Responses to Public Comments

Application for Renewal of Major Facility Review Permit
Mirant Potrero LLC
Potrero Power Plant
District Facility No. A0026

This document presents the responses of the Bay Area Air Quality Management District ("Air District" or "District") to comments received from members of the public on the District's proposed renewal of the Title V Major Facility Review Permit ("permit") for the Potrero Power Plant ("PPP") operated by Mirant Potrero LLC ("Mirant").

The District published its proposal to renew the permit for the PPP on March 30, 2004, and received written comments from 2 commenters. The District also held a public hearing on May 6, 2004, to solicit oral comments from the public, and received oral comments from one commenter. The District has reviewed and analyzed the comments it received during this process, and responds as set forth herein. For each comment received, this document provides the District's rationale for either agreeing with the comment and modifying its proposal, or disagreeing and continuing with the proposal as originally published.[1]

These Responses to Comments are organized by the subject matter of the comments received:

I. Air Quality/Emissions 2

II. Health Impacts 3

III. Environmental Justice 8

IV. Nuisance 9

V. Need For Facility/Permit Term 9

VI. Air Monitoring 10

VII. Complaint Procedures 11

VIII. Facility Technical Comments 11

IX. Miscellaneous 12

[1] The District also received two submissions after the close of the public comment period. These submissions are not formal comments in the record for this permitting action that the District must consider and respond to. The District nevertheless has considered and responds to these late submissions, as appropriate.

I. Air Quality/Emissions

Comment I.a: Commenters claimed that the plant contributes significantly to ozone, carbon monoxide ("CO"), particulate matter ("PM") and nitrogen oxides ("NOx") pollution.

District Response: As explained in the Statement of Basis for this permitting action, the facility emits regulated air pollutants, including CO, PM, and NOx, which need to be carefully controlled under the facility's permit. The pollutants enter the atmosphere in hot exhaust gases that quickly rise high above ground level. The prevailing wind direction is very strongly towards the east, and the emissions from the facility are transported by these winds out over the San Francisco Bay. These factors tend to lessen the health impacts from the facility's emissions; health impacts are discussed in more detail in the next section.

The facility does not emit ozone. NOx, which is emitted from a large number of facilities in the Bay Area, does combine with VOCs and other pollutants, and, in the presence of sunlight, forms ozone (although such ozone formation takes place hours after the precursors have been emitted and far downwind of the source of the emissions). The District has been working proactively to reduce NOx emissions from this and all other such plants in the Bay Area in an effort to reduce ambient ozone levels. The District has been consistently ratcheting down the amounts of NOx that can be emitted from power plants using fossil-fuel fired steam boilers under District Regulation 9, Rule 11. That regulation reduces the emissions limits applicable to such boilers to less than 10% of the limits that were applicable in 1994, when the regulation was first adopted. The reductions have occurred in several interim steps, with the second-to-last step coming into effect January 1, 2004, and making the applicable limitation less than 20% of the 1994 limit, and the last step coming into effect on January 1, 2005, making the applicable limitation less than 10% of the 1994 limit. Partially in response to the mandate of Regulation 9, Rule 11, the PPP has made several improvements to its boiler, installing new burners, improving the flue gas recirculation system, installing water injection, and improving burner management systems to reduce the amounts of NOx emitted from the unit. Mirant is also planning to retrofit the facility with additional pollution control equipment to further reduce emissions in order to comply with the very stringent 2005 NOx limit.

The District is committed to ensuring that all emissions from the facility are in accordance with all federal, state and local laws and regulations. Accordingly, the District has, in connection with this Title V permit renewal application and also in connection with previous applications, reviewed all of the operations at the facility and all of the applicable regulatory requirements, and has confirmed that under the facility's renewed Title V permit, all emissions will comply with all applicable legal requirements. In such a situation, the District is required by law to approve the renewal

Comment I.b: One commenter claimed that the plant is old and polluting. The commenter stated that even if the Unit 3 boiler is retrofitted with pollution control equipment to meet the District's 2005 NOx emission requirements, it will still be more polluting than modern power plants.

District Response: Since it was first constructed, the plant has been upgraded in a number of ways to reduce emissions in order to meet the District's stringent regulatory requirements. The plant will also be retrofitted to meet the District's stringent 2005 NOx requirements. As a result of these upgrades, emissions will not be comparable to those from "old" facilities, as the commenter claims, but will be comparable to those from "modern" facilities. For example, historically, NOx emissions from the Unit 3 boiler were in the range of 60-100 ppm. Upon completion of the retrofit, the boiler will be able to maintain NOx emissions in the range of 5 ppm. This is very close to the stringent 2.5 ppm emission limit that the District imposes on many new power plants. Given this situation, it may be technically correct to state that the boiler will not be able to achieve the same emission standards as the very best new equipment, but the reality is that with the upgrades discussed above, it will now be in the same class as modern plants. Furthermore, the emissions involved comply with all applicable legal requirements, regardless of how they compare with other facilities, and so the District is required under Title V to approve the permit renewal.

