

STATEMENT OF PROCEEDINGS
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT HEARING BOARD
Regular Meeting, Thursday, October 26, 2023
9:00 a.m.

ORDER OF BUSINESS

ROLL CALL

Members present: Alison Schlick, Jose Gonzalez and Daniel Spencer

Members absent: Vilmarie Rodriguez, William Powers

Staff present: Mary Mahoney, APCD Civil Actions Investigator; Dan Plotner, APCD Program Coordinator; William Jacques, Chief Compliance; Veera Tyagi, Senior Deputy County Counsel APCD; Emily Helms, 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 September 21, 2023.

ACTION:

ON MOTION of Member Gonzalez, seconded by Member Spencer, the Air Pollution Control District Hearing Board approved the Statement of Proceedings for the meeting of September 21, 2023.

AYES: Schlick, Gonzalez, Spencer

ABSENT: Rodriguez, Powers

C. Approval of 2024 Hearing Board Meeting Calendar.

ACTION:

ON MOTION of Member Spencer, seconded by Member Gonzalez, the Air Pollution Control District Hearing Board approved the 2024 Hearing Board Meeting Calendar.

AYES: Schlick, Gonzalez, Spencer

ABSENT: Rodriguez, Powers

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 Member Spencer, the Air Pollution Control District Hearing Board accepted Petitioner's timely request for continuance and directed the Clerk to notice an update for January 11, 2024.

AYES: Schlick, Gonzalez, Spencer

ABSENT: Rodriguez, Powers

4536 CORNERSTONE AGGREGATES, INC. – Petitioner requests the Regular portion of an Interim/Regular Variance filed on August 09, 2023 from APCD Rule 21, specifically, Condition 1 and Rule 12.1(e)(4)(i), Certificate of Registration conditions, of Certificate of Registration Nos. APCD2023-CER-001014 and APCD2023-CER-001015, two portable rock crushing/screening plants located at 332 Elkelton Place, Spring Valley, CA 91977.

ACTION:

ON MOTION Member Gonzalez, seconded by Vice Chair Schlick, the Air Pollution Control District Hearing Board accepted Petitioner's verbal request to withdraw the Regular portion of an Interim/Regular Variance.

AYES: Schlick, Gonzalez, Spencer

ABSENT: Rodriguez, Powers

ADJOURNMENT:

The APCD Hearing Board adjourned the October 26, 2023 meeting at 10:05 a.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 September 21, 2023

ACTION:

ON MOTION of Member Gonzalez, seconded by Member Spencer, the Air Pollution Control District Hearing Board approved the Statement of Proceedings for the meeting of September 21, 2023.

AYES: Schlick, Gonzalez, Spencer

ABSENT: Rodriguez, Powers



MIA RUFFIER

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

ADMINISTRATIVE ITEM:

C. Approval of 2024 Hearing Board Meeting Calendar

ACTION:

ON MOTION Member Spencer, seconded by Member Gonzalez, the Air Pollution Control District Hearing Board approved the 2024 Hearing Board Meeting Calendar.

