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8 **BON APPETIT BAKERY**

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10 In the Matter of

11 **BON APPETIT BAKERY**

12 Petitioner.

13 Case No.: 6280-1

14 Facility I.D.: 167755

15 **DECLARATION OF SONNY  
CUTWRIGHT IN SUPPORT OF  
PETITION FOR REGULAR  
VARIANCE**

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17 Hearing Date: January 21, 2026

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1        1. I am the General Manager of Bon Appetit Bakery (“Bon Appetit”) and the person  
2 responsible for ensuring environmental compliance for the Bon Appetit facilities in Vernon,  
3 California, including the facility at 4525 District Blvd. (Facility ID 167755; the “Facility”). I  
4 have been the General Manager since 2016. I have personal knowledge of the facts stated  
5 herein and, if called as a witness, could and would testify competently thereto under oath.

6        2. I am familiar with Bon Appetit’s Petition for an *Ex Parte* Emergency, Interim  
7 and Regular Variance filed on October 23, 2025 in this case, including the District Rules  
8 referenced in the petition.

9        3. Bon Appetit is before you now petitioning for regular variance relief from  
10 District Rule 1153.1 (Table 1) as it pertains to NOx emissions limits and District Rule 203(b)  
11 as it pertains Permits G78915 and G78618, Condition 7 and Condition 8(b) of those permits.  
12 Additionally, we may be in violation of CO limits imposed by Rule 1153.1 (Table 1) and the  
13 permits as we continue to troubleshoot the cause of the NOx exceedance (as described in more  
14 detail in the Declaration of Robert MacDonald of Conservtech, Bon Appetit’s consultant).

15        4. The Hearing Board previously granted interim variance relief for the above-  
16 mentioned rules and conditions on November 18, 2025, and had previously granted *ex parte*  
17 variance relief was granted on Friday, October 24<sup>th</sup>.

18        5. This declaration is submitted pursuant to the Rules and Procedures of the District  
19 Hearing Board Rule 4(a) in support of Bon Appetit’s Petition for a regular variance filed on  
20 October 23, 2025.

21        6. My previous declaration in support of the interim variance petition described the  
22 equipment that is the subject of this variance, as well as the background leading up to the need  
23 for variance relief, including the circumstances that are beyond Bon Appetit’s control that  
24 prevent compliance with the rules and conditions. A detailed chronology of events leading  
25 up to the interim variance hearing was included as Exhibit A to that declaration. Also attached  
26 to that prior declaration as Exhibit B is the reference list of consultants and companies we have  
27 been working with.

## EFFORTS TOWARDS COMPLIANCE SINCE NOVEMBER 2025

7. Attached to this declaration as **Exhibit A** is a chronology of events and efforts related to achieving compliance which picks up on November 12 (where the last chronology ended) and continues to January 13, 2026. This chronology reflects my contemporaneous running log of notes and events, and has only been lightly edited and reformatted for clarity. We continue to contend with challenges to compliance which, as previously stated, came as a surprise since we had ordered new “Low NOx” burners with the intent that they would be compliant with applicable rules.

8. At the outset, our efforts have resulted in measurable improvements, and preliminary retesting strongly indicates both ovens could achieve passing source tests, as described in the chronology and recapped in this declaration. However, despite our best efforts engaging specialized consultants and continuing to work with the manufacturer, between the adjustments needed to oven components, the “close-but-marginal” preliminary testing results, and the Thanksgiving, Christmas and New Year’s holidays, we were unable to achieve full compliance and also unable to complete source testing with sufficient time to receive a final source testing report prior to this variance hearing as we had hoped. Still, official source testing is scheduled for **Monday, January 19**. We have notified the District as required, and we appreciate that the Hearing Board granted a continuance of the originally-scheduled January 15, 2026 hearing date so that we could at least provide an update as to the preliminary, unofficial source test results.

