Responses to Public Comments

Application for Renewal of Major Facility Review Permit
Pacific Gas & Electric Company
Hunters Point Power Plant
District Facility No. A0024

This document presents the responses of the Bay Area Air Quality Management District ("Air District" or "District") to comments received from the U.S. Environmental Protection Agency ("EPA") and members of the public on the District's proposed renewal of the Title V Major Facility Review Permit ("permit") for the Hunters Point Power Plant ("HPPP") operated by Pacific Gas & Electric Co. ("PG&E").

The District published its proposal to renew the permit for the HPPP on March 22, 2004, and received written comments from 10 individuals and organizations, as well as verbal comments from EPA. The District also held a public hearing on May 4, 2004, to solicit oral comments from the public, which was attended by a large number of interested persons. 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:

[1] The District also held an informal public information session on April 6, 2004, to provide information to interested members of the public about the Title V permit renewal process and in particular about opportunities for public participation in that process. Statements made by the public at this informational meeting are not formal comments in the record for this permitting action that the District must consider and respond to. The District nevertheless responds in this document to statements made at that meeting as appropriate.

I. The District's Role In Renewing Title V Permits

I.1 Comment: Commenters stated that the District enjoys wide discretion in determining whether to renew the Title V permit for the HPPP. These commenters stated that the District should use this discretion to deny the permit based on the fact that many of those who submitted written comments and spoke at the public hearing do not want this facility to continue operating at the present location.

District Response: The District's discretion in reviewing an application for renewal of a Title V permit is limited. The District can deny an application for a Title V permit renewal only if the facility is in violation of an air-quality regulatory requirement, and even then only if it finds that the facility will be incapable of coming back into compliance. Where the District reviews the facility's operations and finds that it is in compliance with all applicable air-quality requirements, it has no discretion to deny the permit. The District cannot deny a Title V permit renewal for other reasons, such as a desire by members of the surrounding community to have the facility shut down. As explained in greater detail in the following sections, the District has carefully analyzed the HPPP's compliance status and found that it is not in violation of any applicable air-quality requirement, and so it has no discretion under Title V and its implementing regulations to deny the permit renewal.

The District has long recognized the community's desire to have this facility shut down as soon as possible, and that the City and PG&E have entered into an agreement to shut down the facility as soon as it is no longer needed for electric system reliability. The District fully supports this effort. Indeed, the District's Board of Directors has made the unprecedented decision to support the shutdown of the plant. In response to these comments, and as part of its support, the District is including in the permit Part 9 of Condition No. 15815 and Part 2 of Condition No. 16239, which will require PG&E to shut down Unit 1 (Sources S-1 and S-2) and Unit 4 (Source S-7), respectively, when those sources are no longer subject to, or operated pursuant to, a Condition 2 Reliability Must Run Agreement. This condition has been added in consultation with and by agreement of PG&E, in response to the facility's statements that it intends to shut down these sources as soon as they are no longer subject to such an agreement. These added conditions address the community's desire to have the facility shut down as soon as possible, while satisfying the District's legal obligations under Title V and its implementing regulations.

I.2 Comment: Commenters suggested that San Francisco and PG&E should keep the promises they made in an agreement entered into in 1998 to close the facility when it is no longer needed. The commenters stated that the District should honor the 1998 agreement and deny this permit.

District Response: The 1998 agreement referred to by these comments was between the City and PG&E, and did not involve the District, and so there are no commitments for the District – as opposed to PG&E and the City – to honor. Moreover, as explained in more detail in the sections below, the District understands that the California Independent System Operator ("ISO") has determined that the facility is still needed for the time being to ensure reliability of the electrical power distribution system, and so the commitments in the 1998 agreement have not yet been triggered. As noted above, however, the District supports the commitment by the City and PG&E to shut down the facility when it is no longer needed, and is including a condition to that effect in the renewed permit.

I.3 Comment: Commenters commended the District for supporting the efforts of PG&E and the City to close the plant when it is no longer needed, but claimed that the District must do more than simply express support.

District Response: As noted above, the District lacks the discretion to deny a Title V permit renewal unless the facility is in violation of an air-quality related regulatory requirement. The District is therefore limited in what it can to do by itself to supplement efforts to shut down the plant, and cannot simply deny the Title V permit renewal. The District is adding a condition to address community desires to have the plant shut down when it is no longer needed, which is a concrete permitting action that does go beyond merely expressing support for the efforts of PG&E and the City, while remaining consistent with the District's legal requirements in issuing Title V permits.

I.4 Comment: Commenters stated that the District should do more than just receive comments from the community and "rubberstamp" the permit, but should undertake a serious review of PG&E's application and look for creative ways to respond to and mitigate the impacts of the plant.

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 and "rubberstamping" a permit renewal application. 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 all emissions sources under its jurisdiction, and has been doing so. As explained in the following section, the District has worked to reduce emissions from the plant by over 90% in the past decade, and has been fully supportive of the efforts of PG&E and the City to shut this plant down completely.

II. Air Emissions

II.1 Comment: Commenters stated that the HPPP is a significant source of several air pollutants, including ozone, carbon monoxide (CO), fine particulate matter (PM)[2], and oxides of nitrogen (NOx), among others.

District Response: The District agrees that the facility will emit significant amounts of regulated air pollutants, which need to be carefully controlled under the facility's permit. The District's regulatory efforts have thus far achieved significant reductions in emissions from the facility, and the current permit renewal will set the stage for continued reductions.

The pollutants that are emitted enter the atmosphere in hot exhaust gasses that quickly rise high above ground level. The prevailing wind direction is very strongly towards the east, and the emissions from the facility are normally 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 addressed 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. But such ozone formation takes place hours after the precursors have been emitted and far downwind of the source of the emissions.

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 addition, the District has been working proactively to achieve reductions in emissions from all facilities in the Bay Area, including the HPPP. For example, the District has been consistently ratcheting down the amounts of NOx that can be emitted from power plants using fossil-fuel fired steam boilers – such as HPPP – 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, PG&E opted in 2001 to shut down and remove four of the five boilers at the facility (Units 2 and 3, Sources S-3 through S-6). The District is removing those sources from the permit in the current renewal action. Also in response to the ratcheting-down of Regulation 9, Rule 11 standards, in 2001 PG&E made several improvements to Unit 4 (Source

[2] PM is commonly measured in two ways, as particulate matter with a diameter of 10 microns or less (PM_{10}), and as particulate matter with a diameter of 2.5 microns or less ($PM_{2.5}$).

S-7), the one boiler that was not shut down, 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. And finally, PG&E will no longer be authorized to use oil to fire the Unit 4 boiler under the renewed permit, as the District will be requiring that it be fired exclusively on cleaner-burning natural gas.

As a result of these efforts, the effect of the current permit renewal action will be to *reduce* the amount of regulated air pollutants that the facility is authorized to emit. The following table summarizes the reduction in the maximum amount of regulated air pollutants the facility may emit (known as the "Potential to Emit", or PTE) that has been achieved since the facility's initial Title V permit was issued and is being achieved in the current permit renewal. As can be seen from the table, the facility's PTE has been steadily decreasing as a result of the District's efforts, and will continue to do so as a result of the present permit renewal.

