



San Joaquin Valley Air Pollution Control District

Action Summary Minutes for the Southern Region Hearing Board Meeting San Joaquin Valley Unified Air Pollution Control District 2700 M Street, Suite 275, Video Teleconferencing (VTC) Room, Bakersfield, CA.

Wednesday, August 8, 2001
10:00 a.m.

GOVERNING BOARD

Judith G. Case, Chair
Supervisor, Fresno County

Sam Armentrout, Vice Chair
Mayor, City of Madera

Barbara Patrick
Supervisor, Kern County

Mike Maggard
Councilmember, City of Bakersfield

Tony Barba
Supervisor, Kings County

Ronn Dominici
Supervisor, Madera County

Jerry O'Banion
Supervisor, Merced County

Jack A. Sieglock
Supervisor, San Joaquin County

Nick W. Blom
Supervisor, Stanislaus County

Tom Applegate
Councilmember, City of Newman

William Sanders
Supervisor, Tulare County

David L. Crow
Executive Director/
Air Pollution Control Officer

Northern Region Office
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Modesto, CA 95356-9322
(209) 557-6400
FAX (209) 557-6475

Central Region Office
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Fresno, CA 93726-0244
(559) 230-6000
FAX (559) 230-6061

Southern Region Office
2700 M Street, Suite 275
Bakersfield, CA 93301-2370
(661) 326-6900
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www.valleyair.org

Meeting held via video teleconferencing (VTC) with the Central Region Office (Fresno) included via VTC.

1. **Call Meeting to Order**- The Chairman, Hollis B. Carlile, called the meeting to order at 10:16 a.m.

2. **Roll Call was taken and a quorum was present.**

Kimm Wolber	Medical
Andrew C. Thomson (*)	Attorney
Marvin Dean (**)	Public
William L. Bland, Jr., Vice Chairman (Absent)	Public
Hollis B. Carlile, Chairman	Engineer

(*) Participated via telephone
(**) Arrived at 10:16 a.m.

Also present in the Southern Region Office (Bakersfield)

Creighton Smith, Supervising Air Quality Engineer, Allan Phillips, Supervising Air Quality Engineer, Leonard Scandura, Senior Air Quality Engineer and Patrick Houlihan, Air Quality Inspector.

Also present in the Central Region Office (Fresno) – Philip

M. Jay, District Counsel, Robert J. Kard, Director of Compliance, Ted Strauss, Supervising Air Quality Inspector and Sissy Smith, Clerk to the Board.

3. **Approve Minutes of July 11, 2001** – The Chairman asked if there were any corrections, comments or additions to the Minutes. The Board did not have any corrections, comments or additions to the Minutes. Therefore, the Chairman declared the Minutes of July 11, 2001 approved as submitted.

All persons testifying were sworn in by the Chairman.

The Chairman asked if the Petitions have been properly noticed and on file with the Clerk to the Board. Ms. Smith responded affirmative.

The Chairman requested that the Hearing Board Packet and any additional materials provided during the hearings be entered into the Official Record.

4. **Public Hearings:**

Creighton Smith presented the Staff Reports.

<p>A.) Docket No. S-01-23S, Short Variance, <u>Sierra Power Corporation</u>, 9000 Road 234, Terra Bella, CA. 93270</p>
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Correspondence received from M. Scott Weaver, Manager: RE: *Sierra Power Corporation Petition for Short Variance Request for Postponement of Hearing.*

Decision – Mr. Dean moved that the variance request be postponed. The motion was seconded by Ms. Wolber and carried unanimously with the following **Roll Call Vote:**

Ayes: *Wolber, Dean and Carlile.*
Noes: *None.*
Absent: *Thomson and Bland.*

Therefore, Docket No. S-01-23S, Short Variance, Sierra Power Corporation was postponed.

The Chairman (Hollis B. Carlile) asked permission from the Petitioners and staff for Andrew C. Thomson to participate in the Chevron USA hearing via telephone. The Petitioners and staff were agreeable to allow Andrew C. Thomson to participate in the Chevron USA hearing via telephone.