9. However, while we will receive preliminary results prior to the hearing (and will provide an update to the Hearing Board), we will not receive the final source test report until after the hearing. Therefore, we are requesting that the Hearing Board grant regular variance relief for the time period required to show full compliance. The duration of that relief could be as short as a week or so (the time it takes to receive the final source test report confirming passing results), or it could take longer, as described below.

10. In early November, we had executed a \$60,000 purchase order to Los Angeles-

1 based burner specialist Enviro-Services for continued assistance in resolving the issues with  
2 these ovens in cooperation with oven manufacturer BABBCO. We also began to work with  
3 Enviro-Services' recommended source testing company Energy Environmental Solutions. To  
4 date, we have spent approximately \$78,000.00 solely on efforts toward achieving compliance  
5 with these new burners.

6 11. To recap, at the time of the interim hearing, our proposed paths to compliance  
7 were as follows:

- 8 • (A) Continue to work to make adjustments to the burners and ovens that we were  
9 optimistic will allow them to pass source testing using the approved protocol.
- 10 • (B) Simultaneously, however, explore whether we need to request changes to the  
11 approved source test protocols, in part because we are learning information about  
12 the operation of these ovens that was not previously shared with us by the  
13 manufacturer (see previously filed Declaration of Robert MacDonald in support of  
14 the Interim Variance).
- 15 • (C) Finally, depending on the success of the above pathways, we may need to  
16 replace the existing Low-NOx burners with another type of Low NOx burner,  
17 although based on our initial investigation into this option, the lead time for ordering  
18 these burners is approximately 6 to 8 months.

19 12. We have been close to achieving compliance with pathway A – but “close” is  
20 still not compliance. As you can see from the most recent chronology in Exhibit A, Enviro-  
21 Energy has been onsite nearly every week, sometimes multiples times in a week, working to  
22 adjust, modify, and preliminarily test the oven burners. This has been a painstakingly iterative  
23 process, where various individual components have been tested, new components ordered (and  
24 sometimes backordered), and several rounds of preliminary testing with different instruments  
25 have revealed results that were close to passing, or passing by very little margin. Still, we are  
26 sufficiently optimistic with the trend in the preliminary results that we have scheduled the  
27 source testing as soon as possible, even with January 19 being a holiday (Martin Luther King,

Jr. Day). Consultants believe no changes are needed to the protocol at this time.

13. However, because some of the ostensibly “passing” preliminary results have been so close to the margin, it remains a distinct possibility that the official source test could demonstrate non-compliant NOx emissions, or that there could be unofficial, preliminary results that appear passing but are so close that when results are officially reported they end up not passing. If the official source test does not result in compliant NOx emissions for one or both of the ovens, there may be a few more iterative adjustments Enviro-Energy can make, but we will likely need to pursue the third option, Pathway C: procurement of new burners. This would not only be extremely expensive but would also entail 6-8 months of lead time and trigger amendments to the existing permits for the equipment.

14. Toward that end, we have notified the oven manufacturer of the January 19<sup>th</sup> source testing schedule and asked that they be prepared to expedite the purchase of replacement burners; as a contingency. The Bon Appetit Executive Managers are aware of the contingency plan and have provided immediate purchase authorization; should the source test not yield passing results.

15. If we must procure new burners, while the lead-time is long, we do not expect to need variance relief beyond one year. Still, with a 6-8 month lead time, it is reasonable to build in some allowance for unexpected supply chain challenges, and thus would request that Regular Variance relief is granted through October 23, 2026 or until compliance is achieved, which we hope will be much sooner than that.

16. Separately, we have continued to comply with the conditions of the Interim Variance and are prepared to comply with proposed conditions for the Regular Variance if it is granted.

## HARM IF VARIANCE WERE DENIED

17. As I stated in my previous declaration, the effect of a denial of the variance would be the practical closing of a lawful business activity. It would cause Bon Appetit to suffer economic loss of approximately **\$405,000 per business day** and cause the loss of over

1 152 jobs at the Facility.

2 18. In addition to the lost sales, shorting customer orders may result in the long-term  
3 loss of retail shelf space that could equate to more than \$500 million in additional losses over  
4 five years.