Table I.A – HPPP "Potential To Emit" 1998-2005
(Maximum Amounts of Regulated Air Pollutants HPPP Could Emit Under Title V Permit, in tons per year)[3]

Year	SO_2	NO_X	CO	VOC	PM_{10}
1998	10292	3174	758	174	616
1999	10292	2307	758	174	616
2000	10292	2114	758	174	616
2001	4123	882	300	69	248
2002	4123	520	300	69	248
2003	4123	520	300	69	248
2004	4123	369	300	69	248
2005	169	226	300	69	64

Furthermore, the emission limits summarized in the table above are the *maximum* amounts that the facility could legally emit under its permit. *Actual* emissions from the facility have been, and are expected to continue to be, far lower than these amounts because the facility is not always operated at maximum capacity, as several commenters have noted (among other reasons). In fact, as can be seen from the following table, actual emissions have been on a constant downward trend with large reductions between 1998 and 2003.

[3] Emissions of SO_2, NOx and PM_{10} are highest when the facility's boiler(s) are being fired on oil. Emissions of CO and VOCs are highest when the facility's boiler(s) are being fired on natural gas. Because PTE measures the maximum emissions that can legally be emitted by the facility, the SO_2, NOx and PM_{10} PTE numbers presented here were calculated assuming the boiler(s) were being fired on oil (where allowed), while the CO and VOC PTE numbers are based natural gas firing. The VOC PTE figures are based on non-methane hydrocarbons (NMHC).

Table I.B – HPPP Estimated Actual Emissions 1998-2005[4]
(Amounts of Regulated Air Pollutants Actually Emitted by HPPP, in tons per year)

Year	SO_2	NO_X	CO	VOC	PM_{10}
1998	11.03	600.5	259.4	56.34	52.80
1999	5.31	321.4	165.5	35.96	32.85
2000	7.83	341.5	150.7	32.63	36.66
2001	7.04	240.2	92.3	19.92	25.66
2002	2.70	110.2	105.6	22.94	21.29
2003	1.74	71.7	62.3	13.54	12.95

The District supports continuing these emission reductions.

III. Public Health

III.1 Comment: Commenters claimed that the plant adversely affects the health of members of the surrounding community as a result of the emissions of air pollutants detailed in the previous section.

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 Bayview-Hunters Point and in all communities throughout the Bay Area.

As a threshold matter, the District notes that emissions will continue to decrease under the renewed permit, as discussed above. Accordingly, any health impacts from the air emissions would be decreased under the permit renewal, which supports issuing the permit.

Furthermore, the District has studied the potential health impacts of the facility's air emissions 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.[5] In both cases, the evidence shows that emissions from the facility have, at most, a *de minimis* effect on public health in the community. The evidence also shows that the emission reductions that have been achieved have made the effects even smaller.

[4] The District provided rougher estimates of the actual emission reductions in the Statement of Basis for the current permit renewal and in the March 22, 2004, Notice of Hearing and Notice Inviting Public Comments. These estimates were calculated using facility throughput records (i.e., amount of fuel used) and certain generic emissions factors that correlate fuel use with emissions. In response to these comments, the District obtained more precise estimates of the actual emissions involved. The estimates presented here are based on emission factors more appropriate to this particular facility, and in the case of NOx emissions, are also based on actual NOx monitor readings rather than simply on throughput data. As a result of this effort to develop more precise actual emissions estimates, the data presented here may not correspond exactly to the estimates provided in the Statement of Basis and in the Notice of Hearing. In addition, as with the previous table, VOC emissions are stated as NMHC.

[5] 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.

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 0.3 in one million for the maximally exposed individual (MEI) in a residential location, and 0.4 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 0.017.

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.[6]

Since the 1993 HRA, the TAC emissions from the HPPP have been substantially reduced, primarily as a result of the reduction in the use of fuel oil and the permanent shutdown of four utility boilers discussed in the previous section. The District has completed an updated HRA for the facility based on the most recent TAC emissions inventory. This updated HRA indicates that the lifetime cancer risk associated with exposure to the facility's TAC emissions is 0.02 in one million for the MEI in a residential location, and 0.04 in one million for the MEI in a non-residential location. The maximum chronic HI is 0.002, and the maximum acute HI is 0.03. 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 HPPP complies with all federal AAQS and all state AAQS except for one, and is therefore considered to be protective of public health.[7] None of the commenters has pointed to any reason to conclude otherwise.

To determine whether emissions of criteria pollutants from the HPPP 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

[6] 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.

[7] 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.

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 the following table.[8]

Table II.A – Preliminary Ambient Air Quality Analysis for HPPP

Pollutant	Averaging Time	Max. Ground Level Conc. ($\mu g/m^3$)	Significant Air Quality Impact Level (BAAQMD Reg. 2-2-233) ($\mu g/m^3$)	California AAQS ($\mu g/m^3$)	National AAQS ($\mu g/m^{3)}$
Carbon Monoxide (CO)	8-hour	17	500	10,000	10,000
	1-hour	59	2000	23,000	40,000
Nitrogen Dioxide (NO_2)	Annual	0.20	1.0	-	100
	1-hour	58	19	470	-
Sulfur Dioxide (SO_2)	Annual	0.012	1.0	-	80
	24-hour	2.6	5.0	105	365
	3-hour	15	25	-	-
	1-hour	21	-	655	-
Particulate Matter (PM_{10})	Annual	0.044	1.0	20	50
	24-hour	4.1	5.0	50	150

The results of the preliminary analysis 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 impact. A full impact analysis was therefore completed to determine whether the facility's emissions would interfere with the attainment or maintenance of the California 1-hour NO_2 AAQS. In addition, a full impact analysis was completed for the California 1-hour SO_2 AAQS because a significant air quality impact level has not been established for that AAQS. The highest 1-hour concentrations measured at the nearest monitoring site during the period January 1, 2001 to August 31, 2004 were used as background concentrations.[9]

[8] 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 average hourly emissions using the facility's 2003 emissions inventory.

[9] The District's analysis is based on monitoring data from the District's Arkansas Street Station, the nearest monitoring station for which there is substantial data over a significant period of time. The Arkansas Street Station is located approximately 2 miles to the northwest of the HPPP. 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 HPPP, and so it is appropriate to use this station in this analysis.

The results of the full air quality impact analysis are shown in the following table.

Table II.B. – Full Ambient Air Quality Impact Analysis for Emissions of NO_2 and SO_2 from HPPP

Pollutant	Averaging Time	Max. Ground Level Conc. Resulting from Facility ($\mu g/m^3$)	Max. Background Conc. ($\mu g/m^3$)	Max. Total Conc. ($\mu g/m^3$)	California AAQS ($\mu g/m^3$)
NO_2	1-hour	58	144	202	470
SO_2	1-hour	21	141	162	655

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 the California 1-hour NO_2 and SO_2 AAQS. The results of the overall analysis therefore indicate that emissions from the HPPP will not interfere with continued compliance with the applicable AAQSs.