Comment I.c: One commenter claimed that the 3 oil-fired turbines at the facility (Units 4-6, Sources S-10 through S-15) will be able to emit large amounts of NOx and PM because they are not subject to the retrofit requirements that the boiler (Unit 3, Source S-1) is subject to.

District Response: First of all, the commenter is incorrect that the Unit 3 boiler is subject to a retrofit requirement. The boiler is subject to the requirements of District Regulation 9, Rule 11, which imposes a limit on the average NOx emissions from all sources owned by Mirant – what is commonly referred to as a system-wide "bubble" limit. Under this regulation, Mirant can operate its multiple facilities however it sees fit, as long as the system-wide average NOx emissions are below the applicable limits. Mirant plans to retrofit the Potrero Unit 3 boiler as the best way to comply with this system-wide limitation, although that is not the only way that it can comply with the applicable regulations.

With respect to the 3 turbines, these units are subject to District Regulation 9, Rule 9, which does not have the same NOx system-wide "bubble" limit. These units are subject to other controls, however, such as restrictions on the number of hours the units can operate, which will achieve the same results in terms of effective overall emissions limits.

II. Health Impacts

Comment II.a: Commenters claimed that emissions from the plant are likely to contribute to injury from air pollution.

District Response: The District takes very seriously the health concerns raised by the commenters. There are a number of health problems that can be caused or exacerbated by air pollution, and the District is committed to improving air quality and public health in the community surrounding the facility and in all communities throughout the Bay Area.

As a threshold matter, the current permit renewal does not allow for any increase in permitted emissions from the facility. As a result, the current action cannot cause or permit any increase in any potential air quality or health impacts.

As for the potential health effects of the facility's currently permitted air emissions – the emissions that will continue to be allowed under a renewed permit – the District has studied the potential for adverse health impacts in great detail. The District has examined the potential health impacts both from toxic air contaminants ("TACs") emitted directly from the facility, as well as from "criteria pollutants," which are not normally significant when emitted from a single facility, but which may become significant when they are emitted by large numbers of sources and combine to impact ambient air quality over a wide area.[2] In both cases, the evidence shows that emissions from the facility have, at most, a *de minimis* effect on public health in the community.

Toxic Air Contaminants:

With respect to TACs, a Health Risk Assessment (HRA) was prepared for the facility in 1993 under the requirements of the Air Toxics "Hot Spots" (ATHS) program. This HRA indicated that the lifetime cancer risk associated with exposure to the facility's TAC emissions was 0.69 in one million for the maximally exposed individual (MEI) in a residential location, and 1.51 in one million for the MEI in a non-residential location. The maximum chronic hazard index (HI), a measure of non-cancer health risks, was found to be 0.016 (residential receptor).

Based on these results, the facility was categorized as a "Level 0" facility pursuant to the risk management guidelines adopted by the District for the ATHS program. A Level 0 facility must submit information to the District on a periodic basis so that TAC emissions inventories can be updated. A Level 0 facility does not, however, trigger public notification nor risk reduction requirements under the ATHS program.[3]

[2] The comments the District received addressed criteria pollutants and ambient air quality issues, but the District has reviewed the TAC emissions as well to fully address both categories of potential public health impacts.

[3] For reference, a facility triggers public notification requirements under the ATHS program if the maximum cancer risk is greater than 10 in one million (Level 1 facility); risk reduction measures are required if the cancer risk is greater than 100 in a million (Level 2 facility). For non-cancer risk, these requirements are not triggered if the maximum chronic HI is less than 1.0.

In connection with the current permitting action, the District conducted a revised HRA using current information. The updated HRA found that the lifetime cancer risk associated with exposure to the facility's TAC emissions is 0.39 in one million for the MEI in a residential location, and 0.73 in one million for the MEI in a non-residential location. The maximum chronic HI is 0.018, and the maximum acute HI is 0.059 (residential receptor). Not only are these health risks far below levels that would trigger regulatory action under the ATHS program, they are also well within the more stringent risk management criteria that the District has established for the permitting of entirely new facilities.

Criteria Pollutants/Ambient Air Quality:

With respect to emissions of criteria pollutants, the District examined the ambient air quality in the area of the facility. Ambient air quality is governed by state and federal ambient air quality standards ("AAQS"), which are established to be protective of public health, with an adequate margin of safety. Air that complies with these standards is therefore considered to be safe and not harmful to breathe. The ambient air in the vicinity of the PPP complies with all federal AAQS and all state AAQS except for one, and is therefore considered to be protective of public health.[4] None of the commenters has pointed to any reason to conclude otherwise.

