

STATEMENT OF PROCEEDINGS
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT HEARING BOARD
Regular Meeting, Thursday, June 22, 2023
9:00 a.m.

ORDER OF BUSINESS

ROLL CALL

Members present: Vilmarie Rodriguez, Alison Schlick, and Steve Engleman

Members absent: Jose Gonzalez, William Powers, and Daniel Spencer

Staff present: Mary Mahoney, APCD Civil Actions Investigator; Dan Plotner, APCD Program Coordinator; William Jacques, Chief Compliance; Jennifer Stone, Senior Deputy County Counsel for APCD; Shiri Hoffman, Senior Deputy County Counsel APCD, and Mia Ruffier, APCD Clerk of the Hearing Board

SWORN OATH OF WITNESSES BY CLERK

All witnesses providing public testimony during the meeting were sworn-in by the Clerk of the APCD Hearing Board.

ADMINISTRATIVE ITEM:

A. Public Communication

No public testimony was provided to the Board.

B. Approval of Statement of Proceedings for May 25, 2023.

ACTION:

ON MOTION of Vice Chair Schlick, seconded by Alternate Member Engleman, the Air Pollution Control District Hearing Board tabled consideration of approval of the Statement of Proceedings for May 25, 2023, until the end of the meeting.

AYES: Rodriguez, Engleman, Schlick

ABSENT: Gonzalez, Spencer

ACTION:

ON MOTION of Vice Chair Schlick, seconded by Alternate Member Engleman, the Air Pollution Control District Hearing Board approved the Statement of Proceedings for the meeting of May 25, 2023, as amended.

AYES: Rodriguez, Engleman, Schlick
ABSENT: Gonzalez, Spencer

C. Discussion: Revised Hearing Board Rules of Procedure.

ACTION:

ON MOTION of Vice Chair Schlick, seconded by Chair Rodriguez, the Air Pollution Control District Hearing Board continued the discussion of Revised Hearing Board Rules of Procedure and directed the Clerk of the Hearing Board to schedule a special meeting, to be determined.

AYES: Rodriguez, Engleman, Schlick
ABSENT: Gonzalez, Spencer

PETITION(S) BEFORE THE BOARD:

4527 San Diego County Air Pollution Control District, County of San Diego Abatement Order against Respondent NEW LEAF BIOFUEL.

ACTION:

ON MOTION Vice Chair Schlick, seconded by Chair Rodriguez, the Air Pollution Control District Hearing Board granted the District's request for a modification of a Stipulated Abatement Order, as amended.

AYES: Rodriguez, Engleman, Schlick
ABSENT: Gonzalez, Spencer

ADJOURNMENT:

The APCD Hearing Board adjourned the June 22, 2023 meeting at 12:18 p.m.

ASSISTANCE FOR THE DISABLED:

Agendas and records are available in alternative formats upon request. Contact the APCD Hearing Board Clerk at 858-586-2600 with questions or to request a disability-related accommodation including sign language interpretation. To the extent reasonably possible, requests for accommodation or assistance should be submitted at least 72 hours in advance of the meeting so that arrangements may be made.

Pursuant to Government Code 54957.5, written materials distributed to the Hearing Board in connection with this agenda less than 72 hours before the meeting will be available to the public at the San Diego County Air Pollution Control District, 10124 Old Grove Road, San Diego, CA 92131.

The statements contained in this draft document are subject to change until they are approved in their final form by the Air Pollution Control District Hearing Board at a subsequent public meeting.

ADMINISTRATIVE ITEM:

A. Public Communication

ACTION:

No public testimony was provided to the Board.



MIA RUFFIER

Clerk of the San Diego County Air Pollution Control District Hearing Board

ADMINISTRATIVE ITEM:

B. Approval of Statement of Proceedings/Minutes for May 25, 2023

ACTION:

ON MOTION of Vice Chair Schlick, seconded by Alternate Member Engleman, the Air Pollution Control District Hearing Board tabled consideration of approval of the Statement of Proceedings for May 25, 2023, until the end of the meeting.