AYES: Schlick, Gonzalez, Spencer

ABSENT: Rodriguez, Powers



MIA RUFFIER

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

AIR POLLUTION CONTROL DISTRICT HEARING BOARD
2024 CALENDAR
*** FILING DEADLINES * NOTICING DEADLINES ***

HEARING BOARD MEETING DATES	FILING DEADLINE FOR APPLICATIONS REQUIRING A 30-DAY NOTICE (5:00pm)	30-DAY NOTICE DISTRIBUTION DEADLINE	FILING DEADLINE FOR APPLICATIONS REQUIRING A 10-DAY NOTICE (5:00pm)	10-DAY NOTICE DISTRIBUTION DEADLINE	POSITION PAPERS FILED BY DISTRICT (9:00 A.M.)	SUPPORTING DOCUMENTS SUBMITTED BY PETITIONER (9:00 A.M.)	AGENDA PACKET SENT BY CLERK 2:00 P.M.
Jan 11, 24	Dec 06, 23	Dec 07, 23	Dec 26, 23	Dec 27, 23	Jan 04, 24	Jan 04, 24	Jan 04, 24
Jan 25, 24	Dec 20, 23	Dec 21, 23	Jan 09, 24	Jan 10, 24	Jan 18, 24	Jan 18, 24	Jan 18, 24
Feb 08, 24	Jan 03, 24	Jan 04, 24	Jan 23, 24	Jan 24, 24	Feb 01, 24	Feb 01, 24	Feb 01, 24
Feb 22, 24	Jan 17, 24	Jan 18, 24	Feb 06, 24	Feb 07, 24	Feb 15, 24	Feb 15, 24	Feb 15, 24
Mar 07, 24	Jan 31, 24	Feb 01, 24	Feb 20, 24	Feb 21, 24	Feb 29, 24	Feb 29, 24	Feb 29, 24
Mar 21, 24	Feb 14, 24	Feb 15, 24	Mar 05, 24	Mar 06, 24	Mar 14, 24	Mar 14, 24	Mar 14, 24
Apr 11, 24	Mar 06, 24	Mar 07, 24	Mar 26, 24	Mar 27, 24	Apr 04, 24	Apr 04, 24	Apr 04, 24
Apr 25, 24	Mar 20, 24	Mar 21, 24	Apr 09, 24	Apr 10, 24	Apr 18, 24	Apr 18, 24	Apr 18, 24
May 09, 24	Apr 03, 24	Apr 04, 24	Apr 23, 24	Apr 24, 24	May 02, 24	May 02, 24	May 02, 24
May 23, 24	Apr 17, 24	Apr 18, 24	May 07, 24	May 08, 24	May 16, 24	May 16, 24	May 16, 24
Jun 06, 24	May 01, 24	May 02, 24	May 21, 24	May 22, 24	May 30, 24	May 30, 24	May 30, 24
Jun 20, 24	May 15, 24	May 16, 24	Jun 04, 24	Jun 05, 24	Jun 13, 24	Jun 13, 24	Jun 13, 24
Jul 11, 24	Jun 05, 24	Jun 06, 24	Jun 25, 24	Jun 26, 24	Jul 03, 24	Jul 03, 24	Jul 03, 24
Jul 25, 24	Jun 19, 24	Jun 20, 24	Jul 09, 24	Jul 10, 24	Jul 18, 24	Jul 18, 24	Jul 18, 24
Aug 08, 24	Jul 02, 24	Jul 03, 24	Jul 23, 24	Jul 24, 24	Aug 01, 24	Aug 01, 24	Aug 01, 24
Aug 22, 24	Jul 17, 24	Jul 18, 24	Aug 06, 24	Aug 07, 24	Aug 15, 24	Aug 15, 24	Aug 15, 24
Sep 05, 24	Jul 31, 24	Aug 01, 24	Aug 20, 24	Aug 21, 24	Aug 29, 24	Aug 29, 24	Aug 29, 24
Sep 19, 24	Aug 14, 24	Aug 15, 24	Sep 03, 24	Sep 04, 24	Sep 12, 24	Sep 12, 24	Sep 12, 24
Oct 10, 24	Sep 04, 24	Sep 05, 24	Sep 24, 24	Sep 25, 24	Oct 03, 24	Oct 03, 24	Oct 03, 24
Oct 24, 24	Sep 18, 24	Sep 19, 24	Oct 08, 24	Oct 09, 24	Oct 17, 24	Oct 17, 24	Oct 17, 24
Nov 07, 24	Oct 02, 24	Oct 03, 24	Oct 22, 24	Oct 23, 24	Oct 31, 24	Oct 31, 24	Oct 31, 24
Dec 05, 24	Oct 30, 24	Oct 31, 24	Nov 19, 24	Nov 20, 24	Nov 27, 24	Nov 27, 24	Nov 27, 24

Hearings will commence at 9:00 a.m. at located publicly noticed.

