

**San Joaquin Valley Air Pollution Control District**  
**SOUTHERN REGION HEARING BOARD MEETING**

Southern Region Office Video Teleconference (VTC) Room  
34946 Flyover Court, Bakersfield, CA 93308

**ACTION SUMMARY MINUTES**

**Wednesday, February 14, 2018**

*Meeting held via video teleconferencing with the  
Central Region Office (Fresno) and the  
Southern Region Office (Bakersfield)*

1. Call Meeting to Order

The Chair, William Bland, called the meeting to order at 10:00 a.m.

2. Roll Call

William Bland – Public	Present
John Stovall – Attorney	Present
Daniel Padilla – Engineer	Present
Dean Moeller – Medical	Present
Nancy Ann Dunn – Public	Present

Staff Present:

Southern Region (Bakersfield): Homero Ramirez, Air Quality Engineer, Richard Karrs, Supervising Air Quality Engineer; Silvana Procopio, Air Quality Engineer, Mike Oldershaw, Air Quality Compliance Manager, Christal Martinez, Office Services Manager; Annette Ballatore-Williamson, District Counsel; Jessi Fierro, Assistant Counsel II; Arnaud Marjollet, Director of Permit Services; Shannon Moore, Air Quality Specialist II; and Artemiza Velasco, Operations and Program Support Supervisor.

Central Region (Fresno): Patrick Houlihan, Senior Air Quality Specialist; Clay Bishop, Supervising Air Quality Specialist; Michelle Franco, Deputy Clerk to the Board; Morgan Lambert, Deputy APCO; Crystal Bussard and Michael Carrera, Air Quality Compliance Manager.

3. Approval of Consent Calendar (Items 9-11)

*These items are routine in nature and are usually approved by a single vote. Prior to action by the Hearing Board, the public will be given the opportunity to comment on any consent item.*

9. Approve Minutes of January 10, 2018

10. Emergency Variance

11. Next Scheduled Meeting

The next scheduled meeting is on March 14, 2018. The meeting will be held in the Central Region Office (Fresno) with the Southern Region Office (Bakersfield) included via VTC.

Public Comments: None

Moved: Stovall  
Seconded: Padilla  
Ayes: Dunn, Stovall, Padilla, Moeller, Bland  
Nays: None

**Motion unanimously carried to approve Consent Calendar Items 9-11**

4. Public Hearing

The Chair swore in all those present to testify for all matters.

	<u>Docket No.</u>	<u>Type</u>	<u>Company Name</u>
A.	S-18-01S	Short	McKittrick Limited 4905 Reward Road Bakersfield, CA 93251

Petitioners: Troy Delfino and Kristine Boyer

Mr. Moore presented the Staff Report.

McKittrick Limited has requested a short variance from the applicable requirements of District Rules 1080, 2070, 2201, 2520, 4001 and 4703, in addition to the applicable conditions of the subject permits. The requested variance period would be effective for a consecutive 90-day period to occur sometime between February 19, 2018 and May 19, 2018 inclusive. If granted, the variance would allow continued operation of the subject cogeneration turbine unit without an operational CEMS while new components and software are installed and the CEMS is re-certified.

Public Comments: None

Moved: Stovall  
Seconded: Moeller  
Ayes: Dunn, Stovall, Padilla, Moeller, Bland  
Nays: None

**Motion unanimously carried to approve Docket No. S-18-01S**

<u>Docket No.</u>	<u>Type</u>	<u>Company Name</u>
B. S-18-02S	Short	Live Oak Limited 7001 Granite Road Bakersfield, CA 93308

Petitioners: Troy Delfino and Kristine Boyer

Mr. Moore presented the Staff Report.

Live Oak Limited has requested a short variance from the applicable requirements of District Rules 1080, 2070, 2201, 2520, 4001 and 4703, in addition to the applicable conditions of the subject permits. The requested variance period would be effective for a consecutive 90-day period to occur sometime between February 19, 2018 and May 19, 2018 inclusive. If granted, the variance would allow continued operation of the subject cogeneration turbine unit without an operational CEMS while new components and software are installed and the CEMS is re-certified.

Petitioner Comments: None

Public Comments: None

Moved: Moeller  
Seconded: Padilla  
Ayes: Dunn, Stovall, Padilla, Moeller, Bland  
Nays: None

**Motion unanimously carried to approve Docket No. S-18-02S**

<u>Docket No.</u>	<u>Type</u>	<u>Company Name</u>
C. S-18-03S	Short	Bear Mountain Limited 7001 Camino Grande Road Bakersfield, CA 93306

Petitioners: Troy Delfino and Kristine Boyer

Mr. Moore presented the Staff Report.