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.[10] The District therefore does not find cause to deny the permit renewal on this basis.

III.2 Comment: Commenters were especially concerned with ozone-related health effects such as asthma. These commenters contended that the facility is having and will continue to have deleterious impacts on neighboring residents that suffer such health effects because it will emit ozone precursors, which can then combine with other precursors to form ozone. Several commenters stated that emissions of ozone precursors from the plant have exacerbated their asthma, and that they suffer asthma when they are in close proximity to the plant.

District Response: The District shares the commenters' concerns about asthma, and about the impact of ozone on asthma sufferers in the ambient air in the Bay Area. However, the HPPP does not emit ozone directly. It emits ozone precursors, but emissions of such precursors will not have any significant effect on ozone levels in the immediate vicinity of the plant, because they do not combine to form ozone until well after they have been emitted and have been carried downwind. Indeed, because of this fact and other reasons (*e.g.*, the fact that prevailing winds blow predominantly to the east), the area around the HPPP has historically enjoyed relatively low levels of ozone; as explained above, the area has not violated any state or federal ozone standards over the time period reviewed. The District therefore has no evidence, and the commenters have provided no evidence, to support the conclusion that emissions of

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Furthermore, available data suggests that measurements at the Arkansas Street Station are good indicators of ambient air quality in the vicinity of the HPPP. PG&E conducted one year of ambient air monitoring for criteria pollutants in 1992, and found that measurements were very similar to measurements at Arkansas Street. The District has also recently opened an ambient air quality monitoring station in the Bayview-Hunters Point neighborhood, approximately 1 mile west of the HPPP, as described further in the following sections. The data available from this station, albeit limited, is generally consistent with data from the Arkansas Street site (*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). The available data from the Bayview-Hunters Point monitoring station also confirm that the actual 1-hour SO_2 and NO_2 levels are far below the maximum background values used in this analysis.

[10] Indeed, one commenter recognized that some of the health impacts that neighbors complained of at the hearing are not directly linked to the facility as the source of the impacts.

ozone precursors will cause or contribute to significant ozone-related public health impacts in the community (or in the greater Bay Area, for that matter). Furthermore, to the extent that there are any public health impacts in the vicinity of the facility from emissions of ozone precursors, those impacts will in fact be lessened by this permit renewal, as noted above.

III.3 Comment: Commenters stated that the neighborhood in the vicinity of the facility contains a number of sources of environmental pollution, including air pollution and other types of pollution such as wastewater discharges, hazardous waste releases, and underground storage tanks. Several of these commenters stated that the District should analyze the cumulative risk from all of these sources combined before renewing the facility's permit.

District Response: The District is an air quality regulatory authority, and it has no jurisdiction over other types of environmental pollutants. Indeed, the District does not even have direct jurisdiction over certain sources of air emissions, such as vehicle exhaust emissions from highways. Such emissions are not under the District's regulatory control and cannot be considered emissions that are occurring because of the District's permitting decisions. By the same token, any health impacts that were to arise from such emissions cannot be considered health impacts resulting from the District's permitting decisions.

Moreover, as explained above, there will be fewer emissions under the renewed permit, not more, and so the only effect can be to reduce cumulative risks, not increase them.

The District has undertaken a cumulative analysis of air quality-related health risks for criteria pollutants, which are the subject of the commenters' concerns. The Ambient Air Quality Impact Analysis described above looks at all emissions that can impact air quality in the area, including background sources, in determining whether the facility will cause ambient air to violate any AAQS. That analysis found that emissions from the facility will not lead to any violations of applicable AAQS, even in combination with emissions from other existing sources in the area.

With respect to TACs (which commenters did not address), the District has not undertaken a cumulative risk analysis, because the risk associated with the residual emissions that will continue to be permitted, as documented above, is so small that it can make at most a *de minimis* contribution to any cumulative risk. Assessing the facility's addition to the overall cumulative risk burden would therefore be an empty exercise, as it would not have any discernable effect on the cumulative risk. Moreover, undertaking a risk assessment encompassing all emission sources in the region of the facility would require resources that the District simply does not have at this time. The District has begun to make strides in addressing the multiple technical and policy issues involved in performing this type of analysis, for example through the District's Community Air Risk Evaluation ("CARE") program, and the District intends to participate fully in the development of cumulative risk assessment guidelines at the state level. But at the moment, the District simply does not have the necessary tools to conduct a meaningful analysis of the cumulative risks from all TAC emissions in the area. Given the downward – or at least *de minimis* – incremental impact associated with this permit renewal, it would not be reasonable to devote the time and resources to develop the necessary tools in short order simply to perform a cumulative risk analysis for this permit renewal. Under the circumstances, to do so would be a poor use of the District's scarce resources, as a cumulative risk analysis for TACs would most likely reach precisely the same conclusion that the District is reaching here.

IV. Environmental Justice

IV.1 Comment: Commenters raised issues relating to environmental justice. These commenters asserted that the Bayview-Hunters Point neighborhood has a high population of low-income and/or minority residents, compared to the City of San Francisco as a whole. They asserted that the neighborhood in the vicinity of the facility contains a number of sources of environmental pollution, including air pollution and other types of pollution; and further that the neighborhood has a high rate of health problems – and in particular health problems related to air pollution such as asthma – compared with other communities. These commenters contended that renewing the Title V permit for HPPP under such circumstances 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.

As noted above, the current Title V permit renewal will have the effect of decreasing the permitted emissions from the facility. Such an action can only have a positive impact on the public health in the surrounding community (to the extent it has any public health impact at all). 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.

Moreover, even assuming the reduced emissions that will continue to be allowed under the renewed permit can be considered in determining the impact of the current permitting action, these emissions will not generate any disparate adverse impacts in violation of Title VI because they will not cause or contribute to any significant public health impacts in the community. As described in detail in Section II above, the District has undertaken a detailed review of the potential public health impacts of the emissions authorized under the proposed renewed permit, and has found that they will involve no significant public health risks. The District has found that the lifetime cancer risk associated with the facility under the renewed permit would be 0.02 in one million (for residential locations), and that the maximum chronic Hazard Index would be 0.002 and the maximum acute Hazard Index would be 0.03. These risk levels are far below what the District, EPA, or any other public health agency considers to be significant. Similarly, the District has reviewed the ambient air quality in the vicinity of the facility and has determined that it is protective of public health and will continue to be protective of public health under the proposed renewed permit, as is also described in Section II above. 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 proposed renewed permit. 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.[11]

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: 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, as explained above). 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.

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 decreases emissions from a facility, as the current permit renewal does. Title VI cannot, therefore, provide a legal reason to deny the permit renewal.

IV.2 Comment: Commenters asserted that there is an alternative available to the District that would avoid any alleged disparate impacts from renewing the permit for this facility, citing energy conservation

[11] Several commenters provided specific and detailed summaries of the racial, ethnic, and economic characteristics of the neighborhood surrounding the facility. Such summaries necessarily depend on the precise geographical boundaries chosen for the surrounding neighborhood, as well as the source of the data used and other variables. 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), it necessarily follows that there can be no disparate adverse impacts regardless of how these variables are chosen. As a result, the District has not adopted a position on the precise racial, ethnic, or economic characteristics of the surrounding neighborhood, other than to recognize that, as a general matter, the community is made up of a larger share of racial and ethnic minorities and is more economically depressed than some other communities in the region. The District shares the commenters' concerns about the potential for disparate adverse impacts on the community, as explained above.

measures, renewable energy sources, and the fact that HPPP's long outages caused no interruption in power service.

