

## Faye Thomas

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**From:** Clerk of Board  
**Sent:** Wednesday, August 28, 2024 11:29 AM  
**To:** Silverstein, David E CIV USN (USA); Karin Manwaring  
**Subject:** FW: Case no. 4518-10\_proposed Finding, Decision, and Order\_Consent Calendar and supporting documents  
**Attachments:** Case 4518-10\_proposed Finding, Decision, and Order\_Consent Calendar\_revmb.docx

This matter has been approved for Consent Calendar on August 29, 2024.

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**From:** Karin Manwaring <kmanwaring@aqmd.gov>  
**Sent:** Wednesday, August 28, 2024 8:46 AM  
**To:** Clerk of Board <Front\_PC@aqmd.gov>  
**Cc:** Silverstein, David E CIV USN (USA) <david.e.silverstein.civ@us.navy.mil>  
**Subject:** RE: Case no. 4518-10\_proposed Finding, Decision, and Order\_Consent Calendar and supporting documents

Good morning -

The District has no objections to the proposed changes, thank you.

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**From:** Silverstein, David E CIV USN (USA) <[david.e.silverstein.civ@us.navy.mil](mailto:david.e.silverstein.civ@us.navy.mil)>  
**Sent:** Wednesday, August 28, 2024 8:41 AM  
**To:** Clerk of Board <[clerkofboard@aqmd.gov](mailto:clerkofboard@aqmd.gov)>; Karin Manwaring <[kmanwaring@aqmd.gov](mailto:kmanwaring@aqmd.gov)>  
**Subject:** [EXTERNAL] Re: Case no. 4518-10\_proposed Finding, Decision, and Order\_Consent Calendar and supporting documents

These changes are acceptable.

Thank you.

David E. Silverstein

Associate Counsel NAVFAC Southwest

750 Pacific Highway

Room 1628

San Diego, CA 92132

619-705-5851

[david.e.silverstein.civ@us.navy.mil](mailto:david.e.silverstein.civ@us.navy.mil)

Cell Phone 619 846 3337.

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**From:** Clerk of Board <[clerkofboard@aqmd.gov](mailto:clerkofboard@aqmd.gov)>

**Sent:** Wednesday, August 28, 2024 8:31 AM

**To:** Silverstein, David E CIV USN (USA) <[david.e.silverstein.civ@us.navy.mil](mailto:david.e.silverstein.civ@us.navy.mil)>; Karin Manwaring <[kmanwaring@aqmd.gov](mailto:kmanwaring@aqmd.gov)>

**Subject:** [Non-DoD Source] FW: Case no. 4518-10\_proposed Finding, Decision, and Order\_Consent Calendar and supporting documents

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**From:** Mohan Balagopalan

**Sent:** Wednesday, August 28, 2024 7:00 AM

**To:** Clerk of Board <[clerkofboard@aqmd.gov](mailto:clerkofboard@aqmd.gov)>

**Subject:** Re: Case no. 4518-10\_proposed Finding, Decision, and Order\_Consent Calendar and supporting documents

Hi,

I have suggested revisions to the conditions. The change shows that the emergency is ongoing and will be over when utility power is restored. Also, since the engines have each exceeded the 200 hours, Rule 118.1 provision to exclude operating hours that occurred during a Public Safety Power Shutoff event from the 200-hour annual operating limit is not applicable. Please let me know if the changes are acceptable so I can propose them during the hearing. Thanks.

Mohan Balagopalan

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**From:** Clerk of Board <[clerkofboard@aqmd.gov](mailto:clerkofboard@aqmd.gov)>

**Sent:** Tuesday, August 27, 2024 2:20 PM

**Subject:** FW: Case no. 4518-10\_proposed Finding, Decision, and Order\_Consent Calendar and supporting documents

Attached are documents requesting Consent Calendar approval. Please review and let me know ASAP, if this matter can be heard on the Consent Calendar or not. Thank you.

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**From:** Silverstein, David E CIV USN (USA) <[david.e.silverstein.civ@us.navy.mil](mailto:david.e.silverstein.civ@us.navy.mil)>

**Sent:** Tuesday, August 27, 2024 1:43 PM

**To:** Clerk of Board <[clerkofboard@aqmd.gov](mailto:clerkofboard@aqmd.gov)>

**Cc:** Karin Manwaring <[kmanwaring@aqmd.gov](mailto:kmanwaring@aqmd.gov)>

**Subject:** [EXTERNAL] Fw: Case no. 4518-10\_proposed Finding, Decision, and Order\_Consent Calendar and supporting documents

Rosalinda:

We would like to put the subject petition on the consent calendar. Please find attached a stipulation, proposed order, and a declaration to support the proposed order. Please do not hesitate to contact me if you have any questions.