Bear Mountain Limited has requested a short variance from the applicable requirements of District Rules 1080, 2070, 2201, 2520, 4001 and 4703, in addition to the applicable conditions of the subject permits. The requested variance period would be effective for a consecutive 90-day period to occur sometime between February 19, 2018 and May 19, 2018 inclusive. If granted, the variance would allow continued operation of the subject cogeneration turbine unit without an operational CEMS while new components and software are installed and the CEMS is re-certified.

Petitioner Comments: None

Public Comments: None

Moved: Padilla  
Seconded: Dunn  
Ayes: Dunn, Stovall, Padilla, Moeller, Bland  
Nays: None

**Motion unanimously carried to approve Docket No. S-18-03S**

<u>Docket No.</u>	<u>Type</u>	<u>Company Name</u>
D. S-18-04S	Short	Badger Creek Limited 535 Fano Avenue Bakersfield, CA 93308

Petitioners: Troy Delfino and Kristine Boyer

Mr. Moore presented the Staff Report.

Badger Creek Limited has requested a short variance from the applicable requirements of District Rules 1080, 2070, 2201, 2520, 4001 and 4703, in addition to the applicable conditions of the subject permits. The requested variance period would be effective for a consecutive 90-day period to occur sometime between February 19, 2018 and May 19, 2018 inclusive. If granted, the variance would allow continued operation of the subject cogeneration turbine unit without an operational CEMS while new components and software are installed and the CEMS is re-certified.

Petitioner Comments: None

Public Comments: None

Moved: Dunn  
Seconded: Padilla  
Ayes: Dunn, Stovall, Padilla, Moeller, Bland  
Nays: None

**Motion unanimously carried to approve Docket No. S-18-04S**

<u>Docket No.</u>	<u>Type</u>	<u>Company Name</u>
E. S-17-42A	Appeal	Kern County Citizens for Responsible Development 3921 North Sillect Avenue Bakersfield, CA 93308

Petitioners: Rachael Koss and Linda Sobczynski on behalf of Kern County Citizens for Responsible Development, et al.

Real parties in interest: Andrew Oelz, Akin Gump Strauss Hauer & Feld LLP, and Kelly Merritt, on behalf of Calamco NH3 LLC.

Kern County Citizens for Responsible Development (Petitioner) has requested a hearing to appeal the District's recent issuance of Authority to Construct permit S-8943-1-0 for a power generation system, the Permit Exemption Determination for Low Emitting Units associated with anhydrous ammonia manufacturing equipment that was issued to CALAMCO NH3 LLC (Permittee), and the District's related CEQA Notice of Determination. The documents issued are all part of the District project S-1163737.

Ms. Fierro reminded the Board and all parties in attendance that under the California Health and Safety Code section 42302.1 the Hearing Board shall determine whether the permit in this case was properly issued based on the substantial evidence. The Hearing Board should not substitute its judgement for that of the Air District under Evidence Code section 664. It is presumed that the official duty has been regularly performed, accordingly, the party challenging the Districts decision or action has the burden of proof, proving that the permit was not properly issued based on the substantial evidence. The Hearing Board does not have authority to review the Air District's CEQA actions.

Ms. Ballatore-Williamson explained that the Petitioner raised five issues in their original appeal, all were listed on page 3 of the Staff Report. She added that there was an update to the Petitioners five original claims, three of which are no longer being challenged by the Petitioner, those are: #1. The Project must be Permitted as One Single Stationary Source; #4. The Air District Erred in Relying on the Assumption that All Waste Gas from the Fertilizer Plant Would Be Duct-fired in the Cogen's Heat Recovery Steam Generator or Pilot/Purge Burner; and #5. The Air District Violated Its Duties as a Responsible Agency under CEQA and CEQA Guideline. The two remaining claims are: #2. Project Emission Estimates Are Not Supported; and #3. Fertilizer Plant Flare Does Not Qualify As a Low Emitting Unit ("LEU"). The Chair asked the Petitioners if this is correct, Petitioner, Rachael Koss, confirmed and agreed.

#### **Petitioner's Contention (2): Project Emission Estimates Are Not Supported**

**Petitioners:** Dr. Petra Pless, of Pless Environmental, Inc. describes in her December 19, 2017, Supplemental Letter, the Air District failed to support its permitting decision with documentation, such as emission calculations and modeling files. Rather, the Air

District provided (1) heavily redacted reports; and (2) no new records since the Air District's response to our December 13, 2016, Public Records Act Request. After the Air District provided records in response to our December 13, 2016, request, the Air District proceeded to deny our March 7, 2017, request and May 2, 2017, request on the basis that our requests would consist of documents that are exempt from disclosure. In response to our requests for records from November 17, 2017, and November 27, 2017, the Air District responded that records will be available by December 21, 2017, the deadline for filing this petition. As a result, the Air District violated State law and significantly prejudiced Citizens ability to file this Petition and Appeal.

