

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

In the Matter of

WALNUT CREEK ENERGY LLC,

[Facility I.D. No. 146536]

Section 42350 of the California Health and  
Safety Code

**Case No. 6230-3**

**[PROPOSED] ORDER GRANTING A  
SHORT  
VARIANCE**

Hearing Date: August 1, 2024

**FINDINGS AND DECISION OF THE HEARING BOARD**

This petition for a regular variance was heard on the Hearing Board’s Consent Calendar on **August 1, 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; Jerry P. Abraham, MD MPH CMQ; Cynthia Verdugo-Peralta; and Mohan Balagopalan. Petitioner, Walnut Creek Energy, LLC (hereinafter “Walnut Creek” or “Petitioner”), represented by Gregory Wolffe, Yorke Engineering, did not appear. Respondent, Executive Officer, represented by Karin Manwaring, Senior Deputy District Counsel, did not appear. The public was given the opportunity to testify. The parties filed with the Hearing Board a Stipulation to Place Matter on Consent Calendar, the Declaration of George Piantka, and the [Proposed] Findings and Decision of the Hearing Board. The Declaration of George Piantka was received as evidence from the Petitioner. The Proposed Findings and Decision of the Hearing Board was received as an exhibit, and the case was submitted. The Hearing Board finds and decides as follows:

Nature of Business and Location of Facility

The Walnut Creek Energy Park facility is located at 911 Bixby Dr, City of Industry, California, is a nominally rated 500-megawatt natural gas-fired, simple-cycle electricity generation facility consisting of five General Electric LMS100 combustion turbine generators and associated equipment.

Equipment and Permit to Construct/Operate

The equipment subject to this petition is Unit 4 (Device No. D19), which is a GE LMS100 simple cycle gas turbine. The equipment is operated pursuant to Facility Permit to Operate (P/O) No. 146536.

**SUMMARY**

Petitioner will be in violation of District Rules 203(b), 3002(c), and 2004(f), and from Permit Condition E448.3 and intends to achieve compliance by repairing and returning to service the permitted supercore, a component of the permitted equipment. This short variance is to provide relief from operating a supercore serial number not listed as part of the site fleet in Permit Condition E448.3.

**FINDINGS OF FACT**

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

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

1. Petitioner will be in violation of District Rules 203(b), 2004(f), and 3002(c), and in violation of Permit Condition E448.3, which requires the petitioner to only use supercore serial numbers (S/Ns) listed as part of the “site fleet.”

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

1. On June 26, 2024, Gas Turbine Unit 4 (Device D19) tripped and was forced out of service (into outage). On June 28, 2024, Walnut Creek Energy, LLC (WCE) learned that the supercore (S/N 878-149) in Unit 4 sustained a bearing failure, and consequently the forced outage has been extended until the damaged supercore can be repaired, or a replacement supercore is available.

The Petitioner maintains a Resource Adequacy (RA) plan with the California Independent System Operator (CAISO), which includes the operational availability of Unit 4 for electrical power generation during the summer peak season. If Unit 4 remains in outage with no ability to operate, Walnut Creek must reflect that in its RA plan. Walnut Creek is among the lowest emitting peak electrical generation in the state, and CAISO incentivizes the use of lower emitting units over higher emitting generation for grid reliability during summer months. The breakdown of Unit 4 due to a bearing failure in late June 2024 was unexpected, unplanned, and beyond the reasonable control of the petitioner. To restore unit availability, the temporary operation of Unit 4 using a functionally equivalent supercore not listed on the permitted site fleet is beyond the control of the Petitioner since a spare on the permitted site fleet is currently unavailable. Therefore, it is beyond Petitioner's reasonable control to comply with District rules and permit conditions.

**b(2). 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.**

1. Not granting this petition could expose the Facility to contract losses of between \$2 million and \$5 million. Because peaker generation at Walnut Creek is among the lowest emitting in the state, and CAISO incentivizes the use of these units over higher emitting generation for grid reliability, these potential losses are likely to be realized due to lost dispatching by CAISO. This will cause significant, unreasonable, and unavoidable harm to Petitioner in that Petitioner would be unable to operate the unit for commercial use and result in significant lost revenues.

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

1. Walnut Creek recently permitted the five units with a NO<sub>x</sub> BACT limit of 2.3 ppm during normal operations, which makes these units among the lowest emitting electrical generating equipment in California and in the country. Not granting this petition may require higher emitting units to operate in place of Walnut Creek which could have adverse air quality impacts and affect the availability and reliability and of power to California's electricity grid.