AYES: Rodriguez, Engleman, Schlick

ABSENT: Gonzalez, Spencer

ACTION:

ON MOTION of Vice Chair Schlick, seconded by Alternate Member Engleman, the Air Pollution Control District Hearing Board approved the Statement of Proceedings for the meeting of May 25, 2023, as amended.

AYES: Rodriguez, Engleman, Schlick

ABSENT: Gonzalez, Spencer



MIA RUFFIER

Clerk of the San Diego County Air Pollution Control District Hearing Board

ADMINISTRATIVE ITEM:

C. Discussion: Revised Hearing Board Rules of Procedure

ACTION:

ON MOTION of Vice Chair Schlick, seconded by Chair Rodriguez, the Air Pollution Control District Hearing Board continued the discussion of Revised Hearing Board Rules of Procedure and directed the Clerk of the Hearing Board to schedule a special meeting, to be determined.

AYES: Rodriguez, Engleman, Schlick

ABSENT: Gonzalez, Spencer



MIA RUFFIER

Clerk of the San Diego County Air Pollution Control District Hearing Board

**COUNTY OF SAN DIEGO
AIR POLLUTION CONTROL DISTRICT HEARING BOARD
BOARD ORDER**

4527 San Diego County Air Pollution Control District, County of San Diego Abatement Order against Respondent NEW LEAF BIOFUEL.

Notice of time and place of hearing was given as required by law.

ACTION:

ON MOTION of Vice Chair Schlick, seconded by Chair Rodriguez, the Air Pollution Control District Hearing Board closed the hearing based on testimony provided and evidence submitted, the Board approved the attached Stipulated Abatement Order, as revised, between the San Diego County Air Pollution Control District, Petitioner, and New Leaf Biofuel, Respondent, based on the terms and conditions set forth in the Stipulated Abatement Order. This Abatement does not act as a Variance.

The Board has received evidence regarding the alleged odors from the plant's processing of used cooking oil and reviewed the amended Stipulated Abatement Order. The Board has found based on good cause and the need to implement control to eliminate the impact to the Residents of Barrio Logan from the biofuel process odors and has approved the amended Stipulated Order of Abatement, as presented and negotiated between the Air Pollution Control District and New Leaf Biofuels, as revised with the following provisions:

- 1) The District shall continue to refine the complaint inspections and provide the result to Respondent in a timely manner post inspection.
- 2) The Respondent is directed to complete a study of direct and indirect expenses related to coming into compliance. The report shall include:
 - a. Identification of agency and agency requirements
 - b. Execution of requirements
 - c. Operations maintenance

Petitioner and Respondent are to return to the Board with an update on the progress of the Abatement Order during a regularly scheduled meeting of the Air Pollution Control District Hearing Board on October 26, 2023.

The Board thereby granted the District's request for a Stipulated Abatement Order against Respondent, New Leaf Biofuel effective immediately.

ADDITIONAL ENFORCEMENT CONDITIONS

After a thorough investigation of all relevant facts, including public comments, it was determined that the schedule for compliance set forth in the Order is as expeditious as practicable, that the

terms of this Order comply with applicable sections of the State Health and Safety Code and that the following additional provisions shall apply:

1. If you believe that you cannot meet a condition in this Order or in any accompanying Schedule of Increments of Progress, you may petition the Hearing Board to modify this Order or Schedule of Increments of Progress pursuant to Health & Safety Code 40825, 40826, 42351.5, and 42356-42357. Modifying the Increments of Progress generally requires the same notice as a 90-day variance and extending the final compliance date requires the same notice as a regular variance; please consult the Hearing Board Calendar or Clerk for specific dates.
2. If you have any questions about how to comply with this Order, you may contact the District, attention Mary Mahoney, at (858) 248-5810. Unless otherwise stated, all submittals to the District pursuant to this Order shall be made to: San Diego Air Pollution Control District, Compliance Division, 10124 Old Grove Road, San Diego, CA 92131; or Email: mary.mahoney@sdapcd.org.
3. The U.S. Environmental Protection Agency (EPA) does not recognize variances granted under California state law. A Variance Order granted by this Board does not preclude either the EPA or citizens from seeking penalties for violations of federal law.
4. Failure to comply with any condition in this Order or in any accompanying Increments of Progress schedule may result in any of the following actions:
 - a. Enforcement pursuant to California Health and Safety Code Section 42400, 42401, 42402 or 42403, including possible judicial action for an injunction and/or civil penalties, and, in appropriate cases, criminal prosecution.
 - b. Revocation or modification of this Order under California Health and Safety Code Section 42356 or 42362, after notice and opportunity for a public hearing.

