

FILED

JUL 16 2010

HEARING BOARD  
BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT

Lisa Harper  
Clerk, Hearing Board  
Bay Area Air Quality  
Management District

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5 **BEFORE THE HEARING BOARD OF THE**  
6 **BAY AREA AIR QUALITY MANAGEMENT DISTRICT**  
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8 AIR POLLUTION CONTROL OFFICER of the BAY  
9 AREA AIR QUALITY MANAGEMENT DISTRICT

DOCKET NO. 3580

10 Complainant,

11 v.

CONDITIONAL ORDER FOR  
ABATEMENT

12 Kang Property, Inc.; Ameri Oil Company, Inc.; Ameri  
13 Mgmt Company, Inc.; Sarbjit S. Kang; Azad Amiri; Ali  
14 Amiri; Haleh Amiri; Abolghassem (“Gus”) Shahidi;  
15 Moraga Partnership; San Francisco-Moraga Partnership;  
16 Brentwood American Partnership; a Gasoline Dispensing  
17 Facility located at 2329 N. Main Street, Walnut Creek,  
18 California 94596, Site No. C1719 *a/k/a* Main Street  
19 Chevron, North Main St Chevron, and/or North Main  
20 Chevron; a Gasoline Dispensing Facility located at 398  
21 Rheem Boulevard, Moraga, California 94556, Site No.  
22 C8950 *a/k/a* Moraga Star, Stars, Moraga 76 and/or Unocal  
Service Station #3937; a Gasoline Dispensing Facility  
located at 7920 Brentwood Boulevard, Brentwood,  
California 94513, Site No. C1164 *a/k/a* Brentwood  
American Station; a Gasoline Dispensing Facility located  
at 425 Moraga Road, Moraga, California 94556, Site No.  
D0504 *a/k/a* American Gas, Moraga 76, and/or Moraga  
American; and DOES 1-10, inclusive

23 Respondents.  
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25 On or about May 18, 2010, the Air Pollution Control Officer (“APCO”) of the Bay Area  
26 Air Quality Management District (“District”), Complainant in the above-entitled matter, filed  
27 with this Hearing Board an Accusation and Request for Order for Abatement (“Accusation”)  
28

1 against Kang Property, Inc.; Ameri Oil Company, Inc.; Ameri Mgmt Company, Inc.; Sarbjit S.  
2 Kang; Azad Amiri; Ali Amiri; Haleh Amiri; Abolghassem (“Gus”) Shahidi; Moraga Partnership;  
3 San Francisco-Moraga Partnership; Brentwood American Partnership; a Gasoline Dispensing  
4 Facility located at 2329 N. Main Street, Walnut Creek, California 94596, Site No. C1719 *also*  
5 *known as* Main Street Chevron, North Main St Chevron, and/or North Main Chevron; a Gasoline  
6 Dispensing Facility located at 398 Rheem Boulevard, Moraga, California 94556, Site No. C8950  
7 *also known as* Moraga Star, Stars, Moraga 76 and/or Unocal Service Station #3937; a Gasoline  
8 Dispensing Facility located at 7920 Brentwood Boulevard, Brentwood, California 94513, Site  
9 No. C1164 *also known as* Brentwood American Station; a Gasoline Dispensing Facility located  
10 at 425 Moraga Road, Moraga, California 94556, Site No. D0504 *also known as* American Gas,  
11 Moraga 76, and/or Moraga American); and DOES 1-10, inclusive (hereinafter “Respondents”),  
12 which requested that the Hearing Board order that Respondents cease and desist transferring  
13 gasoline from underground gasoline storage tanks to motor vehicles at their four gasoline  
14 dispensing facilities located at (i) 2329 N. Main Street, Walnut Creek, California, Site No.  
15 C1719, known as Main Street Chevron, (ii) 398 Rheem Boulevard, Moraga, California, Site No.  
16 C8950, known as Moraga Star, (iii) 7920 Brentwood Boulevard, Brentwood, California, Site No.  
17 C1164, known as Brentwood American Station, and (iv) 425 Moraga Road, Moraga, California,  
18 Site No. D0504, known as Moraga 76 (collectively referred to herein as “Facilities”) thirty days  
19 from the date of hearing in this matter until Respondents install complete Phase II enhanced  
20 vapor recovery (“EVR”) systems, certified by the California Air Resources Board (“ARB”) in  
21 accordance with the requirements of District Regulation 8, Rule 7, Section 302.1, at each of their  
22 Facilities.

23 The Clerk of the Hearing Board provided notice of the hearing on the Accusation in  
24 accordance with the requirements of Health and Safety Code section 40823. The Hearing Board  
25 heard the request for an Abatement Order on June 24, 2010.

26 Mr. Ali Amiri and Ms. Haleh Amiri appeared on behalf of all Respondents.

27 Randi Wallach, Assistant Counsel, appeared for the Air Pollution Control Officer.

1 Mr. Chris Coehlo, Mr. Scott Owen and Ms. Susan Adams testified for the APCO. Mr.  
2 Ali Amiri and Ms. Haleh Amiri testified on behalf of all of the Respondents.

