



# San Joaquin Valley Air Pollution Control District

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William Sanders  
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David L. Crow  
Executive Director/  
Air Pollution Control Officer

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## 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, November 13, 2002  
10:00 a.m.

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

- Call Meeting to Order** – The Vice Chair, William L. Bland, Jr., chaired the meeting. Therefore, the Chair called the meeting to order at 10:10 a.m.
- Roll Call was taken and a quorum was present.**

Kimm Wolber	Medical
Andrew C. Thomson ( <b>absent</b> )	Attorney
Marvin Dean	Public
William L. Bland, Jr., <b>Vice Chair</b>	Public
Hollis B. Carlile, <b>Chair, (absent)</b>	Engineer

**Also present in the Southern Region Office (Bakersfield)**  
Creighton Smith, Supervising Air Quality Inspector, Allan Phillips, Supervising Air Quality Engineer, Steve Tomlin, Senior Air Quality Engineer and Amelia Yuan, Air Quality Inspector.

**Also present in the Central Region Office (Fresno)** – Philip M. Jay, District Counsel, Robert J. Kard, Director of Compliance, Michael Carrera, Senior Air Quality Inspector and Sissy Smith, Clerk to the Board.
- Approve Minutes of: October 9, 2002** – The Chair asked if there were any corrections, comments or additions to the Minutes. Hearing no comments the Chair declared that the Minutes of October 9, 2002 were approved as submitted.

All persons testifying were sworn in by the Chair.

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

The Chair requested that the Hearing Board Packet and any addenda brought forth in today's hearings be entered into the Official Record.

The Chair requested the Petitioners sign the Sign In Sheet.

4. **Public Hearings:**

Michael Carrera presented the Staff Reports.

The Chair requested that A.), B.) C.) and D.) be addressed at the same time. The Chair noted that each unit will be reviewed individually when the Board makes their final decision.

A.)  
Docket S-02-24R, Regular Variance, La Paloma Generating Co., Unit 2,  
B.)  
Docket S-02-25R, Regular Variance, La Paloma Generating Co., Unit 3,  
C.)  
Docket S-02-29R, Regular Variance, La Paloma Generating Co., Unit 4  
D.)  
Docket S-02-34R, Regular Variance, La Paloma Generating Co., Unit 1  
  
1760 W. Skyline Road, McKittrick, CA. 93251. Type of Business: Electrical  
Power Generating Facility.

Creighton Smith provided additional testimony for the District.

**Petitioners** – Zenis Walley, Dr. Ted Guth, Chris Ward, Tom Romesberg, Thomas Rosse, Leonard Sharnell and Michael Kleman represented La Paloma Generating Co.

The Petitioner presented an overhead presentation titled: La Paloma Generating Company, LLC, SJVAPCD Hearing Board, Petitions for Regular Variance, Docket Nos. S-02-34R, 24R, 25R and 29R, November 13, 2002.

A.) Docket S-02-24R, Regular Variance, La Paloma Generating Co., **Unit 2**

**Public Comments** – No Public Comments.

**Decision for Unit 2** – Board Member Dean made the motion to grant the variance subject to nine conditions set forth on pages 3 and 4 of the Staff Report with one additional condition added by the Board during the hearing. Board Member Dean stated that based upon the testimony received during the hearing the Board has concurred that the required six findings set forth on pages 2 and 3 of the Staff Report have been made. Seconded by Board Member Wolber and carried unanimously with the following **Roll Call Vote:**

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

**Absent:** **Thomson and Carlile.**

*Therefore, the Board granted a Regular Variance to Docket S-02-24R, La Paloma Generating Co., Unit 2. The variance shall be effective between September 6, 2002 and September 5, 2003, or until compliance is achieved, whichever occurs first. The Board added the following condition:*

9. *The Petitioner shall appear before the Southern Region Hearing Board and provide a progress report based on the four phases of their compliance plan. Appearance dates shall coincide with the following Southern Region Hearing Board Meeting dates:*