District Response: As noted above, the District's alternatives are to renew the permit with appropriate conditions, or to deny the permit if there is a valid basis for doing so. The District should not consider alternatives that it cannot legally undertake. Furthermore, even if the District were able to consider such alternatives, the commenters have provided no support for their contentions that such measures could feasibly remove the need for the HPPP to ensure reliability of the electrical distribution system. To the contrary, the only evidence before the District is that such measures would not be sufficient to ensure reliability, and that the HPPP will continue to be needed until other system upgrades come on-line (see further discussion on this issue below).

IV.3 Comment: Commenters praised recent District efforts to encourage public participation and address environmental justice, and stated that denying the permit renewal would send a message that the Air District is serious about environmental justice, while granting it will reinforce an historical perception of the District as being hostile to environmental justice and public participation.

District Response: As noted, the District is committed to promoting public participation and environmental justice, and has been "sending messages" about that fact for some time. The District disagrees that granting this permit renewal will enforce an historical perception of hostility towards such issues (to the extent such a perception exists). To the contrary, a denial of the permit renewal outside of the Title V legal framework would send the message that the District believes that it has the discretion to choose not to comply with the law.

The District believes that its support of continued emission reductions from this facility, as outlined in preceding sections, and its support of the City and PG&E's desire to shut down the plant when it is no longer needed, will help dispel any such perception that may exist. The District further believes that the additional efforts it is making in the Bayview-Hunters Point community will also help in this regard, including the District's recent opening of an air monitoring station in the area, a District effort to work with community groups to reduce diesel emissions from school buses, funding energy efficiency initiatives, and exploring an initiative to help provide assessments of asthma triggers in community homes.

IV.4 Comment: Commenters expressed concern that the existing industrial nature of the area makes it vulnerable to additional heavy industry siting. The commenters relayed a statement attributed to a CEC consultant that the main criterion used to select sites for new power plants was whether they were zoned industrial.

District Response: Land-use zoning and determinations of where to site power plants or other industrial facilities are not issues within the Air District's jurisdiction. Such issues are under the jurisdiction of the City & County of San Francisco (and to a certain extent other regulatory agencies, *e.g.*, the CEC for power plant siting issues). The District is forwarding this comment to the City via a copy of these Responses to Comments.

V. Facility Compliance & Community Complaints

V.1 Comment: Commenters contended that the facility is not in compliance with its permit conditions, and that the District cannot assure that the plant will be in compliance with a renewed permit. Commenters cited the fact that there have been breakdowns in monitoring equipment, and that residents claimed to have witnessed compliance problems, for example with dark and/or red smoke and odors coming from the facility.

District Response: The District has conducted a thorough review of the facility's compliance record, including the results of annual District inspections of the facility, the results of District-required source tests and monitor accuracy tests, the record of complaints received via the District's Air Pollution Complaint Program, and compliance data submitted by PG&E. Based upon this review, the District has found no evidence that the facility is currently out of compliance with any regulatory requirement, or that it will have trouble complying with any applicable requirement in the future, and no commenter has provided

any specific evidence to the contrary. The District therefore has no basis to deny the permit based on the inability of the facility to comply with its permit conditions.

With respect to the facility's past compliance history, the fact that there may have been breakdowns in monitoring equipment or other minor instances of non-compliance in the past does not mean that the facility is currently out of compliance or will be unable able to comply with its permit requirements going forward. The District reviewed the facility's history of monitoring equipment use over the past year and found that there were three instances of malfunctioning monitors, amounting to a loss of NOx monitoring for just 1% of the year and a loss of opacity monitoring for just 1.6% of the year. These monitor inoperability rates are very typical of other monitors in the District. The malfunctions were all addressed expeditiously and the monitors put back into service, and these periods of downtime do not suggest that the monitors or other equipment at the plant did not continue operating properly. Moreover, the District conducted Field Accuracy Tests at the facility on September 11, 2003 and on April 16, 2004, and found that the monitors were operating properly. The District has no evidence of any other past violations of any applicable requirements,[12] and none of the commenters has provided any.

In response to comments that the facility has had compliance problems in general, the District has reviewed the facility's compliance records again, and has not found any further evidence of violations of regulatory requirements. Where the commenters' generalized statements about past compliance problems fail to point to any sufficiently specific information to document a violation, and the District's investigation fails to turn up any such information, the District cannot make a finding that the facility is in violation of any applicable requirement.

Moreover, in order to deny the permit based on a finding of non-compliance, the District must find that the facility is incapable of coming back into compliance. Thus even if the District could verify and document that a violation took place based on any of the commenters' statements, it could not, without more, deny the permit renewal.

V.2 Comment: Commenters criticized statements made in the Statement of Basis asserting that the District has received no complaints about the facility. These commenters stated that there have been numerous complaints about the facility that have been made to PG&E, to the District, and to others. Multiple commenters also complained at public meetings that they were opposed to the plant and wanted it shut down, and stated that they had voiced these concerns to the District in the past through various channels.

District Response: The referenced statements in the Statement of Basis were made in a discussion of compliance status, and were therefore referring to complaints made to the District about specific instances of non-compliance with permit conditions or other regulatory requirements. The discussion was limited to such complaints because the District can base a finding of non-compliance only on concrete evidence that a violation of a specific air pollution requirement has occurred, as explained above.

In response to these comments, the District has further reviewed the record of complaints received, and has confirmed that there were no complaints made to the District's 1-800-334-ODOR complaint line, and only one telephone complaint made to field staff, which was investigated.

The District has long been aware that members of the public are opposed to the facility and want it shut down. The commenters are correct that in a general sense, these sentiments are "complaints" about the facility and have been expressed to the District. However, such expressions of general dissatisfaction with the facility are not specific enough to use as the basis for concluding that a violation of a legal requirement has taken place or is ongoing, as explained above, and so they were not included in the District's review of the facility's compliance history. To the extent that this approach has caused any confusion, the District takes this opportunity to clarify that although members of the community have

[12] PG&E did report two instances of potential excess NOx emissions in violation of the facility's permit limit. The District investigated both instances, and ultimately determined that neither was in fact a violation. In the first incident, a review of the emissions monitor charts showed that there were not any excess emissions after all. In the second incident, the emissions occurred during a District-required boiler performance test and were not a violation under District regulations.

expressed opposition to the facility on a number of grounds, and that the District understands these general concerns, over the past year the District has received no specific complaints regarding any violation of the facility's permit conditions that would support a finding that the facility is not in compliance with all applicable air quality requirements.

V.3 Comment: 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. One commenter further suggested that the 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 commenters' 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. PG&E has also posted the District's complaint number on the facility's fenceline, and the District has mailed information about the complaint process to residents in the vicinity of the plant. 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.

