



Monterey Bay Air Resources District

SPECIAL MEETING OF THE

HEARING BOARD

MICHAEL GUTH, CHAIR

MONDAY, APRIL 22, 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/82268451832>

Webinar ID: 822 6845 1832

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 Friday, April 19, 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 2:05 p.m.**
2. ROLL CALL – **Present:** Daniel Dodge Jr., Michael Guth, Emmett Linder.
3. PUBLIC COMMENT FOR ITEMS NOT ON AGENDA – Donald Roland, and Christine Williams, Granite Construction Company, thanked the board for granting an Interim Variance for Granite Construction Company Project Site: 721 Work Street, Salinas, California (Docket 23-004). All issues were resolved.
4. **Accepted and Filed** Summary of Actions for the Hearing Board Special Meeting of January 30, 2024
***Motion:** Accept and file Summary of Actions for the Hearing Board Special Meeting of January 30, 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 moved Item #7 forward in the agenda before Items 5 and 6.

7. **Conducted** Public Hearing
Docket 24-001: City of Santa Cruz Interim Variance
Project Site: Resource Recovery Facility, 605 Dimeo Lane, Santa Cruz, California
 - a. Administration of Oath: Chair administers oath to all persons who will provide testimony for Docket 24-001. 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, Nathan Nguyen, City of Santa Cruz Public Works Director, Bob Nelson, City of Santa Cruz Resource Recovery Operations Manager, Barbara Choi, City Attorney, City of Santa Cruz, Kendra Kent, Tetra Tech Senior Environmental Compliance Specialist, Nat Isael, Tetra Tech, Paul Stout, Tetra Tech, Juan Carbajal, Tetra Tech, and Kevin Crossley, City of Santa Cruz Assistant Director of Public Works/City Engineer.
 - b. Petitioner Presents Case - Hoi Yu, and Kevin Crossley provided verbal testimony.
 - c. Staff Present Report - Amy Clymo and Mary Giraud provided verbal testimony.
 - d. Public Comment Related to Docket 24-001 – Sandy Brown, Council Member, City of Santa Cruz, and Board Member, MBARD, sent in an email on April 19, 2024, in support of the City of Santa Cruz’s variance application.
 - e. Hearing Board Discussion/Questions
 - f. Hearing Board Decision/Order
 - i. Make “Good Cause” Finding
 - ii. Discuss Conditions

Motion: Approve draft order for Docket 24-001. **Action:** Approve. **Moved by** Daniel Dodge Jr., **Seconded by** Emmett Linder. **Vote:** Motion carried **unanimously by roll call vote (summary: Yes = 3)**. **Yes:** Daniel Dodge Jr., Michael Guth, Emmett Linder.

5. **Received** Oral Update on Docket 23-005: Order for Abatement Against Lovesworth Holdings Inc. dba First Stop and Go Valero, Owner Samuel Ezeibe
Receive report. No action required or taken.

6. Adopt Hearing Board Regulation VI: Procedure Before the Hearing Board
Motion: Continue Item #6 to the meeting of the Hearing Board on May 10, 2024. **Action:** Approve. **Moved by** Daniel Dodge Jr., **Seconded by** Emmett Linder. **Vote:** Motion carried **unanimously**.

8. ADJOURNMENT – **The meeting adjourned at 2:57 p.m.**

Sirie Thongchua
Executive Assistant

Agenda Item No. 4

From: [Sandy Brown](#)
To: [Sirie Thongchua](#)
Subject: Hearing Board April 22 Special Meeting, Item 7
Date: Friday, April 19, 2024 4:30:56 PM

Hi Sirie,

I'd like to submit the following communication to the Hearing Board related to Item 7 on the April 22 special meeting agenda. Would I do this through you, or someone else at MBARD?