To determine whether emissions of criteria pollutants from the PPP facility would cause potential public health impacts, the District examined whether such emissions could cause the air in the vicinity of the facility to violate the applicable AAQS. The District analyzed criteria pollutant emissions under the approach used in EPA's Prevention of Significant Deterioration (PSD) program. This approach involves a dispersion modeling analysis conducted in two distinct phases: (1) a preliminary analysis; and (2) a full impact analysis, if warranted by the preliminary analysis. The preliminary analysis models only the emissions from the facility and is used to determine whether a full impact analysis, involving the estimation of background pollutant concentrations resulting from existing sources, must be undertaken. A full impact analysis for a particular pollutant (and averaging period) is required only when emissions of that pollutant from a facility would increase ambient concentrations by more than a prescribed significant ambient impact level. It is assumed that impacts that are less than the significant ambient impact level for a particular pollutant (and averaging period) will not interfere with the attainment or maintenance of the AAQS for that pollutant, regardless of background pollutant concentrations.

The results of the preliminary air quality impact analysis are shown in Tables II.A. and II.B. below.[5]

[4] The one state standard that is not currently being complied with is the state PM standard, a very stringent standard that has not been achieved anywhere in the state (with the exception of rural Lake County). The District does not believe that this fact means that emissions from this facility will harm public health, however. As noted above, the air in the vicinity of the facility does comply with the federal PM standard, which is a health-based standard established to ensure that air is safe and not harmful to breathe. Furthermore, this federal standard has been reviewed and updated much more recently than the older state standard, and so has the benefit of being based on more current technical developments. And as the analysis set forth in the following paragraphs shows, PM emissions from the facility will have no significant impact on District efforts to reduce PM levels in the ambient air down to the state standard. The District has used this approach in evaluating PM issues in a great many permit applications, with no objection from the state Air Resources Board.

[5] Maximum ground level concentrations (except for annual averages) are based on the operating scenario where each source is simultaneously emitting at its maximum operating rate. Annual averages are based on annual throughput data from 2003.

TABLE II.A – RESIDENTIAL SCREENING ANALYSIS
Comparison of maximum predicted facility emissions to District significance thresholds
Residential receptors

Pollutant	Averaging Time	Max Ground Level Conc. ($\mu g/m^3$)	Significant Air Quality Impact Level ($\mu g/m^3$)	Impact above significant level?	California AAQS ($\mu g/m^3$)	National AAQS ($\mu g/m^3$)
Carbon Monoxide (CO)	8-hour	99	500	N	10,000	10,000
	1-hour	318	2000	N	23,000	40,000
Nitrogen Dioxide (NO_2)	Annual	0.24	1.0	N	-	100
	1-hour	45	19	Y	470	-
Sulfur Dioxide (SO_2)	Annual	0.01	1.0	N	-	80
	24-hour	6.6	5.0	Y	105	365
	3-hour	29	25	Y	-	1300
	1-hour	54	-	-	655	-
Particulate Matter (PM_{10})	Annual	0.05	1.0	N	20	50
	24-hour	4.4	5.0	N	50	150

TABLE II.B – NON-RESIDENTIAL SCREENING ANALYSIS
Comparison of maximum predicted facility emissions to District significance thresholds
Non-residential receptors

Pollutant	Averaging Time	Max Ground Level Conc. ($\mu g/m^3$)	Significant Air Quality Impact Level ($\mu g/m^3$)	Impact above significant level?	California AAQS ($\mu g/m^3$)	National AAQS ($\mu g/m^3$)
Carbon Monoxide (CO)	8-hour	432	500	N	10,000	10,000
	1-hour	979	2000	N	23,000	40,000
Nitrogen Dioxide (NO_2)	Annual	0.71	1.0	N	-	100
	1-hour	279	19	Y	470	-
Sulfur Dioxide (SO_2)	Annual	0.08	1.0	N	-	80
	24-hour	74	5.0	Y	105	365
	3-hour	245	25	Y	-	1300
	1-hour	335	-	-	655	-
Particulate Matter (PM_{10})	Annual	0.16	1.0	N	20	50
	24-hour	34	5.0	Y	50	150

The results of the analysis for the residential receptors indicate that the impacts for all criteria pollutants are less than the applicable significant air quality impact levels except for the 1-hour NO_2, and the 3- and 24-hour SO_2 impacts. For the non-residential receptors, the results show that the impacts for the 1-hour NO_2, 3- and 24-hour SO_2, and 24-hour PM_{10} impacts exceed the applicable significant air quality impact

levels. A full impact analysis was therefore completed to determine whether the facility's emissions interfere with the attainment or maintenance of the California and National AAQS. A significant air quality impact level has not been established for 1-hour SO_2 impacts. Therefore, a full impact analysis was also completed for the California 1-hour SO_2 AAQS.