3 The Hearing Board provided the public with an opportunity to testify at the hearing, as  
4 required by the Health and Safety Code. No members of the public testified. The Hearing Board  
5 heard evidence, testimony and oral argument from the APCO and Respondents.

6 The Hearing Board closed the hearing after receiving evidence, testimony and argument,  
7 and took the matter under submission for decision. After consideration of the evidence, the  
8 Hearing Board found the following findings of fact and conclusions of law, and voted to issue a  
9 Conditional Order for Abatement as set forth below:

10 **FINDINGS OF FACT**

11 1. Haleh Amiri, an individual, admitted that she is the owner of the gasoline  
12 dispensing facility (“GDF”) that is located at 2329 N. Main Street, Walnut Creek, California,  
13 Site No. C1719 (“Main Street Chevron”). Ali Amiri, an individual, admitted that he is employed  
14 as the Operations Manager by Ameri Mgmt Company, Inc., and that Ameri Mgmt Company,  
15 Inc. operates Main Street Chevron. Main Street Chevron has 3 underground gasoline stationary  
16 storage tanks, and its annual gasoline throughput in 2007-2008 was approximately 2,460,000  
17 gallons.

18 2. Haleh Amiri admitted that she is the owner of the GDF that is located at 398  
19 Rheem Boulevard, Moraga, California, Site No. C8950 (“Moraga Star”). Ali Amiri admitted  
20 that Ameri Mgmt Company, Inc. operates Moraga Star. Moraga Star has 2 underground gasoline  
21 stationary storage tanks, and its annual gasoline throughput in 2007-2008 was approximately  
22 560,000 gallons.

23 3. Ali Amiri admitted that he appeared on behalf of Kang Properties, Inc., a  
24 corporation which owns the property underlying a GDF located at 7920 Brentwood Boulevard,  
25 Brentwood, California, Site No. C1164 (“Brentwood American Station”). Ali Amiri further  
26 admitted that he appeared on behalf of Sarbjit S. Kang, a partner in Brentwood American  
27 Partnership, a partnership which owns the Brentwood American Station business. Ali Amiri

1 further admitted that Ameri Mgmt Company, Inc. operates Brentwood American Station.

2 4. Ali Amiri admitted that he appeared on behalf of Azad Amiri and Sarbjit S. Kang,  
3 partners in San Francisco – Moraga Partnership, which owns a GDF located at 425 Moraga  
4 Road, Moraga, California, Site No. D0504 (“Moraga 76”). Ali Amiri further admitted that  
5 Ameri Mgmt Company, Inc. operates Moraga 76.

6 5. The Facilities are subject to the jurisdiction of the District.

7 6. Volatile organic compounds (“VOCs”) are organic compounds that evaporate  
8 quickly into the atmosphere. VOCs, reacting with oxides of nitrogen in sunlight, create ground  
9 level ozone. Ground level ozone is the primary component of photochemical smog, which is a  
10 significant air quality problem in the Bay Area. Ozone aggravates respiratory diseases, reduces  
11 visibility, causes eye irritation, and damages vegetation. One of the common sources of VOCs is  
12 gasoline vapors. Gasoline vapor, which contains hydrocarbons, is an air contaminant. Gasoline  
13 contains benzene, a known carcinogen. In the Bay Area, gasoline dispensing facilities are a  
14 major source of VOC emissions.

15 7. A GDF “vapor recovery system” collects gasoline vapors that are discharged  
16 during gasoline transfer operations and processes the vapors to prevent their release into the  
17 atmosphere.

18 8. A GDF vapor recovery system comprises a “Phase I” system, which controls  
19 gasoline vapors during the transfer of gasoline from gasoline cargo tanks to a GDF’s stationary  
20 storage tank, and a “Phase II” system, which controls gasoline vapors during transfer of gasoline  
21 between the GDF’s stationary storage tank and a motor vehicle.

22 9. District Regulation 8, Rule 7, Section 302.1 prohibits a person from transferring  
23 gasoline between a GDF’s stationary storage tank and a motor vehicle without an ARB-certified  
24 Phase II system in place and in operation.

25 10. State law requires that stations in existence as of April 1, 2005 with underground  
26 stationary gasoline storage tanks had to install an enhanced vapor recovery (“EVR”) Phase II  
27 system as of April 1, 2009. As of April 1, 2009, only EVR Phase II equipment was ARB-

1 certified, and any Phase II system that was not ARB-certified as EVR Phase II was de-certified.

2 11. The District is authorized to tag “out of order” components at a GDF that are not  
3 certified by ARB. Until such components are replaced, repaired or adjusted and the District has  
4 reinspected the components (or authorized use of the components pending reinspection), no one  
5 may operate them.

6 12. The District conducted an extensive public outreach program to GDF owners and  
7 operators about the EVR Phase II upgrade requirements and District Regulation 8-7-302.1  
8 through public workshops, delivery of District compliance advisories, and on-site compliance  
9 assistance visits at GDFs.

10 13. Respondents admit that at least as of some time in 2008, Respondents were fully  
11 aware of the requirement to have installed the Phase II EVR system as of April 1, 2009.

