

**FILED**

**JUN 20 2012**

HEARING BOARD  
BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT  
**Sean Gallagher**  
Clerk of the Boards  
Bay Area Air Quality  
Management District

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

In the Matter of the Application of )  
)  
**GILROY ENERGY CENTER, LLC** ) No. 3635  
)  
For a Variance from Permit to Operate ) ORDER GRANTING  
Condition 18102, Part 19.2 ) EMERGENCY VARIANCE  
\_\_\_\_\_ )

The above-entitled matter, being an Application for Variance from the provisions of Permit Condition 18102, Part 19.2, having been filed on June 6, 2012, at 4:21 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 for the Bay Area Air Quality Management District (Air District). That response recommended the Emergency Variance be granted.

1           2.       Applicant operates an electricity generating facility located at 1400 Pacheco Pass  
2 Highway, Gilroy, California 95020.

3           3.       Non-compliance with the ammonia slip limit was discovered by an independent  
4 party during engineering pre-testing conducted for ammonia slip. On June 4, 2012, Unit S-3  
5 exceeded ammonia slip limits during the Low Load single point ammonia slip engineering pre-  
6 test. On June 5, 2012, Unit S-4 exceeded ammonia slip limits during the High Load single point  
7 ammonia slip engineering pre-test. As a result, Applicant was unable to comply with the  
8 applicable permit condition.

9           4.       Applicant estimated this defect can be repaired by July 4, 2012 at 4:20 p.m.

10          5.       This Variance will not cause injury, detriment, nuisance, or annoyance to any  
11 considerable number of persons or to the public, or endanger the comfort, repose, health or safety  
12 of any such persons or the public, or cause or have a natural tendency to cause injury or damage to  
13 business or property.

14          6.       Due to conditions beyond the reasonable control of Applicant, requiring compliance  
15 with said Permit Condition 18102, Part 19.2, limiting the emission of air contaminants would  
16 result in an arbitrary and unreasonable taking of property and the practical closing and elimination  
17 of a lawful business activity of Applicant, without a sufficient corresponding benefit in the  
18 reduction of air contaminants.

19          7.       Applicant will curtail operations until repairs are made.

20          8.       During the period the variance is in effect, Applicant will reduce excess emissions  
21 to the maximum extent feasible.

22                   THEREFORE, THE HEARING BOARD ORDERS:

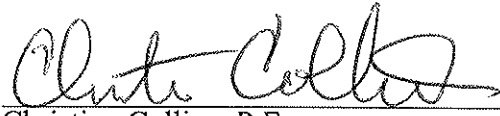
23                   A Variance from Permit Condition 18102, Part 19.2, be and is hereby granted from  
24 June 6, 2012, at 4:21 p.m., to and including July 4, 2012, at 4:20 p.m., conditioned upon the  
25 following:

26                   Gilroy Energy Center, LLC, shall prepare a report for each source containing:

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1. Engineering pre-testing summary to show that the ammonia slip appeared to be excessive;
2. Engineering evaluation to determine repairs necessary to reduce ammonia slip to an acceptable level in Permit Condition 18102, Part 19.2;
3. Repairs actually made including approximate costs and date of completion;
4. Testing results to confirm compliance;
5. Any operational and maintenance changes to increase system reliability (maintain ammonia slip within permitted limits); and
6. Quantify excess ammonia emissions during emergency variance period.

DATED: June 20, 2012



Christian Colline, P.E.  
Hearing Board Member