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

In the Matter of
UNITED STATES NAVY,
Facility ID# 146536

Case No. 4518-10
**[PROPOSED] FINDINGS, DECISION, AND
ORDER**
District Rules 203(b) and 3002(c)

Hearing Date: October 31, 2024
Time: 9:30 a.m.
Place: 21865 Copley Drive
Diamond Bar, CA 91765-0940

This petition for a regular variance was heard on the Hearing Board’s Consent Calendar on October 31, 2024, in accordance with the provisions of California Health and Safety Code Section 40826 and District Rule 510. The following members of the Hearing Board were present: Micah Ali, Chair; Robert Pearman, Vice Chair; Mohan Balagopalan; Cynthia Verdugo-Peralta; and Dr. Jerry P. Abraham.

Petitioner, Department of Navy (hereinafter “Navy” or "Petitioner"), represented by Craig Haverstick, Air Compliance Specialist, did not appear. Respondent, Executive Officer, represented by Karin Manwaring, Senior Deputy District Counsel, did not appear. The parties filed with the Hearing Board the Joint Stipulation to Place Matter on Consent Calendar, the Declaration of Craig Haverstick, and the [Proposed] Findings and Decision of the Hearing Board. Upon stipulation by both parties, the evidence and testimony from the ex parte

1 emergency variance matter that resulted in the minute order dated August 2, 2024, was
2 incorporated by reference, as was the evidence and testimony from interim variance granted on
3 consent on August 29, 2024. The Hearing Board finds and decides as follows:

4 **Nature of Business and Location of Facility**

5 Petitioner operates a naval installation on San Clemente Island off the coast of California
6 (the “Facility”). The Petitioner has an auxiliary landing field there, and conducts uniquely vital
7 military training and testing. The facility is integral to the vast complex of land and sea ranges in
8 the southwestern United States and the ocean off the coast of California. The island also supports
9 civilian research into its natural and cultural resources, as well as communication facilities relied
10 on by civilian agencies such as the Federal Aviation Administration, United States Coast Guard
11 and state and county law enforcement and search and rescue authorities. The Island is about 22
12 miles long and 4 miles wide. It is a very rugged landscape rising up to almost 2000 feet above
13 sea level at its highest point and cut by canyons.

14 **Equipment and Permit to Construct/Operate**

15 The equipment subject to this petition is two Internal Combustion Engines, Device ID
16 Nos. 021 & 0200, located at the Facility, (the “Equipment”). The equipment operates backup
17 generators to run vital communications equipment in the event of failure of the power grid. It is
18 subject to Title V Facility P/O No. 800263.

19 **SUMMARY**

20 Petitioner is in violation of Rules 203(b) and 3002(c)(1) {from Section D, Condition No.
21 C1 .1 of Title V Facility P/O No. 800263} of the South Coast Air Quality Management District
22 Rules and Regulations, because a wild fire caused catastrophic damage to the electrical grid. Site
23 power will take at least a year to restore. Therefore the Equipment has exceeded and will exceed
24 the 200 hour per year operating limit imposed by its permit under relevant rules. Petitioner was
25 granted an ex parte emergency variance, dated August 2, 2024 and an interim variance on August
26 29, 2024 from the relevant annual hour limits. The equipment exceeded its hour limit for 2024 on
27 August 3, 2024. Since August 16, 2024 lower emission engines have reduced usage of and
28 largely replaced the equipment. Petitioner rented two tier 4 PERP engines that are CARB

1 registered and has a registered tier 3 engine (PERP 163377) currently in storage on the island to
2 provide additional backup as needed. Power has been provided in place of Device D200 (Vista)
3 by a CARB registered rental tier 4 portable engine (PERP 193287) since August 16, 2024. Power
4 has been provided in place of D21 by a CARB registered rental tier 4 portable engine (PERP
5 203341) since August 16, 2024. D21 has been disabled and is unlikely to run again before
6 January 2025, when the 200-hour permit condition resets.

7 FINDINGS OF FACT AND CONCLUSIONS

8 Following are the facts and conclusions supporting the findings set forth in Health and
9 Safety Code Section 42352 necessary to grant the variance. The Executive Officer did not oppose
10 the granting of the regular variance.