The results of the full air quality impact analysis are shown in Tables II.C. and II.D. below.[6]

TABLE II.C – RESIDENTIAL FULL ANALYSIS
Maximum predicted cumulative ambient impacts for residential receptors

Pollutant	Averaging Time	Max Ground Level Conc ($\mu g/m^3$)	Max Background Conc. ($\mu g/m^3$)	Max. Total Concentration ($\mu g/m^3$)	California AAQS ($\mu g/m^3$)	National AAQS ($\mu g/m^3$)
Nitrogen Dioxide (NO_2)	1-hour	45	143	188	470	-
Sulfur Dioxide (SO_2)	24-hour	7	21	28	105	365
	3-hour	29	53	82	-	1300
	1-hour	54	140	194	655	-

[6] The District's analysis is based on monitoring data from the District's Arkansas Street Station, the District's nearest monitoring station, which is located about 2.25 miles northwest of the PPP facility, at 10 Arkansas Street. This monitoring station is an "Urban and City Center" scale station that is designed to represent citywide conditions over a range of 4 to 50 kilometers, which would cover the PPP, and so it is appropriate to use this station in this analysis. The highest concentrations measured at this site during the period January 1, 2001 to August 31, 2004 were used as background concentrations and are shown in Tables II.C. and II.D.

Recent ambient monitoring data collected at the District's new San Francisco Hunters Point monitoring site, which began operation on June 25, 2004, were also reviewed. The measured 1-hour SO_2 and NO_2 concentrations at this site to date are far below the maximum background levels used in this analysis. For the same period of record, the available data compare favorably between the two monitoring sites (*e.g.*, the maximum 1-hour NO_2 concentrations for the Arkansas Street and Hunters Point sites measured since June 25, 2004 were 75 and 63 $\mu g/m^3$, respectively; the maximum 1-hour SO_2 concentrations for the Arkansas Street and Hunters Point monitoring sites measured since June 25, 2004 were 35 and 45 $\mu g/m^3$, respectively).

TABLE II.D – NON-RESIDENTIAL FULL ANALYSIS
Maximum predicted cumulative ambient impacts for non-residential receptors

Pollutant	Averaging Time	Max Ground Level Conc ($\mu g/m^3$)	Max Background Conc. ($\mu g/m^3$)	Max. Total Concentration ($\mu g/m^3$)	California AAQS ($\mu g/m^3$)	National AAQS ($\mu g/m^3$)
Nitrogen Dioxide (NO_2)	1-hour	279	143	422	470	-
Sulfur Dioxide (SO_2)	24-hour	74	21	95	105	365
	3-hour	245	53	298	-	1300
	1-hour	335	140	475	655	-
Particulate Matter (PM_{10})	24-hour	34	79	113	50*	150

**Note:* The California 24-hour AAQS for PM_{10} is not applicable for reviewing impacts from individual facilities. Maximum background PM_{10} is typically greater than 50 $\mu g/m^3$

The results of the full impact analysis – which is based on the very conservative assumption that maximum background levels and maximum plant emissions occur simultaneously – indicate that the facility's emissions, when combined with the background pollutant concentrations resulting from existing sources, are less than all National and California AAQSs analyzed for both residential and non-residential receptors (except for the California 24-hour PM_{10} standard, which is not applicable in reviewing emissions from individual facilities because background levels are typically above the standard without even considering impacts from individual facilities). These analyses indicate that any public health impacts from the facility will be at the most *de minimis*. Moreover, none of the commenters has provided any documentation or analysis to the contrary, and have generally based their comments on a presumption that any emissions from the facility must have adverse health impacts.[7] The District therefore does not find cause to deny the permit renewal on this basis.

Comment II.b: Commenters claimed that the air in the vicinity of the facility does not meet the California standards for PM_{10} and $PM_{2.5}$.[8]

District Response: The air in the vicinity of the facility is in compliance with all federal ambient air quality standards, including PM standards for PM_{10} and $PM_{2.5}$. The air in the vicinity of the facility is also in compliance with all California standards except for the PM_{10} and $PM_{2.5}$ standards referred to by the commenter. These are very stringent standards that have not been achieved anywhere in the state (with the exception of rural Lake County). The District does not believe that the fact that the ambient air is not in compliance with these standards means that emissions from this facility will harm public health. As noted above, the air in the vicinity of the facility does comply with the federal PM standards, which are health-based standards established to ensure that air is safe and not harmful to breathe. Furthermore, these federal standards have been reviewed and updated much more recently than the older state

[7] For example, the author of one submission the District received (outside of the comment period) stated that he suffers from period coughing fits, claiming that this problem has been caused by emissions from the facility. He admitted that his doctor does not believe that the problem is linked to the facility's emissions, however.