Phase 1,      January 8, 2003  
Phase 2,      April 9, 2003  
Phase III,     June 11, 2003  
Phase IV,     September 10, 2003

**B.) Docket S-02-25R, Regular Variance, La Paloma Generating Co. – Unit 3**

**Public Comments** – No Public Comments.

**Decision for Unit 3** – Board Member Dean made the motion to grant the variance subject to nine conditions set forth on pages 3 and 4 of the Staff Report with one additional condition added by the Board during the hearing. Board Member Dean stated that based upon the testimony received during the hearing the Board has concurred that the required six findings set forth on pages 2 and 3 of the Staff Report have been made. Seconded by Board Member Wolber and carried unanimously with the following **Roll Call Vote:**

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

**Absent:** **Thomson and Carlile.**

*Therefore, the Board granted a Regular Variance to Docket S-02-25R, La Paloma Generating Co., Unit 3. The variance shall be effective between September 6, 2002 and September 5, 2003, or until compliance is achieved, whichever occurs first. The Board added the following condition:*

9. *The Petitioner shall appear before the Southern Region Hearing Board and provide a progress report based on the four phases of their compliance plan. Appearance dates shall coincide with the following Southern Region Hearing Board Meeting dates:*

*Phase 1, January 8, 2003  
Phase 2, April 9, 2003  
Phase III, June 11, 2003  
Phase IV, September 10, 2003*

C.)  
Docket S-02-29R, Regular Variance, La Paloma Generating Co. – **Unit 4**

**Public Comments** – No Public Comments.

**Decision for Unit 4** – Board Member Dean made the motion to grant the variance subject to ten conditions set forth on pages 3 and 4 of the Staff Report with one additional condition added by the Board during the hearing. Board Member Dean stated that based upon the testimony received during the hearing the Board has concurred that the required six findings set forth on pages 2 and 3 of the Staff Report have been made. Seconded by Board Member Wolber and carried unanimously with the following **Roll Call Vote:**

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

*Therefore, the Board granted a Regular Variance to Docket S-02-29R, La Paloma Generating Co., Unit 4. The variance shall be effective between September 6, 2002 and September 5, 2003, or until compliance is achieved, whichever occurs first. The Board added the following condition:*

10. *The Petitioner shall appear before the Southern Region Hearing Board and provide a progress report based on the four phases of their compliance plan. Appearance dates shall coincide with the following Southern Region Hearing Board Meeting dates:*

*Phase 1, January 8, 2003  
Phase 2, April 9, 2003  
Phase III, June 11, 2003  
Phase IV, September 10, 2003*

D.) Docket S-02-34R, Regular Variance, La Paloma Generating Co., **Unit 1**

**Public Comments** – No Public Comments.

**Decision for Unit 1** – Board Member Dean made the motion to grant the variance subject to nine conditions set forth on pages 3 and 4 of the Staff Report with one additional condition added by the Board during the hearing. Board Member Dean stated that based upon the testimony received during the hearing the Board has concurred that the required six findings set forth on pages 2 and 3 of the Staff Report have been made. Seconded by Board Member Wolber and carried unanimously with the following **Roll Call Vote:**

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

**Absent:** **Thomson and Carlile.**

*Therefore, the Board granted a Regular Variance to Docket S-02-34R, La Paloma Generating Co., Unit 1. The variance shall be effective between September 6, 2002 and September 5, 2003, or until compliance is achieved, whichever occurs first. The Board added the following condition:*

9. *The Petitioner shall appear before the Southern Region Hearing Board and provide a progress report based on the four phases of their compliance plan. Appearance dates shall coincide with the following Southern Region Hearing Board Meeting dates:*

*Phase 1, January 8, 2003  
Phase 2, April 9, 2003  
Phase III, June 11, 2003  
Phase IV, September 10, 2003*

E.)  
Docket S-02-38R, Regular Variance, Elk Hills Power, 4026 Skyline Road, Tupman, CA. 93276. Type of Business: Electric Generating Power Plant.

Robert J. Kard, Director of Compliance, provided additional testimony for the District.

