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8 **SNOW SUMMIT, LLC**

9 **BEFORE THE HEARING BOARD OF THE**
10 **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

11 In the Matter of

12 **SNOW SUMMIT, LLC**

13 Petitioner.

Case No.: 4657-3

Facility I.D.: 185352

**FINDINGS AND DECISION OF THE
HEARING BOARD AND [PROPOSED]
ORDER**

Section 42350 of the California Health and
Safety Code

Hearing Date: November 20, 2024

16 **FINDINGS AND DECISION OF THE HEARING BOARD**

17 This petition for a short variance was heard on the Hearing Board’s Consent Calendar
18 on November 20, 2024, pursuant to notice and in accordance with the provisions of California
19 Health and Safety Code Section 40825. The following members of the Hearing Board were
20 present: Micah Ali, Chair; Robert Pearman, Vice Chair; Mohan Balagopalan; Cynthia
21 Verdugo-Peralta; and Dr. Sharon Williams, MD, FACAAI (alternate). Petitioner, Snow
22 Summit, LLC (“Snow Summit”) represented by Maya Lopez Grasse, Alston & Bird LLP, did
23 not appear. Respondent Executive Officer, represented by Ryan P. Mansell, did not appear.
24 The joint Stipulation to Place Matter on Consent Calendar, the Declarations of Wade Reeser
25 and John Furlong and the Proposed Findings and Decision were received as evidence, and the
26 case submitted. The public was given the opportunity to testify. The Hearing Board finds and
27 decides as follows:

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1 **Nature of Business and Location of Facility**

2 Petitioner Snow Summit is a ski resort that operates at 880 Summit Boulevard in the
3 City of Big Bear Lake, California.

4 **Equipment that is the Subject of the Variance Petition**

5 The equipment that is subject to the variance are six diesel-fueled internal combustion
6 engines that are used to drive electrical generators. The electricity that is produced is then
7 used to power water pumps and air compressors for snowmaking operations during the winter
8 ski season. Petitioner’s facility is a RECLAIM and Title V facility.

9 **.SUMMARY**

10 Rules 1100 and 1110.2 apply to Petitioner’s engines, which are regulated as Low-Use
11 Diesel-Fired Electrical Generators at Ski Resorts. Under the rules, and Petitioner’s
12 corresponding permit condition, the engines are limited to 500 operating hours annually. If
13 this limit is exceeded, the engines are subject to other requirements under the rules, including
14 decommissioning or retrofitting. Petitioner has undertaken, in partnership with its local utility
15 Bear Valley Electrical Services (“BVES”), a project to electrify the snowmaking equipment,
16 where utility-provided power would replace the power generated by the six diesel engines
17 except in scenarios where backup power is needed (the “Electrification Project”). The
18 Electrification Project has been underway for several years and although it was originally
19 scheduled for completion before this winter season, it is not yet complete. Therefore, Petitioner
20 continues to rely on its six engines to generate power for snowmaking and will exceed the 500-
21 hour limit before the limit is reset on January 1, 2025.

22 Following are the facts and conclusions supporting the findings, as set forth in
23 California Health and Safety Code Section 42352, necessary to grant the variance. The
24 Executive Officer did not oppose the granting of the variance.

25 **FINDINGS OF FACT AND CONCLUSIONS**

26 **(a)(1) The petitioner for a variance is or will be in violation of a rule, regulation, or order**
27 **of the District.**

- 28 1. Petitioner will be in violation of its Title V Permit Condition C1.6 which limits

1 annual operating time for the six engines to 500 hours. Petitioner anticipates exceeding the
2 500-hour limit between the time of the hearing and December 31, 2024, when the limit resets.

3 2. Petitioner will also be in violation of District Rules 1100(d)(9)(A) and
4 1110.2(d)(1)(B)(vi). These provisions specify, respectively, that Low-Use Diesel-Fired
5 Electrical Generators at Ski Resorts must not exceed 500 hours of annual operating time, and
6 that Low-Use Engines (defined as less than 500 hours of operating use annually) must comply
7 with the emission concentration limits listed in Table II of Rule 1110.2.