[8] Particulate matter is measured in two ways: particulate matter with a diameter of 10 microns or less ("PM_{10}"), and particulate matter with a diameter of 2.5 microns or less ("$PM_{2.5}$"), which is a subset of PM_{10}.

standards, and so have the benefit of being based on more current technical developments. And finally, as the analysis set forth in the preceding paragraphs shows, PM emissions from the facility will have no significant impact on District efforts to reduce PM levels in the ambient air down to the state standard. The District has used this approach in evaluating PM issues in a great many permit applications, with no objection from the state Air Resources Board. In light of these factors, the District has found no reason to conclude that emissions from the facility will have any significant impact on public health, and no commenter has pointed to any.

III. Environmental Justice

Comment III.a: One commenter raised issues relating to environmental justice. The commenter contended that renewing the Title V permit for the facility would violate Title VI of the Civil Rights Act ("Title VI"), EPA's regulations implementing Title VI, and/or other environmental justice concepts.

District Response: The District is committed to implementing its Title V permitting program in a manner that is fair and equitable to all Bay Area residents regardless of age, culture, ethnicity, gender, race, socioeconomic status, or geographic location in order to protect against the health effects of air pollution. The District has worked to fulfill this commitment in the current permitting action.

The current Title V permit renewal will not cause or allow any increase in emissions from the facility. Without any new or increased emissions, a permit renewal cannot have any adverse impacts on public health in the surrounding community. Because the permit renewal cannot have an adverse impact on the local community by increasing emissions, it therefore cannot have a *disparate* adverse impact that would implicate Title VI or any associated authority in any way.[9]

Moreover, even the emissions currently allowed under the Title V permit that is being renewed cannot generate any disparate adverse impacts in violation of Title VI, as these existing emissions levels will not cause or contribute to any significant public health impacts in the community. As described more fully in Section II above, the District has undertaken a detailed review of the potential public health impacts involved, and has found that they will involve no significant public health risks.

Since the District has reviewed the potential for public health impacts and has found none that are significant, and since the commenters have not provided any information or analysis from which to conclude otherwise, the District believes that there will be no significant adverse health impacts from the permit renewal. Again, because the permit renewal will not cause any adverse impacts, it necessarily cannot cause any disparate adverse impacts that would implicate Title VI or its associated regulations.

Furthermore, even assuming that this permit renewal could have a disparate adverse impact on the local community, the District is not aware of any preferable alternative to achieve the same important governmental purpose in ensuring that there is adequate power generating capacity in San Francisco, and that it will comply with all applicable air quality requirements. The only alternatives before the District at this time are (i) to issue the permit renewal with all necessary and appropriate conditions, or (ii) to deny the permit renewal (provided there is a legal basis to do so). Denying the permit renewal will not further the important governmental purpose at issue, and the District is unaware of any alternative permit conditions that would achieve the same goal with fewer impacts.

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[9] The commenters failed to provide any information regarding the racial, ethnic, and/or economic characteristics of the neighborhood surrounding the facility, which would be needed to find that, if the plant could having an adverse impact, it could be a *disparate* adverse impact. Because the District has determined that the current permitting action will not have any adverse impacts that would implicate Title VI (looking conservatively at the highest exposure levels throughout the surrounding community), this issue does not require a detailed analysis at this time. The District does, as a general matter, recognize that there is a significant population of members of racial and ethnic minorities in the community and a significant population of low-income residents. The District shares the commenters' concerns about the potential for disparate adverse impacts on this community, as it does with all communities throughout the Bay Area.

Finally, in addition to these points, the District notes that as a legal matter, Title VI and its implementing regulations do not apply to a permit renewal that does not authorize any increased or additional emissions from a facility, as is the case with the current permit renewal. Title VI cannot, therefore, provide a legal reason to deny the permit renewal.

IV. Nuisance

Comment IV.a: The City & County of San Francisco stated that the facility constitutes a nuisance under Health & Safety Code section 41700 and District Regulation 1-301, and that the permit renewal should be denied for that reason.

District Response: The Health & Safety Code and District regulations prohibit nuisances arising from emission of air pollutants in quantities that will cause injury, detriment, nuisance or annoyance to the public, or which endanger the comfort, repose, health or safety of the public, or which cause injury or damage to business and property. As noted above, the District has analyzed the emissions from this facility and has found that they will not cause any significant public health impacts. The District therefore has no evidence or information from which to conclude that the air emissions from the plant are causing or will cause any injury or harm to public health and safety, and none of the commenters has provided any such evidence or information linking air emissions to any such nuisance.

With respect to any public nuisances at the facility arising from aspects of the plant's operation other than air emissions, the District has no authority under the Health & Safety Code or District Regulations over non-air emission nuisances. That authority resides with the City & County of San Francisco. To the extent that the City believes that it has evidence that the plant constitutes a public nuisance, the City has not shared that evidence with the District, and has not explained why it believes that the District must take action against the facility when the City has not taken any action itself.

