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10 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

11 BEFORE THE HEARING BOARD OF THE  
12 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

13 In the Matter of  
14 SOUTH COAST AIR QUALITY  
15 MANAGEMENT DISTRICT,  
16  
17 Petitioner,  
18  
19 v.  
20 WALNUT CREEK ENERGY, LLC  
21  
22 Facility ID# 146536  
23  
24 Respondent.

Case No. 6230-6

**STIPULATED ORDER FOR  
ABATEMENT; [Proposed] FINDINGS AND  
DECISION OF THE HEARING BOARD**

District Rules 203(b), 2004(f)(1), and 3002(c)

Hearing Date: October 23, 2024  
Time: 9:30 a.m.  
Place: 21865 Copley Drive  
Diamond Bar, CA 91765-0940

**FINDINGS AND DECISION OF THE HEARING BOARD**

25 This petition for an Order for Abatement was heard on October 23, 2024, pursuant to  
26 notice and in accordance with the provisions of California Health and Safety Code Section  
27 40823 and District Rule 812. The following members of the Hearing Board were present:  
28 Micah Ali, Chair; Robert Pearman, Vice-Chair; Dr. Jerry P. Abraham, MD; Cynthia Verdugo-  
Peralta; and Mohan Balagopalan. Petitioner, Executive Officer of the South Coast Air Quality  
Management District, (hereinafter referred to as “District” or “Petitioner”), was represented by  
Karin Manwaring, Senior Deputy District Counsel. Respondent Walnut Creek Energy, LLC, a  
California limited liability company, (hereinafter referred to as “Respondent”), was represented  
by Greg Wolffe (Principal Scientist, Yorke Engineering, LLC). The public was given the

1 opportunity to testify. The matter was submitted and evidence received. The Hearing Board  
2 finds and decides as follows:

3 **FINDINGS OF FACT**

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

7 2. Respondent Walnut Creek Energy, LLC, is a California limited liability company  
8 that operates a 500-megawatt natural gas-fired, simple cycle electric generating facility  
9 (“Facility”) located at 911 Bixby Drive in City of Industry, California

10 3. As a power generating facility with rapid response capability, Respondent is  
11 positioned to provide low-emitting electrical power generation to the California Independent  
12 System Operator (CAISO) under peak demands, and is referred to as a “peaker” plant.

13 4. The Facility is in the RECLAIM program and is a Title V facility.

14 5. **District Rule 203(b)** requires that equipment shall not be operated contrary to the  
15 conditions specified in the permit to operate.

16 6. **District Rule 2004(f)(1)** requires that a RECLAIM permit holder shall comply  
17 with all rules and permit conditions applicable to the facility, as specified in the Facility Permit.

18 7. **District Rule 3002(c)** requires Title V permit holders to comply with all terms,  
19 requirements, and conditions specified in the Title V permit at all times.

20 8. Respondent operates at the Facility Unit 4, which is a GE LMS100 simple cycle  
21 gas turbine, referred to as Device 19 or D19 (“Unit 4 (D19)”).

22 **PERMIT CONDITION E448.3/ SUPERCORES**

23 9. Respondent’s Facility Permit (Facility Permit 146536 (Rev. 26), Device D19)  
24 (hereafter “Facility Permit”) and Section H, Permit Condition E448.3, provides that only GE  
25 LM100PA-NGWG06 turbine engines with six specified supercore serial numbers (the “permitted  
26 supercores”) may be used at the Facility, which include both S/N 878-160 and S/N 878-149.

27 10. In order to bring Unit 4 (D19) online to provide power, Respondent requests to  
28 either (i) utilize a spare supercore (S/N 878-119) with a serial number that is not listed on its

1 permits, or (ii) reinstall a supercore with a serial number that is listed on its permits, whichever  
2 achieves its desire to operate Unit 4 (D19) as expeditiously as possible without incurring a  
3 potential violation of District rules.

4 11. Respondent was granted a Short Variance August 1, 2024, in Case no. 6230-3, that  
5 provided relief that would have allowed it to operate Unit 4 (D19) temporarily using a borrowed  
6 spare supercore (S/N 878-187). That matter was heard on August 1, 2024.

7 12. Respondent intended to borrow temporarily spare supercore S/N 878-187 from the  
8 Carlsbad Energy Center (CEC), a sister facility located in San Diego under common corporate  
9 ownership as Walnut Creek Energy, LLC. Respondent informed the District that that spare  
10 supercore (S/N 878-187) is no longer available.

11 13. Because spare supercore S/N 878-187 is no longer available, Respondent intends  
12 to terminate the Short Variance granted in Case no. 6230-3.

