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

6 In the Matter of
7 KINSBURSKY BROTHERS, INC.
8 Order Granting Interim Variance
9 [Facility I.D. No. 35006]
10
11 Section 42350 of the California Health and Safety
12 Code

Case No. 6122-2

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FINDINGS AND DECISION OF THE HEARING BOARD

15 This petition for an interim variance was heard on the consent calendar on January 7, 2026,
16 pursuant to notice and in accordance with the provisions of California Health and Safety Code
17 Section 40823 and District Rule 510. The matter was placed on the Consent Calendar pursuant to
18 the Joint Stipulation to Place Matter on Consent Calendar. The following members of the Hearing
19 Board were present: Micah Ali, Chair; Robert Pearman, Esq., Vice Chair; Jerry Abraham, MD,
20 MPH, CMQ; Mohan Balagopalan; and Cynthia Verdugo-Peralta. Petitioner Kinsbursky Brothers
21 Inc. (hereinafter “Petitioner” or “KBI”), represented by Bruce Armbruster, Environmental Health
22 and Safety Manager, did not appear. Respondent, Executive Officer, represented by Erika Chavez,
23 Principal Deputy District Counsel, did not appear. The public was given the opportunity to testify.
24 The Declaration of Daniel Kinsbursky and the Proposed Findings and Decision of the Hearing
25 Board were received as evidence, and the case submitted. The Hearing Board finds and decides as
26 follows:
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1 Nature of Business and Location of Facility

2 Petitioner is in the business of battery dismantling and recycling, located at 1314 Anaheim
3 Boulevard, Anaheim, California 92801.

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5 Equipment and Permit to Construct/Operate

6 The subject equipment consists of a battery dismantling and recycling system with
7 associated air pollution control device. The equipment is operated pursuant to Permit to Operate
8 (P/O) Nos. G63119 and G63120.

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10 **SUMMARY**

11 Petitioner is requesting an interim variance through March 31, 2026 or until a Regular
12 Variance hearing can be held. Petitioner continues to work with source testing contractor to
13 complete the source testing necessary to demonstrate compliance. Due to issues with the initial
14 testing the source test must be completed again. Working aggressively with the source testing
15 contractor, KBI arranged for a new test with the earliest possible date being December 29 and 30,
16 2025; however, the results of the testing will not be available for at least 30 days. Petitioner
17 anticipates potential completion by the end of February 2026, but given the potential issues
18 encountered with the initial testing completed in October 2025, coverage is requested through
19 March 31, 2026.

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21 **FINDINGS OF FACT**

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

25 **I. Good Cause Exists to Hold an Interim Variance Hearing.**

26 Petitioner acted with diligence in conducting the initial source test. After becoming aware
27 of data quality issues on November 21, 2025, Petitioner continued to work with the source testing

contractor to complete a full evaluation of the data. Upon determining that the initial testing was not valid, Petitioner immediately filed for variance relief on December 19, 2025 and contacted Alliance to perform a new source test at their earliest availability.

Good cause exists to hold an interim variance hearing for Petitioner without providing public notice given that Petitioner acted with due diligence, the late notice of data quality issues was beyond Petitioner's reasonable control, and Petitioner acted expeditiously to seek variance relief once it learned that the data was invalid and a new source test would be needed.

II. The Six Findings Can Be Made to Grant the Interim 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.

Petitioner is in violation of South Coast AQMD Rule 203(b), Rule 1420(j)(1), permit condition 14 of Application Number 602162, and permit condition 5 of Application Number 602161 because Petitioner has not completed a source test that validly demonstrates compliance with the requirements of Rule 1420 within the time frames prescribed by 1420(j)(1).

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

The initial source test intended to fulfill compliance obligations under Rule 1420(j)(1) was scheduled and completed in October of 2025, within the prescribed twenty-four month period required under Rule 1420(j)(1). Due to the timing of the initial source test data evaluation by the contracted source testing firm, KBI did not become aware of the need to conduct a new test until after the conclusion of the twenty-four month period had passed. As a result, KBI was not able to arrange for a retest to be conducted within the twenty-four month period established under Rule 1420(j)(1). Working aggressively with the source testing contractor, KBI arranged for a new test with the earliest possible date being December 29 and 30, 2025. Petitioner has taken action to complete a valid source test but is limited by the availability of the source testing contractor.

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.

Denial of the variance would cause economic harm to Petitioner. The facility would not be able to conduct a principal business operation and would need to close or partially close. This would not only impact Petitioner and its employees, but also its customers and the community who rely on access to the lead-acid battery recycling operations intended to ensure the proper management of what otherwise would be a hazardous waste.

