rule 502 (“[s]ervice of a copy of the petition shall be made to the Control Officer and to the holder of the permit or variance, if any involved[.]”); District Rule 509 (permitting response to petition only via “answer within 10 days after service” and to be “served in the same manner as petitions under Rule 502”); District Rule 516 (a continuance of 15 days or less “shall” be granted when “concurred in by petitioner, the Control Officer and every person who has filed an answer in the action”).

2026. CBD's participation here is in that capacity. It effectively concedes the point, stating only that it "wishes to participate as a party" and to be afforded the rights "conferred upon parties." District Regulation V contains no mechanism by which a member of the public may intervene or be joined as a party to a variance proceeding. To be sure, Health & Safety Code section 40825(c) governs this full Board rehearing.⁵ It provides CBD with the right as a member of the public to trigger full Board rehearing, but it does not confer any additional rights beyond those afforded to members of the public.⁶

CONCLUSION

The governing standards are those stated in the above-detailed Health & Safety Code provisions and the applicable District rules. In its Rehearing Notice, CBD asks the Board to act outside the statutory and regulatory framework. Petitioner asks the Board to consider the evidence Petitioner will present at the rehearing and apply the law.

Very truly yours,



Bao M. Vu

cc: Aeron Arlin Genet, Air Pollution Control Officer
Santa Barbara County Air Pollution Control District
(via email: ArlingenetA@sbcapcd.org)

⁵ The Notice of Contest erroneously cites Health & Safety Code section 42351.5. But that provision does not govern these variance proceedings. *See* Cal. Health & Saf. Code § 40825.

⁶ *Compare* Cal. Health & Saf. Code § 40828(a) ("A hearing board shall allow interested members of the public a reasonable opportunity to testify with regard to the matter under consideration, and shall consider that testimony in making its decision."), *with* Cal. Health & Saf. Code § 40823(a) (requiring notice of a hearing to be served on "air pollution control officer, and upon the applicant or permittee affected, not less than 10 days prior to such hearing"); *id* at § 42351 (referring to "any person who has submitted an application for a variance"); *id* at § 42352 (referring to "petitioner for a variance" and "applicant for the variance"); District Rule 513 (conferring various rights to "each party").