**Petitioners** – Raymond Kelly, Sara Head, Matt Held, Taylor Miller and Joe Risse represented Elk Hills Power.

**The Petitioner provided a handout to the Board and District Staff titled:**

- Figure 1. Facility Commissioning Schedule  
Figure 2. Typical Commissioning Activities for Two Units and Associated NOx Emissions

**Public Comments** – No Public Comments.

**After a lengthy discussion regarding the Petitioner purchasing and retiring offsets/emission reduction credits (ERCs) the Chair relinquished the chairmanship to Marvin Dean.**

**Marvin Dean chaired this portion of the hearing.**

**Decision** – Board Member Bland made the motion to grant the variance subject to **nineteen conditions (amended during the hearing)** the original conditions were set forth on pages 4, 5, and 6 of the Staff Report. Board Member Bland stated that the required six findings set forth on pages 3 and 4 of the Staff Report could be made. Seconded by Board Member Wolber and carried unanimously with the following **Roll Call Vote:**

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

**Absent:**          **Thomson and Carlile.**

*Therefore, the Board granted a Regular Variance to Docket S-02-38R, Elk Hills Power. The following conditions were amended. (strike through/deleted and underlined/added)*

1.     *The variance shall be effective for a consecutive 120 days to occur sometime between December 1, 2002 and ~~April 30, 2003~~ May 31, 2003.*
  
12.    *During daylight hours and for the duration of the variance period, Petitioner shall conduct a visible emissions evaluation (VEE) no less than once during unit operations, including start-up, low-load, and shutdown. However, if compliance with the requirements of Rule 4101 can be demonstrated over a five (5) consecutive day period, no further VEE will be required. Upon demonstrating compliance, Petitioner will notify the District and variance relief from 4101 will be terminated.*
  
14.    *To mitigate the excess NOx emissions, Petitioner shall purchase and retire emission reduction credits (ERC) equal to 20% of the actual excess NOx emissions generated as a result of the operation of the subject units during the variance. The amount of ERC shall be calculated, submitted to the District, and permanently retired by no later than ~~30~~ 60 days after achieving compliance.*

*The nineteen conditions shall be set forth in the Order.*

**Marvin Dean relinquished the chairmanship back to William L. Bland, Jr.**

F.)  
Docket S-02-35R, Regular Variance, Cheese & Protein International, Inc., 800 E. Paige Avenue, Tulare, CA. 93274. Type of Business: Milk Processing Facility.

**Petitioners** – Chris Scheidt, Mike Rosa and Jeff Spomer represented Cheese & Protein International, Inc.

Staff advised the Board that Cheese & Protein International, Inc. presented their compliance plan this morning to the Southern Region Office staff. Staff indicated that they will need additional time to evaluate that compliance plan. Staff recommended that this docket be continued to the next scheduled Hearing Board Meeting on December 11, 2002.

**The Chair requested that the clerk make a notation that Docket S-02-35R, Cheese & Protein International, Inc., would be continued to the next regularly scheduled Hearing Board Meeting, December 11, 2002.**

G.)  
Docket S-02-37R, Regular Variance, Chevron USA, Inc., Kern River Oilfield, P O Box 1392, Bakersfield, CA. 93302. Type of Business: Crude Oil Production Facility.

**Petitioners** – Larry Landis and John Segerstrom represented Chevron USA, Inc.

**Public Comments** – No Public Comments.

**Decision** – Board Member Dean made the motion to grant the variance subject to twelve conditions set forth on pages 3 and 4 of the Staff Report **with an additional condition added by the petitioner**. Board Member Dean stated that based upon the testimony received during the hearing the Board has concurred that the required six findings set forth on pages 2 and 3 of the Staff Report could be made. Seconded by Board Member Wolber and carried unanimously with the following **Roll Call Vote**;

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

**Absent:** ***Thomson and Carlile.***

*Therefore, the Board granted a Regular Variance to Docket S-02-37R, Chevron USA, Inc. The variance shall be effective from September 25, 2002 to January 15, 2003, or until compliance is achieved, whichever occurs first. The variance is subject to thirteen conditions. The thirteen conditions will be set forth in the Order. The following conditions were amended/added. (strikethrough/deleted and underlined/added)*

