

STATEMENT OF PROCEEDINGS
SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT HEARING BOARD
Regular Meeting, Thursday, January 11, 2024
9:00 a.m.

ORDER OF BUSINESS

ROLL CALL

Members present: Steven Engleman, Jose Gonzalez and Daniel Spencer

Members absent: Vilmarie Rodriguez, Alison Schlick, William Powers

Staff present: Teh Magee-Hill, APCD Civil Actions Investigator; Mary Mahoney, APCD Civil Actions Investigator; 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 October 26, 2023.

ACTION:

ON MOTION of Member Engleman, seconded by Member Gonzalez, the Air Pollution Control District Hearing Board approved the Statement of Proceedings for the meeting of October 26, 2023.

AYES: Engleman, Gonzalez, Spencer

ABSENT: Rodriguez, Schlick, Powers

C. Selection of Chair and Vice Chair for 2024.

ACTION:

ON MOTION of Member Engleman, seconded by Member Gonzalez, the Air Pollution Control District Hearing Board continued the Selection of Chair and Vice Chair for 2024 to February 8, 2024.

AYES: Engleman, Gonzalez, Spencer
ABSENT: Rodriguez, Schlick, 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 Member Engleman, seconded by Member Gonzalez, the Air Pollution Control District Hearing Board accepted updates on Petition 4527 and directed the Clerk to notice Petition 4527: San Diego County Air Pollution Control District, County of San Diego Abatement Order against Respondent NEW LEAF BIOFUEL for an additional status update with the possibility of additional action should the Board deem it necessary during regularly scheduled meeting on March 21, 2024.

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

4539 BIMBO BAKERIES USA, INC. – Petitioner requests a 90 Day Variance filed on December 18, 2023, from APCD Rules 67.2(d)(2)(ii) and 21 (Condition #8 of APCD2006-PTO-951149), to repair prohibited leaking ducting prior to the catalytic oxidizer located at 2069 Aldergrove Ave, Escondido, CA 92029.

ACTION:

ON MOTION Member Engleman, seconded by Member Gonzalez, the Air Pollution Control District Hearing Board accepted Petitioner's revised presentation as Exhibit A.

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

ACTION:

ON MOTION Member Engleman, seconded by Member Gonzalez, the Air Pollution Control District Hearing Board granted Petitioner's request for a 90 Day Variance.

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

ADJOURNMENT:

The APCD Hearing Board adjourned the January 11, 2024 meeting at 12:27 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 October 26, 2023

ACTION:

ON MOTION of Member Engleman, seconded by Member Gonzalez, the Air Pollution Control District Hearing Board approved the Statement of Proceedings for the meeting of October 26, 2023.

AYES: Engleman, Gonzalez, Spencer

ABSENT: Rodriguez, Schlick, Powers



MIA RUFFIER

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

ADMINISTRATIVE ITEM:

C. Selection of Chair and Vice Chair for 2024

ACTION:

ON MOTION of Member Engleman, seconded by Member Gonzalez, the Air Pollution Control District Hearing Board continued the Selection of Chair and Vice Chair for 2024 to February 8, 2024.

AYES: Engleman, Gonzalez, Spencer

ABSENT: Rodriguez, Schlick, Powers



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 Member Engleman, seconded by Member Gonzalez, the Air Pollution Control District Hearing Board accepted updates on Petition 4527 and directed the Clerk to notice Petition 4527: San Diego County Air Pollution Control District, County of San Diego Abatement Order against Respondent NEW LEAF BIOFUEL for an additional status update with the possibility of additional action should the Board deem it necessary during regularly scheduled meeting on March 21, 2024.

AYES: Engleman, Gonzalez, Spencer

ABSENT: Rodriguez, Schlick, Powers



MIA RUFFIER

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



01.11.24 APCD HB Speaker Slips

Air Pollution Control District Hearing Board

DATE 1/11/24 Petition Number 4527

SUBJECT _____

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 1/11/23 Petition Number 4527

SUBJECT Odor Update

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

**01.11.24 APCD HB
Public Testimony**

4527	NEW LEAF		
		Nicholas	Paul

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

4539 BIMBO BAKERIES USA, INC. – Petitioner requests a 90 Day Variance filed on December 18, 2023, from APCD Rules 67.2(d)(2)(ii) and 21 (Condition #8 of APCD2006-PTO-951149), to repair prohibited leaking ducting prior to the catalytic oxidizer located at 2069 Aldergrove Ave, Escondido, CA 92029.