FAILURE TO COMPLY with any of the foregoing is a violation of this Order.

AYES: Rodriguez, Engleman, Schlick

ABSENT: Gonzalez, Spencer



MIA RUFFIER

Clerk of the San Diego County Air Pollution Control District Hearing Board

1 SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT
2 MAHIANY LUTHER, DEPUTY DIRECTOR, Air Pollution Control Officer
3 MARY P. MAHONEY, Civil Actions Investigator
4 10124 Old Grove Road
5 San Diego, California 92131
6 Telephone: 858-248-5810

7 Petitioner San Diego County Air Pollution Control District

8 **BEFORE THE SAN DIEGO COUNTY**
9 **AIR POLLUTION CONTROL DISTRICT HEARING BOARD**

10
11 SAN DIEGO COUNTY AIR POLLUTION
12 CONTROL

No. 4527

13 AMENDED STIPULATED ABATEMENT
14 ORDER
15 PURSUANT TO HEALTH & SAFETY CODE
16 § 42451(b)

17 Petitioner,

18
19 NEW LEAF BIOFUEL, LLC
20 Registered Agent: Jennifer Case

Hearing Date: June 22, 2023
Time: 9:00 a.m.
Place: 10124 Old Grove Rd.
San Diego, CA 92131

21 Respondent.

22 On October 27, 2022, the San Diego County Air Pollution Control District (hereinafter, "District")
23 Hearing Board issued a Stipulated Abatement Order (hereinafter "SAO") directed to Respondent, New
24 Leaf Biofuel, LLC (hereinafter, "NLB"), and all employees thereof (hereinafter, "Respondents") related
25 to NLB's operation of processing used cooking oil from local restaurants to produce biofuel at their
26 facility located at 2285 Newton Avenue (hereinafter, "North Plant") and 2317 Newton Avenue
27 (hereinafter, "South Plant") in San Diego, CA, 92113. The District alleged the SAO was required to
28 address odors from NLB operations that resulted in violations of District Rule 51 "Nuisance" and
California Health and Safety Code section 41700. Respondents have implemented the conditions in the
SAO but odor complaints have been documented by the District and, as a result, another Notice of
Violation was issued by the District to NLB on June 13, 2023. As a result, Respondents and the District

1 propose to amend the SAO to include the following conditions, effective immediately upon adoption by
2 the District Hearing Board:

3 **STIPULATED AMENDED CONDITIONS AND INCREMENTS OF PROGRESS:**

4 Both the District and Respondent reviewed and are in agreement with the following Conditions and
5 Increments of Progress to supplement the SAO, and/or to memorialize actions already intended for
6 implementation by Respondent.

- 7 A. This amendment adds to the the Conditions and Increments of Progress in the October 27,
8 2022 SAO and the additional conditions are to be implemented as specified at the North and
9 South Plants.
- 10 B. The portable carbon filter system ordered by NLB in April 2023 shall be used to capture and
11 treat air produced or discharged from trucks loading, unloading, or during the transfer of
12 potentially odorous material at the North and South Plants. This system shall be in operation
13 by July 7, 2023.
- 14 C. Used cooking oil collection containers returned to NLB for cleaning shall be stored in an
15 enclosed manner at all times prior to collection by the cleaning contractor at the North and
16 South Plants.
- 17 D. Respondent shall investigate potential sources of odors at NLB and identify proposed
18 measures to reduce those odors. The results of the investigation shall be reported to the
19 District by, on or before June 30, 2023. The report should be emailed to
20 Mary.Mahoney@sdapcd.org and copied to apcdcomp@sdapcd.org.
- 21 E. All other Terms and Conditions of the October 27, 2022 SAO remain in effect.