13 14. Respondent has identified an alternative spare supercore (S/N 878-119) that will  
14 allow it to operate Unit 4 (D19). Respondent claims S/N 878-119 is functionally equivalent to the  
15 permitted supercores in permit condition E448.3, and is also listed in CEC's permit.

16 15. Respondent will make a business decision about proceeding with installing spare  
17 supercore S/N 878-119 or installing a permitted supercore, when issues impacting timing  
18 (including the availability the repaired permitted supercore) is better understood.

### 19 **COMPLIANCE TESTING**

20 16. Further, Respondent has testing obligations for Unit 4 (D19) that it will not be able  
21 to timely meet as a result of the delay in the return-to-service of a spare supercore listed in  
22 E448.3. Respondent will not be able to conduct compliance testing until a permitted supercore  
23 (i.e., supercores S/N 878-149 or S/N 878-160) is re-installed and Unit 4 becomes available to  
24 complete ammonia slip testing per condition D29.2 and source testing per condition D29.4.

25 17. Respondent anticipates that permitted spare supercore S/N 878-160 may be  
26 available as soon as October 2024, but it will likely not be installed and available to operate  
27 before November 2024.

28

1           18.     Respondent was required to complete ammonia slip testing by September 30,  
2 2024, in accordance with permit condition D29.2, but was not able to complete the test by  
3 September 30, 2024, because Unit 4 (D19) is not currently operating and a permitted supercore  
4 with a S/N listed in permit condition E448.3 will not be available timely to meet the quarterly  
5 testing deadline.

6           19.     On September 13, 2024, Respondent petitioned for an Ex Parte Emergency  
7 Variance in Case no. 6230-5 requesting relief from the ammonia slip testing deadline of  
8 September 30, 2024.

9           20.     On September 20, 2024, the Ex Parte Emergency Variance was granted  
10 commencing October 1, 2024, and lasting for thirty days, until October 30, 2024.

11           21.     Respondent intends to complete the required ammonia slip testing pursuant to the  
12 timeline established by this Stipulated Abatement Order. Because Respondent intends to  
13 complete ammonia slip testing pursuant to a timeline established by this Stipulated Abatement  
14 Order, Respondent also intends on requesting that the Ex Parte Emergency Variance granted in  
15 Case no. 6230-5 be terminated.

16           22.     Respondent is also required to complete a source test on Unit 4 (D19) per permit  
17 condition D29.4 within 180 days of recommissioning Unit 4 (D19), which was completed on May  
18 31, 2024. Source testing of Unit 4 (D19) is currently required by November 27, 2024, but  
19 Respondent intends to complete the required source test pursuant to the timeline established by  
20 this Stipulated Abatement Order.

21           23.     Respondent is not currently in violation of District Rules but operation of Unit 4  
22 (D19) contrary to a permit condition in order to meet peak power demands, absent an order issued  
23 by this Hearing Board, would constitute violations of District Rules 203(b), 2004(f)(1), and  
24 3002(c).

25           24.     Respondent has agreed to achieve compliance as expeditiously as possible by  
26 either replacing the Unit 4 (D19) temporary supercore (S/N 878-119) (if utilized) when a  
27 permitted supercore (such as S/N 878-149 or S/N 878-160) is available, which is anticipated as  
28 soon as October 2024, or instead by just re-installing a permitted supercore (such as S/N 878-149

1 or S/N 878-160) as soon as it is available, and further, by completing compliance testing  
2 obligations as expeditiously as possible pursuant to this Stipulated Abatement Order after a  
3 permitted supercore is re-installed.

#### 4 **CONCLUSIONS**

5 1. The parties have stipulated to the issuance of this Order for Abatement, pursuant  
6 to Health and Safety Code Section 42451(b).

7 2. This Order for Abatement (Stipulated) is not intended to be, nor will it act as, a  
8 variance. Respondent is subject to all rules and regulations of the District and to all applicable  
9 provisions of California law. Nothing herein shall be deemed or construed to limit the authority  
10 of the District to issue Notices of Violation, to seek civil penalties or injunctive relief, or to other  
11 administrative or legal relief. The Findings of Fact are based on evidence presented by  
12 Petitioner and Respondent as of the date hereof.

13 3. The issuance of the prayed for Order for Abatement is not expected to result in  
14 the closing or elimination of an otherwise lawful endeavor, but if it does result in such closure or  
15 elimination, it would not be without a corresponding benefit in reducing air contaminants.

16 4. Issuance of this Stipulated Order for Abatement, upon a fully noticed hearing,  
17 will not constitute a taking of property without due process of law.

