

1 OFFICE OF THE GENERAL COUNSEL
2 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
3 ERIKA CHAVEZ, SBN 265247
4 PRINCIPAL DEPUTY DISTRICT COUNSEL
5 Email: echavez@aqmd.gov
6 21865 Copley Drive
7 Diamond Bar, California 91765-0940
8 TEL: 909.396.3400 • FAX: 909.396.2961

9 Attorneys for Petitioner
10 South Coast Air Quality Management District

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

14 **In the Matter of**

15 SOUTH COAST AIR QUALITY
16 MANAGEMENT DISTRICT,

17 Petitioner,

18 vs.

19 ORGANIC ENERGY SOLUTIONS
20 [Facility ID No. 184672], R3
21 SUSTAINABILITY,

22 Respondents.

Case No. 6292-1

PETITION FOR AN ORDER FOR ABATEMENT

District Rules 201 and 203

Hearing Date: August 19, 2026
Time: 9:30 a.m.
Place: Hearing Board
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

23 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (hereinafter referred to as "District"
24 or "Petitioner") in support of its Petition for an Order for Abatement directed to Organic Energy Solutions
25 ("OES") and R3 Sustainability (hereinafter collectively referred to as "Respondents"). The District alleges as
26 follows:

27 1. Petitioner is a body corporate and politic established and existing pursuant to Health and
28 Safety Code §40000, *et seq.* and §40400, *et seq.*, and is the sole and exclusive local agency with the
responsibility for comprehensive air pollution control in the South Coast Basin.

///

2. Respondent OES operates a facility that uses a food waste anaerobic digester system to produce digester gas. The facility is located at 2586 Shenandoah Way, San Bernardino, CA 92407 (“Facility”), within South Coast AQMD’s jurisdiction and subject to South Coast AQMD rules.

3. Respondent R3 Sustainability is currently a co-operator of the Facility.¹ R3 Sustainability is located at 7032 S. Revere Parkway, Suite 320-H20, Centennial, CO 80112.

4. As a part of its business, and relevant to this Petition, Respondent OES was originally issued Permits to Construct Application Numbers (A/N) 594048-9, 594052, and 610611-4 for the following equipment at the facility.

- a. Food Waste Anaerobic Digestion Operations (A/N 594048);
- b. Digester Gas (Biogas) Handling and Treatment System (A/N 594049);
- c. Flare, digester gas fired (A/N 594052);
- d. Air Pollution Control System (Selective Catalytic Reduction Unit No. 1)(A/N 610611);
- e. Air Pollution Control System (Selective Catalytic Reduction Unit No. 2) (A/N 610612);
- f. Cogeneration System (Internal Combustion Engine, No. 1)(A/N 610613);
- g. Cogeneration System (Internal Combustion Engine, No. 2)(A/N 610614);

5. **District Rule 201** requires that a person shall not build, erect or install any equipment which causes or controls the issuance of air contaminants into the atmosphere without first obtaining written authorization for such construction from the Executive Officer.

6. **District Rule 203(a)**, in relevant part, prohibits the operation of any equipment the use of which may cause or control the issuance of air contaminants into the atmosphere without first obtaining a written permit to operate from the District’s Executive Officer.

7. On January 30, 2025, Respondent’s A/Ns 594048-9, 594052, 610611-4 were denied Permits to Operate, for failure to conduct source testing, failure to provide operational records, and failure to provide procedural information, such that it could not be demonstrated pursuant to Rule 212 that the equipment complied with Division 26 of the State Health and Safety Code and all the requirements set by the Rules and

¹ A change of ownership may occur during the Order for Abatement proceedings. R3 Sustainability is expected to continue as an operator of the Facility.

1 Regulations of the South Coast AQMD. Plan A/N 641816 was similarly denied for Respondent's failure to
2 provide responses to information requests from the District pursuant to Rule 212. A true and correct copy
3 of the Denial Letter is attached hereto as Exhibit 1.