Pursuant to Air District Rule 2201, §3.14, an application for an ATC for a new or modified emissions unit is considered complete when the Air District has evaluated and found the application includes all information necessary to determine compliance with applicable rules and requirements. In this case, the Air District lacks substantial evidence to ascertain whether the facility would comply with applicable rules and requirements. For example, the Air District lacks substantial evidence to support exempting the ammonia loop purge vent, ammonia plant stack vent, acid gas removal system/CO2 vent, and flare from the requirement to obtain an authority to construct.

On the other hand, Dr. Pless provides substantial evidence, based on the Applicant's own Redacted Fertilizer Plant Emissions Report, that the Air District erroneously exempted the fertilizer plant flare from the permit.

### **District's Response:**

Petitioner states that the District relied on emission reports that were poorly documented for its issuance of the Authority to Construct and its permit exemption determination.<sup>1</sup>

The District disagrees. Permitting engineers at the District are expert in emissions calculation methodologies and implementation of those methodologies. District engineers do not blindly rely upon information supplied by applicants. Instead, District engineers use their experience and expertise to guide their decisions in determining the best available emission data and emissions calculation methodologies when estimating emissions from proposed equipment. For instance, for some more common classes and categories of equipment, there may be published, certified emission data available from the manufacturer of the equipment or control technology that is available to assess emissions. In the absence of certified or published emission data from a specific manufacturer, the District may rely on other accepted forms of general emission data such as published emission factors from certain industries, source tests from similar equipment, or other emission estimates deemed to be

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<sup>1</sup> Petitioners also make the ancillary claim that the District violated State law and prejudiced their ability to file their Petition here by failing to provide documents in response to their Public Records Act requests prior to the petition-filing deadline. The District rejects both of these contentions. Any alleged violations of the California Public Records Act are outside the jurisdiction of this Hearing Board and cannot be considered. Furthermore, the public remedy provided by Health & Safety Code § 42302.1 does not contemplate that a petitioner must be afforded discovery prior to filing a petition, and in any event the documents requested by Petitioners were provided to them on December 21, 2017, giving them ample opportunity to review in preparation for this Hearing.

reliable. For instance, a common source of general emission data is US EPA's emission factor compilation AP-42 (Compilation of Air Pollutant Emission Factors), a compilation of emission factors for more than 200 air pollution sources that has been developed and compiled from source test data, material balance studies, and engineering estimates. AP-42 is readily accepted as a valid source of emissions quantification methodologies and emission factors by permitting agencies and their oversight agencies when source-specific information is not available or is found lacking. The accepted emission factors along with limiting operating parameters such as hours of operation, throughput, fuel consumption, etc., are then used to calculate an emission unit's potential to emit.

For the referenced power generation system, the District was able to obtain emission data directly from the manufacturers of the turbine and its control equipment. Manufacturer's emission data was available for steady state operation, startup and shutdown events, and for firing with the HRSG duct burner. The District did not rely on the applicant-submitted emission reports that were mentioned by the petitioner for the power generation system.

However, for the proposed ammonia manufacturing process, which is described by the applicant as a demonstration project that will be the first of its type, there is no published emission data available from other similar operations for the District to use in its analysis. Instead of emission rates that have been published and certified for the various processes, the District relied on the best available information, which was the emission reports prepared and certified by Amec Foster Wheeler, which the Permittee contracted to estimate the rates and concentrations of emissions from various sources within the facility and to help with the design of the facility. Based on the District engineering team's expertise and best engineering judgement, the best available emission data to estimate the emissions from this one-of-a-kind operation was the information provided in these reports.

The Petitioner also stated that the District accepted the ambient air quality modeling without any supporting documentation or modeling files.

On the contrary, the District does not rely on ambient air quality modeling conducted by applicants. The District performs its own independent air quality modeling for all projects, and in this case included the power generation equipment, the ammonia plant, and the Low Emitting Units from the ammonia plant. Thus, the applicant's modeling files were not necessary and were not used by the District. Although permits are not required for the Low Emitting Equipment, the District does include such units in air quality impact modeling. For this project, the District's modeling demonstrated that the emissions from the project, including the low emitting units, will not adversely impact ambient air quality standards and will not cause a significant health risk to the public in the area of the project.

**Real Party's Response:**

Calamco has been working with the District over the last year and a half to extensively analyze the potential air emissions and concurs with the District calculations.