Many thanks,
Sandy

Message Re: April 22, 2024 Special Meeting, Item 7

Dear Mr. Guth and Members of the Hearing Board,

I am writing to express my full support for the City of Santa Cruz's request for a variance to operate an open flare system, as outlined in their recent petition. Understanding the circumstances surrounding the request to utilize this alternative, and the critical need for a temporary solution (as well as the need to mitigate future power outages), I believe granting this variance is important for both the environment and public health and safety.

A February 2024 high-wind incident damaged PG&E equipment, resulting in the non-operational status of the landfill gas collection and control system at the Santa Cruz Energy LLC plant. The City of Santa Cruz, as the responsible entity, has responded to this challenge and has been proactive in seeking alternative compliance options in collaboration with contractors and MBARD staff. The continuous operation of such a system is critical to prevent the escape of landfill gas into the atmosphere, or its off-site migration.

The potential environmental and public safety impacts stemming from landfill gas emissions are concerning. Without an effective gas collection and control system in place, there is a risk of harmful emissions entering the atmosphere or migrating beyond the landfill boundaries. The temporary operation of an open flare system is necessary to mitigate these risks until the permanent enclosed ground flare can be installed.

I urge the Hearing Board to consider the urgency of the situation and the efforts made by the City of Santa Cruz to address the issue promptly. Granting the requested variance will enable the city to maintain compliance with regulations while ensuring the protection of the environment and the well-being of the public.

Sincerely,

Sandy Brown
Council Member, City of Santa Cruz

Board Member, MBARD

Sandy Brown
Santa Cruz City Council
809 Center Street, Rm 10
Santa Cruz, CA 95060
(831) 246-0399

Agenda Item No. 4

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

IN THE MATTER OF)	DOCKET NO.: 24-001
THE APPLICATION OF)	
CITY OF SANTA CRUZ)	CONDITIONAL ORDER
Resource Recovery Facility)	GRANTING INTERIM 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 an Interim Variance. Petitioner is also applying for a Regular Variance.

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 April 22, 2024, at 2:00 p.m. have been given pursuant to the provisions of the California Health and Safety Code Section 40824.

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. The petitioner was represented by Hoi Yu, P.E., City of Santa Cruz Public Works.

BACKGROUND

1
2 City of Santa Cruz, Resource Recovery Facility ("Petitioner") is in the
3 business of operating a Class III municipal solid waste landfill and
4 recycling center. Petitioner's facility includes a sanitary landfill,
5 recycling center, yard waste drop-off, construction & demolition drop-off,
6 and household hazardous waste drop-off. The facility is for the processing
7 and disposal of material generated within the City of Santa Cruz limits. A
8 third party company, Santa Cruz Energy, LLC is the owner and operator of the
9 landfill gas collection and control system (LFGCCS) at the landfill.

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

24 The City is not responsible for the maintenance and operation of the
25 LFGCCS. The LFGCCS is owned and operated solely by Santa Cruz Energy, LLC.
26 Their system is comprised of 45 LFG extraction wells connected to the LFGCCS
27 piping. Santa Cruz Energy, LLC monitors the LFG extraction wells.

Agenda Item No. 4

1 The LFGCCS is inspected and maintained each week. Currently, there is
2 no vacuum on the landfill, but the source is keeping up with maintenance as
3 required. The LFGTE plant is not operational at this time but it is current
4 on required maintenance and has been periodically inspected throughout the
5 period of shutdown.

6 FINDINGS OF FACT

7 1. Pursuant to California Health and Safety Code Section 42351 (b),
8 the Hearing Board finds that good cause can be made based on its belief that
9 there is a reasonable possibility that the required six (6) findings could be
10 made during the hearing of the Regular variance request, as follows:

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

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

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

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

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

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

27

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1 MBARD of its compliance or non-compliance with this Order's requirements and
2 the reasons for compliance or non-compliance. This reporting requirement is
3 in addition to those specified as conditions to this order.

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

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

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

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

21 Moved by: Daniel Dodge Jr.

22 Seconded by: Emmett Linder

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

24 Dated Signed:

25  4/28/2024
26 HEARING BOARD, MONTEREY BAY AIR
27 RESOURCES DISTRICT
28