Finally, the District notes that the City & County of San Francisco has proposed to site 3 new combustion turbines at this location. The City's actions in this regard further suggest that this comment – that power generation at this location constitutes a public nuisance – is misplaced.

V. Need For Facility/Permit Term

Comment V.a: Commenters suggested that the permit renewal should be denied if the facility is not needed for reliability of the electric system.

District Response: The District has reviewed the technical analysis provided by the California Independent Systems Operator ("ISO"), the entity charged with ensuring the reliable functioning of the electrical power system, and agrees with the ISO's conclusion that the facility is necessary. As the ISO has determined, without the PPP there will be insufficient generating capacity on the northern San Francisco peninsula and insufficient transmitting capacity in the system to ensure that system reliability can be maintained.[10]

Furthermore, the District's role in reviewing an application for a Title V permit renewal is to evaluate whether the facility is in compliance with all applicable air-quality requirements and has adequate monitoring to ensure compliance going forwards. The District does not have the discretion to deny such an application based on other considerations, such as whether a facility is necessary for a certain purpose. Therefore, the District would not be authorized to deny the permit even if it found that the facility is no longer needed. As long as the facility will be in compliance with all applicable air quality regulatory requirements, as the District has found here, the permit renewal must be approved.

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[10] The District also recognizes that the ISO is the entity with the expertise to make the ultimate determination of whether generating capacity is needed. As such, it is not the District's role to second-guess the ISO's analyses based on comments received from the public.

Comment V.b: Commenters stated that they anticipate that the facility will no longer be needed in the near future. They stated that the District can issue Title V permits for a shorter term than 5 years, and that it should issue the permit to terminate whenever the facility is no longer needed.

District Response: Title V permits must be issued for a 5-year term as required by District Regulation 2-6-416 and 40 C.F.R. §§ 70.6(a)(2) (except for non-Phase II acid rain units when so requested by the facility, as addressed below), a point the commenter concedes. The District is therefore issuing the permit for a term of 5 years.

Comment V.c: The commenter also pointed out that permits for non-Phase II acid rain units (units that are not "affected units" under EPA's Part 70 regulations), such as Units 4, 5, and 6 (Sources S-10 through S-15) at this facility, can be issued for a term of shorter than 5 years under District Regulation 2-6-416, if the facility so requests. The commenter stated that this regulation gives the District discretion to impose a shorter period for Units 4-6, and suggested that the District issue two separate Title V permits, one for Units 4-6 (for less than 5 years) and one for the remainder of the facility (for 5 years).

District Response: The commenter is generally correct that, if the source requests it, a Title V permit can be issued for less than a 5-year period for non-Phase II acid rain units under District Regulation 2-6-416. The commenter is incorrect, however, in suggesting that this provision gives the District the discretion to take such measures where the applicant has not requested it. Here, Mirant applied for a single Title V permit for the entire facility for a term of 5 years, as it is entitled to do, and that is the application upon which the District must act.

Comment V.d: Commenters stated that the District should request Mirant to accept a shorter term for Units 4-6.

District Response: As explained above, the District cannot force Mirant to apply for, or to accept, separate shorter-term permits for Units 4-6. It is wholly Mirant's decision on whether to apply for a single permits or separate permits. The District is forwarding the commenters' requests to Mirant via a copy of these Responses to Comments.

VI. Air Monitoring

Comment VI.a: One commenter stated that the District should require Mirant to install an ambient air monitoring station in the Potrero neighborhood as a condition of its permit, and should publish the monitoring data.

District Response: The District shares the community's very serious concerns about air pollution-related health problems. The District already has an ambient air quality monitoring station in the neighborhood, located on Arkansas Street approximately 2.25 miles from the facility. The data collected becomes public information and is made available to the public on the District's website, www.baaqmd.gov.

With respect to requiring ambient air quality monitoring in the permit, Title V authorizes the District to require the facility to conduct monitoring only to the extent that it is related to ensuring compliance by the facility with applicable regulatory requirements. Ambient air quality monitoring of the type referred to by the commenters does not measure air emissions from the facility itself, and is therefore not related to ensuring the facility's compliance. The District has included requirements to monitor the facility's compliance in the existing Title V permit, and will be carrying those over into the renewed permit. But the District cannot impose a requirement to measure pollution concentrations in the ambient air – which come from a huge number of sources throughout the area – as opposed to requirements to measure pollution emissions from the facility itself.

Comment VI.b: One commenter inquired whether lead emissions from the plant are monitored or calculated.

District Response: The District calculates lead emissions using US EPA AP-42 emission factors. Due to a wide margin of compliance, the use of the AP-42 emission factors is appropriate, and measurements of actual lead emission rates or concentrations are not warranted.

