BEFORE THE HEARING BOARD OF THE

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

STATE OF CALIFORNIA

FILED
OCT 31 2024
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

In the Matter of the Application of QUALITY INVESTMENT PROPERTIES SANTA CLARA, LLC For Short Variance from Permit Condition #100073	Docket No.: 3755 FINDINGS AND DECISION AND ORDER GRANTING SHORT VARIANCE

An application for a Short Variance from Permit Condition #100073 (originally thought to be #22805 by the Petitioner), was filed on October 11, 2024. The matter was heard on October 29, 2024, pursuant to notice and in accordance with the provisions of Health and Safety Code Sections 40824 and 40825. The Petitioner, Quality Investment Properties Santa Clara, LLC (QTS), was represented by Bennett Wildey of Environmental Resources Management (consultant), and Paul Carver, Vice President of Facilities Operations for QTS. Respondent, Air Pollution Control Officer (APCO) of the Bay Area Air Quality Management District (BAAQMD), was represented by Haley de Genova, Staff Attorney at the Air District.

The Hearing Board provided the public with an opportunity to testify at the hearing as required by the California Health and Safety Code, but no one did so. The Hearing Board heard evidence, testimony and arguments from the Petitioner and Counsel for the APCO. Counsel for the APCO did not oppose the granting of either the short variance, so long as certain proposed conditions, filed October 25, 2024, were included. The Petitioner stated a willingness to comply with the conditions.

The Hearing Board declared the hearing closed after receiving evidence, testimony and argument. After consideration of the evidence, the Hearing Board voted to grant the request for a short variance, as set forth in more detail below.

Nature of Business and Location of Facility

Petitioner is a data center facility that is authorized to operate emergency generators, and is located at 2807 Mission College Blvd., Santa Clara, CA, 95054 (Santa Clara County).

Equipment Subject to the Variance Petition

Three emergency generators (S2, S3, and S4) require a replacement of their control panels and Programmable Logic Control (PLC) Systems.

Background

In 2022, an uptime assessment was performed by the Petitioner, who noted that the controls and PLC systems for each emergency generator were nearing the end of their usable life. The emergency generator manufacturer (Cummins) no longer manufactures the parts formerly installed – therefore an entire replacement project for the control panel and PLC system is required to maintain generator functionality and avoid component failure. The replacement project is estimated to take place between October 28, 2024 and November 22, 2024. A temporary generator will be brought onsite to support the building in place of S2, S3, and S4 as each generator is taken out of service for the maintenance to be performed. Maintenance will be performed on only one generator at a time. The temporary generator will be a Portable Equipment Registration Program (PERP) certified unit and operated in accordance with BAAQMD Regulation 2-1-105 and California Air Resources Board (CARB) Rule 2453(m)(4)(E)(2). The temporary generator will run for approximately 3 hours (1 hour per generator) to confirm operational ability but will only run beyond that for power outages should they occur during the project timeline.

The current facility permit allows for five hours of runtime annually for the S2, S3, and S4 generators. However, to properly replace the control panel and PLC units, 7 hours per emergency generator is required. Therefore, a variance is needed in order to upgrade these components in a safe and controllable environment. The Petitioner reviewed the permit conditions that would be impacted by the need for testing the emergency generators and engaged internal leadership in September 2024. The Petitioner then investigated internal testing and maintenance needs, in addition to vendor requirements, to test the emergency generators once new parts are installed. The team contacted BAAQMD upon confirmation that the permit limits would be exceeded with the

planned project on October 8, 2024.

Findings of Fact and Conclusions

THE HEARING BOARD FINDS as to those matters in which findings are required:

Short Variance

Following are the facts and conclusions supporting the findings set forth in California Health and Safety Code Section 42352(a) for the granting of a short variance.

(l) That the Petitioner, for a variance is, or will be, in violation of Health and Safety Code Section 41701 or of any rule, regulation or order of the District.

1. The need for a variance exists because without one, the Petitioner will be in violation of Permit Condition 100073. Petitioner filed for the short variance in a timely manner.

(2) That, due to conditions beyond the reasonable control of the Petitioner, requiring compliance would result in either (A) an arbitrary or unreasonable taking of property, or (B) the practical closing and elimination of a lawful business.

1. Regular and appropriate maintenance has been done but the equipment is past its useful life, which is beyond the reasonable control of the Petitioner. Compliance with the 5 hour limit would result in the closing or elimination of a service without benefit to the environment and thus would cause the closing of the business.

(3) That the closing or taking would be without a corresponding benefit in reducing air contaminants.

1. Closing the Facility would not reduce air contaminants and there is no corresponding benefit since these are emergency generators.

(4) That the Petitioner for the variance has given consideration to curtailing operations of the source in lieu of obtaining a variance.

1. There is a continual need to have emergency generators available, so although Petitioner gave consideration to curtailing operations doing so does not make sense.

