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6 **UNITED STATES NAVY**

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

9 In the Matter of

10 **UNITED STATES NAVY**

11 Petitioner.

Case No.: 4518-11
Facility I.D.: 2613

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

Section 42350 of the California Health and
Safety Code

Hearing Date: March 18, 2025

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 March 18, 2025, 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, Esq., Vice-Chair; Jerry P. Abraham, M.D. MPH
21 CMQ; Mohan Balagopalan; and Cynthia Verdugo-Peralta. Petitioner, United States Navy,
22 Naval Weapons Station Seal Beach ("NWSSB") represented by Michael R. Waters, Associate
23 Counsel, NAVFAC Southwest, did not appear. Respondent Executive Officer, represented by
24 Ryan P. Mansell, did not appear. The joint Stipulation to Place Matter on Consent Calendar,
25 the Declaration of Jeff McGovern and the Proposed Findings and Decision were received as
26 evidence, and the case submitted. The public was given the opportunity to testify. The Hearing
27 Board finds and decides as follows:

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

2 Petitioner NWSSB provides weapons storage, loading, maintenance, and assessment
3 support to ships of the United States Pacific Fleet.

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

5 The emission units that are subject to the variance are four diesel-fueled internal
6 combustion engines that are used to drive electrical generators. Petitioner's facility is not a
7 RECLAIM or Title V facility.

8 **SUMMARY**

9 The National Defense Authorization Act (NDAA) for Fiscal Year (FY) 2021 requires
10 the Secretary of Defense to conduct and comply with congressionally mandated "Black Start
11 Exercises" (BSE), as part of Navy Energy Resilience Readiness Exercise Strategy, at military
12 Installations. A BSE is an exercise where delivery of energy provided from the commercial
13 electric grid (transmission system) is terminated and distribution lines are de-energized. Once
14 the installation is disconnected from the commercial electric grid, Department of Defense
15 (DoD) initiates the installation's electric grid, portions of it, or individual buildings, often by
16 using emergency internal combustion engines (ICEs), to ensure operability before
17 reconnecting to the external power supply.

18 The Black Start process is an essential legal mandate to ensure continuity of critical
19 loads and the readiness of critical mission operations and personnel on military installations.

20 The BSE are conducted in three phases: 1) discussion based; 2) operations based where
21 electricity is secured at a small set of operations within an installation requiring limited
22 emergency engine use; and 3) full-scale exercises. The full-scale exercise phase would last no
23 less than 12 hours within the fence line of an installation. Naval Weapons Station Seal Beach
24 is anticipated to conduct a full-scale BSE in April 2025.

25 The Navy is applying for this variance since the four permitted ICEs that would engage
26 in the BSE are subject to monthly maintenance and testing (M&T) operating limits between
27 4.2 and 5 hours per month, depending on the engine, and 50 hours per year for each engine.
28 Since the BSE hours would be counted against the M&T limits, they would likely exceed the

1 permitted monthly hours, leading to potential violations. The BSE would not affect Navy's
2 compliance with the annual M&T limit. The Navy will comply with the annual limit.

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

6 **FINDINGS OF FACT AND CONCLUSIONS**

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

9 1. Petitioner will be in violation of permit conditions that limit maintenance and
10 testing (M&T) operating limits between 4.2 and 5 hours per month, depending on the engine.
11 Since the BSE hours would be counted against the M&T limits, they would likely exceed the
12 permitted monthly hours. Petitioner's engines are also each subject to a limit of 50 hours per
13 year. The BSE would not affect Navy's compliance with the annual M&T limit. The Navy
14 will comply with the annual limit.

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

17 2. BSE is a Congress-mandated requirement. NWSSB has no discretion as to
18 whether to conduct the BSE, and no authority over the duration of the exercise, which is
19 expected to take at least 12 hours. As such, the monthly M&T limit would be exceeded by 7.8
20 hours or more. The Navy will adjust the engines' regular maintenance schedule to ensure
21 compliance with the annual M&T limit for each engine.

22 3. Petitioner will return to compliance upon completion of the BSE, and not later
23 than June 30, 2025.

