

H.B. Case No.: 2021-12-M2

Petitioner: Mustang Renewable Power Ventures, LLC

Permit No.: 14500-05

Date Rec'd: 9/6/2023

Time Rec'd: 2355 hours

Filing Fee Paid: \$739.00

## PETITION FOR VARIANCE

**Type of Variance Requested:**

Emergency \_\_\_\_\_ Interim<sup>1</sup> \_\_\_\_\_ 90-Day \_\_\_\_\_ Regular X \_\_\_\_\_

Length of Variance Requested: Start Date 10/15/2023

End Date 6/15/2024

<sup>1</sup> A 90-Day or Regular Variance must be filed concurrently with an Interim Variance

**1. PETITIONER INFORMATION**

A. Please provide the name, address and phone number of the Petitioner.

Name: John Dewey  
 Address: 17 Corporate Plaza Drive, Suite 200  
Newport Beach, CA 92660  
 Phone Number: (805) 259-9499

B. Please provide the name, address and phone number of the person authorized to receive correspondence regarding this Petition if different from response in 1.A.

Name: \_\_\_\_\_  
 Address: \_\_\_\_\_  
 \_\_\_\_\_  
 Phone Number: \_\_\_\_\_

C. The Petitioner is (please check one):

- 1) An Individual ( )
- 2) Partnership ( )
- 3) Corporation (X)
- 4) Public Agency ( )
- 5) Other Entity (please describe)

2. Location of equipment for which the variance is requested if different from response in 1.A.

14470 Calle Real-MRF, Goleta, CA 93117

3. List any District permits that are applicable to the equipment subject to this variance request.

ATC 14500-05

4. Briefly describe the equipment that is the subject of this Petition.

Tipping Area Baghouse (Device No. 388339), Materials Sorting Area (Device No. 388344), Tipping Area Biofilter (Device No. 388341), Materials Sorting Area Biofilter (Device No. 388346), Tipping Area Biofilter Scrubber (Device No. 388799), and Materials Sorting Area Biofilter Scrubber (Device No. 388797).

**5. FINDINGS REQUIRED FOR THE GRANTING OF A VARIANCE**

In order for the Hearing Board to grant a variance to a Petitioner authorizing the operation of a source in violation of any rule, regulation or order of the District, the Hearing Board is required to make “findings” in accordance with the requirements specified in California Health and Safety Code §42352, et. seq. and District rules and regulations. The Hearing Board’s variance decision will take into consideration information you provide in this Petition. Please ensure your responses are complete and thorough. Please use additional pages as necessary.

- A. Please state 1) what District rule, regulation or order you either are or will be in violation of, and 2) the date said violation will or did occur. Include as appropriate the applicable permit conditions for which variance relief is being sought.

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 of ATC 14500-05.

- B. Please describe how compliance with the District rule, regulation or order listed in Section A above is beyond your reasonable control. In addition to any other relevant factors, please include in your discussion 1) what actions you have taken to comply or seek a variance, which were timely and reasonable under the circumstances.

The petitioner is violating the above permit conditions due to the Alisal Fire (i.e., circumstances beyond the control of petitioner), there was a complete loss of the MRF Biofilter woodchip media, all three biofilter acid scrubbers and the Materials Sorting Area biofilter scrubber acid storage tank. Additionally, the 2 MRF baghouse filters are not operational due to the melting of the baghouse filter fans from the heat of the fire. Repairs and/or replacement of the previously installed biofilter are beyond Petitioner's reasonable control as the entire ReSource Center facility is owned and insured by Santa Barbara County. Petitioner is a Contractor to the County responsible for the operations of the facility and has not yet been provided a budget approved by the Board of Supervisors to rebuild the MRF Biofilter. Further, the biofilter has been deemed not necessary for Best Available Control Technology (BACT) pursuant to the recent completeness determination of application 14500-10 provided to the Petitioner by District Engineering staff which reflects a pending modification (i.e., ATC 14500-10) to the facilities ATC-14500-05. District Engineering staff agreed with Petitioner's air quality consultant, AECOM, that the weekly MRF indoor air monitoring results since November 2021 have demonstrated that the levels of H<sub>2</sub>S and NH<sub>3</sub> in the ambient air were less than an average of 3-5% of the post biofilter control required levels. The violations could not have been prevented as the Alisal Fire was an uncontrollable circumstances natural disaster event. Requiring compliance would have resulted in closure of the facility which would have imposed an estimated \$20 million annual cost (i.e., 180,000 tons of waste per year at a cost of approximately \$120/ton for transportation and disposal; cost estimated by County Public Works Staff) on the County ratepayers for exporting the County's waste to a remote landfill in Ventura County. This would have been an unreasonable taking of property. The ability to remedy the situation is at the discretion of the Board of Supervisors which approval is pending and anticipated within the next 60 days, to be followed by an estimated 4-5 months of construction. The 24 month delay in processing was almost entirely based on District Engineering's 8 incompleteness letters (attached) prior to receiving the completeness letter, followed by 2 months of PW staff's CEQA memo.

