



Monterey Bay Air Resources District
MEETING OF THE
HEARING BOARD
MICHAEL GUTH, CHAIR
FRIDAY, MAY 10, 2024 - 2:00 P.M.
24580 Silver Cloud Court, Monterey, CA - Boardroom

REMOTE MEETING OPTION FOR PUBLIC

Link to meeting: <https://us02web.zoom.us/j/89248623063>

Webinar ID: 892 4862 3063

By Phone (audio only, Webinar ID required): 1-669-900-6833

Members of the public that wish to participate in the hearing may do so by joining the Zoom Webinar ID or in-person at 24580 Silver Cloud Ct. Monterey. Should you have any questions, please contact Sirie Thongchua, Executive Assistant, at 831-718-8028 or by email at sirie@mbard.org.

To Provide Public Comment via Zoom teleconference/video conference: During the meeting live verbal public comments may be made by members of the public joining the meeting via Zoom. Zoom access information is provided above. Use the “raise hand” feature (for those joining by phone, press *9 to “raise hand”) during the public comment period for the agenda item you wish to address. Members of the public participating via Zoom will be muted during the proceedings and may be unmuted to speak during public comment after requesting and receiving recognition by the Chair. Please clearly state your full name for the record at the start of your public comment.

Before the Meeting: Persons who wish to address the Hearing Board for public comment of an item not on the agenda are encouraged to submit comments in writing to Sirie Thongchua, Executive Assistant, at sirie@mbard.org by 5:00 p.m. on Wednesday May 8, 2024. Comments received will be distributed to the Hearing Board prior to the meeting.

SUMMARY OF ACTIONS

1. CALL TO ORDER – **The meeting was called to order by Chair Guth at 2:17 p.m.**
2. ROLL CALL – **Present:** Daniel Dodge Jr., Michael Guth, Emmett Linder.
3. PUBLIC COMMENT FOR ITEMS NOT ON AGENDA – **None.**
4. **Accepted and Filed** Summary of Actions for the Hearing Board Special Meeting of April 22, 2024
***Motion:** Accept and file Summary of Actions for the Hearing Board Special Meeting of April 22, 2024. **Action:** Approve. **Moved by** Emmett Linder, **Seconded by** Daniel Dodge Jr. **Vote:** Motion carried **unanimously by roll call vote (summary: Yes = 3). Yes:** Daniel Dodge Jr., Michael Guth, Emmett Linder.*

Chair Guth brought forward all materials from the April 22, 2024 Hearing of Docket 24-001: City of Santa Cruz Interim Variance into today's Hearing of Docket 24-002: City of Santa Cruz Regular Variance

5. Public Hearing
 - Docket 24-002: City of Santa Cruz Regular Variance
 - Project Site: Resource Recovery Facility, 605 Dimeo Lane, Santa Cruz, California
 - a. Administration of Oath: Chair administered oath to all persons who will provide testimony for Docket 24-002. Staff: Amy Clymo, Engineering and Compliance Manager, Mary Giraud, Engineering Supervisor, Armando Jimenez, Air Quality Engineer III. Petitioners: Hoi Yu, City of Santa Cruz Associate Engineer, Bob Nelson, City of Santa Cruz Resource Recovery Operations Manager, Victoria Thompson, City Attorney's Office, City of Santa Cruz, Kendra Kent, Tetra Tech Senior Environmental Compliance Specialist, Nat Isael, Tetra Tech, Paul Stout, Tetra Tech, and Juan Carbajal, Tetra Tech.
 - b. Petitioner Presents Case: Hoi Yu, and Bob Nelson provided verbal testimony and requested a minor revision to the language in the draft order condition 8.
 - c. Staff Present Report: Amy Clymo, Mary Giraud and Armano Jimenez provided verbal testimony.
 - d. Public Comment Related to Docket 24-002 – **None.**
 - e. Hearing Board Discussion/Questions
 - f. Hearing Board Decision/Order
 - i. Make Findings
 - ii. Discuss Conditions

Motion: Approve variance order for Docket 24-002 as amended by discussion. **Action:** Approve. **Moved by** Emmett Linder, **Seconded by** Daniel Dodge Jr. **Vote:** Motion carried **unanimously by roll call vote (summary: Yes = 3)**. **Yes:** Daniel Dodge Jr., Michael Guth, Emmett Linder.

Chair Guth called for a ten-minute break from 2:55 p.m. – 3:05 p.m.

