


ATTACHMENT 2

Interim Variance Order 2024-05-I

July 3, 2024

Santa Barbara County Air Pollution Control District
Hearing Board

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

	Case No / Date	2024-05-I	05/31/2024
	Petitioner	Santa Barbara County Public Works Department	
	Permit #	ATC 14500-05	
	Date Rec'd	03/22/24	
	Time Rec'd	1507 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)
 Santa Barbara County Public Works)
 Department for an Interim Variance)
 from District Rules 328.C.2, C.4, G)
 and I.1 and 206, ATC 14500-Mod 10,)
 Conditions 9.B.12, 9.C.9.a.i,)
 9.C.9.a.v., 9.C.9.b.ii, 9.C.9.b.xvii,)
 9.C.9.b.xviii, 9.C.9.c.xiii (ADF CHP IC)
 engines only), 9.C.19.a (ADF CHP IC)
 engines only), 9.C.21 (ADF and MRF)
 CHP IC engines only), 9.C.22 and)
 9.C.23.)

H.B. Case No. 2024-05-I

VARIANCE FINDINGS

AND ORDER

Santa Barbara County Public Works Department (Petitioner) filed a Petition for 90-Day and Interim Variances on March 22, 2024. A hearing of the Interim Variance was held on May 31, 2024. Kevin Brown represented the Petitioner, Aimee Long represented the Santa Barbara County Air Pollution Control District (District), and Terence Dressler represented the Hearing Board for this Interim Variance 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.

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. Pursuant to Health and Safety Code section 42359.5, “good cause” exists for the granting of Petitioner’s request for an Interim Variance.
5. If, due to reasons beyond the control of the Petitioner, compliance is not achieved during this Variance period, additional relief will be sought.
6. District staff supports the Petition as conditioned below.

BACKGROUND

1. The Petitioner 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 (County) and was previously operated by MSB Investors, LLC (MSB) under contract (Appendix A of the Petition) with the Petitioner.
3. The Tajiguas Landfill receives refuse from the City of Santa Barbara, City of Goleta, unincorporated areas of Montecito and Summerland, rural areas 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 Tajiguas ReSource Recovery Project (ReSource Center) equipment was installed at the landfill. In addition, SB 1383 required 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 Petitioner receives municipal solid waste (MSW) in the tipping area inside the Material Recovery Facility (MRF) building at the landfill. The material is subsequently sorted into organics, recyclables, and residue in the material sorting area. Recyclables collected in the materials sorting area are sold to the market while waste residue is landfilled. The sorted organics are placed in the anaerobic digesters to generate biogas in the Anaerobic Digester Facility (ADF). The biogas is treated and combusted in combined heat and power (CHP) internal combustion (IC) engines for power generation, or an enclosed flare located at the ADF. Following biogas generation, the digestate is processed into soil amendments and compost at the Compost Management Unit (CMU). The MRF, ADF, and CMU were designed and constructed by MSB and owned by the Santa Barbara County Public Works Department.

6. Biogas from the ADF digesters is sent to two CHP IC engines (APCD Device IDs 388360 and 389006) to produce electricity for the grid and for onsite needs. Anerobic digesters are necessary to process the organic waste. The CHP IC engines, identified by the Petitioner as engine 300 and engine 400, are equipped with Steuler dual SCR/oxidation catalyst control systems (APCD Device IDs 388361 and 389007). The oxidation catalyst reduces CO and ROC emissions while the SCR system uses urea injection to control NOx emissions. These engines are also equipped with a continuous emissions monitory system (CEMS) and data is telemetered to the District via the Data Acquisition System (DAS).
7. On December 13, 2016, the Petitioner contracted (Appendix A of the Petition) with MSB for the Development of the County's ReSource Center. The contract identified MSB (Contractor) as having exclusive control over the manner and means of performing Contractor obligations and Persons performing them.
8. The contract required MSB to install and maintain equipment at the ReSource Center. The ReSource Center includes the separation of waste products, anerobic digestion process, composting and combustion equipment.
9. The Contract further required MSB to furnish all of the management, labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required.
10. In addition, the Contract required MSB to comply with all federal, State, City and any other governmental unit permits, order, licenses, approvals and CEQA mitigations required by Applicable Law for the facility.
11. On November 6, 2023, the Petitioner issued an intent to terminate letter to MSB with formal notification of the County's intent to terminate the Contract. Included in this letter is an explanation of why the termination was occurring and supporting documentation (including nonpayment of subcontractors). A copy of this letter is included in Appendix B of the Petition.
12. On December 12, 2023, the County Board of Supervisors unanimously voted to terminate the County's Contract with MSB for the ReSource Center due to failure to meet contractual obligations. Initially, two termination dates were set for the ReSource Center. The MRF operations were immediately terminated and transferred to the County, while the ADF and CMU operations would continue to be operated by MSB for at least 180 days, per the term of the Contract. However, on January 3, 2024, MSB requested immediate transfer of all ReSource Center permitting, compliance, operational and maintenance obligations to the County, and immediately stopped all performance under the Contract. As a result, the Contract with the County and MSB was fully terminated, and the County took over operations and environmental compliance for the entire ReSource Center.

