



BAY AREA
AIR QUALITY
MANAGEMENT
DISTRICT

October 24, 2011

June Guidotti
3703 Scally Road
Suisun City, CA 94585

Dear Ms. Guidotti:

Subject:

This letter responds to the comments you made by calling the Bay Area Air Quality Management District (District) on July 27, 2011, regarding the District's proposed draft Title V Permit Renewal for the Goose Haven Energy Center (B4416) located at 3853 Goose Haven Road, in Suisun City California.

ALAMEDA COUNTY

Tom Bates
(Chairperson)
Scott Haggerty
Jennifer Hosterman
Nate Miley

Comments:

1. Deny the Title V permit.
2. The plant did not go through a proper CEQA process when it was built.

CONTRA COSTA COUNTY

John Gioia
(Vice-Chair)
David Hudson
Mark Ross
Gayle B. Uilkema

Response to Comment 1:

The only provisions for denial of the permit in BAAQMD Regulation 2, Rule 6, Major Facility Review, are in Sections 2-6-307 and 2-6-313, which read as follows:

2-6-307, Non-compliance, Major Facility Review: Any facility subject to the requirements of this regulation that is not in compliance with any federally enforceable permit condition, any federally enforceable applicable requirement set forth in its major facility review permit, or the requirement to apply for a major facility review permit is in violation of the Clean Air Act and shall be subject to enforcement action, permit termination, permit revocation and reissuance, and/or denial of a permit renewal. Moreover, a facility subject to major facility review which has not submitted a timely and complete permit application by the deadlines set forth in Section 2-6-404 shall not operate.

MARIN COUNTY

Harold C. Brown, Jr.

NAPA COUNTY

Brad Wagenknecht

SAN FRANCISCO COUNTY

Eric Mar
Edwin M. Lee

SAN MATEO COUNTY

Carol Klatt
Carole Groom

SANTA CLARA COUNTY

Susan Garner
Ash Kaira
(Secretary)
Liz Kniss
Ken Yeager

2-6-313: Denial, Failure to Comply: The APCO shall deny a major facility review permit after providing written notification to the applicant, 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.

Non-compliance could be considered grounds for a denial, but the District would first attempt to bring a facility into compliance through enforcement action and by adding a schedule of compliance with milestones into the Title V permit.

SOLANO COUNTY

James Sperring

SONOMA COUNTY

Susan Gorin
Shirlee Zane

The District analyzed the compliance record of this facility. The analysis was published in the statement of basis on July 22, 2011. This analysis found that there was no evidence of on-going non-compliance and no recurring pattern of violations. Under these circumstances, the District is obligated to issue the Title V renewal after properly following the Title V procedures.

Response to Comment 2:

The commenter's challenge to the initial permitting of this facility on CEQA grounds is not relevant to the current proposed action. The District's current proposal is to renew the existing Title V permit for this facility. (To the extent the commenter is challenging the renewal on CEQA grounds, the renewal permit does not authorize any physical or operational change to a source or the facility, so CEQA does not apply. See Cal. Pub. Res. Code §21080.24; 14 Cal. Code Regs. §15281.) Further, the commenter's challenge has been time-barred for more than 10 years. The Lead Agency for this facility, Solano County, performed an Initial Study of the project to assess potential impacts and to identify mitigation measures to avoid, reduce, or minimize significant impacts. Since the Initial Study concluded that all project impacts would be reduced to less than significant levels with the implementation of mitigation measures, the Solano County Planning Commission adopted a Mitigated Negative Declaration for the project on May 17, 2001. A Notice of Determination ("NOD") was filed by the County on May 21, 2001. Therefore, this project did go through a proper CEQA process before being permitted. Any challenge alleging the contrary must have been commenced no later than 30 days following the filing of the NOD, *i.e.*, by June 20, 2001. See Cal. Pub. Res. Code §21167(b); 14 Cal. Code Regs. §§15075, 15112(c)(1).

The Initial Study and the Notice of Determination are available upon request.

The final permit can be viewed and/or downloaded on the BAAQMD website at <http://www.baagmd.gov/Divisions/Engineering/Title-V-Permit-Programs/Title-V-Permits.aspx>. If you have any questions regarding this permit, please call Brenda Cabral, Supervising Air Quality Engineer, at (415) 749-4686.

Sincerely yours,

Signed by Jeff McKay for Jack P. Broadbent
Jack P. Broadbent,
Executive Officer/Air Pollution Control Officer

CC: Goose Haven Energy Center

H:\Engineering\TITLE V Permit Appls\1 ALL T5 Application Files here\B4416\Renewal -2011_ 16647\4.0 Final - Final permit\B4416_2011-Reponse_to_Comments_june guidotti.docx