V.4 Comment: One commenter stated that it was alarmed by District staff's statement that the District does not consider complaints made to PG&E because PG&E cannot be trusted to relay the complaints to the District. The commenter stated that PG&E is required to report monitoring data to the District, and questioned whether PG&E's monitoring reports could be trusted.

District Response: In reviewing a facility's compliance history, the District can base a finding of non-compliance only on concrete evidence that a specific element of the operation has violated a particular legal requirement. When a commenter makes a complaint to PG&E, and PG&E does not pass on that complaint, the District simply cannot conclude, without more, that the facility is out of compliance. The District is not distrustful of PG&E, but it cannot use a generalized complaint expressed to PG&E, that is not also expressed to the District, standing alone, as a basis for finding that the facility is in violation of its permit.

As for the trustworthiness of the monitors used at the facility, the District believes that they warrant a high degree of trust. As explained above, they have passed multiple District field accuracy tests, and have malfunctioned for only a small percentage of the time over the past year, according to the District's review.

V.5 Comment: Commenters criticized the District for allowing the facility to use of emission reduction credits to comply with applicable emissions limitations.

District Response: The District is required by law to allow the use of emissions credits as set forth in the District's regulations. PG&E's use of credits has been in accordance with those regulations, and the commenters have provided no reason to conclude otherwise. Moreover, to the extent that any commenters believe that the facility's credit use violates District regulations, the time to raise such objections is when the District approves the creation or use of the credits, as appropriate, not in this proceeding.

VI. Startup/Shutdown Emissions

VI.1 Comment: Commenters asserted that the facility repeatedly starts up and shuts down, rather than operating continuously, and claimed that emissions generated during such startups and shutdowns are unregulated, unmonitored and undocumented.

District Response: These commenters allude to the fact that District regulations do not subject sources to the same NOx emissions restrictions during startups and shutdowns as are applicable during normal steady-state operations. These provisions were included in the regulations because as a technical matter, combustion sources cannot generally comply with the very stringent NOx limitations that the District applies to steady-state operations during startups and shutdowns. This is because they operate at lower capacity at those times, under conditions that make combustion much less efficient. But the fact that the regulations provide this concession to the technical reality of low-load operations during startups and shutdowns does not mean that startups and shutdowns are unregulated. To the contrary, such operations are closely regulated, with startups and shutdowns strictly limited to the time actually taken to go from inactive status to normal operations and vice-versa, and with not-to-exceed maximum time limits for both. Furthermore, emissions during startups and shutdowns are not unmonitored and undocumented as the commenters suggest. In fact, the monitoring, recordkeeping, and reporting provisions applicable to HPPP's operations are the same for startups and shutdowns as they are for normal steady-state operations.

VI.2 Comment: Commenters further claimed that startups and shutdowns cause greater air emissions than continuous operation, and claimed that these emissions are causing adverse health impacts. The commenters suggested that emissions from startups and shutdowns should be addressed in the renewed permit.

District Response: These commenters are incorrect that emissions should be expected to be greater during startups and shutdowns than during continuous, steady-state operation. The *concentration* of air pollutants in the exhaust stream from a given unit may be higher during these events, because the unit is firing at low capacity where combustion cannot be made to take place as efficiently. However, by the same token, during startups and shutdowns the unit is burning less fuel and thus producing a smaller amount of exhaust to begin with, and so the overall *mass* of pollutants emitted is normally lower than when operating at full capacity.

For example, in response to this comment, the District reviewed NOx emissions data from a sample of startups and shutdowns of HPPP Unit 4, the facility's most significant source, from 2003 and 2004. In every case, the total mass of NOx emitted during the startups and shutdowns was well below the maximum that could be emitted under the permit conditions applicable during steady-state operations (which is 64 lbs/hr).

VII. Equipment Maintenance & Breakdowns

VII.1 Comment: Commenters stated that equipment at the plant frequently breaks down. Commenters claimed that the facility has passed the end of its expected operating life, that repeated attempts to repair the equipment have not been able to prevent such breakdowns, and that such breakdowns will continue if the plant continues to operate. Commenters stated that the plant must be beyond repair because it has often been shut down or operating at less than full capacity.

District Response: The District does not have any information on the number of times equipment has failed at the facility, and none of the commenters has provided any. The District does have records on the number of times that equipment failures have caused the facility to violate District regulatory requirements. As described above, in the past year there have been only 3 minor instances in which monitoring equipment failed, and no instances in which equipment failure led to excess emissions. Based on this evidence, the District disagrees that there has been a history of equipment failures at the facility that is causing a compliance problem.

To respond to this comment further, the District has attempted to look at the facility's operating history to see if it shows excessive shutdowns for maintenance or repair. The District has reviewed data on the operation of Unit 4, the facility's main source, and has found that it has not had an excessive number of shutdowns. The number of startups (and hence, the number of shutdowns) for Unit 4 per year since the Title V permit was initially issued is as follows:

Table VII.A – Unit 4 Boiler Startups, 1998-2003[13]

Year	Number of Startups	Total Hours of Operation
1998	7	7310
1999	26	4050
2000	17	8235
2001	15	5042
2002	31	3450
2003	12	6281

This does not appear to be an excessive rate of shutdowns for a facility such as this. Furthermore, the District has reviewed PG&E's reasons for shutting the facility down, and they do not suggest a significant problem with undue equipment malfunctions. Many of the shutdowns were for testing and maintenance activities, for example.

VII.2 Comment: One commenter stated that the plant is a "ticking time bomb" and is likely to blow up if it continues to operate.

District Response: The commenter has not provided any information to support its contention that the plant is likely to blow up, and the District is unaware of any information to suggest that an explosion is likely.

VIII. Public Nuisance

VIII.1 Comment: Commenters 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. At least one of these commenters stated that the facility is not in compliance with its permit conditions because community residents have complained that the plant constitutes a nuisance.

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.

A number of commenters also alluded to public nuisances 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. The District is providing a copy of these Responses to Comments to the City to forward the commenters' concerns about such non-air emission nuisances. Also, 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.

VIII.2 Comment: Commenters claimed that use of the facility as a power plant is incompatible with the current neighborhood surrounding it.

[13] The annual startup data is provided on a permit year basis, not a calendar year basis. The first permit year begins when the permit is issued, and successive permit years begin on successive anniversaries of the issuance of the permit.

District Response: Determining whether a particular land use is compatible with the surrounding neighborhood is the responsibility of the City & County of San Francisco. Land use compatibility is not a criterion that the District may use in evaluating a Title V permit renewal application. Furthermore, the District notes City's current zoning of the property is for industrial uses such as electricity generation, as several commenters pointed out, suggesting that the City does in fact consider this to be a compatible land use. The District is forwarding the commenters' concern to the City by copy of these Responses to Comments.

IX. Noise

IX.1 Comment: Commenters commented that the facility emits excessive noise, in the form of loud explosive booms, "screaming steam," sirens, and a "loud hum".