- C. Please describe how you would be impacted if you were required to immediately comply with the District rule, regulation or order the subject of this variance request. In addition to any other relevant factors, please discuss why such impacts would result in 1) an arbitrary or unreasonable taking of property, or 2) the practical closing and elimination of a lawful business.

The main purpose of the scrubbers is to remove ammonia from MRF indoor air prior to passing through the biofilter media. The average ammonia concentration at the biofilter media surface on 9/7/2021, prior to the start of the requested variance date, was 0.4 ppmv vs. the permit limit of 5.0 ppmv (14500-02, Table 4.7). The average ammonia concentrations at the biofilter media surface on 9/10/2021 and 9/15/2021 was 0.25 ppmv even without the operation of the scrubbers. In other words, ammonia concentrations in the MRF indoor air are near zero as the municipal solid waste is processed through the MRF within a few hours of receipt at the tip floor avoiding conditions where ammonia could be generated. Due to the loss of the Materials Sorting Area biofilter scrubber and baghouse filter fan and Tipping Area biofilter scrubber and baghouse filter fan, immediate operation of the equipment is not possible until the completion of repairs, replacement and restoration of the fire damaged emission control devices listed above.

- D. If you were required to immediately comply with the District rule, regulation or order the subject of this variance request, please describe what impact, if any, that would have on air contaminants.

The air contaminant (ammonia) level is 95% below permit levels while we continued to operate without the MRF processing area scrubbers operating. Due to the loss of the baghouse filter fans there may be PM emissions attributed to the processing of the recyclables in the MRF. We intend to monitor the indoor air quality and MRF building emissions of H<sub>2</sub>S, NH<sub>3</sub> and PM on a weekly basis for the duration of the repair, replacement and restoration process.

- E. Please describe what consideration you have given to curtailing operations in lieu of obtaining a variance.

The County ceased Landfill operations and MSB/MarBorg ceased operations of the MRF and ADF on Monday afternoon, October 11<sup>th</sup> when all personnel were ordered to evacuate. Landfill operations recommenced on October 25<sup>th</sup> after a 2-week shutdown following completion of repairs and replacement to fire damaged systems and equipment. The MRF also recommenced its operations on a coordinated basis with the Landfill as of October 25<sup>th</sup> when it was determined safe to do so.

The MRF operations remain critical and necessary waste infrastructure as it sorts and recovers recyclable commodities and organic waste to reduce the volume of material landfilled by ~60%. During the two-week October 2021 shutdown of the Landfill and the MRF, waste normally processed at the MRF with residue disposed at the Tajiguas Landfill was exported to remote landfills, contrary to various CalRecycle regulations mandating recycling and organic waste diversion from landfilling. While the MRF was shut down, waste was trucked to alternative sorting facilities in Ventura County, increasing the cost materially to ratepayers and contributing adversely to air quality and traffic impacts with numerous trucks added to US 101 congestion. If MRF operations were curtailed on a long-term basis, the cost to ratepayers would be estimated at a cost of more than \$20 million annually (200,000 tons per year at a cost to transport to and process at an alternative location at ~100/ton). Current employment at the MRF is ~80 employees with an annual payroll estimated at ~\$5 million. Long-term curtailment of operations was not a consideration as the financial and environmental impacts to the County ratepayers would have been prohibitive.