4 8. On February 12, 2026, District inspectors visited OES and observed the following equipment
5 installed and/or operating:

- 6 a. Food Waste Anaerobic Digestion Operations;
- 7 b. Digester Gas (Biogas) Handling and Treatment System;
- 8 c. Flare, digester gas fired;
- 9 d. Air Pollution Control System (Selective Catalytic Reduction Unit No. 1);
- 10 e. Air Pollution Control System (Selective Catalytic Reduction Unit No. 2);
- 11 f. Cogeneration System (Internal Combustion Engine, No. 1);
- 12 g. Cogeneration System (Internal Combustion Engine, No. 2);

13 9. The District issued Notice of Violation P79731 to Respondent OES on or about February 19,
14 2026, for violation of District Rules 201 and 203(a). A true and correct copy of Notice of Violation
15 P79731 is attached hereto as Exhibit 2.

16 10. Respondents are in violation of District Rules 201 and 203(a) in that Respondents have
17 installed and are operating the Food Waste Anaerobic Digestion Operations, Digester Gas (Biogas) Handling
18 and Treatment System, two Air Pollution Control Systems (Selective Catalytic Reduction Units Nos. 1 and
19 2), and two Internal Combustion Engines (Nos. 1 and 2) without first obtaining a permit.

20 **Request for an Order for Abatement under Regulation VIII and**
21 **Health and Safety Code § 42451.**

22 11. The District, by this Petition, seeks an Order for Abatement to require Respondents to cease
23 operation of their Food Waste Anaerobic Digestion Operations, Digester Gas (Biogas) Handling and
24 Treatment System, two Air Pollution Control Systems (Selective Catalytic Reduction Units Nos. 1 and 2),
25 and two Internal Combustion Engines (Nos. 1 and 2), or in the alternative, to comply with increments of
26 progress and conditions as the Board deems appropriate.

27 12. It is not unreasonable to require Respondents to comply with District rules and regulations.
28

1 13. The issuance of an Order for Abatement upon a fully noticed hearing would not constitute a
2 taking of property without due process of law.

3 14. This Order for Abatement is not intended to be nor does it act as a variance.

4 15. The issuance of the prayed for Order for Abatement is not expected to result in the closing
5 or elimination of an otherwise lawful business, but if it does result in such closure or elimination, it would
6 not be without a corresponding benefit in reducing air contaminants.

7 16. It is the District's intention to file proposed Findings and Decision a few days in advance of
8 the hearing.

9 WHEREFORE, the District prays for an Order for Abatement as follows:

10 1. That this Hearing Board issue an Order for Abatement requiring Respondents to cease and
11 desist from operating the Food Waste Anaerobic Digestion Operations, Digester Gas (Biogas) Handling and
12 Treatment System, two Air Pollution Control Systems (Selective Catalytic Reduction Units Nos. 1 and 2),
13 and two Internal Combustion Engines (Nos. 1 and 2) in a manner that violates District Rule 203(a), or in the
14 alternative, to comply with increments of progress and conditions as the Board deems appropriate.

15 2. For such other and further relief that this Board deems just and proper.

17 Dated: July 16, 2026

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
OFFICE OF THE GENERAL COUNSEL

20 By: _____



Erika Chavez
Attorney for Petitioner

EXHIBIT 1



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

January 30, 2025

Mr. Brian Hume
VP Operations
Organic Energy Solutions
2586 Shenandoah Way
San Bernardino, CA 92407

Denial of Applications 594048-9, 594052, 610611-4 & 641816 (Facility ID 184672):