22
23 DATED: Jun 22, 2023

SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT
Mahiany Luther, Deputy Director, Air Pollution Control Officer

24
25 *Mahiany Luther*

26 _____
27 By: Mahiany Luther

1 DATED: Jun 22, 2023

NEW LEAF BIOFUEL, LLC
Jennifer Case, President

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4 By: Jennifer Case

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Amendment to the Order for Stipulated Abatement for New Leaf Post Hearing Rev

Final Audit Report

2023-06-22

Created:	2023-06-22
By:	Mary Mahoney (Mary.Mahoney@sdapcd.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAA3j2nKQbzB6tUS7HoRT8eStoN5qiuOvI4

"Amendment to the Order for Stipulated Abatement for New Leaf Post Hearing Rev" History

-  Document created by Mary Mahoney (Mary.Mahoney@sdapcd.org)
2023-06-22 - 7:49:49 PM GMT
-  Document emailed to Mahiany Luther (Mahiany.Luther@sdapcd.org) for signature
2023-06-22 - 7:53:25 PM GMT
-  Email viewed by Mahiany Luther (Mahiany.Luther@sdapcd.org)
2023-06-22 - 7:55:13 PM GMT
-  Mahiany Luther (Mahiany.Luther@sdapcd.org) has agreed to the terms of use and to do business electronically with SAN DIEGO COUNTY
2023-06-22 - 8:27:02 PM GMT
-  Document e-signed by Mahiany Luther (Mahiany.Luther@sdapcd.org)
Signature Date: 2023-06-22 - 8:27:02 PM GMT - Time Source: server
-  Document emailed to JENNIFER CASE (jennifer@newleafbiofuel.com) for signature
2023-06-22 - 8:27:04 PM GMT
-  Email viewed by JENNIFER CASE (jennifer@newleafbiofuel.com)
2023-06-22 - 9:13:43 PM GMT
-  JENNIFER CASE (jennifer@newleafbiofuel.com) has agreed to the terms of use and to do business electronically with SAN DIEGO COUNTY
2023-06-22 - 10:03:02 PM GMT
-  Document e-signed by JENNIFER CASE (jennifer@newleafbiofuel.com)
Signature Date: 2023-06-22 - 10:03:02 PM GMT - Time Source: server



✔ Agreement completed.

2023-06-22 - 10:03:02 PM GMT



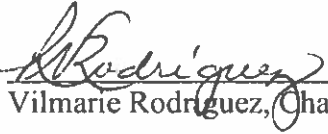
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ACTION:

ON MOTION of Vice Chair Schlick, seconded by Chair Rodriguez, the Air Pollution Control District Hearing Board closed the hearing and granted the Stipulated Abatement Order.

AYES: Rodriguez, Engleman, Schlick
ABSENT: Gonzalez, Spencer

It is so ordered.



Vilmarie Rodriguez, Chair, APCD Hearing Board



06.22.23 APCD HB Speaker Slips

Air Pollution Control District Hearing Board

DATE 6/24/23 Petition Number 4527

SUBJECT Odor Control Update

REQUEST TO SPEAK

PLEASE PRINT NAME LEGIBLY

Name Christopher White
First Last

Organization Name New Leaf Biofuel

Please check below:

- Officer or Authorized Employee for Petitioner
- Agent or Legal Representation

PLEASE SEE GUIDE FOR SPEAKERS ON REVERSE

(FOR PETITIONER)
OTHER THAN APCD

**06.22.23 APCD HB
Public Testimony**

4527	NEW LEAF UPDATE			
		Brenda	Menchaca	EHC
		Nicholas	Paul	EHC