

Action Summary Minutes

CENTRAL REGION HEARING BOARD MEETING

Central Region Office Governing Board Room

1990 E. Gettysburg Ave., Fresno, CA 93726

Wednesday, May 19, 2010, 10:00 a.m.

MINUTES

1. **CALL MEETING TO ORDER:**

The Chair, Jerry Boren, called the meeting to order at 10:05 a.m.

2. **ROLL CALL:**

Jerry Boren, Chair – Engineer	Present
Robert Schumacher – public	Present
Jim Waterman – attorney	Present
Gerry Mulligan – Public	Present
Dr. James Glaser, M.D. - medical	Present

Staff present – Central Region (Fresno): Patrick Houlihan, Senior Air Quality Specialist; Ryan Hayashi, Supervising Air Quality Specialist; Michael Carrera, Compliance Manager; Catherine Redmond, District Counsel; Lynn Sargenti, Senior Office Assistant; Cristina Montoya, Senior Office Assistant

3. Approval of Minutes from April 21, 2010

4. **PUBLIC HEARING:**

The Chair asked the Clerk to verify that all items had been properly noticed. The Clerk responded that they had. All those present to testify were sworn in by the Chair. The Chair asked that the agenda packet and any addenda brought forth to be entered into the official record.

A. C-10-06P Parc Grove Affordable Housing Community
2674 E. Clinton Avenue
Fresno, CA 93703

This item was withdrawn by the petitioners.

B. C-09-04X Chevron USA, Inc.
6C and 25D Cogeneration Plants
Coalinga, CA

Petitioner: John Gruber

Mr. Houlihan presented the staff report. Per Rule 4703, Section 7.3.2, a facility is required to lower their emissions within 90 days of performing a major overhaul. The facility is retrofitting some of the units sooner than the 90 day overhaul requirement. This will offset any excess emissions.

Patrick reminded the Hearing Board that in order to grant an extension, the facility must show increments of progress. The facility presented that information.

Mr. Boren asked Mr. Houlihan about the legitimacy of granting a variance for more than a one year period. Mr. Houlihan explained that typically the District does not grant a variance for longer than one year, and they ask the facility to return in one year to request an extension and increments of progress are shown to the District at that time. The California Health and Safety Code allows for this as long as there are increments of progress.

Mr. Boren asked why the facility was not able to do the expected maintenance in a one year period. Mr. Houlihan explained that it was expected at the time the variance was granted a year ago that they would need to come back to request an extension.

Mr. Mulligan asked how many retrofits had been completed. Mr. Gruber stated that 10 have been done to date. There are 31 total throughout the valley.

Mr. Mulligan asked about the shading of the first paragraph in Finding #3. Mr. Houlihan explained that he had intended to update the prices since they had changed from last year. This currently shows last year's price. He stated he will update to the current cost when the decision order is written.

Mr. Gruber explained that the price of oil has gone up per barrel since the price indicated in the report at last year's price and they would be losing more than \$70,000 per day during shut down.

Mr. Gruber stated he agreed with the District's report, but had some comments to add. He proceeded to explain to the Board the retrofit process and that the co-gen plants, being older, the units and parts have since been re-engineered and re-designed and Chevron has decided to retrofit all the units due to a shared equipment and infrastructure in order to comply with the Tier 3 requirements of Rule 4703. He explained this is more of a maintenance activity and would be easier to do the overhaul for

each entire plant rather than chase overhauls for individual units as the provision in the Rule requires.

Mr. Gruber suggested a change to Recommendation #3. He requested to insert the words "*more than*" 90 days beyond a major overhaul.

Mr. Houlihan and the Hearing Board members agreed to this.

Public Comment: No public comments.

Moved: Waterman
Seconded: Schumacher

Ayes: Waterman, Schumacher, Mulligan, Boren, Glaser
Nos: None
Abstain: None

The Hearing Board voted unanimously to grant the variance with the change made to Recommendation #3.

C. C-09-25S California Air National Guard
5323 Avenue 23 ½
Chowchilla, CA

The facility requested a continuance until the June 16, 2010 Hearing.

Moved: Schumacher
Second: Waterman

Ayes: Waterman, Schumacher, Mulligan, Boren, Glaser
Nos: None
Abstain: None

The Hearing Board voted unanimously to grant the continuance.

D. C-10-09S CertainTeed Corporation
17775 Avenue 23 ½
Chowchilla, CA

Petitioners: Jeff Curtin, James Vicary, David Clark

Mr. Michael Carrera presented the staff report.

Mr. Curtin agreed with the staff report. He had comments to add and explained the work necessary, why the power would need to be shut off and why the generators would be necessary to keep the power running to the facility. He reminded the Board of a previous power cut-off made by PG&E 18 months earlier in order to allow a nearby facility to be added to the grid and that time the Hearing Board had granted the variance.

CertainTeed was allowed to use the generators at that time to maintain power and operations at the plant. This was due to the fact that the District felt the situation was outside of CertainTeed's control.

Mr. Boren asked Mr. Curtin why they could not use a portable generator. Mr. Curtin explained that to use a portable generator would require them to get a Permit To Operate, which requires a 30-day comment period. The maintenance work that they have scheduled does not allow for them to wait for the comment period.

Mr. Curtin informed the Board that they are currently trying to procure a generator with emissions low enough that would not require the 30-day comment period. However, they have been unable to locate one, but would continue to look.

Mr. Vicary explained that for them to avoid the 30-day comment period, it would require a generator with less than 100 pounds a day of NOX and explained the type of generator necessary for the power they require.

Mr. Boren asked District staff why there are not pre-approved generators available. Mr. Carrera explained that they are, but that CertainTeed has not been able to find one. Also, this is a Title V facility, which requires a review by EPA and the public comment period unless they find a generator with emissions less than 100 pounds of NOX per day.

Mr. Carrera further explained to the Board members that the Hearing Board basically doesn't have jurisdiction to rule on this particular matter due to the California Health & Safety Code regulations and state laws. This petition involves asking for relief from a State Regulation.

Ms. Redmond, District Legal Counsel, agreed and explained that other than regarding the visible emissions state law, by virtue of the fact that this is the only state law mentioned in the code and no others, the Hearing Board's authority is limited to deciding matters on visible emissions and

the District's rules and regulations; state regulations are considered beyond the purview of this Hearing Board.

Mr. Carrera mentioned that the current issue is the furnace and that the facility can address that issue without a variance and that they can seek the variance when the time comes they need to do the other maintenance, which will require them to shut down their power. He also mentioned that he felt the facility should proceed with obtaining a permit for an IC engine.

District Legal Counsel agreed with the findings and decision that the District and Hearing Board do not have jurisdiction on this matter.

The Hearing Board made the decision to dismiss the variance request due to not having legal jurisdiction.

Moved: Glaser
Second: Mulligan

Ayes: Waterman, Schumacher, Mulligan, Boren, Glaser
Nos: None
Abstain: None

The Hearing Board voted unanimously to dismiss the variance request due to state law jurisdiction.

5. On May 4, 2010, Jerry Boren, acting for and on behalf of the Central Region Hearing Board approved an emergency variance from May 5, 2010, until May 7, 2010 to Chevron USA, Inc., Docket C-10-10E.
6. **PUBLIC COMMENTS**: No public comments.
7. **HEARING BOARD COMMENTS**: None.
- NEW BUSINESS**: None.
8. **NEXT SCHEDULED MEETING**: June 16, 2010. This meeting will be held in the Central Region Office (Fresno) in the Governing Board room.
9. **ADJOURNMENT**: The Chair adjourned the meeting at 10:38 a.m.