

**COMMENTS OF THE CITY AND COUNTY OF SAN FRANCISCO  
ON THE PROPOSED RENEWAL OF THE AIR PERMIT FOR  
THE HUNTERS POINT POWER PLANT**

The City and County of San Francisco (CCSF or City) submits these comments on the proposed renewal by the Bay Area Air Quality Management District (District) of the air permit for the Hunters Point power plant. Pacific Gas & Electric Company (PG&E) has applied for renewal of the permit for a period of 5 years, the maximum the law allows. The City makes the following recommendations:

- The District should deny the permit based on the environmental and human health impacts of the plant.
- The District should conduct a thorough investigation of the plant's impacts on the people and environment of southeast San Francisco before deciding to grant any new Title V permit.
- If the District issues any permit, it should require the permit to terminate at the end of 2005.
- If the District issues any permit, it should require additional air quality monitoring and a compliance plan to establish a timeframe for compliance.

These actions are within the District's authority and consistent with the District's obligation to consider environmental justice and public health factors in making decisions. For the reasons discussed below, the District has ample justification to deny or modify the permit as well as to limit or condition its approval of any permit.

**A. The Public Health Impacts of the Facility Justify Action by the District Other Than Simply Renewing the Permit.**

Rule 2-6-313<sup>1</sup> allows the Air Pollution Control Officer (APCO) to deny a major facility review permit if the facility, or any source therein, is in violation of any applicable requirement and the facility cannot obtain a compliance schedule in

accordance with the Health and Safety Code. In addition, Health and Safety Code (H&S Code) § 40752 requires the APCO to take all action necessary to enforce air pollution control laws, including H&S Code § 41700 that requires the APCO to prohibit any person from discharging "from any source whatsoever such quantities of air contaminants or other material which cause injury, detriment, nuisance or annoyance to any considerable number of persons or the public."

Air pollution from the Hunters Point plant has caused a public health nuisance and annoyance to a considerable number of people in the Bayview Hunters Point community. It is also likely to contribute to injury from air pollution. There are densely populated neighborhoods close to the plant and over 50 schools within a three-mile radius. Those residents and schoolchildren are already exposed to air in the Bay Area that does not meet the California standard for PM<sub>10</sub> and PM<sub>2.5</sub>. The plant contributes significantly to ozone (O<sub>3</sub>), carbon monoxide (CO), particulate matter (PM<sub>10</sub> and PM<sub>2.5</sub>), and Nitrous Oxide (NO<sub>x</sub>) pollution.

**B. Reevaluation of a Title V Permit Must Include A Meaningful Evaluation of Environmental Justice Concerns.**

The District needs to do more than just receive comments from the community. It needs to look for creative ways to respond to the disparate impact effects of the plant and to mitigate those impacts to the extent possible.

In 1994, President Clinton issued Executive Order 12898, which directed the EPA and all other federal agencies to develop environmental justice strategies that identify and address disparately high and adverse human health or environmental effects of programs,

---

<sup>1</sup> "Rule" refers to the Bay Area Air Quality Management District Regulations.

policies, and activities on minority and low income populations. (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, Executive Order 12898, February 11, 1994.)

Although the District is not directly subject to the Executive Order, it must still operate its Federally approved state program in compliance with Federal requirements, such as EPA's environmental justice guidelines, that are in conformance with the presidential order. The EPA says, "no group of people, including racial, ethnic, or economic group should bear a disparate share of the negative environmental consequences resulting from industrial, municipal, and commercial operations or the execution of federal, state, local, and tribal programs and policies." (EPA, *Final Guidance for Incorporating Environmental Justice Concerns in EPA's Compliance Analyses*, April 1998.) The District's duty to administer Title V thereby includes compliance with EPA's regulations on Nondiscrimination in Programs Receiving Federal Assistance From The Environmental Protection Agency. 40 CFR Part 7. This part implements Title VI of the Civil Rights Act of 1964 that is applicable to the Air District's actions under Title V.