Located at 2586 Shenandoah Way, San Bernardino, CA 92407

A/N: 594048	Food Waste Anaerobic Digestion Operations
A/N: 594049	Digester Gas (Biogas) Handling and Treatment System
A/N: 594052	Flare, digester gas fired
A/N: 610611	Air Pollution Control System (Selective Catalytic Reduction #1)
A/N: 610612	Air Pollution Control System (Selective Catalytic Reduction #2)
A/N: 610613	Cogeneration System (Internal Combustion Engine, No. 1)
A/N: 610614	Cogeneration System (Internal Combustion Engine, No. 2)
A/N: 641816	Rule 1110.2 Inspection and Monitoring Plan

The abovementioned applications have been evaluated by our engineers. Based upon this evaluation and review of all the information provided, we have determined that Applications 594048-9, 594052, 610611-4 & 641816 shall be denied. Pursuant to Rule 212, the Executive Officer shall deny an application, unless it can be demonstrated to comply with Division 26 of the State Health and Safety Code and the requirements set by the Rules and Regulations of the South Coast Air Quality Management District (South Coast AQMD).

South Coast AQMD Rule 212 provides, in essence, that the Executive Officer shall deny an application if it does not meet the requirements set by the Rules and Regulations of the South Coast AQMD.

These applications are denied for the following reasons:

Failure to conduct source testing of the foodwaste anaerobic digester, the digester flare, and internal combustion engines with selective catalytic reduction systems. Source test report submittal is required by Permits to Construct 594048, 594052, 610613 & 610614 and for the evaluation and issuance of Permits to Operate for A/Ns 594048-9, 594052, 610611-4.

Failure to provide operational records required for the evaluation and issuance of Permits to Operate for A/Ns 594048-9, 594052, 610611-4 which was required to be maintained and provided to South Coast AQMD upon request including: records of feedstock throughputs, records of daily/monthly operations and operating hours, records of digester gas generation, records of digester gas combustion by the flare, records of digester gas

combustion by the engines, periodic monitoring and weekly laboratory analysis records pertaining to the heating value and sulfur content of the generated digester gas, results of annual ammonia slip tests from the engine catalysts, engine exhaust emission data, and records from the data gathering and retrieval system of the air pollution control systems.

Failure to provide procedural information required to evaluate and approve the Rule 1110.2 Inspection and Monitoring Plan under A/N 641816.

Pursuant to Rule 214, in the event of denial of a permit, the South Coast AQMD shall not accept further application(s) for the equipment covered by the denied permit unless the applicant has overcome the reasons for denial of the permit.

Additionally, please be advised that South Coast AQMD shall not accept application(s) without the applicable information required by South Coast AQMD Regulation II.

South Coast AQMD shall not accept application(s) for this project unless complete applications are received for all equipment requiring a permit that are part of the project/process at the facility, including but not limited to any: water/wastewater treatment equipment, food waste anaerobic digestion equipment, foodwaste storage equipment, digester gas (biogas) handling and treatment systems, digester gas fired flare, cogeneration systems (e.g. internal combustion engines), air pollution control systems (e.g. selective catalytic reduction equipment), emergency engines which support this process, air pollution/odor control equipment associated with this process, and chippers/grinders/screeners/other pre-processing equipment and associated engines, as applicable.

Enclosed is a Form 400-D, which briefly describes some important information regarding this denial. The form also outlines some options available to you because of this action. District Counsel of our Legal Division at South Coast AQMD may be reached at 909-396-3400.

If you have any questions concerning the denial of your application, please contact Ms. Nicole Idiart of my staff at NIdiart@aqmd.gov or (909) 396-2668.

Very truly yours,



Angela Shibata
Senior Air Quality Engineering Manager
Waste Management Team
Engineering and Permitting

MM:TR:NMI:AS

Enclosure Form 400-D

Certified Mail
Return Receipt Requested

cc:

File
Victor Yip, Assistant Deputy Executive Officer, Compliance and Enforcement Division
Diamond Washington, Office Assistant, Compliance and Enforcement Division



South Coast Air Quality Management District

21865 Copley Drive, Diamond Bar, CA 91765-4178
(909) 396-2000 • www.aqmd.gov

IMPORTANT INFORMATION CONCERNING DENIALS

A letter of denial is a form of legal action and is considered as such by the Air Quality Management District.