**David E. Silverstein**

**Associate Counsel NAVFAC Southwest**

**750 Pacific Highway**

**Room 1628**

**San Diego, CA 92132**

**619-705-5851**

[david.e.silverstein.civ@us.navy.mil](mailto:david.e.silverstein.civ@us.navy.mil)

Cell Phone 619 846 3337.

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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 AND DECISIONS**  
District Rules 203(b) and 3002(c)  
  
Hearing Date: August 29, 2024  
Time: 9:30 a.m.  
Place: 21865 Copley Drive  
Diamond Bar, CA 91765-0940

This petition for an interim variance was heard on the Hearing Board’s Consent Calendar on August 29, 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 Frank Williamson, Environmental Protection 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 Frank Williamson, 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. The Hearing Board finds and decides as follows:

3 1. Respondent is a body corporate and politic established and existing pursuant to  
4 Health and Safety Code § 40400, *et seq.* and is the sole and exclusive local agency with the  
5 responsibility for comprehensive air pollution control in the South Coast Basin.

6 **Nature of Business and Location of Facility**

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

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

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

21 **SUMMARY**

22 4. Petitioner is in violation of Rules 203(b) and 3002(c)(1) {from Section D,  
23 Condition No. C1 .1 of Title V Facility P/O No. 800263} of the South Coast Air Quality  
24 Management District Rules and Regulations, because a wild fire caused catastrophic damage to  
25 the electrical grid. Site power will take at least a year to restore. Therefore the Equipment has  
26 exceeded and will exceed the 200 hour per year operating limit imposed by its permit under  
27 relevant rules. Petitioner was granted an ex parte emergency variance, dated August 2, 2024  
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1 from the relevant annual hour limits. The equipment exceeded its hour limit for 2024 on August  
2 3, 2024. It will exceed its hour limit for 2025 early in the year.

3  
4 **FINDINGS OF FACT AND CONCLUSIONS**

5 Following are the facts and conclusions supporting the findings set forth in Health and  
6 Safety Code Section 42352 necessary to grant the variance. The Executive Officer did not oppose  
7 the granting of the interim variance.

8 **Good Cause.** There is good cause to grant an interim variance consistent with the good cause  
9 found in the ex parte emergency variance minute order dated August 2, 2024. The relevant  
10 violations were caused by catastrophic fire that destroyed 13,000 acres and 9 miles of electrical  
11 lines. Petitioner began coordination with District promptly upon evaluation of the extent of  
12 damage, and Petitioner submitted its ex parte variance petition prior to the Equipment exceeding  
13 its permitted hours of operation on August 3, 2024.

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

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

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

21 1. The violation is caused by a fire that consumed 13,000 acres and nine miles of  
22 power lines that furnished grid power. The fire also damaged 161 power poles and a transformer.  
23 The Navy is in the process of hiring qualified contractors via a legally mandatory fair and open  
24 contracting process to repair the damage. This process may take several months. In addition, the  
25 magnitude of the damage, the island's remote location, and its rugged landscape further  
26 complicates repairs, probably drawing the process out for a year or more. All these factors are  
27 outside Petitioner's reasonable control. Regardless of the damage, critical operations on the  
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1 island require power. The Navy's only reasonable option at present is to use the permitted  
2 emergency engines until critical electrical infrastructure is repaired or replaced.

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

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

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

18 1. The Board has determined that the significant harm to Petitioner and to vital  
19 governmental functions would outweigh the benefit to air quality if the emissions associated with  
20 the variance request were eliminated as a result of denying the variance. This is not to minimize  
21 the excess emissions. They shall be calculated, recorded, and reported with fees paid consistent  
22 with Rule 303. The emissions will not cause any nuisance. They are emitted at a high altitude on  
23 the island, and the island is about 70 miles from the mainland and 20 miles to Santa Catalina  
24 Island.

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

1 1. Curtailment or shutdown has been considered. However, the consequences to  
2 Petitioner’s business and vital governmental functions is too great. Therefore,  
3 Petitioner seeks a variance.  
4

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

7 1. During the period of the variance, Petitioner will reduce excess emissions to the  
8 maximum extent feasible. It is not feasible to shut down the equipment for any significant  
9 amount of time. However, Petitioner is currently making an effort to secure lower emission  
10 portable engines to take over from the Equipment, in order to reduce emissions to the maximum  
11 extent feasible.