11 **Good Cause.** A finding of Good Cause is not required for the granting of a regular variance.
12 However, there was good cause to grant an interim variance consistent with the good cause found
13 in the ex parte emergency variance minute order dated August 2, 2024. The relevant violations
14 were caused by catastrophic fire that destroyed 13,000 acres and 9 miles of electrical lines.

15 **a. The petitioner for a variance is, or will be, in violation of Section 41701 or of any**
16 **rule, regulation, or order of the District.**

17 1. Petitioner is in violation of Rules 203(b) and 3002(c)(1) {from Section D, Condition No.
18 C1 .1 of Title V Facility P/O No. 800263} of the South Coast Air Quality Management District
19 Rules and Regulations, limiting D21 and D200 to 200 hours of operation annually.

21 **b(1). Non-compliance with District Rule(s) is due to conditions beyond the**
22 **reasonable control of the petitioner.**

23 The violation is caused by a fire that consumed 13,000 acres and nine miles of power lines
24 that furnished grid power. The fire also damaged 161 power poles and a transformer. The Navy is
25 in the process of hiring qualified contractors via a legally mandatory fair and open contracting
26 process to repair the damage. This process may take several months. In addition, the magnitude of
27 the damage, the island's remote location, and its rugged landscape further complicates repairs,
28

1 probably drawing the process out for a year or more. All these factors are outside Petitioner's
2 reasonable control. Regardless of the damage, critical operations on the island require power.

3 The Navy's only reasonable option at present is to use the permitted emergency engines
4 until critical electrical infrastructure is repaired or replaced or the equipment is replaced. To this
5 end, Petitioner has rented two tier 4 engines that will be used for the rest of duration of repair and
6 intends to submit permit applications for the tier 4 PERP engines prior to April 1, 2025, as part of
7 this Order, so that they will be legally operable as stationary units if determined necessary to
8 power for critical infrastructure needs.

9 **b(2). Requiring compliance would result in either (1) an arbitrary or**
10 **unreasonable taking of property, or (2) the practical closing and**
11 **elimination of a lawful business.**

12 1. The assets supported by the Equipment consist of over 400 pieces of communication
13 equipment that include radar, microwave transceivers, and tactical data links in the Mount Thirst
14 and Vista areas of the Facility. The equipment also supports functions for the US Air Force,
15 Coast Guard Rescue 21, Sheriff's Department, FAA, and academic research labs. Rescue 21 is
16 the Coast Guard's advanced command, control and direction-finding communications system,
17 which was created to better locate mariners in distress and save lives and property at sea. These
18 are critical to national defense in that they support training of personnel and testing of equipment,
19 and they are critical to civilian functions in that they support air traffic coordination and search
20 and rescue functions. Shutting the equipment down would eliminate vital government functions
21 that are lawful activities.

22 **c. The closing or taking would be without a corresponding benefit in**
23 **reducing air contaminants.**

24 1. The Board has determined that the significant harm to Petitioner and to vital
25 governmental functions would outweigh the benefit to air quality if the emissions associated with
26 the variance request were eliminated as a result of denying the variance. Emissions from the
27 equipment will be minimal or eliminated during the remainder of the variance period. Any such
28 emissions shall be calculated, recorded, and reported with fees paid consistent with Rule 303.

1 Any emissions will not cause any nuisance. They are at a high altitude on the island, and the
2 island is about 70 miles from the mainland and 20 miles to Santa Catalina Island.

3 **d. The petitioner for the variance has given consideration to curtailing**
4 **operations of the source in lieu of obtaining a variance.**

5 1. Operation of the equipment has been largely curtailed. Device D21 has been disabled
6 and replaced by a rented, registered tier 4 PERP, and backed up by another such unit
7 since August 16, 2024. It is highly improbable though possible for Device D21 to run
8 during the remainder of the year. Device D200 has also been replaced by a rented,
9 registered, tier 4 engine since August 16, 2024. However, it has not been disabled.
10 Therefore it may run for limited hours during the remainder of 2024. When permitted
11 hours reset in 2025, the 200 hours allowed under applicable permits will be sufficient.
12 In addition to the foregoing, the Navy has a registered tier 3 engine currently in
13 storage on the island to provide additional backup if needed.

