

Effective to: December 14, 2026

1. BERRY operates equipment associated with the production and storage of crude oil within the Midway Sunset Oil Field.
2. The subject equipment includes a vapor recovery system (VRS) and casing vapor recovery system (CVRS).
3. Operation of the subject equipment is authorized by duly issued District permits.

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BACKGROUND

BERRY operates the Fairfield tank setting (Fairfield), which utilizes a series of tanks to receive, store, and process crude oil and water within the Midway Sunset Oil Field. As required by District rules and conditions of their permits, the tanks are required to be controlled by a functional and operating VRS and be maintained in a leak free condition at all times.

The VRS line that serves Fairfield is currently located underground. The line has been experiencing periods of plugging that requires maintenance. In an attempt to make access to the line easier, BERRY is requesting variance relief to allow them to install a new aboveground line. The new line cannot be connected without shutting down the VRS.

In addition to the work described above, BERRY will perform preventative maintenance by replacing an electric gas compressor that serves the CVRS for existing wells in the area. This will require shutting in the CVRS while the work is performed.

RULE REQUIREMENTS AND VIOLATIONS

1. The equipment subject to this variance is regulated by the following District Rules:
 - A. 2010 – *Permits Required*
 - B. 2070 – *Standards for Granting Applications*
 - C. 2201 – *New and Modified Stationary Source Review Rule*
 - D. 2520 – *Federally Mandated Operating Permits*
 - E. 4623 – *Storage of Organic Liquids*
2. District Rules 2010, 2070, and 2520 require that the subject equipment be operated in accordance with conditions specified in the applicable permits. District Rules 2201 and 4623 require that the subject equipment be equipped with an operating and functional VRS and be maintained leak free at all times.

FINDINGS OF FACT

Pursuant to California Health & Safety Code § 42352, the following findings have been made:

1. ***That the petitioner for a variance is, or will be, in violation of Section 41701 or of any rule, regulation, or order of the District.***

The Hearing Board finds that the continued storage of VOC containing liquids in the subject tanks without an operational VRS and operation of oil production wells while the CVRS is shut down will result in a violation of applicable requirements of District Rules 2010, 2070, 2201, 2520, and 4623, in addition to applicable conditions of the subject permits.

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2. ***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 and elimination of a lawful business.***

The Hearing Board finds that it is beyond the reasonable control of BERRY to comply with applicable District rules and District permit conditions while the VRS and CVRS are down to conduct the proposed work. District rules and permit conditions do not allow the VRS to be offline while VOC containing liquids are being stored in the tanks or continue oil and gas production while the electric compressor serving the CVRS is offline. It would be a taking of property if BERRY were not allowed to manage their equipment in a way that they believe will lead to maintenance efficiencies, improve safety, maximize operations, and increase probability of continued long-term compliance.

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

The Hearing Board finds that the closing or taking would require that the tanks be drained, degassed and cleaned which could result in more emissions than what is proposed due to the equipment and procedures involved. BERRY would need to shut in production of oil during the cleaning process and then continuing through the variance period until they bring the VRS and CVRS back online. This action would result in an economic loss of at least \$18,000.00 per day. The large economic loss and the emissions associated with the draining, degassing and cleaning of the tanks would negate any benefit a closing or taking would have in reducing air contaminants.

4. ***That the applicant for the variance has given consideration to curtailing operations of the source in lieu of obtaining a variance.***

The Hearing Board finds that BERRY considered curtailing operations by shutting in all production to the subject tanks and following the tank cleaning procedures required to remove the tanks from service prior to performing the proposed work. However, it was not deemed practical based on the duration of the proposed activities, the amount of expected emissions, the potential for additional excess emissions during tank cleaning, and the economic loss associated with the curtailment of production activities.

5. ***During the period the variance is in effect, that the applicant will reduce excess emissions to the maximum extent feasible.***

The Hearing Board finds that the tanks are enclosed with a fixed roof and will still have pressure/vacuum vents which will seal in the vapors as long as the pressure inside the tanks does not build up. While the CVRS is down, the gases will be stored in the gas line or will be re-entrained in the produced fluids and will go to the storage tanks. Also, BERRY's workplans include procedures to perform as much of the work with the systems still operating and the variance relief will mainly be limited to the time to disconnect the old equipment and re-connect to the new equipment, which will be completed as expeditiously as practicable.

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6. ***During the period the variance is in effect, that the applicant 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.***

The Hearing Board finds that there are no reasonable means to directly monitor fugitive VOC emissions from the subject tanks. However, BERRY will record the amount of time the tanks operate without a VRS and CVRS, calculate emissions based on approved emission factors, and provide this information to the District upon conclusion of the variance.

GENERAL COMMENTS

The Hearing Board also finds that a nuisance as defined in District Rule 4102 is not expected to occur as a result of this variance. Nor would continued operations likely create an immediate threat or hazard to public health or safety.