1. *The variance shall be effective from September 25, 2002, to ~~March 15, 2003~~ January 15, 2003, or until compliance is achieved, whichever occurs first.*
3. *The variance shall all a ~~minimum~~ reduced VOC control efficiency ~~of 75%~~ while operation of the petroleum production, storage, and shipping equipment continues, until an alternative control method can be determined and implemented.*
6. *Each of the subject carbon canisters shall have hydrocarbon monitoring conducted at least once per week (each reading shall be recorded) to determine breakthrough. ~~When breakthrough occurs (at >10 ppm) tank vapors shall be immediately diverted to another carbon canister (a parallel system).~~*
10. *The VOC emissions released because of the failing VCS units shall be mitigated through the surrender of VOC Emission Reduction Credits (ERC). The surrendered ERC shall be equal to no less than 1,814 pounds per quarter or 20% of the actual VOC emissions released during the variance period, whichever is greater.*
11. *By ~~April 15, 2003~~, February 15, 2003, or no later than 30 days after the achieving compliance, the Petitioner shall submit to the District a summary report, which shall include ~~the~~ all information requested above.*
13. *The Petitioner shall achieve compliance with the 99% control efficiency by no later than January 15, 2003.*

**H.) *Withdrawn***

Docket S-02-31R, Regular Variance, Shell Pipeline Company LP, Carneras Pump Station) Section SW34, T27E, R20E, Lost Hills, CA.

5. **Administrative Agenda – Receive and File** – The Southern Region Hearing Board Received and Filed the following emergency variance orders:
  - A.) Docket S-02-36E Chevron USA, Inc.  
P O Box 1392  
Bakersfield, CA. 93302
  - B.) Docket S-02-39E Aera Energy LLC  
P O Box 11164  
Bakersfield, CA. 93389



- C.) Docket S-02-40E Equilon Enterprises LLC  
6451 Rosedale Hwy  
Bakersfield, CA. 93308
- D.) Docket S-02-41E Equilon Enterprises LLC  
6451 Rosedale Hwy  
Bakersfield, CA. 93308
- E.) Docket S-02-43E Chevron USA, Inc.  
P O Box 1392  
Bakersfield, CA. 93302
- F.) Docket S-02-44E Chevron USA, Inc.  
P O Box 1392  
Bakersfield, CA. 93302

6. **Public Comments** – Larry Landis, Environmental Coordinator, stated that earlier in one of today's hearings a discussion came up about offsets.

Mr. Landis suggested that at some point the Southern Region Hearing Board Members have a meeting to discuss the issue of offsets. So that when it comes up in the future that the Petitioners and the District staff know what figures to put into their petitions/reports to present to the Board and not have to try to put a pencil to whether it is reasonable or not during the actual hearing.

Mr. Landis indicated there is a value that's associated with the use of these offsets and one of the findings the Board has to make is whether that decision is reasonable. The Board, literally can't do that if they are jockeying around at the last minute for a value. Mr. Landis stated that maybe that's something the Board might want to consider doing is to actually have a meeting to make a decision as a Board for each type of pollutant the fraction of offsets.

7. **Hearing Board Member Comments** – Board Member Dean stated that he commended Mr. Landis for making his comments during the Public Comment section of the Hearing. Board Member Dean stated that, that is perhaps something that this Board needs to take a look at in terms of maybe what other air districts are doing.

8. **New Business** – The Chair asked if the Board had any training coming up in the near future?

Mr. Kard indicated that he would check to see if any training classes were coming up.

Mr. Kard also stated that staff would also look to see what other air districts are doing in regards to the offset issue.

9. **Next Scheduled Meeting** – Wednesday, December 11, 2002 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) participating via VTC.
10. **Adjournment** – The Chair adjourned the meeting at 12:38 p.m.

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Sissy Smith, Clerk to the Board  
Southern Region Hearing Board  
San Joaquin Valley Unified  
Air Pollution Control District