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10 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

SOUTH COAST AQMD
CLERK OF THE BOARD

2025 APR -4 PM 2:28

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

13 **In the Matter of**

14 CALPORTLAND COMPANY [FID 195306]

Case No.: 3221-23

Facility ID No.: 195306

15 **[PROPOSED] FINDINGS AND DECISION**
16 **AND ORDER GRANTING A REGULAR**
17 **VARIANCE**

South Coast AQMD Rule 203(b)

Hearing Date: April 23, 2025

Time: 9:30 a.m.

18 The Petition for a Regular Variance, filed on January 23, 2025 by petitioner CalPortland
19 Company ("Petitioner"), was heard on the South Coast Air Quality Management District Hearing
20 Board's April 23, 2025 consent calendar, in accordance with the provisions of California Health and
21 Safety Code Section 42351. Five regular members of the Hearing Board were present: Micah Ali.,
22 Chair; Robert Pearman, Esq., Vice Chair; Mohan Balagopalan, Dr. Jerry P. Abraham, MD, MPH,
23 CMQ; and Cynthia Verdugo-Peralta. Petitioner, represented by Deborah Murphey, Counsel, did not
24 appear. Respondent, Executive Officer of the South Coast Air Quality Management District ("South
25 Coast AQMD"), represented by Kathryn Roberts, Senior Deputy District Counsel, did not appear.
26 The Joint Stipulation re Findings and Decision and Order Granting a Regular Variance, and the
27 Declaration of Leanna East in Support of Order Granting a Regular Variance, and the [Proposed]
28 Findings and Decision and Order Granting a Regular Variance were received as evidence. The

1 public was given the opportunity to testify, evidence was received, and the case was submitted.

2 The Hearing Board finds and declares as follows:

3 **I. NATURE OF FACILITY AND EQUIPMENT THAT IS THE SUBJECT OF THE**
4 **VARIANCE**

5 Petitioner owns and operates an emergency internal combustion engine under Permit to
6 Operate No. G66914 at 1490 Rubidoux Blvd. in the city of Jurupa Valley to enable continued
7 operations of Petitioner's Crestmore Laboratory in the event of a power outage.

8 **II. SUMMARY**

9 Due to primarily unforeseen and unavoidable power interruptions by the site's utility
10 provider, Southern California Edison (SCE), the emergency generator engine has extensively
11 operated during the first month of this year. As of April 2, 2025, the generator has used 190.02 of
12 its permitted 200 hour per year limit, of which only 0.06 hours have been for monthly maintenance
13 and testing purposes. Following four SCE power outages in January 2025 which brought the
14 engine's cumulative total hours to over 160 hours and increasing, Petitioner sought an emergency,
15 interim, and regular variance from the yearly hours limit in its permit to ensure that Petitioner would
16 not be forced to either shut down its Crestmore Laboratory or violate South Coast AQMD Rules if
17 SCE had another power outage. Petitioner was granted an Emergency Ex-Parte Variance on January
18 29, 2025 and an Interim Variance on February 20, 2025.

19 **III. FINDINGS FOR A VARIANCE**

20 **1. The petitioner will imminently be in violation of South Coast AQMD Rule**
21 **203(b) and Condition 4 of Petitioner's Permit to Operate.**

22 Petitioner is in imminent risk of violating condition #4 of Permit to Operate G66914, which
23 limits the annual engine run time to 200 hours per year. As of April 2, 2025, the engine has operated
24 for 190.02 hours, leaving less than 10 hours of operation before hitting the 200-hour limit, with
25 more than eight full months of the year remaining. Due to the unforeseen nature of power
26 interruptions experienced from SCE this year, Petitioner is unable to predict the need to operate the
27 emergency standby generator outside of normal business hours or during the weekend, necessitating
28 Petitioner to obtain coverage from exceeding the annual limit. As soon as it was identified there was

1 likelihood of exceeding the annual limit, Petitioner took immediate action to request an emergency
2 ex-parte variance along with an interim variance to provide coverage until a publicly noticed hearing
3 for a regular variance could be scheduled.

4 **2. Due to conditions beyond the reasonable control of Petitioner, requiring**
5 **compliance would result in either the arbitrary or unreasonable taking of property or the**
6 **closing or elimination of an otherwise unlawful business.**

7 Due to unforeseen power interruptions from the utility provider that are beyond
8 Petitioner's reasonable control, a denial of the regular variance would result in the practical
9 closing of a lawful business that would impose an unreasonable burden upon the Petitioner's
10 business. The site houses a laboratory accredited by the American Society for Testing and
11 Materials (ASTM) as well as other entities, and is the central laboratory for the Petitioner.
12 Maintaining power for operation is essential to maintaining these accreditations. This site also
13 supports critical infrastructure projects.

14 **3. The closing or taking would be without corresponding benefit in reducing air**
15 **contaminants.**

16 Denial of a variance would require Petitioner to relocate its laboratory or shift its testing to
17 other locations, which is not economically or technically feasible. Absent a variance, Petitioner
18 will not be able to operate at the site in the absence of power, which will result in only a minimal
19 reduction in air pollution at enormous cost to Petitioner. Such closing would not provide a
20 corresponding benefit due to the scale of loss that Petitioner would suffer.

21 **4. The petitioner for the variance has given consideration to curtailing operations**
22 **of the source in lieu of obtaining a variance.**

23 Petitioner has agreed to limiting the usage of the generator during this variance to only
24 emergency use plus no more than one hour per month for maintenance. Petitioner has complied
25 with these terms during the period of the emergency and interim variances, and commits to
26 abiding by them for the regular variance.

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

Petitioner will limit emissions to the maximum extent feasible, including limiting the hours the engine is run for monthly maintenance and evaluating the engine's performance towards the end of the year to determine if additional maintenance and testing can be eliminated. Petitioner will comply with all conditions as specified in the Order.

6. During the period that the variance is in effect, the petitioner will monitor and quantify emission levels from the source, and report the emission levels to the South Coast AQMD pursuant to a schedule.

During the period of the variance, Petitioner will monitor emissions pursuant to the conditions of this Order and provide such records to the South Coast AQMD as specified in the conditions of this Order.

ORDER

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

A. Petitioner is granted a regular variance from the date of this Order through December 31, 2025, as follows: the internal combustion engine (ICE) with South Coast AQMD Permit to Operate No. G66914 is granted a variance from Condition No. 4 of that Permit to Operate and South Coast AQMD Rule 203(b), subject to the following conditions:

1. Petitioner shall limit the operation of the Internal Combustion Engine ("ICE"), as described in Permits to Operate ("PO") No. G66914, to emergency usage, and the ICE shall operate no more than 1.0 hour per month total for maintenance and testing time.
2. Petitioner shall maintain a monthly operating log with data beginning on January 1, 2025, for the emergency ICE and shall send the records to South Coast AQMD by email to AQ Inspector I Blanca Gomez Coronado (bcoronado(@aqmd.gov) on the first Tuesday of each month starting in March 2025. The operating log shall list all engine operations in the following areas:
 - a. Date and hours of emergency operation, specifying the cause of the emergency;
 - b. Date and hours of maintenance and testing operations; and
 - c. Date and hours of any other non-emergency operation.
3. Petitioner shall calculate, record, and report all excess emissions during the variance period, and pay appropriate excess emission fees to the Clerk of the Board by January 31, 2026.
4. Except as otherwise permitted in variance condition #1, Petitioner shall cease operation of the ICE (PO No. G66914).

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BOARD MEMBER: _____

DATED: _____