8 3. Petitioner will also be in violation of Rule 1100(d)(9)(B), which requires that if
9 Low-Use Engines do exceed 500 hours then they must be decommissioned, retrofitted, or
10 repowered. Petitioner will also be in violation of Rule 1110.2(e)(9), which requires that
11 engines exceeding the 500-hour low use threshold must be brought into compliance with
12 applicable NOx limits and other criteria within the timeframe specified in the rule, including
13 Table VI of the rule. Snow Summit will be in violation of both of these rules because even
14 after the Electrification Project, it will retain the six engines to supply backup power in the
15 event of grid-related power delivery issues and cannot comply with rule requirements to
16 decommission, retrofit or repower them.

17 4. Operation of the six engines systems in violation of the above rules and permit
18 condition is also a violation of Rule 203(b), which requires equipment to be operated in
19 accordance with specified conditions of said permit, and Rules 2004(f)(1) and 3002(c)(1),
20 which require operation of RECLAIM and Title V facilities (respectively) which require
21 operation of a Title V facility and all equipment located at a Title V facility in compliance with
22 all terms, requirements and conditions specified in the Title V permit at all times.

23 **(a)(2) Non-compliance with District Rule(s) is due to conditions beyond the reasonable**
24 **control of the Petitioner.**

25 5. Petitioner will need to operate its six engines to generate power for snowmaking
26 equipment beyond the 500-hour limit until December 31, 2024. Petitioner will also need to
27 operate the six engines as backup engines once the Electrification Project is completed before
28 the 2025-2026 winter season.

1 6. Petitioner has been working in concert with BVES for several years (since at
2 least 2016) on the Electrification Project, which Petitioner is funding but which BVES is
3 directly managing. The Project contractor selection was schedule-driven, not cost-driven. As
4 a public utility, BVES must comply with regulatory processes imposed by the California
5 Public Utilities Commission (“PUC”). The Electrification Project also entails approvals from
6 the United States Forest Service. Petitioner cannot control the timing of these third-party
7 approvals.

8 7. Petitioner undertook this Project in part to comply with the RECLAIM
9 transition. Petitioner participated in the rulemaking to amend the RECLAIM transition rules
10 implicated in this proceeding.

11 8. The Electrification Project encountered delays beyond Petitioner’s control.
12 Winter blizzards in the San Bernardino mountains in February and March 2023 slowed
13 progress on the Project because Petitioner and BVES were otherwise occupied addressing the
14 disaster. The United States Forest Service took more than one year to issue the necessary
15 approval for the project. And the contractor reported to BVES in July 2024 that it would be
16 unable to procure necessary components for the project – the transformers – in time for the
17 Project to be completed by the 2024-2025 ski season. BVES and Petitioner communicated
18 with the contractor to try and identify solutions to minimize the impact of the delay. The BVES
19 and Petitioner continued work on the Project, but in September 2024 the Line Fire erupted in
20 the San Bernardino mountains, again pausing work on the Project. However, substantial work
21 has been completed on the Electrification Project, and BVES and Petitioner intend to continue
22 working on Project completion through the winter as weather conditions allow.

23
24 9. Petitioner has considered alternatives to variance relief. However, Petitioner will
25 not be able to make the necessary amount of artificial snow to keep its resort fully open during
26 the early ski season of mid-November through December without running the six engines. At
27 present, the local utility, BVES, cannot supply sufficient power to the resort to power the
28 snowmaking equipment – Petitioner relies solely on its own power generation for the

1 snowmaking equipment. Petitioner relies on the holiday season and the time period between
2 mid-November and January for approximately 41% of its annual revenue, but historically only
3 receives 25% of the seasonal snowfall during that time. In order to avoid an impact to
4 visitation, the resort must be fully open, and it relies on its snowmaking capabilities to achieve
5 this when natural snowfall is insufficient, as it historically has been during this time.

6
7 10. Petitioner also cannot decommission, retrofit, or repower its six engines as
8 would otherwise be required under the relevant rules. Petitioner is committing approximately
9 \$10 million to fund the Electrification Project, it anticipates will be complete within the next
10 year. Petitioner intends to retain the six engines and maintain their Low-Use Engine status to
11 enable them to be used as a source of backup generating power once the Electrification Project
12 is complete, in case of disruptions to the utility-supplied power. Therefore, Petitioner cannot
13 decommission the engines. Petitioner had conducted a Best Available Retrofit Control
14 Technology analysis in 2019 that confirmed that retrofitting the engines was not cost efficient.

15 11. Petitioner will return to compliance on January 1, 2025 when the annual 500-
16 hour limit is reset.