C.) Docket S-01-19R, Regular Variance, Chevron USA was moved up on the agenda.

The Chairman, Hollis B. Carlile, indicated a conflict of interest in respect to C.) Docket No. S-01-19R, Regular Variance, Chevron USA and joined the audience. Marvin Dean served as Acting Chairman.

C.) Docket No. S0119R, Regular Variance, Chevron USA, 15255 Lost Hills Road, Lost Hills, CA. 93249. Type of Business: Crude Oil and Natural Gas Production.

Petitioner – Greg Schmidt, Don Culbertson and David Wilbur represented Chevron USA.

Public Comment – No Public Comment.

Decision – Mr. Thomson moved that the variance be granted and the required six findings set forth on pages 2 and 3 of the Staff Report were adopted by reference. The motion was seconded by Ms. Wolber and carried unanimously with the following **Roll Call Vote**:

Ayes: *Wolber, Thomson and Dean.*
Noes: *None.*
Absent: *Bland.*
Excused: *Carlile.*

Therefore, the Board granted a Regular Variance to Docket No. S-01-19R, Chevron USA, Inc from July 12, 2001 to November 30, 2001 or until compliance is achieved, whichever occurs first. The variance is subject to eight conditions set forth on page 4 of the Staff Report. The eight conditions will be set forth in the Order.

The Acting Chairman, Marvin Dean, relinquished the chairmanship back to the Chairman, Hollis B. Carlile. Mr. Carlile joined the Board and chaired the remainder of the meeting.

The Chairman asked the Petitioners and staff if they were agreeable that Mr. Thomson continue to participate in the remainder of the hearings via telephone. The Petitioners and staff were in agreement that Mr. Thomson continue to participate in the remainder of the hearings via telephone.

B.) Docket No. S-01-26i, Interim Variance, Golden Empire Transit District, 1830 Golden State Avenue, Bakersfield, CA. 93301-1012. Type of Business: Public Transportation Fleet.

Petitioner – Mel Doherty represented Golden Empire Transit District.

Andrew C. Thomson disclosed that in the past he has had Golden Empire Transit District as a client. Mr. Thomson and Philip M. Jay, District Counsel held a discussion in respect to Mr. Thomson's disclosure. Mr. Jay

indicated that he did not see any legal conflict with Mr. Thomson participating in the Golden Empire Transit District hearing.

Public Comment – No Public Comment.

Decision – Mr. Dean moved that the variance be granted. The Board determined that good cause could be made. The motion was seconded by Ms. Wolber. The motion maker and the second were agreeable to a amended motion to include a amendment to condition # 7A. The amended motion carried unanimously with the following **Roll Call Vote:**

Ayes: *Wolber, Thomson, Dean and Carlile.*
Noes: *None.*
Absent: *Bland.*

Therefore, the Board took the following action: granted an Interim Variance to Docket No. S-01-26i, Golden Empire Transit District. The variance shall occur from July 17, 2001 until the regular variance can be heard at a regularly scheduled Hearing Board meeting. The variance is subject to nine conditions set forth on pages 2 and 3 of the Staff Report with an amendment to Condition # 7A. The amended conditions shall be set forth in the Order.

D.) Docket No. S-01-24S, Short Variance, <u>Texaco Exploration & Production, Inc.</u>, JOST Dehydration Plant, Kern River Oilfield. Type of Business: Crude Oil Production Facility.

Petitioner – Larry Landis and Joe Bravo represented Texaco Exploration & Production, Inc.

Public Comment – No Public Comment.

Decision – Mr. Dean moved that the variance be granted and the required six findings set forth on pages 2 and 3 of the Staff Report be adopted by reference. The motion was seconded by Ms. Wolber and carried unanimously with the following **Roll Call Vote:**

Ayes: *Wolber, Thomson, Dean and Carlile.*
Noes: *None.*
Absent: *Bland.*

Therefore, the Board took the following action: granted a Short Variance to Docket No. S-01-24S, Texaco Exploration & Production, Inc. The variance shall be effective for no more than a single, consecutive 24-hour period between August 8, 2001 and August 15, 2001. The variance is subject to nine conditions

as set forth on pages 3 and 4 of the Staff Report with amendments to Conditions # 4 and # 5. The amended conditions shall be set forth in the Order.