2024 APCD Hearing Board Meeting Schedule and Filing Deadlines

AIR POLLUTION CONTROL DISTRICT HEARING BOARD 2024 CALENDAR * FILING DEADLINES *			
TO BE SCHEDULED FOR THE HEARING BOARD MEETING DATE OF	A 90-DAY VARIANCE, INTERIM OR PERMIT APPEALS <u>MUST BE FILED BY</u> <u>5:00 P.M.</u> ON	A REGULAR VARIANCE OR APPLICATION TO MODIFY/EXTEND VARIANCE <u>MUST BE FILED BY</u> <u>5:00 P.M.</u> ON	SUPPORTING DOCUMENTS FOR A 90- DAY VARIANCE, REGULAR VARIANCE OR APPLICATION TO MODIFY/EXTEND VARIANCE <u>MUST BE FILED BY 9:00</u> <u>A.M. ON</u>
Jan 11, 24	Dec 26, 2023	Dec 06, 2023	Jan 04, 2024
Jan 25, 24	Jan 09, 2024	Dec 20, 2023	Jan 18, 2024
Feb 08, 24	Jan 23, 2024	Jan 03, 2024	Feb 01, 2024
Feb 22, 24	Feb 06, 2024	Jan 17, 2024	Feb 15, 2024
Mar 07, 24	Feb 20, 2024	Jan 31, 2024	Feb 29, 2024
Mar 21, 24	Mar 05, 2024	Feb 14, 2024	Mar 14, 2024
Apr 11, 24	Mar 26, 2024	Mar 06, 2024	Apr 04, 2024
Apr 25, 24	Apr 09, 2024	Mar 20, 2024	Apr 18, 2024
May 09, 24	Apr 23, 2024	Apr 03, 2024	May 02, 2024
May 23, 24	May 07, 2024	Apr 17, 2024	May 16, 2024
Jun 06, 24	May 21, 2024	May 01, 2024	May 30, 2024
Jun 20, 24	Jun 04, 2024	May 15, 2024	Jun 13, 2024
Jul 11, 24	Jun 25, 2024	Jun 05, 2024	Jul 03, 2024
Jul 25, 24	Jul 09, 2024	Jun 19, 2024	Jul 18, 2024
Aug 08, 24	Jul 23, 2024	Jul 02, 2024	Aug 01, 2024
Aug 22, 24	Aug 06, 2024	Jul 17, 2024	Aug 15, 2024
Sep 05, 24	Aug 20, 2024	Jul 31, 2024	Aug 29, 2024
Sep 19, 24	Sep 03, 2024	Aug 14, 2024	Sep 12, 2024
Oct 10, 24	Sep 24, 2024	Sep 04, 2024	Oct 03, 2024
Oct 24, 24	Oct 08, 2024	Sep 18, 2024	Oct 17, 2024
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Dec 05, 24	Nov 19, 2024	Oct 30, 2024	Nov 27, 2024
Hearings will commence at 9:00 a.m. at location publicly noticed.			

**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 Vice Chair Schlick, seconded by Member Spencer, the Air Pollution Control District Hearing Board accepted Petitioner's timely request for continuance and directed the Clerk to notice an update for January 11, 2024.

AYES: Schlick, Gonzalez, Spencer

ABSENT: Rodriguez, Powers



MIA RUFFIER

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

New Leaf Biofuel
2285 Newton Ave
San Diego CA 92113
P: 619-236-8500
F: 619-236-8585
www.newleafbiofuel.com



October 20, 2023


APCD Hearing Board
10124 Old Grove Road,
San Diego, California, 92131

Attention: Clerk of the Hearing Board, Mia Ruffier
Re: Request for Continuance for October 26, 2023 meeting on Petition 4527, San Diego Air
Pollution Control Board, Petitioner; New Leaf biofuel LLC, Respondent

Dear Ms. Ruffier,

Pursuant to Hearing Board Rule 28, New Leaf Biofuel requests the APCD Hearing Board grant a continuance of the status hearing on this matter scheduled for October 26, 2023 until the earliest January hearing date, for the following reasons:

1. New Leaf Biofuel has recently made the sobering decision to shutter its biodiesel manufacturing operations at 2285 Newton Ave. The biodiesel plant will cease operations in mid-December after all contractual obligations are fulfilled. While other limited processing operations will continue, the biodiesel plant closure is a substantial change in operations at both the 2285 (North) and 2317 (South) Newton Ave locations. The scale of these changes is a 75-80% reduction in oil processing at the South Plant, at least a 50% reduction in processing volume at the water treatment plant and 75-80% reduction in truck loading/unloading and transfer events. We believe it is reasonable and necessary to defer consideration of any further conditions until the new operational pattern is established and any remaining odor issues are identified.
2. On October 18th, New Leaf informed the APCD of its intent to request the continuance, and sought APCD's concurrence. Although New Leaf and APCD had been discussing additional conditions, New Leaf could not adequately consider or agree to conditions given the impending significant change in operations. Nonetheless, on the morning of October 19th, New Leaf was served with a proposed Amended Stipulated Abatement Order seeking to impose additional conditions on the company. New Leaf has not had sufficient time to review and evaluate the conditions in light of the plant's impending closure. Accordingly, we are requesting that the Hearing Board grant a continuance of this hearing to allow further dialogue between New Leaf and APCD regarding the plant's operations, and the appropriateness of any new conditions in light of the substantial reductions in operations to come, and the recently completed and ongoing efforts described below.
3. Since the last hearing, New Leaf has continued to fully cooperate with APCD, and has strictly followed all conditions of the SAO. The incidence of the alleged strong odors have significantly declined with each additional odor control measure, and the company is still evaluating odor survey data and completing odor control projects. For example, New Leaf only recently