5 19. We have 1800 independent distributors (including 50 in Southern California)  
6 would soon be at risk of becoming insolvent if the supply chain was interrupted for an extended  
7 period of time since we account for 50% to 80% of the products they distribute.

8 20. We do not have the ability shift our baking and packaging operations to another  
9 facility or another company (companies who have such capabilities are our direct market  
10 competitors).

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12 **CURTAILMENT IN LIEU OF OBTAINING A VARIANCE**

13 21. Bon Appetit has considered curtailment of the ovens but is unable to curtail its  
14 operations without risking the cascading harms described above.

15 22. All of our finished goods require baking one of these two tunnel ovens. Our  
16 products have a limited shelf life and need to be distributed fresh. There is no feasible option  
17 to continue business without the ability to bake our products.

18 23. Since our product is perishable (28-day shelf life, with a 21-day shelf life on  
19 some products), we already run a very lean process, regularly reviewing demand along with  
20 product already en route to inform ongoing production. Still, we evaluated our national  
21 inventory and demand to determine if we are able to temporarily lower our production volume  
22 without a damaging impact to the supply chain, but were unable to identify any options for a  
23 throughput reduction that would not result in a substantial interruption in supply given the  
24 leanness of existing product production and distribution.

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26 I declare under penalty of perjury under the laws of the State of California that  
27 the foregoing is true and correct to my personal knowledge.

Executed this 14th day of January, 2026, in the County of Los Angeles, State of California.

Sonya Cutts

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## Sonny Cutwright

# **EXHIBIT A**

**CHRONOLOGY OF BON APPETIT BAKERY OVENS  
CIRCUMSTANCES LEADING TO VARIANCE  
November 12, 2025 – January 13, 2026**

(Continued from chronology included as Exhibit A to Petitioner's Exhibit 3)

Wednesday, Nov. 12	<p><b><u>Backordered burner components</u></b></p> <ul style="list-style-type: none"><li>◦ The burner intake air filters were back-ordered. We are waiting for revised delivery information. In the interim, we will clean and inspect all burners weekly.</li></ul>
Thursday, Nov. 13	<p><b><u>Burner exhaust adjustments; issues encountered during burner calibrations</u></b></p> <ul style="list-style-type: none"><li>◦ BABBCO oven's controls were modified to allow the Enviro-Energy technicians to adjust the burner exhausts. Enviro-Energy's technical team was onsite at 7am.</li><li>◦ During the burner calibration effort, the Enviro-Energy's technicians reported issues with burner stability and discovered that the burner blowers were running backwards. These radial fan blowers were providing airflow but the pressure was not consistent as the blower assembly did have suction but the discharge was not uniform. We stopped the calibration for the day and scheduled to have the Enviro-Energy group return on Sunday (11/16/25) to resume the calibration process.</li></ul>
Friday, Nov. 14	<p><b><u>Burner rotation corrected; tested for effect</u></b></p> <ul style="list-style-type: none"><li>◦ Bon Appetit Maintenance changed the rotation of the burner fans that were operating in reverse. We tested the change on burner #1 and determined that it did not have an apparent</li></ul>