17 **(a)(2) Requiring compliance would result in either (A) an arbitrary or unreasonable**
18 **taking of property, or (B) the practical closing and elimination of a lawful business.**

19 12. Failure to grant the variance would require Petitioner to cease using its engines
20 to generate power for snowmaking equipment. Without snowmaking capabilities, Petitioner
21 would not be able to fully open its ski resort.

22 13. Petitioner relies on the resort being fully open and operational during the winter
23 holiday season. Petitioner takes in 41% of its seasonal revenue during November, December
24 and the first two weeks of January, yet only 25% of seasonal snowfall occurs during that time
25 period, so revenue is highly dependent on snowmaking ability during the last two months of
26 the year.

27 14. Petitioner estimates that if its snowmaking abilities are limited, it could
28 experience 10% and 25% fewer visitors to the resort than expected, resulting in a potential

1 revenue loss ranging from approximately \$4.3 million to \$10.6 million. This is a significant
2 economic impact to Petitioner. This also impacts the city of Big Bear Lake in the form of tax
3 revenue and visitor spending at local businesses.

4 15. Petitioner is the largest employer in the city of Big Bear Lake. If the ski resort
5 cannot fully open, Petitioner anticipates it would be unable to employ 194 individuals, who
6 otherwise would have full-time positions at the ski resort over the winter season.

7 **(a)(3) The closing or taking would be without a corresponding benefit in reducing air**
8 **contaminants.**

9 16. For each day that on of the six engines operates, if operating up to their
10 maximum permitted capacity, the excess emissions in pounds per day during the variance
11 period are estimated to amount to approximately 72.1 of CO, 1.6 of PM, 144.9 of NOx, 0.8 of
12 SOx, and 13.7 of ROG. However, the Board finds that the significant harm to Petitioner
13 outweighs the benefits to air quality if the emissions associated with the variance were
14 eliminated as a result of denying the variance.

15 **(a)(4) The Petitioner has given consideration to curtailing operations of the source in lieu**
16 **of obtaining a variance.**

17 17. Petitioner has considered curtailment in lieu of obtaining a variance and but is
18 unable to curtail without incurring harm similar to the level it would suffer if the variance were
19 not granted.

20 **(a)(5) During the period the variance is in effect, the petitioner will reduce excess**
21 **emissions to the maximum extent feasible.**

22 18. Petitioner has agreed to comply with the conditions of this order to reduce
23 emissions to the maximum extent possible during the variance period.

24 **(a)(6) During the period the variance is in effect, Petitioner will monitor or otherwise**
25 **quantify emission levels from the source, if requested to do so by the District, and report**
26 **these emission levels to the District pursuant to a schedule established by the District.**

27 19. Petitioner has agreed to comply with the conditions set forth in this variance
28 order.

1 **Operation under the order is not expected to result in a violation of California Health**
2 **and Safety Code Section 41700.**

3 20. Petitioner's operation of its six engines is not expected to create a nuisance in
4 violation of California Health and Safety Code section 41700.

5 **[PROPOSED] ORDER**

6 THEREFORE, good cause appearing, the Hearing Board orders as follows:

- 7 A. Petitioner is granted a regular variance from Permit Condition C1.6 and District Rules
8 1100(d)(9)(A) and (B); 1110.2(d)(1)(B)(vi) and (e)(9); 203(b); 2004(f)(1); 3002(c)(1)
9 in the timeframe beginning on November 20, 2024, and concluding on or before
10 December 31, 2024.
- 11 B. The variance granted herein is subject to the following conditions:
- 12 1. Petitioner shall limit use of the permitted internal combustion engines (ICEs),
13 Device IDs D69, D70, D75, and D78-80 to an as-needed basis, including
14 maintenance & testing, not to exceed a total of 800 hours of operation per
15 device for the 2024 calendar year.
 - 16 2. Petitioner shall continue maintaining a daily operating log for Devices IDs D69,
17 D70, D75, and D78-80 and shall send the records to South Coast AQMD via
18 email to AQ Engineer Leslie Rodriguez at lrodriguez@aqmd.gov and AQ
19 Inspector Paolo Longoni at plongoni@aqmd.gov by Monday of each week for
20 the prior week beginning November 25, 2024. The operating log shall list all
21 engine operations in the following areas:
 - 22 i. Date and hours of operation.
 - 23 ii. Date and hours of maintenance and testing operations.
 - 24 iii. Total annual hours of operation and total number of hours operated
25 beyond the 500-hour limit.
 - 26 3. Petitioner shall maintain fuel usage or daily operating records for Device IDs
27 D69, D70, D75, and D78-80 and shall provide the records to South Coast
28 AQMD via email to Leslie Rodriguez at lrodriguez@aqmd.gov and Paolo
Longoni at plongoni@aqmd.gov by Monday of each week for the prior week
beginning November 25, 2024. If fuel usage or daily operating records are not
provided in an electronic format in a spreadsheet that is accessible to South
Coast AQMD staff, excess emissions shall be calculated assuming a run time of
24 hours per day at the maximum rated capacity for any day these engines are
operated.
 4. Upon exceeding the 500 hour limit, Petitioner shall limit the number of startups
of each affected ICE to no more than once per calendar day, with an exception