The information contained herein is provided to emphasize the importance of taking the proper steps without delay after receiving a letter of denial. This information is not intended to take the place of competent legal advice.

You are advised that the Hearing Board of the Air Quality Management District has been established by law to hear appeals of actions of the Executive Officer. Should you elect to file a petition to appeal a denial, it is recommended that you familiarize yourself with the Rules and Regulations of the Air Quality Management District and with the sections of Chapters 4 & 8, Division 26, of the Health & Safety Code of the State of California.

After receiving a letter of denial, you have the following options:

1. File an appeal with the Hearing Board within 30 (thirty) days after the receipt of this denial, OR
2. File a petition with the Hearing Board for a variance to permit operation of the equipment while the air pollution problem is being solved, OR
3. Suspend construction or operation of all equipment involved and file a new application with the Air Quality Management District for authority to make alterations which will comply with the objections stated as the reasons for the denial, OR
4. Abandon construction or operation of all equipment involved in the denial.

In all cases, construction or operation of all equipment involved must be suspended completely until either a valid permit to construct or a permit to operate has been issued by either the Air Quality Management District or the Hearing Board. In no way can the filing of either a new application with the District or a petition with the Hearing Board be construed as permission to continue the construction or operation of the equipment involved.

Existing laws state that every person who builds, erects, alters, uses or operates any source capable of emitting or controlling air contaminants without first obtaining the necessary permits is guilty of a misdemeanor and that every day during which such violation occurs is a separate offense.

Should construction or operation be continued after receipt of a denial, the Executive Officer will take whatever legal action is deemed necessary, as prescribed by existing laws and regulations.

EXHIBIT 2



NOTICE OF VIOLATION

DATE OF VIOLATION		
Month:	Day:	Year:
2	12	26

Facility Name: Organic Energy Solutions		Facility ID#: 184672	Sector: EF
Location Address: 2586 Shenandoah Way		City: San Bernardino	Zip: 92407
Mailing Address: 2586 Shenandoah Way		City: San Bernardino	Zip: 92407

YOU ARE HEREBY NOTIFIED THAT YOU HAVE BEEN CITED FOR ONE OR MORE VIOLATIONS OF THE SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (SCAQMD) RULES, STATE LAW OR FEDERAL LAW. IF PROVEN, SUCH VIOLATION(S) MAY RESULT IN THE IMPOSITION OF CIVIL OR CRIMINAL PENALTIES.

EACH DAY A VIOLATION OCCURS MAY BE HANDLED AS A SEPARATE OFFENSE REGARDLESS OF WHETHER OR NOT ADDITIONAL NOTICES OF VIOLATION ARE ISSUED.

DESCRIPTION OF VIOLATIONS

#	Authority*	Code Section or Rule No.	SCAQMD Permit to Operate or CARB Registration No.	Condition No. (If Applicable)	Description of Violation
1	☒ SCAQMD ☐ CH&SC ☐ CCR ☐ CFR	201			Facility installed anaerobic digestion equipment and digester gas desulfurization equipment without first obtaining a Permit to Construct
2	☒ SCAQMD ☐ CH&SC ☐ CCR ☐ CFR	201			Facility installed a ground flare without first obtaining a Permit to Construct
3	☒ SCAQMD ☐ CH&SC ☐ CCR ☐ CFR	201			Facility installed two internal combustion engines without first obtaining a Permit to Construct
4	☒ SCAQMD ☐ CH&SC ☐ CCR ☐ CFR	201			Facility installed two air pollution control systems without first obtaining a Permit to Construct
5	☒ SCAQMD ☐ CH&SC ☐ CCR ☐ CFR	203(a)			Facility operated anaerobic digestion equipment and digester gas desulfurization equipment without first obtaining a Permit to Operate
6	☒ SCAQMD ☐ CH&SC ☐ CCR ☐ CFR	203(a)			Facility operated a ground flare without first obtaining a Permit to Operate

