



**Monterey Bay Air Resources District**  
**MEETING OF THE**  
**HEARING BOARD**  
**MICHAEL GUTH, CHAIR**  
**MONDAY, JUNE 3, 2024 - 2:00 P.M.**  
**24580 Silver Cloud Court, Monterey, CA - Boardroom**

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**REMOTE MEETING OPTION FOR PUBLIC**

**Link to meeting:** <https://us02web.zoom.us/j/84436492088>

**Webinar ID: 844 3649 2088**

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

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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](mailto: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](mailto:sirie@mbard.org) by 5:00 p.m. on Thursday, May 30, 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 2:06 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 Meeting of May 10, 2024  
**Motion:** *Accept and file Summary of Actions for the Hearing Board Meeting of May 10, 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.*
5. **Conducted** Public Hearing  
Docket 24-003: University of California, at Santa Cruz Short Term Variance  
Project Site: 1156 High Street, Santa Cruz, California
  - a. Administration of Oath: Chair administered oath to all persons who will provide testimony for Docket 24-003. Staff: Amy Clymo, Engineering and Compliance Manager. Petitioners: Justin Delemus, UCSC EH&S, and Tanya Guerrero, UCSC Architectural Services.
  - b. Petitioner Presents Case – Justin Delemus and Tanya Guerrero provided verbal testimony.
  - c. Staff Present Report – Amy Clymo provided verbal testimony.
  - d. Public Comment Related to Docket 24-003 – **None.**
  - e. Hearing Board Discussion/Questions
  - f. Hearing Board Decision/Order
    - i. Make Findings
    - ii. Discuss Conditions**Motion:** *Approve variance order for Docket 24-003 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.*
6. ADJOURNMENT – **The meeting adjourned at 2:44 p.m.**

*Sirie Thongchua*  
*Executive Assistant*

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

5	IN THE MATTER OF	)	DOCKET NO.: 24-003
6	THE APPLICATION OF	)	
7	UNIVERSITY OF CALIFORNIA,	)	CONDITIONAL ORDER
8	SANTA CRUZ	)	GRANTING SHORT-TERM VARIANCE
9	1156 HIGH STREET	)	
10	SANTA CRUZ, CA	)	
		)	
		)	
		)	

INTRODUCTION

On May 10, 2024, Petitioner, University of California Santa Cruz (hereinafter referred to as "Petitioner") filed with this Hearing Board an application for a Short-Term Variance. Petitioner requested that the Hearing Board grant a variance from Condition No. 3 of Monterey Bay Air Resources District's (MBARD) Permit to Operate No. 10313. The Petitioner requested to operate one natural gas emergency generator in violation of Permit to Operate conditions during a power outage needed to replace a transformer and terminate the electrical feeder.

NOTICE OF HEARING

Notice of the application and the hearing of June 3, 2024, at 2:00 pm have been given pursuant to the provisions of the California Health and Safety Code Section 40825. The request and MBARD's staff report were presented to the Hearing Board. MBARD was represented by Amy Clymo, Engineering and Compliance Manager. The Petitioner was represented by Justin Delemus, EH&S, and Tanya Guerrero, Architectural Services, University of California at Santa Cruz.

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2 BACKGROUND

3 Petitioner is a Public University used for the purposes of teaching,  
4 research, housing and feeding of students. The Petitioner's facility is  
5 located at 1156 High Street, Santa Cruz, California. Permit to Operate 10313  
6 is located within the campus boundaries.

7 The subject of this variance is the request of the Petitioner to  
8 operate one natural gas emergency generator in violation of Condition 3 of  
9 MBARD Permit to Operate No. 10313. Petitioner needs to generate electricity  
10 to provide minimal support related to campus functions, such as fire alarm  
11 systems, egress lighting, site lighting, surveillance systems, communication  
12 systems, routers, security systems, freezers, etc., for campus occupants  
13 during these time frames for the portion of campus affected by the power  
14 outage.

15 FINDINGS OF FACT

16 Pursuant to Health and Safety Code 42352 the following findings have been  
17 made:

18 (a) THE PETITIONER IS OR WILL BE IN VIOLATION OF SECTION 41701 OR OF  
19 ANY RULE, REGULATION, OR ORDER OF THE DISTRICT.

20 Petitioner will be in violation of Permits to Operate No. 10313,  
21 Condition No. 3 which states, "except for test purposes, this equipment shall  
22 only be operated when the local utility power line service fails."

23 (b) DUE TO CONDITIONS BEYOND THE REASONABLE CONTROL OF THE PETITIONER  
24 REQUIRING COMPLIANCE WOULD RESULT IN EITHER (1) AN ARBITRARY OR UNREASONABLE  
25 TAKING OF PROPERTY, OR (2) THE PRACTICAL CLOSING AND ELIMINATION OF A LAWFUL  
26 BUSINESS.