District Response: Noise issues are not within the District's jurisdiction. Noise concerns are primarily within the jurisdiction of, and should be directed to, the City & County of San Francisco. The District is forwarding the commenters' concerns to the City by copy of these Responses To Comments.

X. Need for the Facility

X.1 Comment: Commenters noted that in 1998 the City and PG&E entered into an agreement to close the HPPP. One suggested that the District honor the agreement by denying the permit.

District Response: The District is aware of the 1998 agreement between the City & PG&E, and supports it. However, the agreement provides that the facility will be shut down as soon as it is no longer needed, and at the present time it is still needed to ensure reliability of the electrical distribution system, according to the California Independent System Operator ("ISO"). PG&E is subject to a "Reliability-Must Run" ("RMR") contract with the ISO, under which it must maintain the facility to be operated when requested by the ISO to provide electric power to the grid. As long as the facility is subject to the RMR contract, PG&E must continue to operate it. The ISO has determined that the facility is needed to ensure reliability, so it will continue to be subject to the RMR contract until the system can be upgraded.

Moreover, the 1998 agreement was between the City and PG&E, and did not involve the District. While the District supports the agreement and the desire to shut down the facility when it is no longer needed, the District itself did not make any commitment in the agreement for it to honor. The existence of the agreement does not provide cause for denying the permit renewal.

X.2 Comment: The District received several somewhat conflicting comments regarding whether there is in fact a real need for the facility. Several commenters questioned whether, as a technical matter, the facility is necessary to ensure the reliability of the electrical power grid as the ISO has determined. Some of these commenters argued that the facility cannot be necessary for ensuring reliability, because there have been periods when it was not operating and there were no reliability problems during that period as a result of the facility being off-line. In contrast, one commenter acknowledged that the facility is still needed at the present time to ensure reliable operation of the power distribution system, although it submitted that the system can be upgraded within a few years to allow reliable operation without HPPP.

District Response: The District has reviewed the technical analysis provided by the ISO and agrees with the ISO's conclusion that the facility is necessary. As the ISO has determined, there is insufficient generating capacity on the northern San Francisco peninsula and insufficient transmitting capacity in the system to ensure that reliability can be maintained if elements of the system go out of service for some reason.

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. If members of the public disagree with the ISO's conclusions, they should call on the ISO to change its position instead of presenting their case before the District. The District's role in reviewing a Title V permit renewal application is to determine whether the facility is in compliance with all applicable air-quality requirements.

Finally, the fact that the facility was not operating for a certain time period without causing any system failures or jeopardizing reliability does not suggest that the facility is no longer needed. Ensuring reliability requires capacity to be available to call on if elements fail elsewhere in the system, and this capacity is still vitally important even if it is never actually used. Furthermore, because this capacity is so important, the system has multiple redundant elements so that when some are off-line, others can pick up the slack. Each of these elements is needed to ensure reliability at all times, even if an individual element is off-line for certain periods. Indeed, it would be unreasonable to expect each element to be online at all times, as units regularly need to be taken out of service for maintenance in order to ensure that they will continue to work properly. The fact that the HPPP has been off-line for certain periods of time does not, therefore, contradict the ISO's determination that the plant is needed to ensure reliability.

X.3 Comment: Commenters suggested that a better approach to addressing reliability concerns would be to increase energy efficiency and to invest in renewable sources of energy, instead of relying on fossil-fuel fired power plants such as HPPP. One commenter suggested that if the District denied the HPPP permit renewal, it would encourage the City, PG&E, and the California Public Utilities Commission ("CPUC") to make further investments in energy conservation, renewable energy, and transmission upgrades, areas in which it claims progress to date has been disappointing.

District Response: The District supports alternative methods of addressing reliability concerns that could alleviate the need for HPPP and allow it to be closed. However, the District does not control how new sources of power are developed, how transmission upgrades are implemented, or ultimately what level of demand the system will be required to handle. As a result, the District's efforts to encourage alternative solutions to the reliability issue cannot, by themselves, alleviate the need for the HPPP.

Furthermore, these are at best long-term solutions that would take significant time to implement. Denying the permit renewal and forcing the plant to shut down immediately would therefore hinder reliability until such solutions could be developed (assuming that such an action would in fact encourage entities such as the City, PG&E and the PUC to pursue alternative solutions). As a result, the entities charged with ensuring reliability have determined that the HPPP best meets current reliability needs, and the District may not second-guess that determination in the context of a Title V permit renewal.

X.4 Comment: One commenter stated that the reliability issues cited as a reason for needing the HPPP are overstated, and are being used as an excuse to call for other electrical infrastructure projects. The commenter also stated that there is no real desire on the part of PG&E, the City and the ISO to close the HPPP. In a similar vein, another commenter stated that the District need not and should not consider the ISO's views, because the ISO's mission is to ensure energy reliability and the District's mission is to protect air quality.

District Response: The District has found no evidence to suggest that PG&E, the City, and the ISO are not sincere in their stated desire to shut down the facility as soon as it is no longer needed. Furthermore, the District has found no evidence to suggest that the need for the facility at the present time is overstated or is being used as a cover for ulterior motives. The District respects the ISO's determination because it is the entity with the expertise and authority on matters of the reliability of the electricity distribution system, and also because the District has examined the evidence on which the ISO has based its position and found it to be credible.

Furthermore, the District's role in reviewing a Title V permit renewal application is not to question the wisdom of the decision to keep the plant open for reliability reasons, or the motives of the decisionmakers. If the entities charged with making such decisions determine that the facility is needed at this location for reliability purposes and should remain open, the District's role is to determine whether the operation will continue to satisfy all applicable air quality law and regulations. As noted above, the District has concluded that the facility can meet all applicable requirements and the District accordingly must issue the permit renewal.

X.5 Comment: One commenter stated that denying PG&E's application would relieve PG&E of its obligation to comply with its RMR contract, citing a Federal Energy Regulatory Commission ("FERC") order holding that an energy company is not obligated to comply with an RMR contract if doing so would cause a violation of air pollution laws.

District Response: The District notes that the FERC order cited by this commenter does not address RMR contracts (although it does address a somewhat similar "must-offer" requirement). But in any event, whether PG&E can be relieved from its RMR obligations if meeting those obligations would require PG&E to violate any air quality law or regulation is irrelevant. As explained herein, PG&E can meet the obligations without violating any air pollution laws or regulations.

X.6 Comment: One commenter also made a number of comments generally criticizing local, regional, and national energy policy choices. The commenter complained about how PG&E and the City have spent Peak Energy Project ("PEP") funds; criticized PG&E for charging Bayview-Hunters Point residents high rates; complained about cost overruns on a transmission project between Redwood City and San Francisco; and criticized the suggestions of Alan Greenspan, chairman of the Federal Reserve System, to address high natural gas prices, among other similar comments.

District Response: The commenter has provided no documentation to support these criticisms, and so the District has not been able to evaluate them. Moreover, these issues are irrelevant to the current permit renewal action, and so have no bearing on the District's decision to approve or deny PG&E's application.