Comment VI.c: One commenter inquired whether the reductions in VOC emissions alluded to in the Statement of Basis were determined by emission measurements and speciated by chemical compound.

District Response: The reduction in VOC emissions was determined using emission calculations based on annual fuel usage and an AP-42 emission factor, which provide a reliable estimate of actual emissions. Actual VOC emissions were not measured and speciated.

VII. Complaint Procedures

Comment VII.a: Commenters stated that the District should seek ways of making it easier for the community to notify the District of specific complaints about the facility, suggesting that the District post a phone number near the edges of the plant and that complaints be recorded and records retained for 5 years, and that all such measures should be included in a compliance plan in the permit.

District Response: The District shares the commenter's concerns about ensuring that the public is informed about the District's air pollution complaint process and about how to report facility non-compliance to the District. The District's current Complaint Policy and Procedures were recently updated with input from the public and various community groups. The District has also been publicizing these complaint procedures in several ways, including distributing 4x6 cards and brochures containing the information and publishing the District's complaint line on the District website and in the phone book. All formal complaints filed with the District are maintained in a database and become public records open to inspection by the public.

Publicizing the District's complaint procedures is not necessary to ensure that the facility will comply with its legal requirements, however. As a result, the District cannot appropriately compel the facility to undertake any such measures as part of a schedule of compliance in the facility's Title V permit.

VIII. Facility Technical Comments

Comment VIII.a: Mirant commented on the requirement in Standard Condition I.L. to hold one SO_2 allowance for each ton of SO_2 emitted during the previous year. Mirant stated that the requirement should come into effect on March 1 of each year, instead of on January 30.

District Response: Mirant is correct that under 40 C.F.R. § 72.2, the applicable regulation provides 60 days, not 30 days, for this requirement to come into effect. The District is therefore amending the language of the permit to make it consistent with the language of the regulation.

Comment VIII.b: Mirant requested that the District review the list of sources in Table II-A to determine if any of these sources are grandfathered, and adjust the list of sources accordingly.

District Response: In response to this comment, the District has reviewed the sources in Table II-A, and has increased the firing rate and power output for the gas turbines, Sources S-10 through S-15, accordingly.

Comment VIII.c: Mirant commented that Table IV-B shows District Regulation 9-11-302 and 9-11.302.1 as being deleted, even though they are still applicable to Boiler 3-1.

District Response: The District agrees and has retained these regulations as applicable requirements in Table IV-B.

Comment VIII.d: Mirant commented that Table IV-B shows District Regulation 9-11-309.3 and 9-11.309.4 as being federally enforceable, even though they are not.

District Response: The District agrees and has changed Table IV-B to indicate that these requirements are not federally enforceable.

Comment VIII.e: Mirant commented on the condition requiring it to test fuel oil for Boiler 3-1 for sulfur content or to obtain adequate documentation that the sulfur content does not exceed 0.5% by weight. Mirant stated that it does not have any fuel oil inventory for Boiler S-1 at the facility and does not plan to

add any fuel oil inventory in the future, so this requirement should be made conditional on firing Boiler 3-1 with fuel oil.

District Response: The District agrees and has made fuel oil testing conditional on having fuel oil.

Comment VIII.f: Mirant commented that although Condition 15819, Part 4, requires that the sulfur content of gas turbine distillate oil must be below 0.5%, Mirant expects it to be below 0.05%.

District Response: The District notes Mirant's expectation that sulfur content should be below 0.05%. Fuel with a sulfur content of 0.05% will, obviously, comply with the permit condition. The District does not interpret this comment as suggesting that the permit condition should be changed.

Comment VIII.g: Mirant commented on the requirement that it sample the sulfur content of distillate oil in its storage tanks and then obtain a vendor certification of the sulfur content of all future fuel oil shipments. Mirant requested that the condition be changed to allow it either to obtain a vendor certification or to have a sample tested.

District Response: The District agrees and has changed the condition to provide this flexibility.

Comment VIII.h: Mirant commented that references to "diesel fuel" in Condition 16328, Part 1, should be changed to "fuel oil," and noted that the Statement of Basis also contained some incorrect references to fuel oil and an incorrect reference to the source number for a wipe cleaner.

District Response: The District acknowledges these comments and has changed references in the Permit and Statement of Basis accordingly.

Comment VIII.i: Mirant commented on the monitoring requirements for Boiler 3-1. Mirant requested that the requirement to measure O_2 should be changed to a requirement to measure O_2 or CO_2. Mirant stated that upon installation of a Selective Catalytic Reduction (SCR) system, a new monitoring system will be installed to measure NOx, and the O_2 or CO_2 measurement will be used to correct the NOx measurement to 3% O_2.