(5) During the period that the variance is in effect, the Petitioner will reduce excess emissions to the maximum extent feasible.

1. Any new emissions will be limited, and Petitioner will adhere to the conditions.

(6) 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 emissions levels to the District pursuant to a schedule established by the District.

1. During the short variance period, the Petitioner will monitor and quantify emissions. The Petitioner has agreed to the conditions requested by the District.

Order

THEREFORE, good cause appearing, THE HEARING BOARD ORDERS as follows:

The Petitioner is granted a Short Variance from Permit Condition #100073. The variance covers the period from October 28, 2024, through November 22, 2024.

The Short Variance granted is subject to the following conditions, proposed by the Respondent and agreed to by the Petitioner:

1. QTS shall submit revised emissions calculation which include runtime estimates for the generator that are updated to reflect a revised total of 10 hours of operation per generator, replacing the previous estimate of 7 hours.

2. QTS shall calculate the excess emissions fees associated with the generators, in accordance with Section 3-301 of the District's Regulations, and shall revise their petition to include the anticipated amount in fees.

3. QTS shall submit estimated excess emissions calculations as a part of the variance application for the PERP Engine that will be used to support continuous operation at the Facility in the event of emergency conditions while S-2, S-3 and S-4 are under maintenance.

4. QTS shall submit calculations of emissions fees, in accordance with Section 3-301 of the District's Regulation, for the PERP Engine that will be used to support continuous operation at the Facility in the event of emergency conditions while S-2, S-3 and S-4 are under maintenance.

5. Within 30 days of the completion of activities authorized by this variance, QTS shall pay to the District via check the excess emission fees for all actual excess emissions that result from the requested variance, in accordance with Section 3-301 of the District's Regulations. This includes excess emissions associated with the generators and the PERP Engine.

6. QTS shall complete all actions subject to this variance by November 22, 2024. QTS shall provide to the District the following measurements by December 3, 2024

a. Amount of excess emissions produced per generator of each pollutant listed in below:

Pollutant	Individual Generator Excess Emissions (lb/day)	Project Total Excess Emissions (lb)
NOx (nitrogen oxides)		
CO (carbon monoxide)		
VOC (volatile organic compounds)		
$PM_{2.5}/PM_{10}$ (Particulate Matter)		
SO2 (sulfur dioxide)		
Diesel PM		

7. QTS shall maintain a daily log of the hours of operation for each source. The maximum achieved operating load must be included for each hour of operation, at minimum. QTS must ensure that each generator under the scope of this variance is equipped with a non-resettable hour meter that records the actual hours of operation.

8. QTS shall submit the requested information listed in Sections 1 through 7 above to the District via email to the following email addresses: hdegenova@baaqmd.gov, lhalvorson@baaqmd.gov, cfee@baaqmd.gov, and JMarvin@baaqmd.gov

Motion to Adopt Findings of Fact and Conclusions

Moved By: Peter Y. Chiu, M.D., P.E.

Seconded by: Barbara Toole O'Neil, MS, QEP, Vice Chair

AYES: Peter Y. Chiu, M.D., P.E.; Barbara Toole O'Neil, MS, QEP, Vice Chair; Amelia Timbers; and Valerie J. Armento, Esq., Chair.

NOES: None

ABSTAIN: None

ABSENT: Rajiv Dabir, P.E.

Motion to Grant Short Variance

Moved By: Amelia Timbers

Seconded By: Barbara Toole O'Neil, MS, QEP, Vice Chair

AYES: Peter Y. Chiu, M.D., P.E.; Barbara Toole O'Neil, MS, QEP, Vice Chair; Amelia Timbers; and Valerie J. Armento, Esq., Chair.

NOES: None

ABSTAIN: None

ABSENT: Rajiv Dabir, P.E.

Valerie J. Armento

Valarie J. Armento, Esq., Chair

10/31/2024

Date

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

In the Matter of the Application of QUALITY INVESTMENT PROPERTIES SANTA CLARA, LLC For Short Variance from Permit Condition 100073	Docket No.: 3755 CERTIFICATE OF SERVICE

FILED
OCT 31 2024
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

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; that I served a true copy of the attached **Order Granting Short Variance** on:

Paul Carver, VP of Facilities Operations Quality Investment Properties Santa Clara, LLC 2807 Mission College Blvd Santa Clara, CA 95054 paul.carver@qtsdatacenters.com	Alissa DiSciascio ERM Alissa.DiSciascio@erm.com (email only)
	Bennett Wildey ERM Bennett.Wildey@erm.com (email only)

by depositing same via email and in the United States certified mail, return receipt requested, on October 31, 2024 and on:

Haley de Genova, Esq., Staff Attorney
Bay Area Air Quality Management District
hdegenova@baaqmd.gov

via email October 31, 2024

DATED: October 31, 2024

Marcy Hiratzka
Clerk of the Boards