It should be noted that the US Environmental Protection Agency (EPA), which monitors major sources, might not recognize this variance. BERRY should be aware that the EPA could take enforcement action on this matter if it deems such action is appropriate.

CONCLUSIONS AND ORDER

NOW, THEREFORE, the SOUTHERN REGION HEARING BOARD ORDERS that a short variance be granted to BERRY subject to the following conditions:

1. The variance shall be effective for a non-consecutive 48-hour period to occur sometime between October 15, 2026, and December 14, 2026, inclusive, or until BERRY returns the VRS and CVRS back to compliant operation, whichever occurs first.
2. Variance relief shall be granted from the applicable requirements of District Rules 2010, 2070, 2201, 2520, and 4623, in addition to the conditions of the following permits:
 - A. Condition 5 of S-1246-0-6,
 - B. Conditions 7 and 10 of S-1246-152-15, -153-10, -154-10, -155-10, -158-9, -400-5, and
 - C. Conditions 5 and 53 of S-1246-296-49.
3. The variance shall allow the continued operation of the tanks without a functional and operating VRS and oil production wells without an operational CVRS until the proposed work is completed.
4. Excess VOC emissions shall not exceed **79 pounds** over the duration of the variance period.
5. Excess emissions fee will be assessed at the conclusion of the variance at \$3.25 per pound. Payment of the excess/mitigation emission fees shall occur within 30 days after the end of the variance. Payment shall be made to the District and shall be directed to the "Miscellaneous Incentive Grant – Hearing Board," account.

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6. A Federal Title V deviation report shall be submitted to the District within 10 days each time a Federal Title V permit condition is violated; within 10 days of discovery. The deviation report must be sent to the facility inspector.
7. Should the facility experience operational conditions likely to cause a public nuisance, BERRY shall cease the operations causing the problems and take all necessary actions to abate the problem immediately.
8. At the conclusion of this variance BERRY must be in compliance with their permit conditions and applicable District rules. If BERRY will not achieve compliance prior to conclusion of this variance they must contact the District as soon as practicable and before the variance period ends.
9. By December 29, 2026, BERRY shall submit a summary report to the District. If the report due date should fall on a day the District is closed, it shall be due the next business day. The report shall include the following:
 - A. A detailed summary of all activities performed during the variance period,
 - B. The date(s), time(s), and total duration that the subject tanks stored VOC containing liquids without an operational VRS, and oil production well operation without the CVRS.
 - C. A calculation of excess emissions, and
 - D. The required certification of truth, accuracy, and completeness, signed by the designated official of the Corporation, as required by sections 9.13.1 and 10.0 of District Rule 2520 – *Federally Mandated Operating Permits*.
10. The end of variance summary report shall be submitted to the attention of:

Chris Kalashian
SJVAPCD, Compliance Department
1990 E. Gettysburg Avenue
Fresno, CA 93726
Telephone: (559) 230-5963
E-mail: chris.kalashian@valleyair.org
11. Failure to comply with any condition of this variance may render the variance null and void with the possibility of enforcement action taken that may include monetary penalties.

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MOTION: Weber

SECOND: Penner

Ayes: Stovall, Weber, Penner

Noes: None

Abstained: None

Recused: None

Absent: Na

THE FOREGOING DECISION IS APPROVED:

Signed by:



D22714CED8064DA...

John Stovall, Chair
Hearing Board – Southern Region
San Joaquin Valley APCD

10/22/2026

Date

ATTEST:

Signed by:



5A3039220E1D454

Katrina Rojas, Deputy Clerk to the Boards

10/22/2026

Date



San Joaquin Valley

AIR POLLUTION CONTROL DISTRICT

PROOF OF SERVICE

I, Lien Vong, declare:

I am a resident of the State of California and over the age of 18 years, and not a party to the within action; my business address is San Joaquin Valley Air Pollution Control District, 1990 E. Gettysburg, Fresno, California 93726.

On October 23, 2026, I served the within documents:

ORDER GRANTING A VARIANCE – **DOCKET No. S-26-18S**

☒ by placing the document(s) listed above in a sealed envelope, and placing the same for mailing in the United States mail at Fresno, California, in accordance with the company's ordinary practices, and addressed as set forth below.

☒ based on an agreement of the parties with email addresses below, to accept service by transmitting via email the above listed document(s) to the email addresses set forth below on this date before 5 p.m.

☐ by personally delivering the document(s) listed above to the person(s) at the address(s) set forth below:

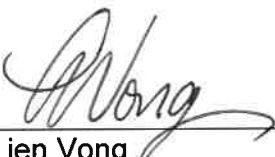
Sam Parks
Berry Petroleum Company
PO Box 11164
Bakersfield, CA 93389

Roshni Brahmhatt
USEPA Region IX
75 Hawthorne Street
San Francisco, CA 94105-3901
AEO_R9@epa.gov

CARB – Enforcement Division
PO Box 2815
Sacramento, CA 95814
variance@arb.ca.gov

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on October 23, 2026, at Fresno, California.



Lien Vong
Office Assistant II

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