XI. Permit Term

XI.1 Comment: One commenter stated that the District can and should issue the permit for a shorter term than 5 years. The commenter stated that the District should issue the permit to terminate at the end of 2005. The commenter also stated that the District should work with PG&E to agree "as part of a compliance plan, to a permit that terminates at the end of 2005."

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. This 5-year requirement cannot be circumvented through the use of a "compliance plan" or other mechanism designed to evade the requirements of District regulations and federal law. The District is therefore issuing the permit for a term of 5 years.

However, as described in greater detail in the preceding sections, the District does fully support the efforts of PG&E and the City and County of San Francisco to shut down the facility as soon as it is no longer needed. Accordingly, the District is adding requirements that PG&E shut down emission sources at the facility when those sources are no longer subject to, or operated pursuant to, a Condition 2 Reliability Must Run Agreement. This condition has been added in consultation with and by agreement of PG&E, in response to the facility's statements that it intends to shut down the sources as soon as they are no longer subject to such an agreement. This added condition addresses the comment that the permit should not authorize operation of the plant for longer than is necessary.

XI.2 Comment: 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 Unit 1 (Sources S-1 and S-2) 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 Unit 1, and suggested that the District issue two separate Title V permits, one for Unit 1 (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, PG&E applied for a single Title V permit for the entire facility for a term of 5 years, as it is entitled to do. Nevertheless, as noted above, the District has included a permit condition requiring the shutdown of sources when the ISO determines that they are no longer necessary for reliability purposes.

XII. Monitoring

XII.1 Comment: Commenters stated that the monitoring of air pollution in the vicinity of the facility has been limited. The commenter claimed that particulate matter has never been sampled on a regular basis in the vicinity of the plant, and noted that the closest District air sampling station is several miles from the plant and is normally upwind. The commenter suggested that the District should require PG&E to install ambient air monitoring in the Bayview-Hunters Point neighborhood and should publish the monitoring data.

District Response: The District shares the community's very serious concerns about air pollution-related health problems. In response to these and other comments, in June of 2004 the District opened an air monitoring station in the Bayview-Hunters Point neighborhood to better assess the level of a wide variety of air pollutants, including ozone, NOx, SO_2, CO, PM_{10}, $PM_{2.5}$, and a suite of toxic compounds, including Black Carbon ("BC"). The station, known as BayCAMP, is operating with the cooperation of CARB, in partnership with the San Francisco Department of the Environment and EPA. The data collected becomes public information and is made available to the public on the District's website, www.baaqmd.gov.

Furthermore, available data suggests that measurements at the Arkansas Street Station, the nearest monitoring station for which there is substantial data over a significant period of time, are good indicators of ambient air quality in the vicinity of the HPPP. As noted above, PG&E conducted one year of ambient air monitoring for criteria pollutants in 1992, and found that measurements were very similar to measurements at Arkansas Street, and the data available so far from the BayCAMP station, albeit limited, is generally consistent with data from the Arkansas Street site.

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 commenter 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 air emissions from the facility in the existing Title V permit (including NOx, CO, and opacity, a surrogate for PM emissions), 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.

XII.2 Comment: EPA suggested that the District include a Compliance Assurance Monitoring ("CAM") plan for Sources S1 and S2.

District Response: The District agrees that a CAM plan would be appropriate for these sources, and has amended its proposal accordingly. The facility submitted a CAM plan to EPA on May 21, 2004, and the plan has been implemented in Condition 15815. The main additions to the condition are the flowmeter accuracy requirement in Part 3c and a flowmeter calibration requirement in Part 3d. Although the flowmeter accuracy requirement is new, the existing flowmeters meet the requirement. The continuous measurement and daily recordkeeping of water-to-fuel ratio were part of the existing monitoring. The water-to-fuel ratio is the same one in use prior to the imposition of the CAM plan. The only wholly new addition is the requirement to test for nitrogen in the fuel.

XIII. Allegations Of Improprieties In The Permitting Process

XIII.1 Comment: 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.

XIII.2 Comment: One commenter alleged that the District has been biased in favor of PG&E in conducting the permit application and review process in a defective, biased and flawed manner. The commenter presented a list of alleged misrepresentations and other allegedly improper actions by the District that it claims demonstrate such bias. The commenter claims that this alleged misconduct by District staff undermined public participation in the permit process, by discouraging people from participating who otherwise would have absent the alleged misconduct.

District Response: The District has conducted its review of the HPPP Title V permit renewal application as it would any other such application. It has not conducted the review process in a flawed or defective manner, has not been biased in favor of or against PG&E or any other person or entity, and has not misrepresented any material fact. The District responds to the specific instances of alleged misconduct below on a point-by-point basis.

Furthermore, the commenter has provided no evidence to suggest that even if the District had engaged in the alleged misconduct, it could have had any negative effect on public participation; nor is there any reasonable basis for inferring such an effect. The District complied with every public participation requirement applicable to the Title V permit process, and even went beyond what was required in some cases, and there were very many members of the public who participated in the review and comment process, both individually and through community organizations (including the entity that made this comment). Indeed, the sheer volume of comments received indicates that the District's conduct of this permitting action did not discourage public participation, but in fact actively encouraged it. The commenter that submitted these allegations was clearly not dissuaded from commenting as a result of the District's actions, and has provided no information to suggest that any other interested member of the public was actually dissuaded from commenting, either.

The District makes the following responses to the commenter's specific allegations:

> **XIII.2.a. Allegation:** The commenter first claimed that the District's review and processing of PG&E's permit renewal application has been flawed in that the District has illegally delayed taking action on the application, has missed legally-mandated deadlines for permit processing, and has otherwise been untimely. Specifically, the commenter claimed that the District failed to notify the public immediately of the receipt of the permit renewal application, and improperly waited more than a year after the application was received to hold a public hearing. The commenter suggested that this alleged delay improperly favored PG&E and demonstrated bias in PG&E's favor.
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> **District Response:** The District has not improperly delayed in processing PG&E's permit application. District regulations require that the District provide notice to the public at least 30 days before issuance of a Title V permit or before a public hearing is held on a permit. (*See* District Regulation 2-6-412; 40 C.F.R. § 70.7(h).) The District complied with this 30-day notice requirement for this permit. There is no requirement that the District notify the public of the receipt of a Title V permit application. District regulations further require final action by the District on a permit renewal application within 18 months after the submission of a complete application. (*See* District Regulation 2-6-410; 40 C.F.R. § 70.7(a)(2).) PG&E's application was submitted on March 11, 2003, which means that the District was required to complete its review by September 10, 2004. Although the final permitting action will occur after this deadline, the District has

needed this time to appropriately consider and address the voluminous comments and high level of public interest in the HPPP Title V permit renewal.

Moreover, the District has taken additional steps, beyond the minimum required by federal and District regulations, to encourage meaningful and effective public participation. For example, in addition to holding a public hearing on the proposed permit, the District convened an additional informational meeting a month before the public hearing to provide background information on PG&E's Title V application and to educate the local community about the Title V process, and specifically about public participation in that process. Furthermore, the District has undertaken a thorough review and analysis of the large volume of public comment that has been received. These have been worthwhile efforts, but they have been time-consuming. These efforts further show that the District has treated all stakeholders evenly and fairly, including the applicant and the public, and has not exhibited bias in favor of PG&E or anyone else.

