



**Monterey Bay Air Resources District**

**HEARING BOARD MEETING**

**MICHAEL GUTH, CHAIR**

**TUESDAY, JUNE 13, 2023 - 3:00 P.M.**

**24580 Silver Cloud Court, Monterey, CA - Boardroom**

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**REMOTE MEETING OPTION FOR PUBLIC**

Link to meeting: <https://us02web.zoom.us/j/84361714611>

**Webinar ID: 843 6171 4611**

**By Phone (audio only, Webinar ID required): 1-669-900-6833**

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Members of the public that wish to participate in the hearing may do so by joining the Zoom Webinar ID or in-person at 24580 Silver Cloud Ct. Monterey. Should you have any questions, please contact Sirie Thongchua, Executive Assistant, at 831-718-8028 or by email at [sirie@mbard.org](mailto:sirie@mbard.org).

**To Provide Public Comment via Zoom teleconference/video conference:** During the meeting live verbal public comments may be made by members of the public joining the meeting via Zoom. Zoom access information is provided above. Use the “raise hand” feature (for those joining by phone, press \*9 to “raise hand”) during the public comment period for the agenda item you wish to address. Members of the public participating via Zoom will be muted during the proceedings and may be unmuted to speak during public comment after requesting and receiving recognition by the Chair. Please clearly state your full name for the record at the start of your public comment.

**Before the Meeting:** Persons who wish to address the Hearing Board for public comment of an item not on the agenda are encouraged to submit comments in writing to Sirie Thongchua, Executive Assistant, at [sirie@mbard.org](mailto:sirie@mbard.org) by 5:00 p.m. on Friday, June 9, 2023. Comments received will be distributed to the Hearing Board prior to the meeting.

## SUMMARY OF ACTIONS

1. CALL TO ORDER – **The meeting was called to order by Chair Guth at 3:02 p.m.**
2. ROLL CALL – **Present:** Daniel Dodge Jr., Michael Guth, Emmett Linder.
3. PUBLIC COMMENT FOR ITEMS NOT ON AGENDA - **None.**

### CONSENT AGENDA

**Motion:** Approve items on the Consent Agenda. **Action:** Approve. **Moved by** Daniel Dodge Jr., **Seconded by** Michael Guth. **Vote:** Motion carried **unanimously (summary: Yes = 3)**. **Yes:** Daniel Dodge Jr., Michael Guth, Emmett Linder.

4. **Accepted and Filed** Summary of Actions for the Hearing Board Meeting of March 10, 2023
5. **Adopted** Regular Meeting Schedule

### REGULAR AGENDA

6. **Conducted** Public Hearing  
Docket 23-002: University of California, at Santa Cruz Short Term Variance  
Project Site: 1156 High Street, Santa Cruz, California
  - a. Chair Guth administered oath to all persons who provided testimony for Docket 23-002 – Petitioners: Justin Delemus, Michael Dolder, and Steven Irie, UCSC. Staff: Amy Clymo, Engineering and Compliance Manager, and Mary Girauda, Engineering Supervisor.
  - b. Petitioners Presented Case - Justin Delemus, Michael Dolder, and Steven Irie provided verbal testimony.
  - c. Staff Present Report – Amy Clymo and Mary Girauda provided verbal testimony.
  - d. Public Comment Related to Docket 23-002 – **None.**
  - e. Hearing Board Discussion/Questions
  - f. Hearing Board Decision/Order
    - i. Make Findings
      - a. **Motion:** Modify changes to draft order as follows:
        - Change order period to June 20, 2023 at 8:00 am to September 1, 2023, for a maximum run time of 96 hours for each emergency generator.
        - Change #8 to Petitioner will not exceed 103 lbs. of NOx, 134 lbs. of VOC, and 327 lbs. of CO, during the term of this variance.
      - Action:** Approve. **Moved by** Daniel Dodge Jr., **Seconded by** Emmett Linder. **Vote:** Motion carried **unanimously by roll call vote (summary: Yes = 3)**. **Yes:** Daniel Dodge Jr., Michael Guth, Emmett Linder.
    - b. **Motion:** Approve the order. **Action:** Approve. **Moved by** Emmett Linder, **Seconded by** Daniel Dodge Jr. **Vote:** Motion carried **unanimously by roll call vote (summary: Yes = 3)**. **Yes:** Daniel Dodge Jr., Michael Guth, Emmett Linder.

ii. Discuss Conditions

7. **ADJOURNMENT – The meeting adjourned at 3:55 p.m.**

*Sirie Thongchua*

*Executive Assistant*

**Agenda Item No. 4**

BEFORE THE HEARING BOARD OF THE  
MONTEREY BAY AIR RESOURCES DISTRICT  
STATE OF CALIFORNIA

IN THE MATTER OF	)	DOCKET NO.: 23-002
THE APPLICATION OF	)	
UNIVERSITY OF CALIFORNIA,	)	CONDITIONAL ORDER
SANTA CRUZ,	)	GRANTING SHORT TERM VARIANCE
SANTA CRUZ	)	
1156 HIGH STREET	)	
SANTA CRUZ, CA	)	
	)	
	)	
	)	

INTRODUCTION

On June 1, 2023, Petitioner, University of California Santa Cruz (hereinafter referred to as "Petitioner") filed with this Hearing Board an application for a Short Term Variance. Petitioner requested the Hearing Board to grant a variance from Condition No. 3 on seven emergency generator Permits to Operate issued by the Monterey Bay Air Resources District's (MBARD) (see Exhibit A). The Petitioner needs to operate the seven natural gas emergency generators in violation of Condition No. 3 to provide continuity of power to the campus during power interruptions needed to replace and test two 12kV electrical switches.