6. **Adopted** Hearing Board Regulation VI: Procedure Before the Hearing Board
Action: Adopted Updated Hearing Board Regulation with no objections.

7. **ADJOURNMENT – The meeting adjourned at 3:42 p.m.**

Sirie Thongchua
Executive Assistant

Agenda Item No. 4

BEFORE THE HEARING BOARD OF THE
MONTEREY BAY AIR RESOURCES DISTRICT
STATE OF CALIFORNIA

IN THE MATTER OF)	DOCKET NO.: 24-002
THE APPLICATION OF)	
CITY OF SANTA CRUZ)	CONDITIONAL ORDER
Resource Recovery Facility)	GRANTING REGULAR VARIANCE
605 Dimeo Lane)	
Santa Cruz, California)	
)	
)	
)	

On April 5, 2024 at 9:26 am, Petitioner, City of Santa Cruz (hereinafter referred to as "Petitioner") filed with this Hearing Board an application for a Regular Variance. Prior to this application for Regular Variance, Petitioner was granted an Interim Variance Docket 24-001 on April 22, 2024.

Petitioner requested that the Hearing Board grant a variance from Monterey Bay Air Resources District (MBARD) Rule 207 Review of New or Modified Sources, Best Available Control Technology (BACT) requirements.

NOTICE OF HEARING

Notice of the application and the hearing of May 10, 2024, at 2:00 p.m. have been given pursuant to the provisions of the California Health and Safety Code Section 40826.

The request and MBARD's staff recommendations were presented to the Hearing Board. The hearing was conducted by Hearing Board Members. MBARD was represented by Amy Clymo, Engineering and Compliance Manager, Mary Giraudo, Engineering Supervisor, and Armando Jimenez, Engineer III. The petitioner was represented by Hoi Yu, P.E. City of Santa Cruz Public Works

1 and Bob Nelson, Operations Manager, City of Santa Cruz Resource Recovery
2 Facility.

3 BACKGROUND

4 City of Santa Cruz, Resource Recovery Facility ("Petitioner") is in the
5 business of operating a Class III municipal solid waste landfill and
6 recycling center. Petitioner's facility includes a sanitary landfill,
7 recycling center, yard waste drop-off, construction & demolition drop-off,
8 and household hazardous waste drop-off. The facility is for the processing
9 and disposal of material generated within the City of Santa Cruz limits. A
10 third-party company, Santa Cruz Energy, LLC is the owner and operator of the
11 landfill gas collection and control system (LFGCCS) at the landfill.

12 Petitioner has been working with their third party LFGCCS operator to
13 coordinate repairs needed to bring the Santa Cruz Energy, LLC Landfill Gas to
14 Energy (LFGTE) facility back online. Unfortunately, the operation of the
15 LFGTE facility is dependent on its ability to connect and transmit
16 electricity generated by the landfill gas engine to the Pacific Gas and
17 Electric (PG&E) electrical grid. Due to tremendous winds associated with a
18 storm in early February, PG&E equipment was damaged along with the connection
19 of the LFGTE plant to the PG&E infrastructure. PG&E has not been forthcoming
20 with an estimated time for repair of the equipment beyond 3-9 months. As a
21 result of the continued PG&E delay, the LFGTE and landfill have been unable
22 to come back into compliance to date despite constant contact with PG&E.
23 Petitioner therefore has been working diligently with contractors and MBARD
24 staff to find an alternative compliance option until the LFGTE operations can
25 be restored and maintained.

26 Petitioner has contracted out the maintenance and operation of the
27 LFGCCS. The LFGCCS is owned and operated by Santa Cruz Energy, LLC. Their
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Agenda Item No. 4

1 system is comprised of 45 LFG extraction wells connected to the LFGCCS
2 piping. Santa Cruz Energy, LLC monitors the LFG extraction wells.

3 The LFGCCS is inspected and maintained each week. Currently, there is
4 no vacuum on the landfill, but the source is keeping up with maintenance as
5 required. The LFGTE plant is not operational at this time but it is current
6 on required maintenance and has been periodically inspected throughout the
7 period of shutdown. During the variance term, the Petitioner will procure,
8 permit, and install an enclosed flare.

9 FINDINGS OF FACT

10 Pursuant to Health and Safety Code 42352 the following findings have been
11 made:

12 (a) The Petitioner is or will be in violation of Section 41701 or of
13 any rule, regulation, or order of the district.