Served To: Keith Churchill		Phone: 661-523-9092	Served By: Adebola John	Date Notice Served: 2/19/26
Title: Community Operations Manager	Email: kchurchill@biostarrenewables.com	Phone No: 909-396-2350	Email: ajohn@aqmd.gov	

*Key to Authority Abbreviations: SCAQMD – South Coast Air Quality Management District CCR – California Code of Regulations	CH&SC – California Health and Safety Code CFR – Code of Federal Regulations	Method of Service: ☐ In Person ☐ Certified Mail ☒ Electronic Mail
--	--	--

What is a Notice of Violation?

A Notice of Violation is issued by an SCAQMD Air Quality Inspector to inform a business that a failure to comply with one or more applicable federal, state, and/or local (SCAQMD) air pollution rules and regulations or legal requirements is being alleged.

What happens when I receive a Notice of Violation?

If you are operating in violation of one or more applicable federal, state, and/or local (SCAQMD) air pollution rules and regulations or legal requirements, each day or part of a day that you operate in violation is considered a separate violation even if only one Notice of Violation has been issued. Continuing to operate in violation may subject you to substantial civil or criminal penalties. **It is in your best interest to resolve any compliance problem immediately before you resume operation.**

What if I need to continue to operate the equipment named in the Notice of Violation?

If continued operation of equipment cited in the Notice of Violation is necessary, you may be able to obtain a variance from SCAQMD's Hearing Board. A **variance** is an administrative order that allows a company to continue operating without penalties while it takes appropriate steps to meet air pollution control requirements. Proof of specific legal circumstances must be provided before a variance can be granted. Timeliness in seeking such relief will be considered by the Hearing Board. Additional information concerning variances can be found in California Health & Safety Code §§ 42350-42359.5 and at <http://www.aqmd.gov/home/about/hearing-board>.

During a hearing for a variance, you may be represented either by yourself or by your attorney or consultant. You will have the opportunity to present evidence and testimony, and to cross-examine any SCAQMD witness.

If you fail to comply with any order of the Hearing Board, you may be subject to additional civil or criminal penalties set forth in California Health & Safety Code §§ 42400 *et seq.* and 42402 *et seq.*

How are Notices of Violation resolved?

The SCAQMD General Counsel's office reviews each alleged violation and, based on the facts, determines how best to resolve the allegation. Options available to the General Counsel's office include:

- **Minor Source Penalty Assessment Program**

Certain Notices of Violation may be eligible for resolution through SCAQMD's Minor Source Penalty Assessment Program if they are issued to a minor source or for violations other than emitting air toxics or creating a

public nuisance involving injury or property damage.

If your case is handled by this program, you will receive a letter or phone call from an investigator in the SCAQMD General Counsel's office offering to settle your violation. Settlement terms usually call for a penalty payment and written proof of current compliance. The investigator's name and telephone number are included in the initial settlement letter in the event you would like to discuss the case.

Be prepared to describe any facts about the violation that you believe SCAQMD should know in considering your case. Sharing your knowledge of the facts, possible causes for the violation and plans to avoid future violations will help the investigator arrive at an appropriate disposition.

Be sure to respond by the date indicated in the letter to avoid further legal action.

If the Minor Source Penalty Assessment Program fails to result in a settlement, your Notice of Violation may be referred to an SCAQMD attorney and handled under the procedures for Civil Prosecution or resolved through a Small Claims Court.