1 for unplanned maintenance (e.g., a fan belt that breaks during startup and needs
2 to be replaced) and emergencies. Each ICE startup shall not exceed 120
3 consecutive minutes. Petitioner shall maintain records, in a manner acceptable
4 to South Coast AQMD, to demonstrate compliance with this condition. For the
5 purpose of this condition, startup means the time period beginning when the
6 ICE begins combusting fuel after a period of zero fuel flow and ending when
the NOx post combustion control equipment reaches the minimum operating
temperature required by Facility Permit to Operate Condition Nos. D12.5 and
D12.8.

- 7 5. Upon exceeding the 500 hour limit, Petitioner shall limit the number of
8 shutdowns of each affected ICE to no more than once per calendar day, with an
9 exception for unplanned maintenance (e.g., a fan belt that breaks during startup
10 and needs to be replaced) and emergencies. Each ICE shutdown shall not
11 exceed 120 consecutive minutes. Petitioner shall maintain records, in a manner
12 acceptable to South Coast AQMD, to demonstrate compliance with this
13 condition. For the purpose of this condition, shutdown means the time period
14 beginning when the ICE begins reducing load in advance of terminating fuel
15 flow and ending with a period of zero fuel flow.
- 16 6. Upon exceeding the 500 hour limit, in addition to requirements specified in
17 conditions above, the Petitioner shall maintain and send records to South Coast
18 AQMD by email to AQ Engineer Leslie Rodriguez at lrodriguez@aqmd.gov
19 and AQ Inspector Paolo Longoni at plongoni@aqmd.gov no later than COB
20 every Monday each week to include the following:
21 i. Daily number and duration of startups and shutdowns;
22 ii. Total annual fuel usage and total annual excess fuel usage. For the
23 purpose of this condition, total annual excess fuel usage is defined as the
24 difference between the monthly final fuel usage and the fuel usage
25 recorded by the non-resettable totalizing fuel meter when the ICE
26 reached the 500-hour limit;
27 iii. Daily pressure readings as required by Facility Permit to Operate
28 Condition Nos. C6.1, C6.2, and C6.3;
iv. Daily temperature readings as required by Facility Permit to Operate
Condition Nos. D12.5 and D12.8.
7. Excess Emissions are estimated using maximum rated capacity of each engine
as follows but shall be calculated and fees paid consistent with District Rule
303, based on actual excess emissions as determined by daily hourly engines
operating records, provided that complete and accurate daily usage records are
submitted to South Coast AQMD in an accessible electronic format. At
maximum rated engine capacity:

Source	CO	NOx	PM	ROG	SOx
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	lb/day	lb/day	lb/day	lb/day	lb/day
D69	72.1	144.9	1.6	13.7	0.8
D70	72.1	144.9	1.6	13.7	0.8
D75	72.1	144.9	1.6	13.7	0.8
D78	72.1	144.9	1.6	13.7	0.8
D79	72.1	144.9	1.6	13.7	0.8
D80	72.1	144.9	1.6	13.7	0.8

8. Petitioner shall pay all applicable fees, including excess emissions fees, if applicable, to the Clerk of the Hearing Board within forty-five days of notification in writing that the fees are due or the variance shall be invalidated pursuant to Rule 303 – Hearing Board Fees, subsection (k).
9. Petitioner shall notify South Coast AQMD’s Clerk of the Board by email (ClerkofBoard@aqmd.gov) and Ryan Mansell (rmansell@aqmd.gov) within 3 working calendar days of achieving final compliance.

DATED: _____

BOARD MEMBER: _____

Prepared by Maya Lopez Grasse