

**STATEMENT OF PROCEEDINGS**  
**SAN DIEGO COUNTY AIR POLLUTION CONTROL DISTRICT HEARING BOARD**  
**Regular Meeting, Thursday, March 21, 2024**  
**9:00 a.m.**

**ORDER OF BUSINESS**

**ROLL CALL**

Members present: Steven Engleman, Jose Gonzalez and Alison Schlick

Members absent: William Powers, Vilmarie Rodriguez, and Daniel Spencer

Staff present: Mary Mahoney, SDAPCD Civil Actions Investigator; William Jacques, SDAPCD Program Coordinator, Emily Helms, Senior Deputy County Counsel SDAPCD, and Mia Ruffier, SDAPCD 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 SDAPCD Hearing Board.

**ADMINISTRATIVE ITEM:**

A. Public Communication

*No public testimony was provided to the Board.*

B. Approval of Statement of Proceedings for February 08, 2024.

**ACTION:**

ON MOTION of Member Engleman, seconded by Member Gonzalez, the San Diego County Air Pollution Control District Hearing Board approved the Statement of Proceedings for the meeting of February 08, 2024.

AYES: Engleman, Gonzalez, Schlick

ABSENT: Powers, Rodriguez, 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 Member Engleman, seconded by Member Gonzalez, the San Diego County Air Pollution Control District Hearing Board approved Respondent NEW LEAF BIOFUEL's request for virtual participation for the March 21, 2024 meeting.

AYES: Engleman, Gonzalez, Schlick

ABSENT: Powers, Rodriguez, Spencer

**ACTION:**

ON MOTION Member Engleman, seconded by Chair Schlick, the San Diego County Air Pollution Control District Hearing Board approved the Stipulated Abatement Order between the San Diego County Air Pollution Control District, Petitioner, and New Leaf Biofuels, Respondent..

AYES: Engleman, Gonzalez, Schlick

ABSENT: Powers, Rodriguez, Spencer

**ADJOURNMENT:**

The SDAPCD Hearing Board adjourned the March 21, 2024 meeting at 10:40 a.m.

**ASSISTANCE FOR THE DISABLED:**

Agendas and records are available in alternative formats upon request. Contact the SDAPCD 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 San Diego County 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.*

A handwritten signature in blue ink, appearing to read 'MIA RUFFIER', written over a light blue rectangular stamp.

MIA RUFFIER

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

**ADMINISTRATIVE ITEM:**

B. Approval of Statement of Proceedings/Minutes for February 08, 2024

**ACTION:**

ON MOTION of Member Engleman, seconded by Member Gonzalez, the San Diego County Air Pollution Control District Hearing Board approved the Statement of Proceedings for the meeting of February 08, 2024.

AYES: Engleman, Gonzalez, Schlick

ABSENT: Powers, Rodriguez, Spencer



MIA RUFFIER

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

**SAN DIEGO COUNTY  
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 San Diego County Air Pollution Control District Hearing Board approved Respondent NEW LEAF BIOFUEL's request for virtual participation for the March 21, 2024 meeting.

**ACTION:**

ON MOTION of Member Engleman, seconded by Chair Schlick, the San Diego County Air Pollution Control District Hearing Board closed the hearing based on testimony provided and evidence submitted, the Board approved the attached Amended Stipulated Abatement Order 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 amended conditions and increments of progress stated in the Stipulated Abatement Order. This Amended Stipulated Abatement Order does not act as a Variance.

The Respondent is in violation of the Health and Safety Code Section 41700 regarding nuisance odors. The amended stipulated order of abatement is not a taking of property without due process of law and if the stipulated order of abatement results in a closing or elimination of an otherwise lawful business it would not be without corresponding benefit to reducing air contaminates.

The Board thereby granted the District's request for an Amended 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](mailto: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: Engleman, Gonzalez, Schlick

ABSENT: Powers, Rodriguez, 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  
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: March 21, 2024  
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. On June 22, 2023, the District Hearing Board  
28 granted an amendment to the original SAO adding more conditions to the SAO to further mitigate  
nuisance odors and to expand the scope of the SAO to include operations at both Respondents' North  
and South Plants. The amendment also focused on odor-causing truck activities when the District  
continued to document odors and issue Notices of Violation from District Rule 51 "Nuisance" and

1 California Health and Safety Code section 41700.

2 In October of 2023, Respondent announced that the manufacture of biodiesel occurring at the North  
3 Plant was to be permanently halted by January 1, 2024, along with a substantial permanent decrease in  
4 the processing of used cooking oil at the South Plant. Respondent has since implemented the reduced  
5 operating system, but there are still some odor mitigation strategies outstanding and a permit pending  
6 finalization. Respondent has submitted a new permit application to the District, which was ultimately  
7 deemed complete on March 12, 2024, for their wastewater and grease trap waste, as this operation is no  
8 longer exempt from permitting requirements due to its ability to produce nuisance odors. The Authority  
9 to Construct and subsequent Permit to Operate, once finalized, will have requirements and conditions  
10 related to odor reduction measures and will be enforceable, but in the meantime, the conditions of the  
11 SAO would be enforceable. As a result, Respondents and the District propose to amend the SAO to  
12 include the following conditions, effective immediately upon adoption by the District Hearing Board:

13  
14 **STIPULATED AMENDED CONDITIONS AND INCREMENTS OF PROGRESS:**

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

- 18 A. This order adds and/or modifies Conditions and Increments of Progress in the October 27,  
19 2022, SAO and the amended SAO implemented on June 22, 2023. The conditions herein are  
20 intended to be applied facility-wide to all operations at the North and South Plants, including  
21 the wastewater building at the North Plant and the warehouse section of the South Plant  
22 (revised).
- 23 B. Respondent shall continue to utilize the portable carbon canister (hereinafter, "PCC") filter  
24 system to capture and treat air produced or discharged from trucks loading, unloading, or  
25 during the transfer of potentially odorous material, including maintenance activities, when  
26 the truck tanks may be empty at all areas of the North Plant. This system shall be kept in  
27 good operating condition at all times (revised).