27 Petitioner requires the operation of the natural gas emergency  
28 generator to provide power for critical emergency systems related to campus

1 functions such as fire alarm systems, egress lighting, site lighting,  
2 surveillance systems, communication systems, routers, security systems, etc.  
3 for campus occupants during these time frames. Petitioner has no practical  
4 way to relocate campus occupants and residents during the power outages due  
5 to various interruptions of services needed to replace a transformer and  
6 terminate the electrical feeder. Petitioner had an alternative power pathway  
7 in this system which has recently failed (fault in conductor) thus  
8 necessitating this request for variance as this was beyond the reasonable  
9 control of Petitioner.

10 (c) THE CLOSING OR TAKING WOULD BE WITHOUT A CORRESPONDING BENEFIT IN  
11 REDUCING AIR CONTAMINANTS.

12 The closing of the business would result in a loss to the Petitioner  
13 and its employees. Without the variance, Petitioner would not be able to  
14 facilitate the replacement of a transformer related to the ongoing renovation  
15 and expansion. Petitioner would need to rent and run portable diesel  
16 generators to supply power during the termination of the electrical feeder.

17 (d) THE PETITIONER FOR THE VARIANCE HAS GIVEN CONSIDERATION TO  
18 CURTAILING OPERATIONS OF THE SOURCE IN LIEU OF OBTAINING A VARIANCE.

19 Petitioner has considered curtailing operations in lieu of obtaining a  
20 variance. Curtailing operations is not practical due to the cost of  
21 relocating building occupants and the presence of life safety equipment.  
22 Petitioner will reduce the generator demand by limiting electrical loads and  
23 scheduling the tests to occur during an academic quarter summer break when  
24 the campus residential population is at the lowest.

25 (e) DURING THE PERIOD THE VARIANCE IS IN EFFECT, THE PETITIONER WILL  
26 REDUCE EXCESS EMISSIONS TO THE MAXIMUM EXTENT FEASIBLE.

27 Petitioner will reduce excess emissions during the variance period, by  
28 operating the generator no longer than necessary to safely complete the

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1 project to replace the transformer and terminate the electrical feeder.

2 Prior to the outage, the Petitioner will instruct the campus community at the  
3 Rachel Carson Academic building to reduce any unnecessary loads during this  
4 time frame, such as computers, power supplies, various equipment, etc.

5 (f) DURING THE PERIOD THE VARIANCE IS IN EFFECT, THE PETITIONER WILL  
6 MONITOR OR OTHERWISE QUANTIFY EMISSION LEVELS FROM THE SOURCE, IF REQUESTED  
7 TO DO SO BY THE DISTRICT, AND REPORT THESE EMISSION LEVELS TO THE DISTRICT  
8 PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DISTRICT.

9 Petitioner will record the run time and fuel use for the emergency  
10 generator and will report this data and emissions to MBARD at the end of the  
11 variance.

12 (g) A nuisance as defined in MBARD Rule 402 is not expected to occur,  
13 as a result of this variance.

14 ORDER

15 NOW THEREFORE, THE HEARING BOARD ORDERS that UNIVERSITY OF CALIFORNIA  
16 SANTA CRUZ is granted a Short-Term Variance from Condition No. 3, of MBARD  
17 Permit to Operate No. 10313 (copy attached) which states "except for test  
18 purposes, this equipment shall only be operated when the local utility power  
19 line service fails", for the period commencing June 17, 2024 from 8:00 am to  
20 September 15, 2024 at 8:00 am for a maximum run time of the emergency  
21 generator for no more than 120 hours.

22 The variance granted herein is subject to the following conditions:

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

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

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

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

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

12           6. Petitioner shall retain the obligation to comply with all other  
13 local, state, and federal regulations not specifically referenced in this  
14 variance order. Note that federal regulations do not recognize variance  
15 orders; therefore, periods of non-compliance with Title V permit requirements  
16 must be reported as such in the facility's Annual Compliance Certification  
17 Report.

18           7. Petitioner will pay an excess emission fee of \$560.00 no later than  
19 June 17, 2024. (Based upon the Hearing Board Fee Rule 309.3.4, the minimum  
20 fee shall apply)

21           8. Petitioner will not exceed 79 lbs of NOx, 18 lbs of VOC, and 188 lbs  
22 of CO, during the term of this variance.

23           9. Petitioner will submit, 10 days after completion of the project, a  
24 report detailing the dates the emergency generator was used, the hours of  
25 operation, and fuel use.

26           10. Petitioner will not exceed 120 hours of run time for the emergency  
27 generator during the term of this variance.

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

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

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

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


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

24 Moved by: Emmett Linder

25 Seconded by: Daniel Dodge Jr.

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

27 Dated Signed: June 12, 2024

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HEARING BOARD,  
MONTEREY BAY AIR RESOURCES DISTRICT