completed sealing the water treatment building, leak testing and additional sealing of the South Plant, replacement of the South Plant internal door and installing the high efficiency permanent fan on the portable carbon cannister (delayed due to manufacturer and electrical parts supply delays). A longer intake arm will arrive this week to further improve the operation of this unit. Given all of these dramatic changes, we strongly believe it would be useful to evaluate their impacts and report these to the Board before imposing new conditions.

4. Additionally, New Leaf is in the process of obtaining an air permit for the water treatment facility (a previously exempt process that recently became subject to APCD oversight). In this application, we propose many conditions that overlap and conflict with the proposed SAO amendment conditions proposed by APCD staff. It would be more productive to work on effective permanent control measures in the permit rather than implement hasty and potentially conflicting stop gaps. We expect this permit to be at the final stages by early December.
5. New Leaf disputes the allegations in Section 10 of the SAO amendment petition submitted to the Board and has records and evidence that provide alternative conclusions to those of the APCD. We have not had sufficient time prepare a suitable response for consideration by the Board as the Petition was only received by New Leaf on 10/19/2023.

We respectfully request that the Board continue this hearing until after the plant closure is complete and the Company and the District can cooperatively analyze any remaining odor issues at the facility.

Yours Sincerely,



Jennifer Case
Chief Executive Officer, New Leaf Biofuel

10.26.23 APCD HB Speaker Slips

Air Pollution Control District Hearing Board

DATE 10/26/23 Petition Number 4527

SUBJECT New Leaf Biofuel

REQUEST TO SPEAK

PLEASE PRINT NAME LEGIBLY

Name Chris 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

Air Pollution Control District Hearing Board

DATE 10/26/23 Petition Number 4527

SUBJECT New Leaf

REQUEST TO SPEAK

PLEASE PRINT NAME LEGIBLY

Name Jennifer Case
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

Air Pollution Control District Hearing Board

DATE 10/26/23 Petition Number 4527

SUBJECT (Counsel for Newhearts)

REQUEST TO SPEAK

PLEASE PRINT NAME LEGIBLY

Name Maya Lopez Grasse
First Last

Organization Name Alston & Bird

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

10.26.23 APCD HB Public Testimony

4527	NEW LEAF		
		Nicholas	Paul
		Peter	Colon

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

4536 CORNERSTONE AGGREGATES, INC. – Petitioner requests the Regular portion of an Interim/Regular Variance filed on August 09, 2023 from APCD Rule 21, specifically, Condition 1 and Rule 12.1(e)(4)(i), Certificate of Registration conditions, of Certificate of Registration Nos. APCD2023-CER-001014 and APCD2023-CER-001015, two portable rock crushing/screening plants located at 332 Elkelton Place, Spring Valley, CA 91977.

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

ACTION:

ON MOTION Member Gonzalez, seconded by Vice Chair Schlick, the Air Pollution Control District Hearing Board accepted Petitioner's verbal request to withdraw the Regular portion of an Interim/Regular Variance.

AYES: Schlick, Gonzalez, Spencer

ABSENT: Rodriguez, Powers



MIA RUFFIER

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



10.26.23 APCD HB Speaker Slips

Air Pollution Control District Hearing Board

DATE 10/26/23 Petition Number 4536

SUBJECT CORNERSTONE AGGREGATES

REQUEST TO SPEAK

PLEASE PRINT NAME LEGIBLY

Name PAUL A WEIR
First Last

Organization Name ATROS, LLC

Please check below:

☐ Officer or Authorized Employee for Petitioner

☒ Agent or Legal Representation

WILL WITHDRAW PETITION
FOR REGULAR VARIANCE

PLEASE SEE GUIDE FOR SPEAKERS ON REVERSE

(FOR PETITIONER)
OTHER THAN APCD

10.26.23 APCD HB Public Testimony

4536	CORNERSTONE		
		Maggie	Winterton