14 Petitioner is in violation MBARD Rule 207 Review of New or Modified
15 Sources, Part 5.2. CCAA Best Available Control Technology (BACT) requirements
16 for operation of an open flare.

17 (b) Due to conditions beyond the reasonable control of the Petitioner
18 requiring compliance would result in either (1) an arbitrary or unreasonable
19 taking of property, or (2) the practical closing and elimination of a lawful
20 business.

21 A wind event in February 2024 damaged PG&E equipment which made the
22 Santa Cruz Energy LLC LFGTE plant unable to transfer electricity to the PG&E
23 grid. This weather event resulted in the shutdown of the entire LFGCCS which
24 was beyond the reasonable control of the Petitioner. Petitioner relies upon
25 the LFGTE plant to control landfill gas to minimize surface emissions and
26 offsite gas migration. It is unknown when PG&E will make the necessary
27 repairs to allow for the LFGTE plant to return to operation. The LFGCCS is
28 required to operate continuously, and it will take several months to procure,

1 permit, and install a compliant enclosed flare. Temporary operation of an
2 open flare will allow the LFGCCS to re-start until the LFGTE plant returns to
3 operation or when an enclosed flare can be installed.

4 If the variance was denied, the Petitioner would be subject to
5 additional enforcement action and fines if Petitioner is unable to control
6 methane gas using an open flare. If the landfill was closed and no longer
7 accepted waste, landfill gas would still be generated from the existing
8 waste-in-place and the closing would not result in a reduction of landfill
9 gas which can create public and environmental safety issues when not
10 controlled. The closing of the landfill would also result in a loss to the
11 Petitioner, its employees and deprive the community of solid waste
12 management.

13 Petitioner is a public agency and it would place an unreasonable burden
14 on an essential public facility to require immediate compliance. Furthermore,
15 it is an unpractical solution as meeting compliance would require further
16 permitting. Furthermore, failure to grant this variance would lead to a worse
17 environmental outcome.

18 (c) The closing or taking would be without a corresponding benefit in
19 reducing air contaminants.

20 A reduction in air contaminants would not occur as result of closing
21 the landfill because the waste-in-place continues to generate landfill gas
22 which can escape through the landfill surface or migrate offsite when not
23 collected and controlled. When the LFGCCS is not operating continuously, the
24 Petitioner is unable to minimize landfill gas migration to ensure there are
25 no impacts to air quality, groundwater quality, surrounding properties, or
26 the community. The least environmentally impactful alternative available is
27 the granting of the variance.

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Agenda Item No. 4

1 (d) The Petitioner for the variance has given consideration to
2 curtailing operations of the source in lieu of obtaining a variance.

3 Petitioner has considered curtailing operations in lieu of obtaining a
4 variance however, curtailment would not take away the need for the variance
5 because the landfill will continue to generate gas even if Petitioner ceased
6 all operations at the landfill. Curtailing operations is not practical
7 because landfills are required by federal and state law to continuously
8 operate a LFGCCS to collect and abate LFG to reduce air emissions and the
9 risk to groundwater contamination due to gas migration. Once installed, the
10 open flare must continuously operate until the LFGTE comes back online or the
11 permanent enclosed flare is installed.

12 (e) During the period the variance is in effect, the petitioner will
13 reduce excess emissions to the maximum extent feasible.

14 Operation of the open flare will assist to mitigate LFG migration off
15 site and as well as surface emissions until the LFGTE facility comes back
16 online or a permanent enclosed flare can be installed. Petitioner will comply
17 with the conditions set forth in this variance order.

18 (f) During the period the variance is in effect, the Petitioner will
19 monitor or otherwise quantify emission levels from the source, if requested
20 to do so by the district, and report these emission levels to the district
21 pursuant to the schedule established by the district.

22 MBARD is not requesting Petitioner to monitor or quantify emission
23 levels during the term of the variance. Petitioner will comply with the
24 conditions set forth in this variance order.

25 (g) A nuisance as defined in MBARD Rule 402 is not expected to occur
26 because of this variance.

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ORDER

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2 NOW THEREFORE, THE HEARING BOARD ORDERS THAT CITY OF SANTA CRUZ,
3 RESOURCE RECOVERY FACILITY, is granted a Regular Variance from MBARD Rule 207
4 Review of New or Modified Sources, Part 5.2. CCAA Best Available Control
5 Technology (BACT) requirements.

