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

In the Matter of the Application of

CROCKETT COGENERATION, LP

No. 3649

For a Variance from Regulation 2, Rule 6,
Section 307 and Regulation 2, Rule 2,
Section 301

ORDER GRANTING VARIANCE

The above-entitled matter is an Application for Variance from the provisions of
Regulation 2, Rule 6, Section 307 and Regulation 2, Rule 2, Section 301 of the Rules and
Regulations of the Bay Area Air Quality Management District (the “District”). The Application
for Variance was filed on March 29, 2013, and requested relief for the period from April 22, 2013,
through May 5, 2013.

Christopher Sargent, Environmental Specialist of Crockett Cogeneration, LP, appeared on
behalf of Crockett Cogeneration, LP (“Applicant”).

Todd Gonsalves, Assistant Counsel, appeared for the Air Pollution Control Officer
(“APCO”).

The Clerk of the Hearing Board provided notice of this hearing on the Application for
Variance in accordance with the requirements of the California Health and Safety Code. The
Hearing Board heard the request for variance on May 2, 2013.

The Hearing Board provided the public an opportunity to testify at the hearing as required
by the California Health and Safety Code, but no one did so. The Hearing Board heard evidence,
testimony and argument from Applicant and the APCO. The APCO did not oppose the granting of
the variance.

The Hearing Board declared the hearing closed after receiving evidence, testimony and
argument, and took the matter under submission for decision. After consideration of the evidence, the Hearing Board voted to grant the request for variance, as set forth in more detail below:

BACKGROUND

Applicant Crockett Cogeneration, LP, operates a cogeneration facility located at 550 Loring Avenue in Crockett, California (the “Facility”).

The Facility operates a natural gas fired combustion turbine (“S-201”) in conjunction with a heat recovery steam generator (“S-202”) and steam turbine to produce electricity for the California electricity grid and steam for the C & H Sugar Plant in Crockett, California. The Facility’s District-issued Title V permit designates the combustion turbine as S-201 and the heat recovery steam generator as S-202. The Facility also operates three auxiliary steam boilers.

Regulation 2, Rule 2, Section 301 of the District Rules and Regulations requires an applicant for a District permit to operate to apply best available control technology to certain sources.

Regulation 2, Rule 6, Section 307 of the District Rules and Regulations, in relevant part, requires any facility subject to major facility review to adhere to any federally enforceable applicable requirement set forth in its major facility review permit.

The Facility operates under a major facility review permit (the “Title V permit”) issued under District Regulation 2, Rule 6. Condition 14970, Part 9.b, of the Facility’s Title V permit limits the emission of oxides of nitrogen (NOx) from S-201 and S-202 to no more than 5.0 ppmv, corrected to 15% oxygen on a dry basis, and averaged over any rolling 3-hour period. Condition 14970, Part 9.d, of the Facility’s Title V permit limits the emission of carbon monoxide (CO) from S-201 and S-202 to no more than 10 ppmv, corrected to 15% oxygen on a dry basis, and averaged over any rolling 3-hour period. In addition, Condition 14970 of the Facility’s Title V permit limits, in Part 20.a, the Facility’s daily emission of NOx to no more than 969.7 pounds, and, in Part 20.b, the Facility’s daily emission of CO to no more than 745 pounds. The emission limits of Condition 14970 described in this paragraph are federally enforceable.
On August 1, 2012, combustion turbine blade failures caused damage to the S-201 turbine compressor. General Electric, which services the combustion turbine for Applicant, concluded the compressor must be replaced because of the damage it sustained on August 1. In order to ensure the proper operation of S-201, Applicant must commission the replacement compressor after its installation. Failure to do so would void the manufacturer’s warranty.

On April 29, 2013, Applicant commissioned the replacement compressor. To commission the replacement compressor, Applicant had to run S-201 at full speed, but with no load, for at least 4 hours. Applicant completed the commissioning in four hours, and as a result, did not exceed either of the daily emission limits in Permit Condition 14970, Part 20.a or Part 20.b. However, during the commissioning, the emissions of NOx from S-201 reached a three-hour average concentration of 11 ppmv, in violation of Part 9.b of Permit Condition 14970. Likewise, emissions of CO from S-201 reached a three-hour average of 27.6 ppmv, in violation of Part 9.d of Permit Condition 14970. The exceedances of the emission concentration limits resulted in the excess emission of 17.51 pounds of NOx and 25.02 pounds of CO.

During commissioning, Applicant minimized operation of the three auxiliary steam boilers.

Throughout commissioning, Applicant monitored emissions with a continuous emission monitoring system.

DISCUSSION

The Hearing Board may grant a variance upon finding that the criteria set forth in Health and Safety Code § 42352 are met. The burden is on Applicant to establish the basis for making each of the Findings. In this matter, Applicant has provided sufficient evidence to demonstrate that each of the criteria has been met.

Applicant was in violation of Regulation 2, Rule 6, Section 307 and Regulation 2, Rule 2, Section 301 because the emissions of S-201 exceeded the emission concentration limits for NOx and CO set out in Condition 14970, Part 9 of the Facility’s Title V permit.
The violation of the above-referenced regulations occurred during the variance period on April 29, 2013, during the four hours Applicant commissioned the replacement compressor. The violation was the result of conditions beyond the reasonable control of Applicant and requiring immediate compliance would have resulted in an arbitrary taking of property or the practical closing and elimination of a lawful business. The violation was beyond Applicant’s reasonable control because commissioning the replacement compressor was essential to the proper operation of S-201. Also, a failure to commission the replacement compressor would have voided the manufacturer’s warranty. As a result, and because the Facility itself could not function unless S-201 operates properly, requiring immediate compliance would have resulted in an arbitrary taking of property.