14 **e. During the period the variance is in effect, the petitioner will reduce excess emissions**
15 **to the maximum extent feasible.**

16 1. During the period of the variance, Petitioner will reduce excess emissions to the
17 maximum extent feasible. It is not currently feasible to completely shut down the equipment for
18 any significant amount of time. However, Petitioner has secured and deployed lower emission
19 portable engines to largely take over from the Equipment, in order to reduce emissions to the
20 maximum extent feasible. Presently, all or nearly all backup power is provided by portable tier 4
21 engines.

22 **f. During the period the variance is in effect, the petitioner will monitor or**
23 **otherwise quantify emission levels from the source, if requested to do so by the**
24 **District, and report these emission levels to the District pursuant to a schedule**
25 **established by the District.**

26 1. Petitioner will monitor, record, and report emissions consistent with the conditions
27 set forth in the variance.
28

1 **ORDER**

2 A. Petitioner is granted a regular variance from October 31, 2024, until December 31,
3 2024, as to Device D21 and Device D200 from Rules 203(b) and 3002(c)(1) {from Section D,
4 Condition No. C1 .1 of Title V Facility P/O No. 800263} of the South Coast Air Quality
5 Management District Rules and Regulations.

6 B. The variance granted herein is subject to the following conditions:

- 7 1. Petitioner shall limit use of the permitted emergency IC engines (ICEs), Devices
8 D21 & D200 to emergency usage and maintenance & testing, and shall operate the
9 ICEs no more than 1.0 hour per month total for maintenance & testing time.
- 10 2. Petitioner shall, within two business days of issuance of the requested variance,
11 provide in writing to the District via mail to Hemang Desai at HDesai@aqmd.gov
12 a description of any portable engines it acquired for use during the requested
13 variance, including: make, model, tier, year of manufacturer, location, and first
14 date of operation.
- 15 3. Petitioner shall continue maintaining a monthly operating log for Devices D21 &
16 D200 and shall send the records to the South Coast AQMD by email to AQ
17 Inspector Daniel Hernandez (dhernandez@aqmd.gov) on the first Tuesday of each
18 month beginning November 3, 2024. The operating log shall list all engine
19 operations in the following areas:
- 20 i. Date and hours of emergency operation, specifying the cause of the
21 emergency;
 - 22 ii. Date and hours of maintenance and testing operations; and
 - 23 iii. Date and hours of any other non-emergency operation.
- 24 4. Except as otherwise permitted in variance condition #1, Petitioner shall cease
25 operation of the ICEs (Device ID Nos. D21 and D200) after the expiration of the
26 variance except as allowed by the applicable permit and AQMD rules.
- 27 5. Petitioner shall maintain fuel usage or daily operating records for D21 and D200
28 and shall provide the records to the District monthly via email to Hemang Desai at

Hdesai@aqmd.gov by the 15th day of each month for the prior months(s) beginning November 15, 2024. If fuel usage or daily operating records are not provided in an electronic format in a spreadsheet that is accessible to District staff, excess emissions shall be calculated assuming a run time of 24 hours at maximum load for any day D21 or D200 is operated.

6. Excess Emissions are estimated using 100 percent fuel load on the engines as follows, but shall be calculated and fees paid consistent with District Rule 303, based on actual excess emissions as determined by fuel usage or daily hourly engines operating records, provided that complete and accurate fuel usage records are submitted to the District in an accessible electronic format.

7. At 100 percent load:

Source	Daily Consumption (1000 Gal)	CO lb/day	NOx lb/day	PM10 lb/day	ROG lb/day
D21	0.6326	63.60	292.47	21.19	23.72
D200	0.2084	72.52	45.80	3.24	8.53

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 Karin Manwaring (KManwaring@aqmd.gov) within 3 working calendar days of achieving final compliance.

BOARD MEMBER: _____

DATED: _____