**C. The Record Justifies Extraordinary Action From The District.**

The District has reason to take a serious look at PG&E's application for this Title V permit, and not simply rubberstamp the permit.<sup>2</sup> The community, the City, the ISO and state entities that have responsibility for the electric system are working to ensure an

---

<sup>2</sup> The Air District had sent the draft permit to EPA for its review before receiving input from the City or the community. This demonstrated a clear disregard for public input. Only after experiencing a high degree of anger from the community with regard to the Hunter Point Power Plant Title V reissuance did it withdraw the draft Title V permit from EPA.

electric system in San Francisco that is clean, efficient and reliable. Closing the old, inefficient and highly polluting facilities such as this power plant is an essential part of that strategy. This permit review is the District's opportunity to be part of that work.

The District has received numerous complaints about the plant from the community. At the public information meeting held by the District on April 6, 2004 numerous residents voiced their complaints about air pollution from the plant that spanned several years. These complaints were based on years of nuisance air pollution emissions from the plant that followed breakdowns and startups. Citizens for a Better Environment (CBE) documented at least 30 startups and shutdowns at the plant since July 13, 2001.<sup>3</sup> Rule 9-11-111 allows air emissions standards during start-up and shut-down to exceed required limits. This has resulted in community exposure to high levels of air pollution resulting in health problems and nuisance.

The public health and environmental justice impacts of the power plant are well documented and justify its closure. The community has a high concentration of industrial waste sites and pollution sources. It is a community of color with a population that is 61% African American as compared to 11% for San Francisco as a whole. The Bayview Hunters Point community also has the highest rate of air pollution related health problems in San Francisco.<sup>4</sup> The District should use this opportunity to deny the permit as necessary for the health of the community.

---

<sup>3</sup> Communities for a Better Environment comments on the Air District proposal to renew the Major Facility Permit and Acid Rain Permit for the PG&E Hunters Point Power Plant (Air District Facility #A0024)

<sup>4</sup> Bayview Hunters Point Community Health and Environment Check Up, Tomas Aragon, MD, MPH, SF Dept of Public Health, and Kevin Grumbach, MD, Medical Effectiveness Research Center for Diverse Populations, UCSF, Bayview Hunters Point Health and Environmental Assessment Task Force, May 17, 1997.

**D. The District Should Conduct A Thorough Investigation into the Impacts of the Plant Before Granting A New Title V Permit.**

There is ample reason for the District to be concerned about the effects of air pollution from this plant on the population in southeast San Francisco . However, the extent of air pollution monitoring has been very limited. The biggest single pollutant of concern—particulate matter—has never been sampled on a regular basis in the vicinity of the plant. The closest District air sampling station is the Tennessee Street Station, which is several miles from the plant and upwind of the plant for most of the year. For all of the reasons stated above, before the District decides to renew the Title V permit it should use this opportunity to collect and analyze data on emissions, emissions transport and on air pollution exposure to the community. This information may further justify a District action to deny the permit, or at a minimum help design an effective ambient air monitoring system as part of the compliance plan.

**E. If The District Issues A Permit It Should Limit Any Permit It Grants To Terminate At The End Of 2005.**

The closure of the Hunters Point plant has been a goal of the community and the City for many years. In 1998 the City and PG&E reached an agreement that PG&E would retire the plant when it is no long needed for reliability. The District's Stationary Source Committee has recommended that the District support PG&E's desire to close the plant when it is no longer needed. CCSF commends the Stationary Source Committee for its support of this effort, but recommends that the District do more than express abstract support for closing the plant. The District has the authority to ensure that the

plant closes immediately. Alternatively, the District can ensure that any permit it grants here encourages the expeditious closure of this old, polluting plant.

Based on studies performed by the California Independent System Operator (ISO) and PG&E, the City anticipates that the plant can be retired by no later than the end of 2005. The ISO has agreed that the plant can be closed when the City's turbine project or the Jefferson-Martin transmission project is online and other scheduled transmission projects are completed—this could be as soon as the end of 2005. Even without these projects, the ISO and PG&E have ample time to ensure that the system can operate without the Hunters Point plant by the end of 2005. In view of these circumstances, the District should terminate any permit it issues at the end of 2005, at the latest.

**F. A Five-Year Permit Is Not Required For Unit 1.**

Unit 1 is not subject to the Acid Rain Program under federal requirements because it is a simple combustion turbine that commenced commercial operation before November 15, 1990. 40 CFR 72.6(b)(1). Therefore, the District can issue a Title V permit for any term less than 5 years for non acid rain sources under the Clean Air Act. If necessary, the District can issue multiple Title V permits for HPPP (Clean Air Act § 502(c)).