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

26 4. Failure to grant the variance would require Petitioner to violate Congress-
27 mandated exercises that are intended to test a military installation's ability to operate without
28 commercial grid power. Per Congress' mandate, these exercises are essential to our national

1 security.

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

4 5. The affected permits do not have a daily limit, and since the Navy will maintain
5 compliance with the annual M&T limit, no excess emissions are anticipated as a result of the
6 planned BSEs. Failure to grant the variance would deny a national security-related action with
7 no corresponding benefit in terms of avoiding an exceedance of permitted annual emissions.

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

10 6. BSEs are required by law. They are outside the control of the Petitioner, and
11 Congress has specifically mandated operation of the source engines in question. The Petitioner
12 will manage the regular M&T hours for all the engines involved in the BSE to remain below
13 the annual M&T limit.

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

16 7. Petitioner has agreed to comply with the conditions of this order to reduce
17 emissions to the maximum extent possible during the variance period.

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

21 8. Petitioner has agreed to comply with the conditions set forth in this variance
22 order.

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

25 9. Petitioner's operation of its four engines subject to this variance is not expected
26 to cause injury, detriment, nuisance or annoyance to any considerable number of persons or to
27 the public, or otherwise result in a violation of California Health and Safety Code section
28 41700.

[PROPOSED] ORDER

1
2 THEREFORE, good cause appearing, the Hearing Board orders as follows:

3 A. Petitioner is granted a short variance from Permit Condition #4 of Permit
4 G60256, Condition #4 of Permit G75853, Condition #4 of Permit G75854, and
5 Condition #6 of Permit G72744, in the timeframe beginning on April 1, 2025,
6 and concluding on or before June 30, 2025.

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

- 8 1. Petitioner shall limit the operation of the Internal Combustion Engines (“ICE”),
9 as described in the Permit to Operate (“PO”) Nos. G60256, G75853, and
10 G75854, to emergency and congressionally mandated Black Start Exercise
11 (BSE) usage, and the ICE shall operate no more than 4.2 hours per month total
12 for regular, non-BSE related maintenance and testing time.
- 13 2. Petitioner shall limit the operation of the ICE, as described in PO No. G72744
14 to emergency and BSE usage, and the ICE shall operate no more than 5.0 hours
15 per month total for regular, non-BSE related maintenance and testing time.
- 16 3. Petitioner shall make all reasonable efforts to conclude the BSE in as short a
17 time as possible.
- 18 4. Immediately prior to the BSE, petitioner shall take a digital photograph of the
19 hour meter of engines under PO Nos. G60256, G75853, G75854, and G72744.
20 Petitioner shall also take a digital photograph of the same hour meters
21 immediately after the conclusion of the BSE. Within 5 working days from the
22 conclusion of the BSE, petitioner shall submit the photographs and provide the
23 date and time of the photographs via email to AQ Inspector Tung Allen Vu
24 (tallenvu@aqmd.gov).
- 25 5. Petitioner shall maintain a monthly operating log for the emergency ICE and
26 shall send the records to the South Coast AQMD by email to AQ Inspector
27 Tung Allen Vu (tallenvu@aqmd.gov) by close of business on Friday of the first
28 full week of the month of each month beginning April 2025. The operating log
 shall list all engine operations in the following areas:
- a. Date and hours of emergency operation, and specify the cause of the emergency;
 - b. Date and hours of maintenance and testing operations; and
 - c. Date and hours of any other non-emergency operation including BSE usage.

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6. Petitioner shall pay all applicable fees to the Clerk of the Board or the variance shall be invalidated pursuant to Rule 303(k), except for excess emissions fees, which shall be paid within ninety (90) days of notification in writing that the fees are due, unless otherwise ordered by the Hearing Board. Petitioner shall calculate, record, and report all excess emissions during the variance period, and pay appropriate excess emission fees to the Clerk of the Board.

7. Except as otherwise permitted in variance conditions #1 & #2, Petitioner shall cease operation of the ICE (PO Nos. G60256, G75853, G75854, and G72744).

DATED: _____

BOARD MEMBER: _____

Prepared by Michael R. Waters