	<p>effect on the flame or the product baking profile. All of the remaining burners were shut down and the blower rotation changed.</p> <ul style="list-style-type: none"><li>◦ As mandated by the terms of the AQMD Variance, Mr. Cutwright drafted and submitted the weekly progress report.</li></ul>
Saturday Nov. 15 & Sunday, Nov. 16	<p><b><u>Burner rotation confirmed; oven controls configured</u></b></p> <ul style="list-style-type: none"><li>◦ Technicians confirmed burner blowers were running in the correct direction.</li><li>◦ Configured oven controls (separate from burner controls) so that source tester Environmental Services can control the combustion mix of the burners.</li></ul>
Monday Nov. 17	<p><b><u>Further calibration of burners</u></b></p> <ul style="list-style-type: none"><li>◦ Enviro-Energy's technicians onsite evaluate both oven burners during operations and made target adjustments to see the effects on the our products baking profile.</li></ul>
Tuesday, Nov. 18	<p><b><u>Rescheduled Enviro-Energy</u></b></p> <ul style="list-style-type: none"><li>◦ Enviro- Energy was not able to have their portable analyzer calibrated so testing was postponed until Thursday, Nov. 20.</li><li>◦ Interim Variance Hearing granted.</li></ul>
Thursday, Nov. 20	<p><b><u>Preliminary readings within limits</u></b></p> <ul style="list-style-type: none"><li>◦ Enviro-Energy was able to complete the calibration and testing of all burners using their portable emissions analyzer. They claimed that all readings were within the permit limits. To ensure that their portable analyzers are reading accurately, Enviro-Energy has contracted with Energy Environmental Solutions to attempt to schedule a preliminary test on November 25th; using their truck mounted testing equipment</li></ul>

Friday, Nov. 21	<b><u>SCAQMD informed of progress</u></b> <ul style="list-style-type: none"><li>◦ Preliminary progress report sent to Mr. Pua (SCAQMD)</li></ul>
Monday, Nov. 21	<b><u>Rescheduled validation test</u></b> <ul style="list-style-type: none"><li>◦ Enviro-Energy was not able to get the Source Test company onsite this week for the preliminary validation test. It is now scheduled for December 8th.</li></ul>
Wednesday, Nov. 26	<b><u>Data sharing with consultants</u></b> <ul style="list-style-type: none"><li>◦ Sent production reporting information to ConservTech for emissions calculations.</li><li>◦ Prepared Bi-weekly Interim Variance Progress Report</li><li>◦ Reviewed status of oven calibration and testing with BABBCO</li></ul>
Thursday, Nov. 26 through Sunday, Nov. 30	<b><u>Thanksgiving holiday</u></b> <ul style="list-style-type: none"><li>◦ Facility shut down for four days.</li></ul>
Sunday, Dec. 7	<b><u>Cleaned burners &amp; stacks</u></b> <ul style="list-style-type: none"><li>◦ Cleaned burners and stacks on all ovens in preparation for validation testing the following day.</li><li>◦ </li></ul>
Monday, Dec. 8	<b><u>Validation testing performed; results slightly high</u></b> <ul style="list-style-type: none"><li>◦ Enviro-Energy (Combustion Technicians) and Energy Environmental Solutions (Source Testing) arrived to perform a validation test of both ovens.</li><li>◦ 4525 District Boulevard Oven:<ul style="list-style-type: none"><li>◦ Source Test Van NOx readings were 5PPM higher than the Combustion Technician's portable analyzer readings.</li></ul></li></ul>

	<ul style="list-style-type: none"><li>◦ Combustion Engineers adjusted the burners but were unable to get the emissions (Source Test Van) to below 33PPM (it is my understanding that 30PPM is the maximum permitted).</li><li>◦ The Combustion Engineers made external adjustments to the burner blower, that they felt would help resolve the issue, and requested additional time to install an intake filter and damper on the burner blower intake.</li><li>◦</li><li>◦ 4529 District Boulevard Oven:</li><li>◦ Source Test Van NOx readings were 3 to 5 PPM higher than the Combustion Technician's portable analyzer readings.</li><li>◦ Combustion Engineers reported that they were able to get the emissions to 30PPM (Source Test Van) and were confident that they would be able to get the burners to pass an official Source Test.</li></ul>
Tuesday, Dec. 9	<p><b><u>Equipment components tested; new components ordered</u></b></p> <ul style="list-style-type: none"><li>◦ Enviro-Energy returned to the test the filter/damper on one of the burners and indicated that this improved the results on their portable emissions analyzer. They took some measurements and contacted the burner manufacturer to arrange for shipment of the components.</li></ul>
Thursday, Dec. 11	<p><b><u>Ongoing production and emissions calculations</u></b></p> <ul style="list-style-type: none"><li>◦ Mr. Cutwright collected the reported production volume information and forwarded it to Conservetech so they can calculate the emissions for the required Bi-Weekly Variance Progress Report.</li></ul>
Friday, Dec. 12	<p><b><u>New component installation; preliminary testing improved</u></b></p> <ul style="list-style-type: none"><li>◦ Enviro-Energy returned this afternoon to install the filter/damper on the 4525 District's oven burner. They tested the burner once again and reported that the results were well within the permitted range. They requested to have Energy Environmental Solutions' test van return ASAP.</li></ul>