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

ACTION:

ON MOTION Member Engleman, seconded by Member Gonzalez, the Air Pollution Control District Hearing Board accepted Petitioner's revised presentation as Exhibit A.

AYES: Engleman, Gonzalez, Spencer

ABSENT: Rodriguez, Schlick, Powers

ACTION:

ON MOTION of Member Engleman, seconded by Member Gonzalez, the Air Pollution Control District Hearing Board closed the hearing and made the following findings:

- A. The Petitioner is in violation of District Rule 21 and 67.2(d)(2)(ii), Condition No. 8, as it applies to Permit No. APCD2006-PTO-951149.
- B. That due to conditions beyond the reasonable control of the Petitioner, requiring compliance would result in either (1) an arbitrary or unreasonable taking of property, or (2) the practical closing of a lawful business.

The Board received testimony and has determined that there is not enough indication that Petitioner should have detected a leak in the ducting system. Petitioner's permit does not include a requirement for monitoring along the entire ducting line and Petitioner does already comply with monitoring and inspection along the exhaust stacks and therefore determined that the degradation was beyond Petitioner's control.

- C. That such closing or taking would be without a corresponding benefit in reducing air contaminants:

The Board considered testimony and determined that emissions are not controlled and are fugitive. Petitioner is well under the Title V threshold and no relief is given under Title V. Petitioner has proactively repaired approximately 50% of District identified repairs.

- D. That the Petitioner for the Variance has given consideration to curtailing operations of the source in lieu of obtaining a Variance:

The thermal oxidizer is a critical component of production. Petitioner has completed approximately 50% of District identified repairs.

- E. That during the period the Variance is in effect, the Petitioner will reduce excess emissions to the maximum extent feasible:

Petitioner has completed approximately 50% of District identified repairs and have provided scheduled dates for future repairs. In addition, temporary dampers have been put in place to mitigate the fugitive emissions.

- F. 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, and report these emissions levels to the District pursuant to a schedule established by the District.

The Petitioner has agreed to conditions that warrant a delivery of a report and will monitor identified leaks with a rented PID every (7) calendar seven days and provide a report of findings to the District within (7) calendar days of monitoring.

The Board thereby granted the Petitioner's request for a 90-Day Variance from of District Rule 21 and 67.2(d)(2)(ii), Condition No. 8, as it applies to Permit No. APCD2006-PTO-951149. The Variance will begin January 11, 2024, and expire March 1, 2024, subject to the following conditions:

- A. Petitioner shall perform weekly monitoring of the (10) ten District identified leak detection points with rented PID equipment every (7) calendar days during operation.
- B. Petitioner shall perform visual inspection during monitoring of entire area where there may be any fugitive emissions and report areas of concern of suspicious point to the District.
- C. Petitioner will provide monitoring reports within (7) calendar days from dates of monitoring and visual inspection to the District attention Teh Magee-Hill via email to Teh.Magee-Hill@sdapcd.org and APCDcomp@sdapcd.org.
- D. The Regular Variance shall terminate when compliance is achieved, or March 1, 2024, whichever is sooner.

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 Teh Magee-Hill, at 6 (858) 967-8184. 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: apcdcomp@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: Engleman, Gonzalez, Spencer
ABSENT: Rodriguez, Schlick, Powers

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

01.11.24 APCD HB
Exhibit A

Bimbo Bakeries USA, Inc.