NOTICE OF HEARING

Notice of the application and the hearing of June 13, 2023 at 3:00 pm have been given pursuant to the provisions of the California Health and Safety Code Section 40825. The request and MBARD's staff report were presented to the Hearing Board. MBARD was represented by Amy Clymo, Engineering and Compliance Manager, and Mary Giraudo, Supervising Air Quality Engineer. The Petitioner was represented by Justin Delemus, EH&S, Mike Dolden, and Steven Irie, University of California at Santa Cruz.

BACKGROUND

Petitioner is a Public University used for the purposes of teaching, research, housing and feeding of students. The Petitioner's facility is located at 1156 High Street, Santa Cruz, California. All Permits to Operate (Exhibit A) are located within the campus boundaries.

The subject of this variance is the Petitioner's request to operate seven natural gas emergency generators in violation of Condition 3 on the Permits to Operate (Exhibit A). Petitioner needs to generate electricity to provide minimal support related to campus functions, such as fire alarm systems, egress lighting, site lighting, surveillance systems, communication systems, routers, security systems, freezers, etc., for campus occupants during these time frames for the portion of campus affected by the power outage.

FINDINGS OF FACT

Pursuant to Health and Safety Code 42352 the following findings have been made:

**(a) THE PETITIONER IS OR WILL BE IN VIOLATION OF SECTION 41701 OR OF ANY RULE, REGULATION, OR ORDER OF THE DISTRICT.**

Petitioner will be in violation of seven Permits to Operate (Exhibit A), Condition No. 3 which states, "except for test purposes, this equipment shall only be operated when the local utility power line service fails."

**(b) DUE TO CONDITIONS BEYOND THE REASONABLE CONTROL OF THE PETITIONER REQUIRING COMPLIANCE WOULD RESULT IN EITHER (1) AN ARBITRARY OR UNREASONABLE TAKING OF PROPERTY, OR (2) THE PRACTICAL CLOSING AND ELIMINATION OF A LAWFUL BUSINESS.**

The type of power shut down in this circumstance is, for practical purposes, identical to the effect of a local utility service failure. The need for shutdown was unforeseen, and the failure of the switches, which now

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1 necessitates this shutdown, was beyond the reasonable control of the  
2 Petitioner.

3 **(c) THE CLOSING OR TAKING WOULD BE WITHOUT A CORRESPONDING BENEFIT**  
4 **IN REDUCING AIR CONTAMINANTS.**

5 The closing of the business would result in a loss to the Petitioner  
6 and its employees. Without the variance, Petitioner would not be able to  
7 perform the needed electrical repairs of switches and would need to rent and  
8 run portable diesel generators to supply power during the outage replacement.  
9 Operating portable diesel engines would increase emissions of a toxic air  
10 contaminant, diesel particulate matter, thus providing no benefit to reducing  
11 air contaminants.

12 **(d) THE PETITIONER FOR THE VARIANCE HAS GIVEN CONSIDERATION TO**  
13 **CURTAILING OPERATIONS OF THE SOURCE IN LIEU OF OBTAINING A VARIANCE.**

14 Petitioner has considered curtailing operations in lieu of obtaining a  
15 variance. Curtailing operations is not practical due to the cost of  
16 relocating building occupants and the presence of life safety equipment.  
17 Petitioner will reduce the generator demand by limiting electrical loads and  
18 scheduling the tests to occur during an academic quarter summer break when  
19 the campus residential population is at the lowest.

20 **(e) DURING THE PERIOD THE VARIANCE IS IN EFFECT, THE PETITIONER WILL**  
21 **REDUCE EXCESS EMISSIONS TO THE MAXIMUM EXTENT FEASIBLE.**

22 Petitioner will reduce excess emissions during the variance period, by  
23 operating the seven generators no longer than necessary to safely complete  
24 the project to replace and test the two 12kV electrical switches. Prior to  
25 the outage, the Petitioner will instruct the campus community to reduce any  
26 unnecessary loads during this time frame.

27 **(f) DURING THE PERIOD THE VARIANCE IS IN EFFECT, THE PETITIONER WILL**  
28 **MONITOR OR OTHERWISE QUANTIFY EMISSION LEVELS FROM THE SOURCE, IF REQUESTED**

1 TO DO SO BY THE DISTRICT, AND REPORT THESE EMISSION LEVELS TO THE DISTRICT  
2 PURSUANT TO THE SCHEDULE ESTABLISHED BY THE DISTRICT.

