

Mr. Houlihan presented the staff report. CUSA has determined that they need to shut down CCS-1 in order to perform required safety inspections on a vessel within the system. When the casing collection system is shut down, the vapor recovery system will be shut down as well. Their permit prohibits them from sending oil into a tank without a VRS. They need the variance so they can still produce and store oil without the VRS during shutdown.

There will be some excess emissions since they will have to shut off the VRS. If they take the full 14 days to complete the required maintenance, the excess emissions will be 956.8 lbs of VOC.

The petitioners agreed with the District's presentation without further comments.

Mr. Boren asked District staff about Finding #2; the final sentence regarding the taking of property if not granted the variance. Mr. Boren stated he had not seen this before and due to this language, would this make it possible that Chevron could, in fact, decide to run their operation as they see fit regardless of District regulations. Mr. Houlihan stated that if they are not allowed to operate the equipment during system shut down, it could cause Chevron to shut down their oil production. Mr. Houlihan assured the Board that this language is not used in the sense that Chevron could do whatever they want to avoid "taking of property".

Having decided the petition has met the required findings, on motion of Mr. Mulligan, seconded by Dr. Goodwin, unanimously passed, the petitioner was granted a short variance.

B. C-11-05R Avenal State Prison
 #1 Kings Way
 Avenal, CA 93204

Petitioners: Mark Shandor, James Michael Davis (CDCR Attorney), Jeff Stanley, Maria Martinez, Johnny Wiley, Pres Meyers

Mr. Houlihan presented the staff report. This is a continuance from last month. The report is an update from the full report given at the meeting in July.

The petitioners were able to provide information that the board felt was necessary to make an informed decision. They have, since the last meeting, obtained the necessary funding required to perform the retrofitting.

The petitioners provided Form 22 showing that the money has been made available to them. Also submitted the Executive Order as issued by the governor of California dated December 14, 2004. This order asked that State agencies remove their power use from the grid as much as possible. Other documentation regarding the need for a back-up power system was submitted.

It was suggested at last month's meeting that Avenal permit the turbines for standby use and then re-permit them for full time use once they have the SCR installed. Mr. Houlihan explained that this would be problematic in that permitting them for this would be, although easy, does change the designation for the units and then treats them as a new source, which subjects them to Best Available Control Technology (BACT) and they would have to purchase offsets for NOx and VOC and would be subject to new, more stringent controls.

On Finding #2, the District provided more detail on the Health and Safety Code section 42352.2.B, which allows the Hearing Board to take extra consideration when ruling on an essential public service, which a prison does fall in this category.

Mr. Boren addressed staff and petitioners regarding the ppm and asked, if they do this, what affect this will have on the price of the project. Also asked about the offset charges.

Mr. Hayashi explained how the ERC banking and selling procedure works.

Mr. Boren asked if the money put aside for this construction is definitely for Avenal. Mr. Stanley assured these funds are for this project and explained how they are allocated.

Mr. Mulligan asked if the petitioners are confident that this project can be completed within the allotted variance period. Mr. Stanley assured the Board that this will not be a problem.

Mr. Mulligan asked staff about Finding #2 where the Health and Safety code refers to immediate compliance and stated that this is not what the Board is enforcing. He also mentioned that it states that they have had reasonable time for the project. He felt these definitions did not apply.

Mr. Houlihan agreed and explained how this applies in this case.

Mr. Mulligan stated his concern regarding the letter from EPA where it is stated that it does not recognize state-issued variances and can enforce violations of the SIP under the Clean Air Act.

Mr. Houlihan stated that the EPA has not recognized any of the District's variances and that this has always been their policy. They have always reserved the right to issue citations for violations on the federal permits.

Dr. Goodwin asked about a comment from the July meeting of renting a third boiler to reduce emissions at a cost of \$36,000/mo. The petitioners felt that this would not be cost effective. Mr. Shandor explained that this would require additional permitting and retrofitting costs.

There was brief discussion regarding the additional expense this would create if they did not get the variance granted and the effect on the power system for the prison.

Dr. Goodwin made further comments regarding the prison's responsibility to the community and the extra pollutants that would be released in the area.

Mr. Stanley, Mr. Shandor, Mr. Myers, Mr. Davis and Ms. Martinez addressed Dr. Goodwin's concerns regarding the emissions and the costs involved with possible illnesses by not decreasing emissions.

Mr. Boren explained that his hesitation last month on this project was due to the fact that there were no assurances that the project could be completed in the time frame requested in the variance and the funds were not guaranteed at that time.

Mr. Mulligan asked staff about offsets. Mr. Hayashi explained how this works and when mitigation becomes necessary.

Public Comment: No public comment.

Having decided the petition has met the required findings, on motion of Mr. Waterman, seconded by Mr. Schumacher, it was passed 3-2 with Goodwin and Mulligan casting the dissenting votes.

5. The Central Region Hearing Board had not heard nor granted any emergency variances since the July 20, 2011, meeting.
6. **PUBLIC COMMENTS:** No public comments.

7. **HEARING BOARD COMMENTS:** None.
8. **NEW BUSINESS:** None.
9. **NEXT SCHEDULED MEETING:** September 21, 2011. This meeting will be held in the Central Region Office (Fresno) in the Governing Board room.
10. **ADJOURNMENT:** The Chair adjourned the meeting at 10:56 a.m.