- 1 C. Respondent shall provide two (2) movable enclosures that prevent wind dispersing potential  
2 odors during truck loading and unloading. They will be used in conjunction with the PCC,  
3 during truck transfers or other truck activities that may produce odors. One enclosure shall be  
4 used on top of trucks and the other shall be used on the underside of trucks as applicable. The  
5 enclosures shall be completed on or before Monday, April 1, 2024 (new).
- 6 D. Respondent shall install passive carbon canisters on grease trap breathers located at the North  
7 Plant at Wastewater Treatment building at 2285 Newtown Ave. San Diego, on or before  
8 Monday, April 1, 2024 (new).
- 9 E. Respondent shall ensure that the cover is kept closed on the Cavitation Air Flootation (CAF)  
10 water treatment system at the Wastewater Treatment building located at the North Plant at  
11 2285 Newtown Ave. San Diego except during maintenance and inspection (new).
- 12 F. Respondent and District shall reconvene at the August 22, 2024, Hearing Board meeting to  
13 update the District Hearing Board on progress and to potentially revise, add to or terminate  
14 the SAO (new).
- 15 G. All other applicable Terms and Conditions of the October 27, 2022, and June 22, 2023,  
16 amended SAO remain in effect (revised).

17  
18 DATED: Mar 13, 2024

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

*Mahiany Luther*

By: Mahiany Luther

19  
20  
21  
22  
23 DATED: Mar 13, 2024

NEW LEAF BIOFUEL, LLC  
Jennifer Case, President

*Jennifer Case*

Jennifer Case (Mar 13, 2024 15:08 PDT)

By: Jennifer Case











# Amendment to Petition 4527 3.21.24

Final Audit Report

2024-03-13

Created:	2024-03-13 (Pacific Daylight Time)
By:	Mary Mahoney (Mary.Mahoney@sdapcd.org)
Status:	Signed
Transaction ID:	CBJCHBCAABAABJyBxnSGHCCdjpK1_UsLNWKVusrJKzUO

## "Amendment to Petition 4527 3.21.24" History

-  Document created by Mary Mahoney (Mary.Mahoney@sdapcd.org)  
2024-03-13 - 1:26:14 PM PDT
-  Document emailed to Mahiany Luther (Mahiany.Luther@sdapcd.org) for signature  
2024-03-13 - 1:27:51 PM PDT
-  Email viewed by Mahiany Luther (Mahiany.Luther@sdapcd.org)  
2024-03-13 - 2:30:52 PM PDT
-  Mahiany Luther (Mahiany.Luther@sdapcd.org) has agreed to the terms of use and to do business electronically with SAN DIEGO COUNTY  
2024-03-13 - 2:31:12 PM PDT
-  Document e-signed by Mahiany Luther (Mahiany.Luther@sdapcd.org)  
Signature Date: 2024-03-13 - 2:31:12 PM PDT - Time Source: server
-  Document emailed to jennifer@newleafbiofuel.com for signature  
2024-03-13 - 2:31:14 PM PDT
-  Email viewed by jennifer@newleafbiofuel.com  
2024-03-13 - 2:57:37 PM PDT
-  Signer jennifer@newleafbiofuel.com entered name at signing as Jennifer Case  
2024-03-13 - 3:08:20 PM PDT
-  Jennifer Case (jennifer@newleafbiofuel.com) has agreed to the terms of use and to do business electronically with SAN DIEGO COUNTY  
2024-03-13 - 3:08:22 PM PDT
-  Document e-signed by Jennifer Case (jennifer@newleafbiofuel.com)  
Signature Date: 2024-03-13 - 3:08:22 PM PDT - Time Source: server



✔ Agreement completed.

2024-03-13 - 3:08:22 PM PDT



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**ACTION:**

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

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

It is so ordered.

  
By: Alison Schlick/Chairperson, APCD Hearing Board

**03.21.24 APCD HB  
Speaker Slips**

*spoke*  
Air Pollution Control District Hearing Board

DATE 03.21.24 Petition Number 4527

SUBJECT SAD

# 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**

*spoke*  
Air Pollution Control District Hearing Board

DATE 03.21.24 Petition Number 4527

SUBJECT SAD

# REQUEST TO SPEAK

PLEASE PRINT NAME LEGIBLY

Name Cheris White  
First Last

Organization Name New Leaf Biofuel

Please check below:

Officer or Authorized Employee for Petitioner

Agent or Legal Representation

Virtual request to  
Speak  
\_\_\_\_\_  
\_\_\_\_\_

PLEASE SEE GUIDE FOR SPEAKERS ON REVERSE

**(FOR PETITIONER)**  
**OTHER THAN APCD**

**03.21.24 APCD HB  
Public Testimony**

<b>4527</b>	<b>NEW LEAF</b>		
		Nicholas	Paul