E.) Docket No. S-01-21R, Regular Variance (continuance) Crimson Resource Management, 5500 Ming Avenue, Suite 480, Bakersfield, CA. 93268. Type of Business: Crude Oil and Natural Gas Production.

Creighton Smith provided the Board with a revision to the Crimson Resource Chronology report that was provided in the Staff Report.

The Board took a Five Minute Break at 11:20 a.m. for staff to fax a copy of the revised Crimson Resource Chronology to Mr. Thomson.

The Board reconvened from Break at 11:27 a.m.

Leonard Scandura, Senior Air Quality Engineer, provided testimony for the District.

Petitioner – Patty Lee Young represented Crimson Resource Management.

Mr. Thomson excused himself from the hearing due to a prior appointment. For the record a quorum was still present.

Public Comment – No Public Comment.

Mr. Jay advised the Board that with only three Board Members present the vote would have to be unanimous.

Decision – After an extensive hearing Mr. Dean moved that the hearing be continued to September 12, 2001. Mr. Dean stated that based on the fact that the Petitioner has not given the Board enough information to act on today the following is included in his motion:

- (1) The Petitioner will explore with the District the possibility of utilizing catalysts that are now utilized on Crimson Resource Management equipment located in the Los Angeles area.
- (2) The Petitioner shall do a calculation on it's excess emissions with the involvement of the District whereby an agreeable amount can be determined.

- (3) The Petitioner shall work with the District to determine the excess emissions that will be allowable in the variance so that the Board can make the required findings.
- (4) If the Petitioner cannot provide support of the excess emissions numbers the Board will utilize the numbers that the District has provided on page two of the Staff Report. **(Excess Emissions Tons/Variance 216.4 NOx)**
- (5) The Petitioner shall provide the Board with additional information on why the Petitioner has not come into compliance sooner.
- (6) The Petitioner shall seek information on the cost and availability of offsets that may be required during the variance and be prepared to share that information with the Board.
- (7) The Petitioner shall enter into early discussions with the District regarding a possible settlement situation in the event the variance is not granted at the September 12, 2001 hearing.

Ms. Wolber seconded the motion. **The motion failed with the following Roll Call Vote:**

Ayes: Wolber and Dean.

Noes: Carlile.

Absent: Thomson and Bland.

Mr. Jay stated that the Board has to make some sort of decision on the petition. Mr. Jay stated that so far the only action the Board has taken was on whether to continue the hearing or not and that motion failed. Mr. Jay stated that the Board either needs a motion granting or a motion denying the variance to see if the Board could reach agreement on anything. Mr. Jay stated that the Board at least has to take a vote. If the votes come up two-one, two-one then that's no decision which is the same as a denial. But the Board needs to deal with the variance.

Decision – Ms. Wolber made a motion to deny the variance. The motion was not seconded. Since there was no second to the motion the motion was not voted on.

There was no motion to grant the variance.

Mr. Jay stated that legally the variance is denied. Mr. Jay noted that there was no continuance, no form of denial and no granting.

5. **Public Comment** – No Public Comment.
6. **New Business** – No New Business.
7. **Next Scheduled Meeting** – Wednesday, September 12, 2001 at 10:00 a.m. The meeting will be held via video conferencing (VTC) in the Southern Region Office, 2700 M Street, Suite 275, VTC Room, Bakersfield with the Central Region Office (Fresno) included via VTC.
8. **Adjournment** – The Chairman, Hollis B. Carlile, adjourned the meeting at 12:50 p.m.

Sissy Smith, Clerk to the Board
Southern Region Hearing Board
San Joaquin Valley Unified APCD