

**Action Summary Minutes for  
San Joaquin Valley Unified  
Air Pollution Control District's  
Southern Region Hearing Board Meeting  
Wednesday, January 12, 2000 at 10:00 a.m.  
Video Teleconference (VTC) Room  
2700 M Street, Suite 275, Bakersfield, CA. 93301**

**Meeting held in the Southern Region Office (Bakersfield) with the Central Region Office (Fresno) and the Northern Region Office (Modesto) included via VTC.**

1. **Call Meeting to Order** – The Chair, Hollis B. Carlile, called the meeting to order at 10:00 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., <b>Vice Chair</b> (late arrival)	Public
Hollis B. Carlile, <b>Chair</b>	Engineer

**Also present in the Southern Region Office (Bakersfield)**

Philip M. Jay, District Counsel, Robert J. Kard, Director of Compliance, Seyed Sadredin, Director of Permit Services, Tom Goff, Permit Services Manager, John Gruber and Leonard Scandura, Senior Air Quality Engineers, Creighton Smith, Supervising Air Quality Inspector and Linda Phillips, Administrative Analyst II.

**Also present in the Central Region Office (Fresno)** – Patti

Kelly, Legal Secretary II, Michael Carrera, Senior Air Quality Inspector, Sharon Wedro, Air Quality Inspector I and Sissy Smith, Clerk to the Boards.

**Also present in the Northern Region Office (Modesto)**

Roland Brooks, Air Quality Compliance Manager and Kate Poole, California Unions for Reliable Energy (CURE).

3. **Approve Minutes of December 8, 1999** – The Minutes of December 8, 1999 were approved as submitted.

4. **Public Hearing:**

The Chair requested the Petitioners sign the Sign In Sheet.

All persons testifying were sworn in by the Chair.

The Chair indicated that the Southern Region Hearing Board Meeting included via VTC the Northern Region Office (Modesto) as well as the Central Region Office (Fresno).

The Chair asked if the Petition has been properly noticed and is on file with the Clerk to the Boards. Ms. Smith responded affirmative.

The Chair requested that the Hearing Board Packet and any additional materials provided during the hearing today be entered into the Official Record.

The Chair indicated that Board Member, William L. Bland, Jr., was on his way and he (the Chair) did not want to start the Public Hearing until Mr. Bland arrived. Therefore, the Chair moved the Public Hearing down on the agenda and continued the meeting with agenda item 6.

6. **New Business:**

- a) December 15, 1999, correspondence from ARB to Mr. Hollis Carlile, Acting Hearing Board Chairman, 2 pages.
- b) Hearing Board Order, S-99-36S, Texaco E & P (Angus Lease), 3 pages.
- c) October 4, 1996, correspondence from Ms. Leslie Krinsk, ARB Senior Staff Counsel, Re: Santa Barbara Hearing Board Practices, 8 pages.

The Chair noted that ARB indicated in their December 15, 1999 correspondence to the Acting Hearing Board Chairman (Hollis Carlile) the following:

“....A member of my staff attended a hearing held by your Board on October 13, 1999. At that hearing, your Board granted a short variance (S-99-36S) without making the findings required to be made before a variance is granted (H&SC 42352)....”

The Board and Philip M. Jay, District Counsel, discussed this issue. The Board concurred that they will endeavor with the help of the Clerk to make the required findings in the future.

The Board asked if the Petitioner was aware that ARB stated the following: "...Because your Board did not make the findings required by H&SC section, it is not a legally valid variance and the ARB will not accept a variance that does not meet H&SC requirements. We are returning the variance to you as an un-approvable variance...." ARB did indicate that the variance is a one-day variance which expired on September 9, 1999 and they did not recommend that the Board re-hear the matter.

Staff indicated that they would contact the Petitioner and let them know of ARB's position.

**Public Comments** – No Public Comments.

The Board determined that they did not see the need to review b) and c).

**The Board took a break at 10:20 a.m.**

**The Board reconvened the meeting at 10:30 a.m.**

**Mr. Bland arrived and the Board continued with:**

4. **Public Hearing**

A.)

**Docket No. S-99-44A, Permit Appeal, CURE, 651 S. Gateway Blvd., Suite 900, San Francisco, CA. 94080.**

**Kate Poole, represented California Unions for Reliable Energy (CURE) and Doug Zimmerman (collectively, "CURE") and Adams, Broadwell, Joseph and Cardozo, attorneys for CURE**

**Seyed Sadredin, Director of Permit Services, John Gruber and Leonard Scandura, Senior Air Quality Engineers represented the District**

**John Grattan and Mervyn Soares represented Sunrise Cogeneration and Power Project**

**Philip M. Jay, District Counsel, stated that representatives of the Sunrise Cogeneration and Power Plant petitioned the District (Sunrise Cogeneration and Power Plant, Exhibit # 1, Answer to CURE's Request for**

Hearing, December 8, 1999). Whereby they contend that the Hearing Board did not have jurisdiction to hear this matter. Mr. Jay stated that the representatives for Sunrise Cogeneration Power Plant were in attendance and he (Mr. Jay) believes that they were prepared to withdraw that contention.

John Grattan, Sunrise Cogeneration and Power Plant representative, stated "... that on behalf of Sunrise Cogeneration and Power Plant Project we are exceeding to the jurisdiction of the Board in this case and will cut right to the case and drop our Petition...."

Hearing Board Members Marvin Dean and Andrew C. Thomson discussed conflict of interest issues with the hearing.