San Diego County APCD

Hearing Board

Petition 4539

90-Day Variance

Freddy Ugarte

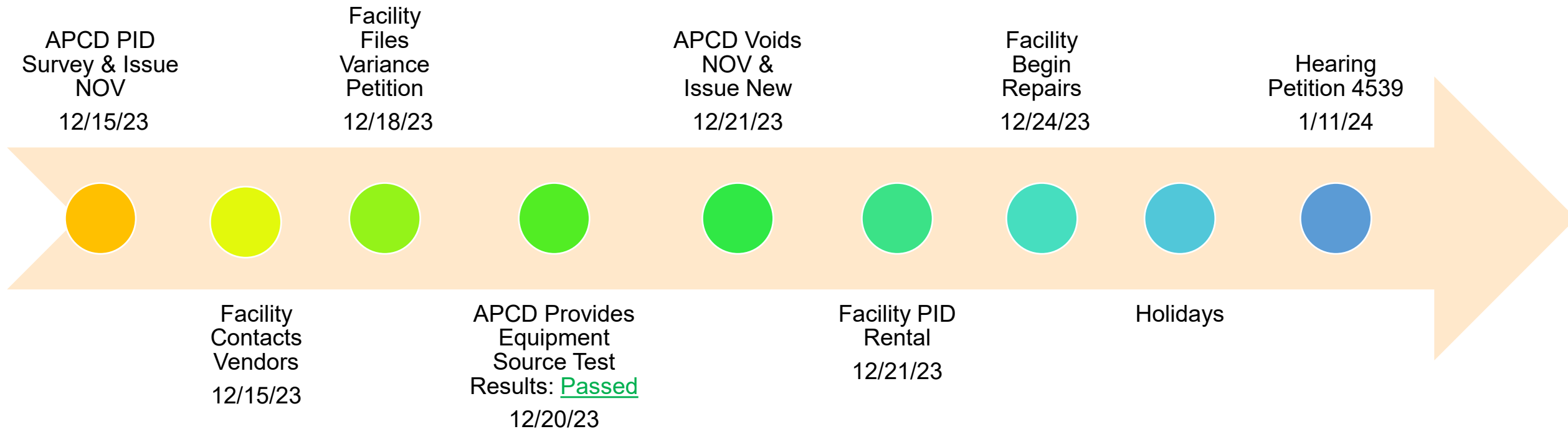
Bimbo Bakeries Operation

- Escondido facility produces baked goods (breads and buns) for distribution across Southern California
- Permitted equipment includes commercial bakery ovens that are vented to a thermal catalytic oxidizer that reduces air pollution of volatile organic compounds, primarily ethanol
- Exhaust system is inspected quarterly, most recently on October 18, 2023
- Facility is a minor source (non-Title V)

Identification of Non-Compliance

- Routine quarterly inspection in October did not identify leaks
- Source testing by San Diego County APCD determined that thermal catalytic oxidizer was operating properly
- San Diego County APCD enforcement first identified possible leaks in the oven vent ducting during inspection on December 15, 2023
- Inspector notified Bimbo at the conclusion of the site inspection that volatile organic compound (VOC) readings using a photoionization detector (PID) suggested that the ventilation ducting may have leaks

Timeline



Variance Request

- Bimbo is requesting temporary enforcement relief from Rule 67.24 standards and Permit Condition 8, as follows:

Rule 67.24 (d)(2)(ii)

(d) STANDARDS

(1) No person shall operate a bakery oven subject to this rule, unless uncontrolled VOC emissions are reduced by at least 90 percent by weight.

(2) A person may comply with the requirements of Subsection (d)(1) of this rule by using an air pollution control system which:

(i) has been installed in accordance with an Authority to Construct; and

(ii) includes an emission collection system(s) which ducts the exhaust gases from all stacks, except purge stacks, combustion stacks, and comfort hood vents, on all bakery ovens to VOC emission control device(s). Such ducting shall be maintained so as to be free of visible holes, breaks, openings or separations between adjoining components from which VOC's may be emitted to the atmosphere; and

December 2023 Source Test Results

Method 25A					
Destruction Efficiency	%	90.9	98.6	95.4	95
		≥ 90			

Full operation of air pollution control equipment that achieves VOC control of >90% will minimize excess emissions during the variance period.

District Rule 21: Condition 8

- Process equipment shall be maintained and operated so that there is no leakage of air contaminants to the atmosphere prior to their treatment in the catalytic oxidizer.