6 1. Compliance with this Order will not relieve Petitioner from
7 liability under MBARD's Rules for any violation thereof, unless specifically
8 permitted by this Order, and will not preclude MBARD from pursuing remedies
9 in accordance with the Health and Safety Code in the event of any violation.

10 2. Any modification of the final compliance date of this Variance
11 Order must be brought before the Hearing Board.

12 3. The failure to abide by any condition of this Decision and Order
13 will subject the party receiving the variance to penalties as set forth in
14 Health and Safety Code Section 42402.

15 4. Each day during any portion of which a violation occurs is a
16 separate offense.

17 5. Under Section 42362 of the California Health and Safety Code, the
18 State Board may revoke or modify any variance granted by a district if, in
19 its judgment, the variance does not require compliance with a required
20 schedule of increments of progress or emission standards as expeditiously as
21 practicable, or the variance does not meet the requirements of Article 2,
22 Chapter 4, Division 26, of the California Health and Safety Code.

23 6. Petitioner shall retain the obligation to comply with all other
24 local, state, and federal regulations not specifically referenced in this
25 variance order. Federal regulations do not recognize variance orders.

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Agenda Item No. 4

CONDITIONS AND REPORTING REQUIREMENTS

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2 1. Said variance is from May 10, 2024 to May 10, 2025.

3 2. Petitioner shall maintain the combustion temperature of the flare at
4 or above 1,400°F, averaged over any three-hour period, excluding startup,
5 shutdown, or malfunction, during the term of this variance.

6 3. Petitioner shall ensure the landfill gas flow rate to the flare does
7 not exceed 1,350 SCFM, during the term of this variance.

8 4. Petitioner shall submit a monthly report to MBARD of the flare
9 temperature and flow rate from the continuous monitoring system, beginning
10 May 1, 2024, as indicated in Interim Variance 24-001. The report shall be
11 submitted via email to tbenites@mbard.org by 5 pm on the due date, during the
12 variance period.

13 5. Excess emissions, during the term of this variance are:

14

Maximum Daily Flare Emissions (lbs/day)					
NOx	VOC	CO	SOx	PM ₁₀	PM _{2.5}
67	7	306	55	33	33

15
16

17 6. Pursuant to Rule 309 Hearing Board Fees, Section 4.7 public
18 agencies are exempt from excess emissions fees.

19 7. Petitioner shall submit a permit application for the enclosed flare
20 by no later than September 6, 2024.

21 8. If the LFGTE plant has not conducted its annual source test by
22 October 31, 2024, Petitioner shall collect a sample of the LFG to measure the
23 LFG heating value (Btu/Ft³), Total Reduced Sulfides (TRS) as H₂S (ppmvd) and
24 Total Non-Methane Hydrocarbons (TNMHC) as CH₄ (ppm). The analytical results
25 shall be submitted to MBARD within 30 days of the collected LFG sample but no
26 later than December 31, 2024.

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1 9. Within 10 days of the termination of this variance and within 10
2 days of the achievement of final compliance date specified in this Variance
3 Order, the Petitioner will immediately notify the MBARD of its compliance or
4 non-compliance with this Order's requirements and the reasons for compliance
5 or non-compliance. This reporting requirement is in addition to those
6 specified as conditions to this order.

7 10. If delay is anticipated in meeting any requirement of this
8 Variance Order, the Petitioner will immediately notify the MBARD by telephone
9 or email of the anticipated delay and the reasons for such delay.
10 Notification to MBARD of an anticipated delay does not excuse the delay.
11 Notification is not to be misconstrued as an extension of this variance.

12 11. The Petitioner will report immediately to MBARD staff and the
13 Hearing Board, in writing, its failure to meet any date or condition set
14 forth in this Order or in any schedule established pursuant to this Order.
15 Any such violation will constitute a violation of this Order.

16 12. All submittals and notifications to the MBARD pursuant to this
17 Variance Order will be made to:

18 Trevor Benites, Inspector III
19 MONTEREY BAY AIR RESOURCES DISTRICT
20 24580 Silver Cloud Court
21 Monterey, CA 93940
22 tbenites@mbard.org

23 Moved by: Emmett Linder

24 Seconded by: Daniel Dodge Jr.

25 AYES: Michael Guth, Emmett Linder, Daniel Dodge Jr.

26 Dated Signed:

27  5-16-2024
28 HEARING BOARD, MONTEREY BAY AIR
RESOURCES DISTRICT