The District asserts that it is required to issue a Title V permit for 5 years for the entire Hunters Point Power Plant because it has one source that requires a 5 year permit.<sup>5</sup> This is simply not the case. Sources of air pollution at this facility are subject to the operating permit requirements of Titles IV and Title V of the federal Clean Air Act

(CAA). The facility is subject to Title IV (acid rain permit requirements for "affected sources") because it has air pollution sources that use fossil fuel and serves a generator that is over 25 megawatts that is used to generate electricity for sale. (40 CFR 72.6(b)(2)) Sources subject to Title IV requirements must have a Title V permit with a mandatory 5-year term. (CCA § 408(a)(4)) It is also a "major facility" under Title V because it emits more than 100 tons per year of regulated air pollutants. (40 CFR 70.2) (see also Statement of Basis, pg. 1) However, sources subject only to Title V requirements are not entitled by law to a mandatory 5-year permit. (40 CFR 70.6(a)(2)) This is discretionary on the part of the Air District.

Sources S-1 and S-2 (Unit 1) are not "affected units" (meaning that they are not subject to the Acid Rain Program) under federal requirements because they are simple combustion turbines that commenced commercial operation before November 15, 1990. 40 CFR 72.6(b)(1). It is therefore not mandatory for the District to issue a 5-year Title V permit for these sources. It is purely the District's choice to issue one permit for the entire facility. The Clean Air Act allows for multiple permits to be issued to a facility with multiple sources. (CAA § 502(c)) The District has the legal ability and the grounds for at least issuing a separate and shorter term permit for Unit 1.

**G. PG&E Can Request A Permit For Unit 1 of Less Than 5 Years.**

Rule 2-6-416 allows the facility to request a shorter-term permit. In light of PG&E's agreement with the City and the overwhelming concern for air pollution from

---

<sup>5</sup> Comment by Steve Hill of the Air District at the April 8, 2004 public information meeting on the Potrero Power Plant Title V permit. The District applied the same logic to the Hunters Point Power Plant Title V permit.

these units, the District should at a minimum request PG&E to accept a shorter term permit for Unit 1.

**H. PG&E Can Agree To Limit Its Use Of Unit 4 To 1 Year.**

Whatever the District's interpretation of the rules, nothing precludes PG&E from agreeing, as part of a compliance plan, to a permit that terminates at the end of 2005. If the District does not want to deny the permit or require a shorter permit, the District should work with PG&E to develop a plan to allow the termination of the Title V permit by the end of 2005, at the latest.

**I. Any Permit That Is Issued Should Impose Additional Monitoring Requirements And A Plan To Retire The Plant by the End of 2005.**

Any permit should require PG&E to install an ambient air monitoring station in the Bayview Hunters Point neighborhood that measures ozone, NO<sub>x</sub>, PM<sub>10</sub> and PM<sub>2.5</sub>. The monitoring station should be installed and operational as soon as possible and required as part of a compliance plan. Reporting from the station should be made easily available to the community through the District. The location and capability of the station should be conceived in coordination with the affected community.

In addition, the District should seek ways of making it easy for the community to notify the District of specific complaints against the facility. For instance, the District could post a phone number at frequent intervals near the border of the plant for persons to quickly notify the District of air pollution complaints. Those complaints should all be recorded and summaries made easily available to the public. All complaints should be retained by the District for a minimum of 5 years. Details of this compliance should be

designed with input from the affected community. A compliance plan should include a timetable for completion of these items.

May 25, 2004

Respectfully submitted,

DENNIS J. HERRERA  
CITY ATTORNEY  
THERESA L. MUELLER  
JOSEPH P. COMO  
DEPUTY CITY ATTORNEYS

Attorneys for City and County of San Francisco

By: \_\_\_\_\_

Joseph P. Como  
Deputy City Attorney  
Office of the City Attorney  
City Hall, Room 234  
1 Dr. Carlton B. Goodlett Place  
San Francisco, CA 94102  
(415) 554-4637 (Telephone)  
(415) 554-4763 (facsimile)