

FILED

JUN 21 2010

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

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

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**BEFORE THE HEARING BOARD OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

AIR POLLUTION CONTROL OFFICER of the BAY
AREA AIR QUALITY MANAGEMENT DISTRICT,

DOCKET NO. 3579

Complainant,

vs,

**CONDITIONAL ORDER
FOR ABATEMENT**

LIDO AUTO CARE, INC., a California corporation, and
d/b/a LIDO 76; SATWANT SINGH, individually, a/k/a
SAT SINGH and SATWAT SINGH, and d/b/a LIDO 76;
MICHAEL LODWIG, individually, and d/b/a AUTOPIA
EXPRESS and AUTOPIA CAR WASH; A GASOLINE
DISPENSING FACILITY LOCATED AT 35425
NEWARK BOULEVARD, NEWARK, ALAMEDA
COUNTY, CALIFORNIA, Site No. C9280, a/k/a LIDO
AUTO CARE, INC. and LIDO 76; and DOES 1 through
10, inclusive,

Respondents.

On or about May 14, 2010, the Air Pollution Control Officer (“APCO”) of the Bay Area
Air Quality Management District (“District”), Complainant in the above-entitled matter, filed
with this Hearing Board an Accusation and Request for Order for Abatement (“Accusation”)
against Lido Auto Care, Inc., a California corporation, also doing business as Lido 76; Satwant
Singh, individually, also known as Sat Singh and Satwat Singh, and *d/b/a* Lido 76; Michael
Lodwig, individually, and *d/b/a* Autopia Express and Autopia Car Wash; a gasoline dispensing

1 facility located at 35425 Newark Boulevard, Newark, Alameda County, California, Site No.
2 C9280, a/k/a Lido Auto Care, Inc. and Lido 76; and Does 1 through 10, inclusive (hereinafter
3 “Respondents”), to cease and desist transferring gasoline at its gasoline dispensing facility
4 located at 35425 Newark Boulevard, Newark, Alameda County, California, Site No. C9280,
5 a/k/a Lido Auto Care, Inc. and Lido 76 (“Facility”), from the Facility’s underground gasoline
6 storage tanks to motor vehicles thirty days from the date of hearing in this matter until
7 Respondents install enhanced vapor recovery (“EVR”) Phase II system equipment certified by
8 the California Air Resources Board (“ARB”) in accordance with the requirements of District
9 Regulation 8, Rule 7, Section 302.1.

10 Mr. Satwant Singh and Mr. Michael Lodwig appeared for Respondents.

11 Susan Adams, Assistant Counsel, appeared for the Air Pollution Control Officer.

12 The Clerk of the Hearing Board provided notice of the hearing on the Accusation in
13 accordance with the requirements of Health and Safety Code section 40823.

14 The Hearing Board heard the request for an Order for Abatement on June 10, 2010. The
15 District presented orally a stipulation agreed to by the District and the Respondents for a
16 proposed conditional order for abatement. The Respondents affirmed their agreement to the
17 stipulated proposed conditional order for abatement.

18 The Hearing Board provided the public with an opportunity to testify at the hearing, as
19 required by the Health and Safety Code. No members of the public testified. The Hearing Board
20 heard evidence, testimony and oral argument from the APCO and Respondents and took official
21 notice of facts and documents in support of the allegations contained in Paragraphs 1, 8 through
22 22, and portions of 24 of the Accusation.

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

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1 **FINDINGS OF FACT**

2 1. Lido Auto Care, Inc., a California corporation, and *d/b/a* Lido 76; Satwant Singh,
3 individually, *a/k/a* Sat Singh and Satwat Singh, and *d/b/a* Lido 76; and Michael Lodwig,
4 individually, and *d/b/a* Autopia Express and Autopia Car Wash (hereinafter “Owner”), own
5 and/or operate the Facility.

6 2. The Facility is subject to the jurisdiction of the District. The Facility contains
7 three underground gasoline stationary storage tanks and 18 single product nozzles. The
8 Facility’s gasoline throughput for the period of May 2007 to April 2008 was approximately
9 1,770,000 gallons.

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

18 4. A Gas Dispensing Facility (“GDF”) “vapor recovery system” collects gasoline
19 vapors that are discharged during gasoline transfer operations and processes the vapors to
20 prevent their release into the atmosphere.

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

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

1 is appointed by the District Board of Directors, is authorized to enforce all rules and regulations
2 adopted or prescribed by the District Board and is authorized to seek an Order for Abatement
3 from the District's Hearing Board to stop violations of a District rule or regulation prohibiting or
4 limiting the discharge of an air contaminant into the air.

5 Pursuant to Health and Safety Code Section 42451(a), the Hearing Board may issue an
6 Order for Abatement if it finds that a person is operating a gasoline dispensing facility in
7 violation of a District rule or regulation that prohibits or limits the discharge of an air
8 contaminant into the air.

9 Cause for determination that Respondents are in violation of District Regulation 8-7-
10 302.1 is established by Findings of Fact Nos. 1, 2, 6, 7, 10, 11 and 13.

11 Cause for issuance of an order that Respondents abate this violation is established by
12 Findings of Fact Nos. 1 through 13, inclusive.

13 **ORDER**

14 **Cause being found therefore, pursuant to Sections 42451(a) and 42452 of the**
15 **California Health and Safety Code, THE HEARING BOARD of the BAY AREA AIR**
16 **QUALITY MANAGEMENT DISTRICT hereby ORDERS:**

17 1. That the APCO's Request for a Conditional Order for Abatement ("Order") shall
18 be and hereby is GRANTED as follows: Respondents are hereby ordered to cease gasoline
19 dispensing operations at the Facility sixty (60) days from the date of the hearing on this matter,
20 until:

- 21 a. Respondents come into compliance with Regulation 8, Rule 7, Section 302.1
22 by installing an ARB-certified EVR Phase II system that complies with the
23 system manufacturer's specifications and with the terms and conditions of the
24 District authority to construct the EVR Phase II system at the Facility; and
25 b. Respondents submit the EVR Phase II upgrade "start-up notification" to
26 Respondents' District permit engineer, as required by the EVR Phase II
27 system's authority to construct, with a copy submitted simultaneously to this

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Hearing Board and to the District Legal Division, attention Brian C. Bunger,
via facsimile or certified mail;

2. That this Conditional Order for Abatement shall become effective immediately;

and

3. That Respondents submit "start-up notification" in accordance with the
requirements set forth in Paragraph 1 of this Conditional Order for Abatement.

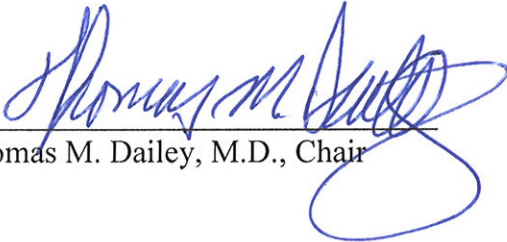
Moved by: Terry Trumbull, Esq.

Seconded by: Valerie Armento, Esq.

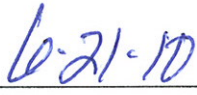
AYES: Valerie Armento, Esq., Gilbert G. Bendix, P.E., Julio Magalhães,
Ph.D., Terry A. Trumbull, Esq., and Thomas M. Dailey, M.D.

NOES: None

ABSTAINED: None



Thomas M. Dailey, M.D., Chair



Date