The burdens to Applicant would be without a corresponding benefit in reducing air contaminants because Applicant did not exceed the daily limits for either NOx or CO set out in Condition 14970, Part 20 of the Facility’s Title V permit.

Applicant did curtail the Facility’s operations to reduce emissions by minimizing the duration of the commissioning activity and minimizing the operation of the three auxiliary steam boilers during the commissioning.

**SPECIFIC FINDINGS**

The Hearing Board finds pursuant to Health and Safety Code section 42352 that:

1. On April 29, 2013, Applicant was in violation of Regulation 2, Rule 2, Section 301 and Regulation 2, Rule 6, Section 307 of the District Rules and Regulations. Regulation 2, Rule 2, Section 301 of the District Rules and Regulations requires an applicant for a District permit to operate to apply best available control technology to certain sources. Regulation 2, Rule 6, Section 307 of the District Rules and Regulations, in relevant part, requires any facility subject to major facility review to adhere to any federally enforceable applicable requirement set forth in its major facility review permit. Condition 14970, Part 9.b, of the Facility’s Title V permit limits the emission of oxides of nitrogen (NOx) from S-201 and S-202 to no more than 5.0 ppmv, corrected to 15%
oxygen on a dry basis, and averaged over any rolling 3-hour period. Condition 14970, Part 9.d, of the Facility’s Title V permit limits the emission of carbon monoxide (CO) from S-201 and S-202 to no more than 10 ppmv, corrected to 15% oxygen on a dry basis, and averaged over any rolling 3-hour period. During the commissioning on April 29, 2013, the emissions of NOx from S-201 reached a three-hour average concentration of 11 ppmv, and the emissions of CO from S-201 reached a three-hour average of 27.6 ppmv, resulting in the excess emission of 17.51 pounds of NOx and 25.02 pounds of CO.

2. Due to conditions beyond the reasonable control of Applicant, requiring compliance with Regulation 2, Rule 2, Section 301 and Regulation 2, Rule 6, Section 307 would result in an arbitrary and unreasonable taking of property or the practical closing of a lawful business. The commissioning of the replacement compressor was essential to the proper operation of S-201, which, in turn, is essential to the continued operation of the Facility.

3. The hardship due to requiring immediate compliance with Regulation 2, Rule 2, Section 301 and Regulation 2, Rule 6, Section 307 would be without a corresponding benefit in reducing air contaminants. Due to Applicant’s actions to mitigate excess emissions during the commissioning on April 29, 2013, emissions resulting from the violations exceeded only the concentration limits set out in Condition 14970, Part 9 of the Facility’s Title V permit, but did not exceed the daily mass emission limits set out in Part 20 of that permit condition; however, the economic burden associated with requiring the Facility to forego commissioning the replacement compressor would have been considerable.

4. Applicant could not have curtailed operations in lieu of obtaining a variance without significant financial hardship.

5. During the variance period, Applicant reduced excess emissions to the maximum extent feasible by minimizing the duration of the commissioning activity and minimizing the operation of the three auxiliary steam boilers during the commissioning.

6. Applicant monitored emissions with a continuous emission monitoring system.
throughout the commissioning on April 29, 2013.

THEREFORE, THE HEARING BOARD ORDERS:

A variance from Regulation 2, Rule 2, Section 301 and Regulation 2, Rule 6, Section 307 of the Bay Area Air Quality Management District Rules and Regulations to the extent they require compliance with Condition 14970, Parts 9.b and 9.d of the Facility’s Title V permit, is hereby granted for April 29, 2013, only.

Moved by: Gilbert Bendix, P.E.

Seconded by: Julio Magalhães, Ph.D.

AYES: Julio Magalhães, Ph.D., Gilbert Bendix, P.E., Peter Chiu, M.D., Rolf Lindenhayn, Esq., and Terry A. Trumbull, Esq.

NOES: None

Terry A. Trumbull, Esq., Chair

[Signature]

Date

May 27, 2013
BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the Matter of the Application of
CROCKETT COGENERATION, a California
Limited Partnership,

For Short Variance from Regulation 2, Rule 2,
Section 301 (Plant #A8664).

STATE OF CALIFORNIA
City and County of San Francisco

I, Sean Gallagher, do hereby certify under penalty of perjury as follows:

That I am a citizen of the United States, over the age of eighteen years and not a party to the
above entitled action, and that I served a true copy of the attached Order Granting Variance on:

Christopher Sargent
Crockett Cogeneration
550 Loring Avenue
Crockett, CA 94525

by depositing same in the United States certified mail, return receipt requested, postage prepaid, on June
6, 2013; and on

Todd Gonzalves
Assistant Counsel
Bay Area Air Quality Management District
939 Ellis Street, 7th Floor
San Francisco, CA 94109

by hand-delivery deposit of same in the in-box of the District Counsel’s office, on June 6, 2013.

DATED: June 6, 2013

Sean Gallagher
Clerk of the Boards