12 14. On numerous occasions, the District inspected the Facilities to remind  
13 Respondents of the April 1, 2009 deadline and to monitor the progress of the EVR Phase II  
14 system upgrade, if any. The District’s inspector conducted compliance assistance visits at each  
15 of the Facilities prior to the April 1, 2009 deadline, and provided the Facilities with ARB  
16 Compliance Advisory Nos. 372 and 373 and other documentation regarding the Phase II EVR  
17 upgrade requirements. After the April 1, 2009 deadline, the District’s inspector visited each of  
18 the Facilities several times, each time confirming that Respondents continued to conduct motor  
19 vehicle refueling operations without ARB-certified Phase II EVR equipment. The inspector last  
20 visited the Facilities on June 21 and 22, 2010.

21 15. Respondents did not curtail or cease dispensing gasoline at the Facilities on or  
22 after April 1, 2009.

23 16. The District issued Notices of Violation (“NOV”) to each of the Facilities for  
24 conducting gasoline dispensing operations with an uncertified EVR Phase II system as of  
25 April 1, 2009, in violation of District Regulation 8-7-302.1.

26 a. On or about June 8, 2009 the District issued NOV No. A50504 to Main Street  
27 Chevron. A copy of NOV No. A50504 was entered into evidence as the

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District's Exhibit No. 1.

- b. On or about June 3, 2009 the District issued NOV No. A50502 to Moraga Star. A copy of NOV No. A50502 was entered into evidence as the District's Exhibit No. 2.
- c. On or about June 8, 2009, the District issued NOV No. A50505 to Brentwood American Station. A copy of NOV No. A50505 was entered into evidence as the District's Exhibit No. 3.
- d. On or about June 3, 2009, the District issued NOV No. A50503 to Moraga 76. A copy of NOV No. A50503 was entered into evidence as the District's Exhibit No. 4.

17. Respondents did contact the District and obtain compliance agreements for each of the Facilities that enabled Respondents to continue operating after April 1, 2009 so long as Respondents were diligently working to upgrade their vapor recovery systems. However, Respondents have been in breach of the agreements since November 2, 2009 pursuant to Paragraph 19 of the agreements, as Respondents have met neither the September 1, 2009 nor November 1, 2009 compliance dates, nor sought or received any further extensions from the District. Copies of the compliance agreements were entered into evidence as the District's Exhibit Nos. 5, 6, 7 and 8.

18. The District inspector photographed the Facilities in operation on June 21 and 22, 2010 and produced receipts from the purchase of gasoline from the Facilities on those dates. Copies of the photographs and gasoline purchase receipts were entered into evidence as the District's Exhibit Nos. 9, 10, 11 and 12.

19. Due to the Respondents' failure to install the required ARB-certified EVR Phase II equipment, the Respondents emit approximately 1,476 pounds of excess VOCs annually at Main Street Chevron, 336 pounds of excess VOCs annually at Moraga Star, 564 pounds of excess VOCs annually at Brentwood American Station, and 252 pounds of excess VOCs annually at Moraga 76.



1 dispensing operations at the Facilities thirty (30) days from the date of the hearing on this matter,  
2 July 24, 2010, until:

3 a. Respondents come into compliance with Regulation 8, Rule 7, Section 302.1 by  
4 installing an ARB-certified EVR Phase II system that complies with the system manufacturer's  
5 specifications and with the terms and conditions of the District authority to construct the EVR  
6 Phase II system at each facility; and

7 b. Respondents submit the EVR Phase II upgrade "start-up notification" to  
8 Respondents' District permit engineer, as required by each EVR Phase II system's authority to  
9 construct, with a copy submitted simultaneously to this Hearing Board and to the District Legal  
10 Division, attention Brian C. Bungler, via facsimile or certified mail.

11 2. Respondents are required to accept delivery of the Order for Abatement by  
12 personal delivery, by certified mail at any of the Facilities' addresses, or by any other manner  
13 authorized in civil actions.

14 3. That this Conditional Order for Abatement shall become effective immediately.

15 4. That the Hearing Board shall retain jurisdiction over this matter until Respondents  
16 come into compliance with the EVR Phase II requirements of Regulation 8, Rule 7, Section  
17 302.1 and submit "start-up notification" in accordance with the requirements set forth in  
18 Paragraph 1 of this Conditional Order for Abatement.

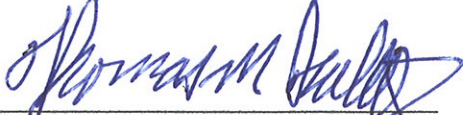
19 Moved by: Terry A. Trumbull, Esq.

20 Seconded by: Gilbert Bendix, P.E

21 AYES: Gilbert Bendix, P.E, Rolf Lindenhayn, Esq., Julio Magalhães, Ph.D.,  
22 Terry A. Trumbull, Esq., and Thomas M. Dailey, M.D.

23 NOES: None

24 ABSTAINED: None

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26 \_\_\_\_\_  
27 Thomas M. Dailey, M.D., Chair

25 7-8-10  
26 \_\_\_\_\_  
27 Date