XIII.2.b. Allegation: The commenter also claimed that the District has illegally allowed PG&E to continue operation of the facility after the expiration date of the current permit, which was September 13, 2003. The commenter suggested that this is further evidence of bias in PG&E's favor.

District Response: District and federal regulations authorize all Title V facilities, including HPPP, to continue operating under their existing permit conditions after the existing permit has expired where the facility has submitted a timely application for a renewal and the District is considering that application. (*See* District Regulations 2-6-407 & 2-6-410.1; 40 C.F.R. §§ 70.4(b)(10); 70.5(a)(2); 70.7(b), & 70.7(c)(1)(i); *see also* Clean Air Act § 503(d).) That is the case here. Under District Regulation 2-6-404.2 and 40 C.F.R. § 70.5(a)(1)(iii), PG&E was required to submit its application by March 13, 2002. PG&E did so, and so it continues to operate under its existing permit conditions pending the District's review of the application. The District has treated PG&E the same as it does all Title V permit renewal applicants, and has not shown any bias in favor of PG&E or anyone else.

XIII.2.c. Allegation: The commenter also claimed that a District staff member told community representatives that the permit would be issued and that "the air in Bayview Hunters Point next to the power plant is the same as in Marin County" (commenter's quotation).

District Response: The commenter has incorrectly quoted District staff. The District staff member involved remembers having a conversation with members of the commenting organization regarding emissions of certain pollutants from the facility, in which he made a general observation that emissions in upwind areas of the Bay Area – including Bayview-Hunters Point and Marin County, among others – tend to be carried by the prevailing winds away from those areas and towards downwind areas. As a general observation, this statement is correct and unremarkable, and does not demonstrate bias in favor of PG&E or any other entity. The commenter has apparently mis-remembered the conversation and as a result has mis-quoted District staff.

XIII.2.d. Allegation: The commenter claims that the District failed to evaluate environmental justice issues.

District Response: The District has evaluated environmental justice issues, as explained in detail in Section IV above. The District incorporates by reference its responses in that section.

XIII.2.e. Allegation: The commenter claims that the District failed to evaluate the cumulative health risk impact of all emissions sources in Southeast San Francisco.

District Response: The District has evaluated the cumulative health impacts of all sources of criteria pollutants – the pollutants the commenter is concerned about – in the area of the facility, as explained in detail in Section III above. The District incorporates by reference its responses in that section.

XIII.2.f. Allegation: The commenter claims that the District has not acknowledged high asthma and cancer rates in Bayview-Hunters Point.

District Response: The District takes very seriously the health concerns raised by the commenters, and recognizes that there are a number of health problems that can be caused or exacerbated by air pollution, including cancer and asthma. The District is committed to improving air quality and public health in Bayview-Hunters Point and in all communities throughout the Bay Area.

XIII.2.g. Allegation: The commenter claims that the District demonstrated bias in favor of PG&E by claiming that the District has no records of compliance problems at the facility, while Bayview-Hunters Point residents have complained about compliance problems at the plant, and in particular complained to the District's APCO, senior District staff, and the District's Board of Directors during a tour of Bayview-Hunters Point on January 7, 2004.

District Response: With respect to compliance issues and the handling of community complaints, the District incorporates its responses from Section V. above. As explained in more detail in that section, the District has reviewed the compliance status of the facility and found that it is not in violation of any applicable requirements. With respect to the commenter's claims of bias, the District analyzes compliance issues this way with respect to all facilities. This approach to compliance issues is fair to regulated community and fair to public, and it is required by law. It is not evidence of bias in favor of PG&E or any other entity.

XIII.2.h. Allegation: The commenter claims that the District has demonstrated bias in favor of PG&E by granting breakdown relief associated with two indicated NOx excesses and three inoperative monitors.

District Response: This comment goes to the District's exercise of enforcement discretion pursuant to the breakdown provisions in the District's regulations, and is unrelated to the issues presented by this Title V permit renewal. Even if the District were to improperly grant breakdown relief where it should instead have taken penalty action, that has no bearing on whether to renew a facility's Title V permit.

Those points notwithstanding, the District strongly disagrees that the granting of breakdown relief shows any bias towards PG&E. The District has treated PG&E's breakdown applications in exactly the same manner in which it treats such applications from all other entities in the regulated community pursuant to the breakdown provisions of District regulations (and the commenter has not provided any reason to believe otherwise). The granting of breakdown relief does not demonstrate bias in favor of PG&E or anyone else.

Finally, the District notes that the two incidents where breakdown relief was requested for NOx excesses were not in fact violations, as District investigations ultimately determined.

XIII.2.i. Allegation: The commenter claims that District staff incorrectly stated at the April 6, 2004 informational meeting on the Title V permitting process that the monitor breakdowns the occurred at the plant were short in duration. The commenter claims that characterizing the breakdowns as "short" was misleading because in fact the total monitor downtime was 229 hours. The commenter further claims that District staff made misleading statements by asserting that the facility was probably in compliance during the monitor downtime, without having any evidence to support this claim.

District Response: The District disagrees that these statements were false or misleading. 229 hours is barely 2.7% percent of the total time period covered by the District's compliance review, and the facility was not even operating during all of that downtime. Furthermore, the evidence shows that the monitors were working properly the vast majority of the time, and have passed a number of field accuracy tests. Under the circumstances, the periods during which the monitors were inoperative are fairly insignificant from a compliance standpoint, and so it is not inappropriate to consider them "short."

XIII.2.j. Allegation: The commenter claims that the April 27, 2004 "Review of Compliance" document incorrectly states that the primary function of the facility is to provide electric power to the City and County of San Francisco. The commenter claims that this statement is incorrect in that the primary function is to provide reliability in electric power for the entire San Francisco Bay

Area, not just to the City and County of San Francisco. The commenter claims that this is a material misrepresentation that caused some people to refrain from participating in the public comment process in the belief that the project's focus was on San Francisco, whereas these same people would have participated in the process if they knew that the focus was in fact the larger Bay Area.

District Response: The Air District is a regulatory agency in charge of controlling air pollution, and while the District's staff have developed considerable expertise in technical areas related to electrical power distribution, they rely heavily on other agencies and other entities in understanding how power distribution works. It is the District's understanding from reviewing these issues that the HPPP is needed primarily to ensure reliability to San Francisco, as explained above, and the District believes that this analysis is correct.

To the extent the District's understanding is incorrect, however, any misstatement the District has made would have been an inadvertent mistake and not evidence of bias in favor of PG&E or anyone else. Moreover, any inadvertent misstatement on this issue does not undermine the District's public participation efforts with respect to this permit action. As stated elsewhere in these Responses to Comments, the District has complied with all public participation requirements under District regulations and other sources, and has even gone beyond the minimum requirements in certain instances. And the results of the public participation process have been positive. Many members of the public attended the public meetings held on this issue, and many submitted written comments for the District's consideration. The commenter's contention that the District has improperly constrained public participation by misrepresenting the uses of power from HPPP is unfounded.