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

Petitioner does anticipate any excess emissions during the variance period since the equipment will continue to operate in accordance with existing permit conditions and prescribed operating parameters.

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

Battery Dismantling and Recycling operations cannot be curtailed or terminated because these operations are a principal business activity for Petitioner.

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

No excess emissions will occur during the variance period. Petitioner will continue to operate equipment in accordance with operating permits and regulations. Emissions of lead will continue to be vented to the air pollution control system.

f. During the period the variance is in effect, the petitioner 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.

Petitioner will monitor emissions by tracking production data and comparing to the production rate at the time of the prior source test conducted in 2023 that demonstrated compliance with Rule 1420.

ORDER

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

- 1 A. Good cause exists to hold an interim variance hearing for Petitioner.
- 2 B. Petitioner is granted an interim variance from District Rules 203(b) and 3002(c)(1)
- 3 for the period commencing January 7, 2026 and continuing through March 31,
- 4 2026.
- 5 B. The variance granted herein is subject to the following conditions:
- 6 1. Petitioner shall use its data acquisition system (DAS) to continuously monitor
- 7 the pressure drop across the Equipment's Pulse filters and HEPA filters.
- 8 2. Petitioner shall maintain the pressure drop across the Pulse filters to not exceed
- 9 10 inches of w.c.
- 10 3. Petitioner shall maintain the pressure drop across the HEPA filters to not exceed
- 11 2.25 inches of w.c.
- 12 4. Petitioner shall maintain daily production records for each process in the Battery
- 13 Dismantling and Recycling System under Application No. 602161 during the
- 14 variance period.
- 15 5. Petitioner shall inspect any total enclosure at least once a calendar month for
- 16 breaks, cracks, gaps, or deterioration that could cause or result in fugitive lead-
- 17 dust and shall repair any breaks, cracks, gaps, or deterioration that could result
- 18 in fugitive lead-dust from any total enclosure within 72 hours of discovery.
- 19 Petitioner shall maintain records of such inspections and repairs.
- 20 6. Petitioner shall conduct the housekeeping requirements required by Rule
- 21 1420(h) at the frequencies listed in Rule 1420(h).
- 22 7. Petitioner shall conduct a smoke test during the source test per Rule 1420(k)(5)
- 23 and at least once per month during the variance period.
- 24 8. Petitioner shall use a calibrated hot wire anemometer to measure the capture
- 25 velocity of each emission collection system per Rule 1420(k)(6) at least once
- 26 per week during the variance period.
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9. Petitioner shall make the monitoring records set forth above available to its inspector, Katey McCoy, upon request.
10. Petitioner shall submit to the South Coast AQMD, a summary of the data and issues identified with the testing that was conducted by Alliance Technical Group on October 9, 2025 and October 10, 2025 within 72 hours after this variance has been granted to Peter Homsey (Attn: Phomsey@aqmd.gov) and Katey McCoy (Attn: Kmccoy@aqmd.gov).
11. Petitioner shall retest their Equipment per Rule 1420 requirements to demonstrate compliance with the rule no later than the effective date of the Variance, unless otherwise approved by the Executive Officer.
12. Petitioner shall submit to the South Coast AQMD, the Rule 1420 Source Test Report for the retest of the Equipment no later than 72 hours after receipt, with a copy to Peter Homsey (Attn: Phomsey@aqmd.gov), Katey McCoy (Attn: Kmccoy@aqmd.gov), and Christopher Gill (Attn: cgill@aqmd.gov).
13. Petitioner shall request expedited review and processing of the Source Test Report to the South Coast AQMD by submitting the Expedited Evaluation Request Form 222-XST.
14. Petitioner shall resume subsequent source tests per Rule 1420(j)(1) requirements with the established source test date in the month of October (next source test will be due in the month of October).
15. Petitioner shall pay all applicable fees to the Clerk of the Board or the variance shall be invalidated pursuant to Rule 303(k), except for excess emissions fees, which shall be paid within fifteen (15) days of notification in writing that the fees are due, unless otherwise ordered by the Hearing Board.
16. Petitioner shall notify the South Coast AQMD via email to Peter Homsey (Attn: Phomsey@aqmd.gov), Katey McCoy (Attn: Phomsey@aqmd.gov) and the Clerk of the Hearing Board in writing when final compliance has been achieved.

BOARD MEMBER: _____

DATED: _____