- F. Please describe what steps and measures you will take to reduce excess pollutant emissions the

maximum extent feasible during the requested variance period.

When the MRF resumed operations as of October 25<sup>th</sup>, 2021, it continued to reduce potential emissions of H<sub>2</sub>S and NH<sub>3</sub> by processing all MSW and the related organics through the MRF with immediate transport to the ADF for processing. The potential for H<sub>2</sub>S, NH<sub>3</sub> and PM emissions has been and will continue to be monitored weekly until the MRF related baghouse filters are replaced, repaired and restored.

G. If requested to do so by the District, please describe how you will monitor or otherwise quantify and report to the District any pollutant emissions associated with the granting of your variance.

Indoor air monitoring for the past nearly 12 months has confirmed that ammonia and hydrogen sulphide concentrations inside the MRF are ~80-95% below the permit limits of the MRF Biofilter surface emissions of 5 ppmv. The current monitoring frequency (weekly) provides an adequate understanding of continued compliance with ammonia and hydrogen sulfide emissions limits.

H.. Why is additional coverage necessary?

It has taken the past 24 months for Petitioner and its air quality consultant, AECOM, in coordination with County Public Works staff completing a CEQA memorandum related to the alternative of rebuilding the MRF baghouse filters without replacing the MRF Biofilter, to work with District Engineering staff to complete a permit modification (ATC 14500-10) for the proposed baghouse filter repairs and replacement without the replacement of the MRF Biofilter. As of this date, the ATC 14500-10 permit modification application has been deemed complete and the permit is anticipated to be issued in conjunction with PTO-14500-10. Hopefully it and the related CEQA memo will be concluded prior to October 31, 2023. The ATC 145001-10 permit modification and the CEQA analysis is complete and is tentatively scheduled to be presented to the Board of Supervisors for approval in October before a 4-5-month construction process can be commenced for the repairs.

6. SUPPLEMENTAL FINDINGS IF APPLYING FOR AN EMERGENCY VARIANCE PURSUANT TO RULE 506 (EMERGENCY VARIANCE FOR BREAKDOWNS)

A. Please provide the date and time the breakdown was reported to the District

Date: 10/12/2021 Time: 12:00 a.m.

B. Breakdown number (as provided by the District):

C. Please provide a description of the "breakdown condition", including equipment involved and the cause to the extent it is known.

The MRF biofilter, biofilter acid scrubbers and Materials Sorting Area biofilter scrubber acid storage tank have been destroyed by the recent Alisal Fire. The Tipping Area Baghouse filter fan and Materials Sorting Area Baghouse filters fans have also been damaged.

D. Please describe why the continued operation of your facility in a "breakdown condition" is not likely to cause an immediate threat or hazard to public health or safety and will not interfere with the attainment or maintenance of any primary national ambient air quality standard.

The operating conditions of the MRF are similar to MarBorg's downtown operations which have operated continuously for more than 10 years without any significant air quality impacts even while operating without any baghouse filters, scrubbers or biofilters.

7. Will the operation of the equipment subject to this variance result in violation of District Rule 303, Nuisance?

No.

8. Please state whether or not any civil or criminal case involving the equipment subject to this variance is pending any court.

No civil or criminal cases are pending involving the equipment subject to this variance.

The undersigned is authorized to submit the above Petition on behalf of the Petitioner and further states under penalty of perjury that the above Petition, including any attachments and the items therein set forth, are true and correct.

DATE: 09/05/23

SIGNATURE: [Handwritten Signature]

TITLE: CEO

PRINT NAME: John Dewey

Variance Filing Fees: All variance Petitions must be accompanied by the requisite filing fee at the time of filing or include a letter from the Petitioner on company letterhead authorizing the District to debit the filing fee from the company's reimbursable account. You may also pay your filing fees by credit card using the attached form. Current variance filing fees may be found under Rule 210, schedule F, Sections 12a and 12b at http://www.sbcapcd.org/fees.htm

Credit Card Payment: The Variance Filing Fee may be paid with a credit card. Please use APCD Form -01C to pay via credit card. The form may be downloaded at: http://www.sbcapcd.org/eng/dl/dl01.htm