13. As the Petitioner began operations of the ReSource Center, it became evident to the County that MSB failed to fully communicate the state of the facility and equipment.
14. Since the Contract with MSB was terminated, the County continued to identify and repair issues resulting in outstanding violations with multiple regulatory agencies. The violations identified that are associated with District Rules and permit conditions are outlined below.
 - a. Operating two ADF CHP IC engines without emission controls and CEMS.
 - b. Operating two MRF CHP IC engines without emission controls and CEMS.
 - c. Exceeding Best Available Control Technology (BACT) emissions limits.
 - d. Failing to comply with source testing requirements for the ADF CHP IC engines.
15. The Petitioner's permit requires the ADF and MRF CHP IC engines to operate with the SCR/oxidation catalyst control system at all times. In addition, the CHP IC engines are required to be equipped with CEMS and telemeter data to the District, as required by District Rule 328.
16. The Petitioner's permit also requires annual source testing on the ADF and MRF CHP IC engines by the anniversary date. The anniversary date for the ADF CHP IC engines is March 9th plus or minus thirty days. These engines were last source tested on March 9 and 10, 2022 with passing results achieved. Due to the lapse in required testing, the District issued an NOV for failing to conduct annual source testing in 2023. The Petitioner received an administrative extension for good cause to conduct the 2024 source testing by June 8, 2024. The Petitioner has informed the District that source test passing results cannot be achieved until the repairs on the ADF CHP IC engines are completed.
17. According to the Petitioner, they have experienced significant difficulty when trying to hire contractors due to MSB's historical lack of payment to the subcontractors.
18. Due to the nature of the landfill, gas is generated by the decomposition of organic materials. The gas is routed to control equipment where it is further processed, or destroyed, using a combustion source. At the Petitioner's facility, a combination of thermal oxidizers and CHP IC engines are used to destroy the gas produced by the decomposition process. This process also prevents surface emissions at the landfill where the refuse is buried.
19. The control equipment at the landfill, the ADF and MRF CHP IC engines, are a vital process at the Petitioner's facility. Heat from the ADF CHP IC engines is needed to keep the percolate microorganisms alive and metabolizing the organic matter in the ADF digesters. In addition, the Petitioner has stated that the non-operation of the MRF and ADF CHP IC engines could create surface emissions at the Petitioner's landfill and could result in violations elsewhere and/or create a violation with other Agency's Rules and Regulations. As a result, variance coverage was sought to continue to operate the ADF and MRF CHP IC engines in violation of

District emission, monitoring, and source testing requirements.

FINDINGS

1. Without Variance coverage, the Petitioner will be in violation of District Rules 328.C.2, C.4, G and I.1 and 206, ATC 14500-Mod 10, Conditions 9.B.12, 9.C.9.a.i, 9.C.9.a.v., 9.C.9.b.ii, 9.C.9.b.xvii, 9.C.9.b.xviii, 9.C.9.c.xiii (ADF CHP IC engines only), 9.C.19.a (ADF CHP IC engines only), 9.C.21 (ADF and MRF CHP IC engines only), 9.C.22 and 9.C.23.

THEREFORE, THE HEARING BOARD ORDERS, as follows:

That an Interim Variance be granted for relief from the source testing requirements for the ADF CHP IC engines, BACT emissions limits for ADF and MRF CHP IC engines, emissions controls and maintenance for the ADF and MRF CHP IC engines, CEMS requirements and data telemetry for the ADF and MRF CHP IC engines, and CEMS excursions until the repairs can be made, which is in violation of District Rules 328.C.2, C.4, G and I.1 and 206, ATC 14500-Mod 10, Conditions 9.B.12, 9.C.9.a.i, 9.C.9.a.v., 9.C.9.b.ii, 9.C.9.b.xvii, 9.C.9.b.xviii, 9.C.9.c.xiii (ADF CHP IC engines only), 9.C.19.a (ADF CHP IC engines only), 9.C.21 (ADF and MRF CHP IC engines only), 9.C.22 and 9.C.23 from March 22, 2024 through June 19, 2024 (not to exceed 90 days), or the date a decision is made on the 90-Day Variance, or the date compliance is achieved, whichever occurs first, with the following conditions:

1. Petitioner shall submit a written report to the Hearing Board and District, to variance@sbcapcd.org, by July 22, 2024, or within 30 calendar days of achieving compliance, whichever comes first. The report shall include the date the repairs were completed, date the equipment returned to service, fuel monitoring records for the ADF and MRF CHP IC engines, monthly portable analyzer results, source testing date, the ADF CHP IC engine source test results (submit preliminary results if final results are not available), and the excess emissions (in lbs) for this variance period.
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 receiving the variance to penalties set forth in Health and Safety Code section 42402.
4. In accordance with District Fees Rule 210, Schedule F.12.e, the Petitioner shall pay excess emission fees for each additional ton of pollutant emissions or portion thereof allowed as the result of the issuance of this Variance.
5. Each day during any portion of which a violation occurs is a separate offense.

6. The Environmental Protection Agency does not recognize California's Variance Program; therefore, this Variance does not protect the Petitioner from Federal Enforcement actions.
7. Petitioner shall submit deviation reports to the District for all violations of Federal requirements.

DATED: 6/12/2024

Terence E. Dressler

[Terence E. Dressler \(Jun 12, 2024 20:53 PDT\)](#)

Terence Dressler
Santa Barbara County Air Pollution Control District
Hearing Board