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

1. The Petitioner considered curtailment by continuing to declare Unit 4 in outage and unavailable, however that will result in unreasonable harm to the business and require Walnut Creek to revise the facility RA plan with CAISO. However, the proposed variance would allow Walnut Creek's Unit 4 to be available as a peak electrical generation unit, which is critical to meet the demand on California's electrical grid. That demand is highest in the summer and early fall months due to ambient air temperatures and wildfires that can cause Public Safety Power Shutoff events in some areas that increase the need for power generation elsewhere to meet grid demands. California's electrical grid is about to transition into that summer peak demand period. Because the proposed variance relief will extend through these peak demand periods, curtailment of Unit 4 operation cannot be considered. As a low-emitting peak power generating facility, Walnut Creek needs to be available for normal operations during the peak generating periods for grid reliability.

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

1. The proposed variance will not result in any emission increase of any pollutant, including greenhouse gas (GHG) emissions. All permitted emissions and operational limits, specifically natural gas limits and Best Available Control Technology (BACT) standards, will remain in effect and enforceable throughout the variance period.

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

1. Petitioner will monitor NOx emissions during the variance period using a certified continuous emission monitoring system (CEMS) for gas turbine Unit 4.

### **CONCLUSION AND ORDER**

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

A. Petitioner is granted a variance from District Rules 203(b), 2004(f), and 3002(c), and from Permit Condition E448.3 of Title V Facility P/O No. 146536 for Gas Turbine Unit 4 (Device No. D19), for the period commencing August 1, 2024, and continuing for up to 90 days or until the damaged supercore is repaired and installed, whichever comes first.

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

1. Petitioner shall notify South Coast AQMD by emailing AQ Engineer Chris Perri (cperri@aqmd.gov) within 48 hours of the installation of the replacement supercore (S/N 878-187).

2. Petitioner shall not operate the replacement supercore (S/N 878-187) for more than 90 calendar days and shall remove it from turbine #4 when the variance concludes.

3. Petitioner shall provide the following information to the South Coast AQMD by emailing AQ Engineer Chris Perri (cperri@aqmd.gov) within 3 calendar days of the granting of a variance in Case no. 6230-3:

- a. Make, model, and date of manufacture of supercore S/N 878-187;
- b. Confirmation that the configuration and design of the replacement supercore S/N 878-187 are the same as the supercore being replaced (damaged supercore S/N 878-149), or if different, describe the differences;
- c. Indicate whether the water injection rates and fuel flow are the same for the replaced and replacement supercore, or if different, describe the differences;
- d. Confirmation that there will be no increase in fuel use or power output with the replacement supercore, or if there are increases, describe the increase and reason why;

4. Petitioner shall, within 7 working days, describe the status of the maintenance, repairs, and parts replacement to be performed on the damaged supercore S/N 878-149, as provided by General Electric (GE), and shall provide the information to the South Coast AQMD by emailing AQ Engineer Chris Perri ([cperri@aqmd.gov](mailto:cperri@aqmd.gov)).

5. Petitioner shall, during startup, be subject to and shall comply with the conditions set forth in the Order issued in Case no. 6230-2.

6. Petitioner shall continue to comply with its permit limits for emissions concentrations, heat input, and power output during use of the replacement supercore S/N 878-187.

7. Petitioner shall notify South Coast AQMD by emailing AQ Engineer Chris Perri ([cperri@aqmd.gov](mailto:cperri@aqmd.gov)) within 24 hours of the removal of the replacement super core (S/N 878-187).

8. Petitioner shall immediately cease operating turbine #4 with the replacement supercore (S/N 878-187) if the NO<sub>x</sub> concentration exceeds 25 ppmv corrected to 15% O<sub>2</sub> at the stack during normal operation and in the event of an exceedance, shall notify the notify South Coast AQMD by emailing AQ Engineer Chris Perri ([cperri@aqmd.gov](mailto:cperri@aqmd.gov)) within 24 hours.

9. Petitioner 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)).

10. Petitioner shall notify South Coast AQMD by emailing AQ Engineer Chris Perri ([cperri@aqmd.gov](mailto:cperri@aqmd.gov)) within 2 working days of the date of the reinstallation of any permitted supercore<sub>2</sub> and within 2 working days of the date when supercore S/N 878-187 is removed from site.

11. Petitioner 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.

12. Petitioner shall pay all applicable fees to the Clerk of the Board within fifteen (15) days upon notification in writing that the fees are due or this variance shall be invalidated pursuant to Rule 303 Hearing Board Fees, subdivision (k).

FOR THE BOARD: \_\_\_\_\_

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