

FILED

JUN 28 2007

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

MARY ROMAIDIS
CLERK
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the Matter of the Application of)	
)	
LOS ESTEROS CRITICAL ENERGY)	No. 3536
FACILITY)	
)	ORDER DENYING
For a Variance from Regulation 2-1-307,)	<u>EMERGENCY VARIANCE</u>
Condition # 19610, Parts 12, 17, 19b.)	
_____)	

The above entitled matter, being an Application for Variance from the provisions of Regulation 2-1-307, Condition #19610, Parts 12, 17, 19b, having been filed on June 15, 2007, at 2:20 p.m., and having been considered by the Hearing Board:

THE HEARING BOARD STATES as the reasons for its decision and FINDS as to those matters in which findings are required:

1. Applicant filed this Application for Variance under the Emergency Variance procedures, Hearing Board Rules, Section 2.5. Pursuant to Health and Safety Code Sections 42359 and 42359.5, the Hearing Board determined that this Application properly could be ruled upon without notice and hearing. Prior to making this determination, and in accordance with Hearing Board Rules Section 2.5.d.2, the Hearing Board requested and received a response to this Application from the Air Pollution Control Officer. That response recommended that the

ARB

1 Emergency Variance be denied. The Air Pollution Control Officer's recommendation is based on
2 the fact that as of June 20, 2007, according to the Applicant, no violation of District Rules or
3 Regulations has been documented since the filing of the Emergency Variance; and the District's
4 inspection staff has confirmed that there have been no violations. The District staff believes that if
5 a violation should occur in the future, the Applicant may request variance relief by filing a regular
6 variance application at that time.

7 2. Applicant operates a natural gas-fired power plant with four simple-cycle GE
8 LM6000 gas turbines located at 1515 Alviso Milpitas Road, San Jose, California 95134.

9 3. The equipment for which a Variance is being sought is a gas turbine #4, power
10 generation, required to operate by the California Independent System Operator (CA ISO). The
11 natural gas-fired power plant has four 45 megawatt gas turbines. The combustion emissions from
12 each turbine are routed through ammonia injection Selective Catalytic Reduction (SCR) abatement
13 units to reduce nitrogen oxide (NOx) before being released to the atmosphere. Since several
14 months, the performance of the SCR abatement unit may have declined to the point where
15 simultaneous compliance with NOx and ammonia limits may no longer be possible. Therefore,
16 the Applicant has been diligently trying to diagnose the cause of high ammonia emissions, but has
17 not been able to finally determine the cause. The Applicant took immediate steps to mitigate
18 excess emissions by either minimizing or completely avoiding the operation of the turbine while
19 making efforts to diagnose the cause. However, since the unit is required to be operated by CA
20 ISO, when deemed necessary, the Applicant must operate it when required to do so by CA ISO.
21 The CA ISO has required the Applicant to operate the plant, commencing June 15, 2007, at full
22 capacity, prior to completion of the Applicant's diagnostic efforts. Therefore, the Applicant took
23 immediate steps by submitting an Application for Emergency Variance on June 15, 2007.

24 4. There is a continuous regular maintenance, inspection and monitoring schedule
25 for this equipment. The Applicant has been diligently trying to diagnose the cause of the high
26 ammonia emissions for several months, but has been unable to determine it. Since the CA ISO

1 required the Applicant to operate the plant at full capacity on June 15, 2007, it was unforeseeable
2 and beyond the Applicant's reasonable control.

3 5. However, upon the District's inspection staff's visit to the Applicant's facility,
4 and interviews with the Applicant, it appears that according to the Applicant's records Applicant
5 has been monitoring the equipment and found that it was not in violation of District Rules or
6 Regulations since June 15, 2007. The District's inspection staff interviewed the Applicant and
7 confirmed that no violation of District Rules or Regulations has been documented since the filing
8 of the Emergency Variance.

9 6. The Applicant could not curtail, terminate or modify the operations in lieu of
10 obtaining a variance since it was required by the CA ISO to operate the plant at full capacity.

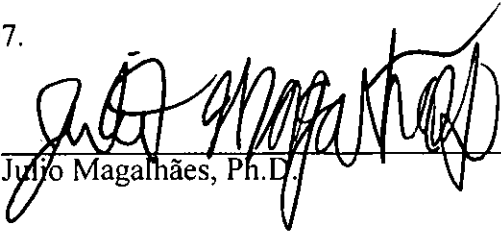
11 7. This Variance has not caused any injury, detriment, nuisance, or annoyance to
12 any considerable number of persons or to the public, or endangered the comfort, repose, health or
13 safety of any such persons or the public, or caused or had a natural tendency to cause injury or
14 damage to business or property. The District confirmed that no complaints had been received.

15 8. Since the Applicant is not in violation of District Rules or Regulations, and
16 based upon the District staff's recommendation to the Hearing Board that the Emergency
17 Variance be denied, the Hearing Board hereby denies the Emergency Variance. The Applicant
18 may wish to consider filing a regular variance application if the Applicant expects to be in
19 violation of District Rules or Regulations during a future period of required operation by the CA
20 ISO.

21 THEREFORE, THE HEARING BOARD ORDERS:

22 That the Emergency Variance hereby be denied.

23
24 DATED: June 21, 2007.

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Julio Magalhães, Ph.D.