Progress

**Summary of Repairs on
Ductwork Conducted on
December 24, 2023**

Repair No. 1 (Inlet damper purge)



Repair No. 2 (Clean out #1 (access cover) on line 1)



Repair No. 3 (Patchwork/holes in pipe)



Repair No. 4 (Clean out #2 (access cover) on line 1)



Repair No. 5 (Inspection Port)



Repair No. 6 (Clean out #1 (access cover) on line 2)



Repair No. 7 (Visual Inspection Port)



Invoices



BAGHOUSE & INDUSTRIAL SHEET METAL SERVICES, INC.

★ THE INDUSTRIAL TEAM ★

Lic. 0656068

1731 Pomona Road, Corona, Ca. 92878 - 8863

Phone: 951-272-8810 - Fax: 951-272-1241

December 19, 2023

Quote No. 104449-TT (Revision 1)

Matt Aguirre
Bimbo Bakeries USA Inc - Escondido
2069 Aldergrove Avenue
Escondido, CA 92029
Tel. (760) 737-7740 Email: matthew.aguirre@grupobimbo.com

Subject: Gasket

Dear Matt:

In response to your request, we are pleased to submit the following proposal for your consideration.

Scope of Work:

★ Fabricate and install gasket.

★ Price is based on a time and material basis.

★ 1st visit 12/24/23 five (5) guys approximately \$10,000.00-\$15,000.00.

★ 2nd visit for next shut down approximately \$15,000.00-\$20,000.00.

- To address these issues and make necessary repairs, the facility must also shutdown operations.

Quote

QUO-50655-D9C3

Ver. 0

12/21/2023

Quote valid for 30 days



The Equipment Supply and Support People

Quoted For: Bipul Saraf

Phone: 951-742-7548

Email: bsaraf@YorkeEngr.com

Bill To:

Yorke Engineering, LLC

5225 Canyon Crest Drive

Suite 355

Riverside, CA 92507

Quoted By: Vanessa Banda

Phone: 949-263-1500

Email: VBanda@pine-environmental.com

Ship To:

5225 Canyon Crest Drive

Suite 355

Riverside, CA 92507

Rental prices are per unit

Item #	Description	Qty	Daily	Weekly	4 Week
51238	PID-MiniRAE3000 10.6 120V D CAL TO HEX-100PPM	1	\$107.00	\$257.00	\$874.00
90141	Cal Kit-Std-34L 100PPM HEXANE 100PPM CALIBRATION	1			

Sales Charges

Item #	Description	Qty	Unit Sale Price	Extended Sale
FuelSC	Fuel Surcharge (Temporary) Fuel surcharge to zip 92507 if delivered by driver. Visit https://pine.eco/fsc	1	\$7.00	\$7.00
DELFFEE	Courier fee to Riverside CA	1	\$25.00	\$25.00

90-Day Variance Request

- The bakery has repaired more than half of the leaks with the remaining to be completed soon
- Curtailment would directly affect 180 employees and jeopardize \$15 million in monthly wholesale revenue. Moreover, denial would disrupt the distribution of 4.4 million units of bread and buns within 30 days.
- Monitoring will be performed using the rented PID to verify that all repaired leaks are sealed
- The bakery expects repairs to be completed by mid-January (assuming no other issues);
- The final repair dates are still being confirmed
- Bimbo is requesting that its Escondido facility be granted temporary relief from further enforcement action while final repairs are completed



01.11.24 APCD HB Speaker Slips

Air Pollution Control District Hearing Board

DATE Jan 11/24 Petition Number 4359

SUBJECT Bimbo

REQUEST TO SPEAK

PLEASE PRINT NAME LEGIBLY

Name Julie Mitchell
First Last

Organization Name Yorke Engineering

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 VII/24 Petition Number 4359

SUBJECT petition

REQUEST TO SPEAK

PLEASE PRINT NAME LEGIBLY

Name Stephame Harris
First Last

Organization Name Yorke

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 1/11/24 Petition Number 4539

SUBJECT _____

REQUEST TO SPEAK

PLEASE PRINT NAME LEGIBLY

Name FREDDY UGARTE
~~XXXXXXXXXX~~
First Last

Organization Name BIMBO BAKERIES USA

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