

FILED
NOV 12 2019
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the Matter of the Application of)
WASTE MANAGEMENT -)
KIRBY CANYON RECYCLING AND)
DISPOSAL FACILITY)
For Emergency Variance from Regulation 8,)
Rule 34, Section 301.1; and Permit Condition)
#1437, Item 7.)

Docket No.: 3717
ORDER GRANTING EMERGENCY
VARIANCE

The above-entitled matter, being an Application for Emergency Variance (EV) from the provisions of Regulation 8, Rule 34, Section 301.1; and Permit Condition #1437, Item 7 was filed on October 29, 2019, after initial contact by telephone at 4:43 p.m. on October 28, 2019, and having been considered by the Hearing Board,

THE HEARING BOARD STATES as the reasons for its decision and FINDS as to those matters in which findings are required:

A. Applicant filed an application under the EV procedures, Hearing Board Rules, Section 2.5. Pursuant to Health and Safety Code Sections 42359 and 42359.5, and the Hearing Board determined that this Application properly could be ruled upon without notice and hearing. Prior to making this determination, and in accordance with Hearing Board Rules Section 2.5.d.2, the Hearing Board requested and received a response to this Application from the Executive Officer/Air Pollution Control Officer for the Bay Area Air Quality Management District (Air District). The Air District staff response recommended the Application for EV be granted.

B. Applicant operates a solid waste landfill located at 910 Coyote Creek Golf

1 Drive, Morgan Hill, CA 95037. Landfill gas generation is a continuous naturally occurring
2 decomposition process which cannot be curtailed. There is a landfill Gas Collection and Control
3 System (GCCS) to handle the landfill gas.
4

5 C. Because of a Public Safety Power Shutoff (PSPS) executed by PG&E due to
6 extreme wind conditions and increased wildfire risks in PG&E service areas, an unpreventable
7 power outage at the Kirby Canyon Landfill resulted in a shutdown of the GCCS for
8 approximately 44 hours.

9 D. Air District Regulation 8-34-301.1 and associated permit condition #1437.7
10 requires the landfill to operate the GCCS continuously, so the shutdown put the landfill in
11 violation of its permit condition. No public nuisance was created and no public complaints were
12 received.

13 E. Applicant requested an emergency variance period of October 28, 2019 to
14 November 27, 2019, (30 days), in the event of additional PSPS occurrences.

15 F. Compliance is beyond Applicant's reasonable control when it has no power
16 through no fault of its own.

17 G. Applicant will be investigating alternate power options for the future.
18 The Applicant does meet the good cause standard for issuance of an EV. The findings required
19 under Health and Safety Code Section 42352 can be made and/or are not applicable to this
20 particular situation.
21

22 THEREFORE, THE HEARING BOARD ORDERS:

23 1. An Emergency Variance from Regulation 8, Rule 34, Section 301.1; and Permit
24 Condition #1437, Item 7, be and is hereby granted from October 28, 2019 at 4:30 PM to
25 November 27, 2019.

26 2. This EV is conditioned upon the Applicant notifying the Air District Compliance
27 & Enforcement Division via email at Compliance@baaqmd.gov of the following:
28

1 A) Immediate notification to Air District that a new PG&E PSPS is expected to impact
2 facility operations; and

3 B) Within 24 hours of PG&E power restoration, provide notification to the Air District
4 of the total electrical service downtime, including the date and time power was restored at
5 the facility (**Air District Staff Condition 1**).

6
7 3. Applicant shall explore and evaluate options to ensure continuous operation of
8 landfill gas collection and emissions control system during PSPS events, and at the conclusion of
9 the variance period, provide a summary of the options to prevent operational downtime and
10 provide an estimated timeline to install backup power and/or other feasible option(s) evaluated
11 within 30 days of Emergency Variance expiration date (**Air District Staff Condition 2**).

12
13
14
15 

16 Valerie J. Armento, Esq.
17 Hearing Board Member
18 Bay Area Air Quality Management District

19
20
21
22
23
24
25
26
27
28


Date

BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

FILED
NOV 12 2019
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

In the Matter of the Application of)
)
WASTE MANAGEMENT –KIRBY) No. 3717
CANYON RECYCLING AND)
DISPOSAL FACILITY) CERTIFICATION OF SERVICE
)
For Emergency Variance from Regulation 8,)
Rule 34, Section 301.1; and Permit Condition)
#1437, Item 7.)

STATE OF CALIFORNIA)
) ss.
City and County of San Francisco)

I, Marcy Hiratzka, do hereby certify under penalty of perjury as follows:

That I am a citizen of the United States, over the age of eighteen years and not a party to the above entitled action; and that I served a true and correct copy of the attached Order Granting Emergency Variance on:

Rajan Phadnis, Environmental Protection Specialist
Waste Management
Kirby Canyon Recycling and Disposal Facility
910 Coyote Creek Golf Road
San Jose, CA 95037

by depositing same in the United States certified mail, return receipt requested, and via email, on November 12, 2019 on

Brian Bunger, District Counsel
Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, California 94105

via email and by hand-delivery deposit of same in the in-box of the District Counsel's office, on November 12, 2019

11/12/19

Date



Marcy Hiratzka, Clerk of the Boards