- **Civil Prosecution**

If your case is handled as a civil matter, it will be reviewed by an attorney from the SCAQMD General Counsel's office, who will typically make first contact with you through a letter that asks for information about your case. If the allegations in the Notice of Violation cannot be informally resolved, the SCAQMD is authorized to file a civil lawsuit in court to recover civil penalties. In cases involving serious harm or danger, however, SCAQMD may immediately commence a legal action for civil penalties and a court-ordered injunction. A **mandatory injunction** is a court order compelling a person and/or company to take specific action. A **prohibitory injunction** is a court order compelling a person and/or company to refrain from taking a specific action. Injunctions, which may even lead to shutting down a business, may be sought by SCAQMD to prevent continuing or serious violations or damages from occurring.

- **Criminal Prosecution**

If SCAQMD determines that criminal prosecution is appropriate, the case will be referred to the appropriate state or federal law enforcement agency. That agency will determine if criminal prosecution is warranted.

Civil and Criminal Penalties

Penalties are determined by California Health & Safety Code §§ 42400 *et seq.* and 42402 *et seq.*

Available Resources

You can obtain SCAQMD Rules, permit application forms, and detailed information about SCAQMD and the Hearing Board using the resources provided below:

Contact Numbers	Useful Links
General Information:	
SCAQMD Headquarters General Number (909) 396-2218	About SCAQMD http://www.aqmd.gov/home/about
General Counsel's Office (909) 396-3400	Enforcement Authority http://www.aqmd.gov/home/about/authority/enforcement
	Compliance Notices http://www.aqmd.gov/home/regulations/compliance/compliance-notices
	SCAQMD Rules http://www.aqmd.gov/home/regulations/rules
Obtaining Permit or Billing Information:	
Small Business Assistance (800) 388-2121	Getting Permits http://www.aqmd.gov/home/permits
Permit Information (909) 396-2468	Permit Forms http://www.aqmd.gov/home/permits/permit-application-forms
Billing Services (866) 888-8838	Permitting Fees http://www.aqmd.gov/home/permits/fees
(909) 396-2900	
Variances:	
Clerk of the Hearing Board (909) 396-2500	The Hearing Board http://www.aqmd.gov/home/about/hearing-board

PROOF OF SERVICE

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 21865 Copley Drive, Diamond Bar, CA 91765-4182.

On July 16, 2026, I served the within document(s) described as **PETITION FOR AN ORDER FOR ABATEMENT** on the interested parties in this action as stated below.

Bruce A. Armbruster, EHS Practice Director
All 4 Inc.
barmbruster@all4inc.com
on behalf of Organic Energy Solutions

Phil DuPuis, COO
R3 Sustainability
phil@r3sustainability.com

☐ (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope addressed as set forth above. I placed each such envelope for collection and mailing following ordinary business practices. I am readily familiar with this District's practice for collection and processing of correspondence for mailing. Under that practice, the correspondence would be deposited with the United States Postal Service, with postage thereon fully prepaid at Diamond Bar, California, in the ordinary course of business. I am aware that on motion of the party served, service is presumed invalid if postal cancellation date or postage meter date is more than one day after date of deposit for mailing in affidavit.

☐ (BY OVERNIGHT DELIVERY) I deposited in a box or other facility regularly maintained by Overnight Express, an express service carrier, or delivered to a courier or driver authorized by said express service carrier to receive documents, a true copy of the foregoing document(s) in a sealed envelope or package designated by the express service carrier, addressed as set forth above, with fees for overnight delivery paid or provided for.

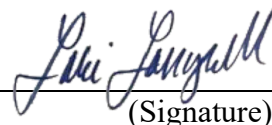
☐ (BY PERSONAL SERVICE) I caused to be delivered a true copy of the foregoing document(s) by hand to each of the individuals identified above.

☒ (BY E-MAIL) By transmitting a true .pdf copy of the foregoing document(s) by e-mail transmission from llangrell@aqmd.gov to each interested party at the e-mail address(es) set forth above. Said transmission(s) were completed on the aforesaid date at the time stated on declarant's e-mail transmission record.

Executed on July 16, 2026, at Diamond Bar, California.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Lori Langrell
(Type or print name)


(Signature)