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

16 1. Petitioner will monitor, record, and report emissions consistent with the conditions  
17 set forth in the variance.

18 **ORDER**

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

20 A. Petitioner is granted an interim variance until October 17, 2024, or until a hearing may be  
21 held on Petitioner’s request for a Regular variance, to be held no later than October  
22 31, 2024 (90 days from issuance of the ex parte variance), from Rules 203(b) and  
23 3002(c)(1) {from Section D, Condition No. C1 .1 of Title V Facility P/O No. 800263}  
24 of the South Coast Air Quality Management District Rules and Regulations.

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

26 1. Petitioner is allowed to use the permitted emergency IC engines (ICEs), Devices D21 &  
27 D200, until critical electrical infrastructure is repaired or replaced whereupon it use will  
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1            be limited to emergency usage and the ICEs shall operate no more than 1.0 hour per  
2            month total for maintenance and testing time

3            ~~2. Petitioner shall limit the operation of the Internal Combustion Engine (“ICE”), as~~  
4            ~~described by Device ID No. D21 in the Title V Permit, to emergency usage, and the ICE shall~~  
5            ~~operate no more than 1.0 hour per month total for maintenance and testing time.~~

6            ~~3. Petitioner shall limit the operation of the Internal Combustion Engine (“ICE”), as~~  
7            ~~described by Device ID No. D200 in the Title V Permit, to emergency usage, and the ICE shall~~  
8            ~~operate no more than 1.0 hour per month total for maintenance and testing time.~~

9            4. Petitioner shall investigate and assess alternative options for powering the affected  
10           facilities until the damaged infrastructure is repaired and shall report back to the District on the  
11           feasibility of using alternative options via email to Karin Manwaring ([KManwaring@aqmd.gov](mailto:KManwaring@aqmd.gov))  
12           no later than October 3, 2024.

13           5. Petitioner shall maintain a monthly operating log for the ICEs and shall send the records  
14           to the South Coast AQMD by email to AQ Inspector Daniel Hernandez ([dhernandez@aqmd.gov](mailto:dhernandez@aqmd.gov))  
15           on the first Tuesday of each month beginning September 3, 2024. The operating log shall list all  
16           engine operations in the following areas:

- 17                    a. Date and hours of emergency operation, specifying the cause of the emergency;
- 18                    b. Date and hours of maintenance and testing operations; and
- 19                    c. Date and hours of any other non-emergency operation.

20           6. Petitioner shall maintain fuel usage records for D21 and D200 and shall provide the  
21           records to the District monthly via email to Hemang Desai at [HDesai@aqmd.gov](mailto:HDesai@aqmd.gov) by the 15th day  
22           of each month for the prior month(s) beginning October 15, 2024.

23           7. Petitioner shall pay all applicable fees, including excess emissions fees, if applicable, to  
24           the Clerk of the Hearing Board within forty-five days of notification in writing that the fees are  
25           due or the variance shall be invalidated pursuant to Rule 303 – Hearing Board Fees, subsection  
26           (k).

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1 ~~8. Petitioner may exclude any hours the ICE is operated for Public Safety Power Shutoff~~  
2 ~~("PSPS") events as defined by Rule 118.1 if the petitioner complies with the notification~~  
3 ~~requirements of Rule 118.1(e).~~

4 9. Except as otherwise permitted in variance condition #1, Petitioner shall cease operation of  
5 the ICEs (Device ID Nos. D21 and D200) once the power transmission network is restored.

6 10. Excess Emission are estimated using 100 percent fuel load on the engines as follows, but  
7 shall be calculated and fees paid, consistent with District Rule 303, based on actual excess  
8 emissions as determined by fuel usage records.

9 At 100 percent load:

Source	Daily Consumption(1000 Gal)	CO lb/day	NOx 1b/day	PM10 lb/day	ROG 1b/day
D 21	.6326	63.6	292.47	21.19	23.72
D200	.2084	72.52	45.8	3.24	8.53

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12 11. Petitioner shall notify South Coast AQMD's Clerk of the Board by email  
13 ([ClerkofBoard@aqmd.gov](mailto:ClerkofBoard@aqmd.gov)) and Karin Manwaring ([KManwaring@aqmd.gov](mailto:KManwaring@aqmd.gov)) within 3 working  
14 days of achieving final compliance.

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16 BOARD MEMBER: \_\_\_\_\_

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18 DATED: \_\_\_\_\_  
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