**Petitioner's Contention (3): Fertilizer Plant Flare Does Not Qualify As A Low Emitting Unit ("LEU")**

***Petitioner:** Dr. Pless concludes that the Air District erred in finding that the fertilizer plant flare is a Low Emitting Unit ("LEU") pursuant to District Rule 2020 (exemptions), section 3.10. Dr. Pless compared the emission rates in the Air District's letter exempting certain LEUs from permitting with the Applicant's highly redacted fertilizer plant emission report.*

*Dr. Pless reviewed the emission rates for three emission streams: (1) the flare pilot, (2) flare sweep gas, and (3) flare relief case (emergency relief) in the redacted fertilizer plant emissions report. Based on the emission rates in the redacted fertilizer plant emissions report, Dr. Pless determined that the emission rates in the Permit Exemption Letter are not supported. The Air District's Permit Exemption Letter "only accounts for continuous flare sweep gas emissions but not for the continuous flare pilot emissions or intermittent emissions associated with a flare relief case." According to the flare emissions set forth in the Applicant's redacted emissions reports, the flare exceeds the Air District's 2 lbs/day and 75 lbs/year thresholds for an LEU for NO<sub>x</sub> and CO.*

*Additionally, Dr. Pless states that uncontrolled emissions for a flare relief case should be assumed. Other emergency relief loads, aside from natural gas feed, could also occur at the facility that would vent without control by the flare. In sum, Dr. Pless concludes the fertilizer plant flare does not qualify as a Low Emitting Unit, especially when considering the Project is a pilot.*

*Petitioner sought to have the flare obtain a permit with enforceable conditions.*

**District's Response:**

The emissions estimates used in the Low Emitting Unit determination for the flare are based on the emissions from normal operation of the flare. During normal operation of the flare, there will be emissions from the natural gas-fired pilots and from the sweep flare gas combusted in the flare.

Emissions from unforeseen and unplanned emergency events, by their nature, can be highly speculative. Emergency flares are safety devices designed and installed to provide the elimination of otherwise unsafe combustible or explosive gases that may be released during some accident or equipment failure. The District does not and cannot assume that such emergencies will occur, and therefore does not and cannot include estimates of emissions during such emergency situations in estimating normal operation emissions from the flare for the purposes of determining if a permit is required.

That said, the flare's potential uncontrolled emission rate includes the emissions from the natural gas-fired pilots and from the sweep flare gas combusted in the flare for the purpose making the determination for Low Emitting Unit. The District's Exemption



Determination Letter did not include the small amount of emission from the sweep gas. Including the sweep gas emissions, the uncontrolled emissions are the following:

Potential Uncontrolled Emissions from Flare						
Pollutant	Natural Gas-Fired Pilots		Sweep Gas		Total	
	lb/day	lb/yr	lb/day	lb/yr	lb/day	lb/yr
NOx	0.32	115	0.68	248	1.0	363
SOx	0.01	4	0	0	0.01	4
PM10	0.12	44	0	0	0.1	44
CO	1.44	525	0	0	1.4	525
VOC	0.28	102	0	0	0.3	102

District Rule 2020 (Exemptions) Section 3.10 defines a Low Emitting Unit as an emissions unit with an uncontrolled emissions rate of each air contaminant of less than or equal to two pounds per day, or if greater than two pounds per day, of less than or equal to 75 pounds per year. The flare therefore meets the definition of a Low Emitting Unit because the daily potential emissions for each pollutant are less than 2 pounds per day.

Additionally, the emissions from the flare have been shown to not cause a significant health risk to the public.

Given these conclusions, the flare qualifies for the permit exemption for Low Emitting Units in Rule 2020 Section 6.19.

**Real Party's Response:**

Calamco agreed with the District that the flare was properly classified as a Low Emitting Unit. Only vapors from the overpressure relief valves would go to the flare. All other emissions would go to the HRSG portion of the cogen to be incinerated. The entire plant depressurizes in five minutes in the event of an emergency. The modeling indicates that a plant evacuation would occur once in every 10 years. It would take 2.86 evacuation events to exceed the 75 lbs per year threshold that would disqualify it as a Low Emitting Unit. Modeling indicates that 2.86 events in one year would occur once in every 3000 years.

The Chair reminded the Hearing Board members that they shall determine whether the permit in this case was properly issued based on the substantial evidence.

Public Comments: None

Moved: Dunn  
Seconded: Padilla  
Ayes: Dunn, Stovall, Padilla, Moeller, Bland  
Nays: None

**Having decided the petitioner did not demonstrate the District improperly issued the permit in question. Motion unanimously carried to approve in favor of the San Joaquin Valley Air Pollution Control District Docket No. S-17-42A.**

5. Public Comments: None
6. Hearing Board Member Comments: None
7. New Business: None
8. Adjournment  
The Chair adjourned the meeting at 11:31 a.m.