District Response: The District agrees and has changed the condition accordingly.

Comment VIII.j: Mirant commented that Condition 21294, Part 1 refers to nine other facilities in addition to Potrero operating under Mirant's Advanced Technology Alternative Emission Control Plan. In fact, there are only five other sources.

District Response: The District agrees and has modified the permit condition accordingly.

IX. Miscellaneous

Comment IX.a: The District received a request to postpone the public comment deadline from May 13, 2004 to May 25, 2004, which the District denied. The requestor criticized this decision in the comments it subsequently submitted, noting that the comment period was extended for the Title V permit renewal application for Pacific Gas & Electric Co.'s Hunters Point Power Plant.

District Response: The District extended the public comment period for the Hunters Point Power Plant in response to the very high degree of public interest in the Title V permit renewal application for that facility. By contrast, there was relatively little public interest in the application for the PPP: only one person spoke at the public hearing, only a small number of written comments were submitted, and there were no requests to extend the comment period other than from this one requestor. The District therefore declined to extend the comment period. The District notes that this decision did not prevent the commenter from commenting.

Comment IX.b: One commenter stated that the public notice could have been distributed to a larger area, perhaps including nearby counties, since the emissions disperse to a wide area.

District Response: In addition to mailing notice of the proposed renewal of the Title V permit to all residents in the two ZIP code areas around the facility, the District also publicized the proposal widely by taking out an advertisement in the San Francisco Chronicle newspaper and by posting information on the proposal on the District's website. The District believes that these are adequate, appropriate, and

reasonable measures to inform all interested persons of the proposal and of the opportunity to comment on it.

Comment IX.c: One commenter claims that the District has demonstrated a clear disregard for public input by sending a draft of the permit to EPA for review before receiving input from the public.

District Response: In keeping with its attempts to get input and involvement from all stakeholders in the Title V permit renewal process, the District provided an early internal draft of the proposed permit to EPA in order to solicit that agency's views. The draft that was provided was not the final version of the permit the District intends to issue, which must be provided to EPA for a 45-day review period pursuant to District Regulation 2-6-411 and 40 C.F.R. §§ 70.7(a)(1) and 70.8(c). The draft was provided simply for informal input and coordination between the agencies, not for EPA's official review. The transmittal letter inadvertently indicated that the draft was being provided for EPA's formal review, however, which caused some confusion among interested parties about how the District was conducting the permit review process. To clarify any confusion, the District wrote to EPA explaining that it was withdrawing the draft that had been erroneously provided for EPA "review," was undertaking the full public process required by District regulations, and would be forwarding a final proposed permit for review once the public participation process was completed. The commenter is thus incorrect that the District has demonstrated a disregard for public input. To the contrary, the District has scrupulously complied with all public participation requirements, and has even gone beyond those requirements in some respects as explained elsewhere in this document. Indeed, the confusion regarding whether the District sent a draft for EPA's "review" occurred because the District was attempting to get EPA's input at an early stage.

Comment IX.d: Commenters stated that the District should do more than just receive comments from the community, but should look for creative ways to mitigate impacts from the facility's air emissions.

District Response: The District's role in issuing Title V permit renewals is not, and should not be, limited to simply receiving comment from the community. In this case, the District has not merely received the comments from the community, but has carefully reviewed and studied them and where appropriate has incorporated the ideas presented into this permitting action, as explained herein. Furthermore, the District also agrees that it should look for creative ways to address and minimize any air pollution impacts from the facility, and has been doing so. As explained above, for example, the District has been dramatically reducing the amount of NOx that can be emitted from power plants such as this one, in an effort to reduce ambient levels of ozone, one of the pollutants that the commenters were concerned about.

Comment IX.e: One commenter stated that the public's perception is that the facility creates a health risk, and suggested that the public can make better-informed decisions on the issue if it is allowed to tour the plant and receive risk training.

District Response: The District is committed to ensuring that the public participates in the District's decisionmaking processes as effectively as possible, and supports measures to further that goal. For example, the District held an additional public information session, in addition to the public hearing provided for by law, in order to provide information to the community on the Title V permitting process and about how the public can participate in that process. With respect to informing the public about assessing risks from the facility's air emissions, the District also publishes detailed information about how it evaluates such risks and manages them from a public health perspective on its website (*See* http://www.baaqmd.gov/pmt/air_toxics/risk_procedures_policies/risk_management_plan.asp.)

As explained above, however, the District's role in renewing a Title V permit is limited to ensuring that the facility will comply with all air-quality related legal requirements. The District cannot impose conditions requiring Mirant to take any actions that are not related to ensuring compliance with such legal requirements. Providing tours or risk training to the public would not be related to ensuring compliance with any legal requirements, and so the District cannot appropriately compel the facility to undertake any such measures as part of the facility's Title V permit.