	<ul style="list-style-type: none"><li>◦ Sent the Bi-Weekly Progress Report to Mr. Pua at SCAQMD</li></ul>
Monday, Dec. 15	<b><u>Operational adjustments; further improved testing</u></b> <ul style="list-style-type: none"><li>◦ Enviro-Energy returned to make the operating adjustments (higher inlet gas pressure and adjustments to the burner blower) and re-calibrated all of the remaining burners. They tested all of the emissions using their portable analyzer and reported that all burners were passing.</li></ul>
Tuesday, Dec. 16	<b><u>Preliminary confirmation testing scheduled</u></b> <ul style="list-style-type: none"><li>◦ Energy Environmental Solutions confirmed that they will have their source test van onsite for confirmation testing on 12/22/25.</li></ul>
Monday, Dec. 22	<b><u>Preliminary testing rescheduled due to instrumentation trouble</u></b> <ul style="list-style-type: none"><li>◦ Energy Environment Solutions test van had instrumentation trouble so the test was canceled. They wanted to reschedule for the December 24 but we are shutting down production Wednesday through Sunday for the Christmas holiday. The test was rescheduled for December 29th.</li></ul>
Wednesday, Dec. 24 through Sunday, Dec. 28	<b><u>Christmas holiday shut down</u></b> <ul style="list-style-type: none"><li>◦ Production was shut down for the Christmas Holiday.</li></ul>
Monday, Dec. 29	<b><u>Preliminary testing rescheduled by testing company</u></b> <ul style="list-style-type: none"><li>◦ Energy Environmental Solutions had personnel issues and had to reschedule the onsite confirmation test until January 5th.</li></ul>
Monday, Jan. 5	<b><u>Preliminary testing revealed passing but marginal results, discrepancies</u></b> <ul style="list-style-type: none"><li>◦ Energy Environmental Solutions and Enviro-Energy both arrived in the morning for confirmation testing. There was, again, a significant difference between the Enviro-Energy's portable analyzer and the Energy Environmental Solutions' truck mounted analyzer.</li></ul>

	<ul style="list-style-type: none"><li>◦ 4525 Oven: results were “marginal but passing.”</li><li>◦ 4529 Oven: results were improved.</li><li>◦ The combustion engineer said we wanted to return the following day to retest the 4525 District oven while it was operating continuously.</li></ul>
Tuesday, Jan. 6	<b><u>4525 Oven retest preliminarily indicates passing results</u></b> <ul style="list-style-type: none"><li>◦ Enviro-Energy’s technician returned with their portable analyzer and retested all of the burner stacks on the 4525 District oven. He claimed that he was able to achieve consistent (passing) emission results; including accounting for the known variable in the analyzer results. They were going to meet with the Engineer from Energy Environmental Solutions and schedule a source testing, for both ovens, on January 19th and 20th.</li><li>◦ F</li><li>◦ </li></ul>
Thursday, Jan. 8	<b><u>Continued emissions and production monitoring</u></b> <ul style="list-style-type: none"><li>◦ Forwarded the current production reporting to ConservTech for emissions calculations.</li></ul>
Tuesday, Jan. 13	<b><u>Official re-source testing confirmed</u></b> <ul style="list-style-type: none"><li>◦ Confirmed the Source Testing schedule for next week with Enviro-Energy; including the setup and start times so we can ensure that there is a continuous flow of product baking during the test.</li></ul>