#### 18 **ORDER**

19 THEREFORE, subject to and based on the aforesaid Findings of Fact,  
20 Conclusions and additional evidence and testimony, and good cause appearing, Respondent is  
21 hereby ordered to cease and desist any operation of Unit 4 (D19) resulting in violations of  
22 District Rules 203(b), 2004(f)(1), and 3002(c), or in the alternative, comply with the actions and  
23 conditions set forth below:

24 1. Respondent shall, if the replacement supercore S/N 878-119 is installed in Unit 4,  
25 notify South Coast AQMD by emailing AQ Engineer Chris Perri ([cperri@aqmd.gov](mailto:cperri@aqmd.gov)) within 48  
26 hours of the installation.

27 2. Respondent shall, if the replacement supercore S/N 878-119 is installed in Unit 4,  
28 not operate the replacement supercore (S/N 878-119) for more than 90 calendar days, unless a

1 complete permit application with fees to expedite processing are submitted to the District before  
2 the 90<sup>th</sup> day.

3 3. Respondent shall, if the replacement supercore S/N 878-119 is installed Unit 4,  
4 provide the following information to the South Coast AQMD by emailing AQ Engineer Chris  
5 Perri ([cperri@aqmd.gov](mailto:cperri@aqmd.gov)) within 48 hours of a confirmed delivery date pursuant to this Order:

- 6 a. Make, model, and date of manufacture of supercore S/N 878-119;
- 7 b. Confirmation that the configuration and design of the replacement supercore S/N  
8 878-119 are the same as the supercore being replaced (damaged supercore S/N  
9 878-149) or if any differences, describe the differences;
- 10 c. Indicate whether the water injection rates and fuel flow are the same for the  
11 replaced and replacement supercore, or if different, describe the differences;
- 12 d. Confirmation that there will be no increase in fuel use or power output with the  
13 replacement supercore, or if there are increases, describe the increase and reason  
14 why;
- 15 e. Current status of damaged supercore S/N 878-149, including a description of the  
16 maintenance, repairs, and parts replacement performed.

17 4. Respondent shall, during startup of Unit 4, be subject to and shall comply with  
18 the conditions set forth in the Order issued in Case no. 6230-2.

19 5. Respondent shall continue to comply with its permit limits for emissions  
20 concentrations, heat input, and power output during use of a replacement supercore, except  
21 during startup of Unit 4 to the extent allowed by the Order issued in Case no. 6230-2.

22 6. Respondent shall notify South Coast AQMD by emailing AQ Engineer Chris  
23 Perri ([cperri@aqmd.gov](mailto:cperri@aqmd.gov)) within 24 hours of the removal of the replacement supercore (S/N 878-  
24 119), if installed in Unit 4.

25 7. Respondent shall immediately cease operating Unit 4 with a replacement  
26 supercore (S/N 878-119) if the NO<sub>x</sub> concentration exceeds 25 ppmv during normal operation,  
27 and in the event of an exceedance, shall notify the notify South Coast AQMD by emailing AQ  
28 Engineer Chris Perri ([cperri@aqmd.gov](mailto:cperri@aqmd.gov)) within 24 hours.

8. Respondent shall provide the final cost of the repairs to the damaged supercore (S/N 878-149) within 7 days of receiving this information, as well as the estimated cost of a comparable new unit, by emailing AQ Engineer Chris Perri ([cperri@aqmd.gov](mailto:cperri@aqmd.gov)).

9. Respondent shall complete the second quarterly slip testing of Unit 4 per condition D29.2 within 90 days of the reinstallation of a permitted supercore (S/N 878-160, 878-149, or another listed in Permit Condition E448.3). Respondent shall conduct third and fourth quarterly slip testing of Unit 4, per condition D29.2, within 90 days (i.e., one quarter) of each prior quarterly test.

10. Respondent shall complete the source testing of Unit 4 per condition D29.4 no later than May 31, 2025.

11. Respondent shall notify South Coast AQMD by emailing AQ Engineer Chris Perri ([cperri@aqmd.gov](mailto:cperri@aqmd.gov)) the date of the reinstallation of a permitted supercore, and the date (if installed) when supercore S/N 878-119 is removed from site.

12. The Hearing Board shall retain jurisdiction over this matter for one year from the date this Order for Abatement is issued. If, after one year from the date this Order for Abatement is issued, compliance has not yet been achieved, this Order for Abatement shall expire if not properly extended.

13. Respondent shall notify South Coast AQMD’s Clerk of the Board by email ([ClerkofBoard@aqmd.gov](mailto:ClerkofBoard@aqmd.gov)) and Karin Manwaring (at [KManwaring@aqmd.gov](mailto:KManwaring@aqmd.gov)) within five (5) days of achieving final compliance.

Good cause appearing, it is so ordered.

For the Board: \_\_\_\_\_

Date Signed: \_\_\_\_\_