3 Petitioner will record the run time and fuel use for the emergency  
4 generators and will report this data and emissions to MBARD at the end of the  
5 variance.

6 (g) Operation of the seven natural gas generators under this variance  
7 will not result in a nuisance.

8 ORDER

9 NOW THEREFORE, THE HEARING BOARD ORDERS that UNIVERSITY OF CALIFORNIA  
10 SANTA CRUZ is granted a Short Term Variance from Condition No. 3 on seven  
11 MBARD Permits to Operate (Exhibit A) for the period commencing June 20, 2023  
12 at 8:00 am to September 1, 2023, for a maximum run time of 96 hours for each  
13 emergency generator (Exhibit A).

14 The variance granted herein is subject to the following conditions:

15 1. Compliance with this Order will not relieve Petitioner from  
16 liability under MBARD's Rules for any violation thereof, unless specifically  
17 permitted by this Order, and will not preclude MBARD from pursuing remedies  
18 in accordance with the Health and Safety Code in the event of any violation.

19 2. Any modification of the final compliance date of this Variance  
20 Order must be brought before the Hearing Board.

21 3. The failure to abide by any condition of this Decision and Order  
22 will subject the party receiving the variance to penalties as set forth in  
23 Health and Safety Code Section 42402.

24 4. Each day during any portion of which a violation occurs is a  
25 separate offense.

26 5. Under Section 42362 of the California Health and Safety Code, the  
27 State Board may revoke or modify any variance granted by a district if, in  
28 its judgment, the variance does not require compliance with a required

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1 schedule of increments of progress or emission standards as expeditiously as  
2 practicable, or the variance does not meet the requirements of Article 2,  
3 Chapter 4, Division 26, of the California Health and Safety Code.

4 6. Petitioner shall retain the obligation to comply with all other  
5 local, state, and federal regulations not specifically referenced in this  
6 variance order. Note that federal regulations do not recognize variance  
7 orders; therefore, periods of non-compliance with Title V permit requirements  
8 must be reported as such in the facility's Annual Compliance Certification  
9 Report.

10 7. Petitioner will pay an excess emission fee of \$544.00 no later than  
11 June 30, 2023.

12 8. Petitioner will not exceed 103 lbs. of NOx, 134 lbs. of VOC, and 327  
13 lbs. of CO, during the term of this variance.

14 9. Petitioner will submit, 10 days after completion of the project, a  
15 report detailing the dates the emergency generators were used, the hours of  
16 operation, and fuel use.

17 10. Petitioner will not exceed 96 run hours per emergency generator  
18 during the term of this variance.

19 11. Within 10 days of the end date of this variance, the Petitioner  
20 will immediately notify MBARD of its compliance or non-compliance with this  
21 Order's requirements and the reasons for compliance or non-compliance. This  
22 reporting requirement is in addition to those specified as conditions to this  
23 order.

24 12. If delay is anticipated in meeting any requirement of this  
25 Variance Order, the Petitioner will immediately notify MBARD by telephone and  
26 email of the anticipated delay and the reasons for such delay. Notification  
27 to MBARD of an anticipated delay does not excuse the delay. Notification is  
28 not to be misconstrued as an extension of this variance.



1 13. Petitioner will report immediately to the MBARD staff and the  
2 Hearing Board, in writing, its failure to meet any date or condition set  
3 forth in this Order or in any schedule established pursuant to this Order.  
4 Any such violation will constitute a violation of this Order.


5 14. All submittals and notifications to the MBARD pursuant to this  
6 Variance Order will be made to:

7 Trevor Benites, Air Quality Inspector III  
8 MONTEREY BAY AIR RESOURCES DISTRICT  
24580 Silver Cloud Court, Monterey, CA 93940  
9 tbenites@mbard.org

10 Moved by: Emmett Linder  
11 Seconded by: Daniel Dodge Jr.

12 AYES: Michael Guth, Chair, Daniel Dodge Jr., Emmett Linder

13 Dated Signed:

14 

15 Michael Guth, Chair, HEARING BOARD,  
MONTEREY BAY AIR RESOURCES DISTRICT

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**Exhibit A**

**List of Natural Gas Emergency Generators**

Variance from the Permit to Operate requirement of Condition No. 3 which states, "except for test and exercise purposes, this equipment shall only be operated when the local utility power line service fails." The following pages include copies of permits 13274, 13275, 11745, 14996, 14997, 14998, and 14999.

<b>Generator Number (PTO)</b>	<b>LOCATION</b>	<b>Rated</b>	<b>Maximum</b>
		<b>KW</b>	<b>Hours</b>
GS-011 (13274)	Baskin Engineering Standby	206	96
GS-025 (13275)	Baskin Engineering	50	96
GS-040 (11745)	Engineering 2 Bldg.	150	96
GS-052 (14996)	Bio-Med Bldg. Emergency	150	96
GS-053 (14997)	Bio-Med Bldg. Standby	200	96
GS-054 (14998)	Bio-Med Bldg. Standby	200	96
GS-055 (14999)	Bio-Med Bldg. Standby	200	96