Philip M. Jay, District Counsel, asked Misters Dean and Thomson a few questions and stated that there does not appear to be a conflict of interest as long as there is no financial connection.

#### **District Exhibits**

- Exhibit # 1 The Sunrise Project, overheads, presented by : District Staff: John Gruber, Senior Air Quality Engineer
- Exhibit # 2 Response to Permit Appeal by CURE, Docket No. S-99-44A, overheads, presented by: Seyed Sadredin, Director of Permit Services
- Exhibit # 3 Kern County Air Pollution Control District, Rule 210.1
- Exhibit # 4 May 1997 State Implementation Plan (SIP) PM10
- Exhibit # 5 Comparison of the La Paloma and Sunrise Cogeneration Projects

#### **Petitioner's Exhibits**

- Exhibit # 0 Request for Hearing
- Exhibit # 1 July 23, 1999 District Correspondence to W. Richard Texier, Re: Public Records Act Request
- Exhibit # 2 August 9, 1999, Notice of Violation – Mutual Settlements
- Exhibit # 3 August 19, 1999, Notices of Violation issued to Equilon Enterprises
- Exhibit # 4 NOVs for Martinez Refining Company 1995 – Present
- Exhibit # 5 CURE Data Response – Set 2
- Exhibit # 6 (submitted electronically)
- Exhibit # 7 Notification of Startup
- Exhibit # 8 May 4, 1993, U.S. Environmental Protection Agency correspondence to Seyed Sadredin, Director of Permit Services
- Exhibit # 9 Aug 05, 1993, U.S. Environmental Protection Agency correspondence to Seyed Sadredin, Director of Permit Services

**Petitioner's Exhibits cont.**

- Exhibit # 10 Aug. 18, 1993, U.S. Environmental Protection Agency correspondence to Seyed Sadredin, Director of Permit Services
- Exhibit # 11 April 30, 1999, U.S. Environmental Protection Agency correspondence to Seyed Sadredin, Director of Permit Services
- Exhibit # 12 Memorandum: Response to Request for Guidance on Use of Pre-1990 ERC's and Adjusting for RACT at Time of Use, From: John S. Seitz, Director Office of Air Quality Planning and Standards (MD-10) To: David Howekamp, Director, Region IX, Air and Toxics Division
- Exhibit # 13 Consequence Analysis of a Truck Spill of Anhydrous Ammonia
- Exhibit # 14 Amendment to the California Unions for Reliable Energy's and Doug Zimmerman's Request for Hearing, December 17, 1999
- Exhibit # 15 Settlement Agreement and General Release, August 30, 1999
- Exhibit # 16 Settlement Agreement and General Release, November 24, 1999
- Exhibit # 17 Memorandum: U.S. Environmental Protection Agency: Subject: Enforceability Requirements under Condition 2 of the Emission Offset Policy, From: Director, Division of Stationary Source Enforcement, To: Diane Aji, Enforcement Branch, Region III
- Exhibit # 18 Memorandum: U.S. Environmental Protection Agency, March 28, 1978, Subject: Jewell Coal and Coke Company – Applicability of Condition 2 of the Interpretative Ruling, From: Director, Division of Stationary Source Enforcement, To: Gordon M. Rapier, Director, Air and Hazardous Materials Division, Region III
- Exhibit # 19 Report which lists the pending/unresolved Notices of Violation for Texaco, Sycamore Cogen., Kern River Cogen., Equilon, and McFarland Energy
- Exhibit # 20 January 5, 1999 (2000), U.S. Environmental Protection Agency, Region IX, To: Seyed Sadredin, Director of Permit Services
- Exhibit # 21 January 11, 2000, U.S. Environmental Protection Agency, Region IX, To: Seyed Sadredin, Director of Permit Services

**Hearing Board Member Andrew C. Thomson indicated that on page two of the U.S. Environmental Protection Agency correspondence dated January 11, 2000 it mentions Mr. Gordon M. Thomson, Vice-President of Sunrise Cogeneration and Power Company. Hearing Board Member Mr. Thomson indicated that the spelling of Mr. Gordon M. Thomson's last name is the same spelling as his last name but they are not related.**

**The Board took a five minute Break at 12:17 p.m.**

**The Board returned from Break at 12:24 p.m.**

**Public Comments** – No Public Comments.

**Decision** – Mr. Thomson made a motion to deny the Petitioner's request. The motion was seconded by Mr. Dean and carried unanimously with the following

**Roll Call Vote:**

**Ayes:** *Wolber, Thomson, Dean, Bland and Carlile.*

**Noes:** *None.*

**Abstain:** *None.*

**Absent:** *None.*

*Therefore, the Board took the following action: denied the Petitioner's request for the Permit Appeal.*

*Mr. Jay indicated to the Board that staff would write up a more complete decision for the Board to adopt at their next meeting (Wednesday, February 9, 2000). Mr. Jay also indicated that the decision is final when rendered by the Board. Mr. Jay noted that a Minute Order or Proof of Southern Region Hearing Board Action would be sent to the California Energy Commission today.*

5. **Public Comments** – No Public Comments.

7. **Next Scheduled Meeting** – Wednesday, February 9, 2000 at 10:00 a.m. The meeting will be held via Video Teleconferencing (VTC) at the Southern Region Office, VTC Room, 2700 M Street, Bakersfield with the Central Region Office (Fresno) included via VTC.

8. **Adjournment** – The meeting was adjourned at 1:03 p.m.

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