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HEARING BOARD  
BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT

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

**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. 3593**

Complainant,

vs,

**CONDITIONAL ORDER  
FOR ABATEMENT**

PARMINDER GILLON, individually, and *d/b/a*  
GRAFCO STATION; SIMVIR, INC., individually, and  
*d/b/a* GRAFCO STATION; and GRAFCO STATION,  
Site No. C8260,

Respondents.

On or about August 30, 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 Parminder Gillon, individually, and *d/b/a* GRAFCO Station; Simvir, Inc., individually, and *d/b/a* GRAFCO Station; and GRAFCO Station, a gasoline dispensing facility located at 1309 Portola Avenue, Livermore, Alameda County, California, Site No. C8260 (all of whom are hereafter referred to as “Respondents”); and Does 1 through 10, inclusive requesting that the Hearing Board order Respondents to cease and desist transferring gasoline from the

1 underground gasoline storage tanks to motor vehicles at their gasoline dispensing facility, which  
2 is located at 1309 Portola Avenue, Livermore, Alameda County, California, Site No. C8260, also  
3 known as GRAFCO Station (“Facility”), thirty days from the date of hearing in this matter until  
4 Respondents install enhanced vapor recovery (“EVR”) Phase II system equipment certified by  
5 the California Air Resources Board (“ARB”) in accordance with the requirements of District  
6 Regulation 8, Rule 7, Section 302.1.

7 Mr. Parminder Gillon appeared for Respondents.

8 Todd Gonsalves, Assistant Counsel, appeared for the Air Pollution Control Officer.

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

12 Mr. Parminder Gillon testified for the Respondents.

13 The Hearing Board provided the public with an opportunity to testify at the hearing, as  
14 required by the Health and Safety Code. No members of the public testified. The Hearing Board  
15 heard evidence, testimony and oral argument from the APCO and Respondents. At the hearing  
16 on the matter, Respondents admitted that Respondents own and have operated the Facility  
17 without a Phase II EVR Upgrade since April 1, 2009, in violation of state and District  
18 regulations, as alleged in the Accusation. Further, at the hearing on the matter and before the  
19 Hearing Board, the Parties stipulated to entry of a Conditional Order for Abatement  
20 (“Conditional Order”), and requested that this Hearing Board enter a Conditional Order for  
21 Abatement against Respondents that (1) would require Respondents to cease and desist  
22 transferring gasoline from the underground gasoline storage tanks to motor vehicles at the  
23 Facility by November 14, 2010, or fifty-two days from September 23, 2010, or until Respondents  
24 install Phase II EVR system equipment certified by the ARB in accordance with the  
25 requirements of District Regulation 8, Rule 7, Section 302.1, and that (2) would require  
26 Respondents to replace the gasoline dispensing nozzles and hoses (“Hanging Hardware”) at each  
27 pump at the Facility with Hanging Hardware compatible with the Phase II EVR Upgrade

1 equipment described in Respondent's Authority to Construct the Upgrade at the Facility issued  
2 by the District on April 20, 2009.

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

7 **WRITTEN EXPLANATION OF ACTION**

8 Because the Parties have stipulated to the entry of this Conditional Order, the Hearing  
9 Board must include a written explanation of its action in this Conditional Order, but it is not  
10 required to make any factual findings to support the Conditional Order under Health and Safety  
11 Code Section 42451(b). To that end, the Hearing Board explains its action as follows.

12 The Parties have agreed to address the problems identified in the Accusation and to  
13 provide the relief sought. The Parties have agreed that Respondents own and operate the Facility  
14 and that Respondents are in continuing violation of District Regulation 8, Rule 7, Section 302.1  
15 because Respondents have not yet completed the required Phase II EVR upgrade at the Facility.  
16 As such, the Parties have agreed that Respondents should be required (1) to cease and desist  
17 transferring gasoline from the underground gasoline storage tanks to motor vehicles at their  
18 Facility, by November 14, 2010, or fifty-two (52) days from September 23, 2010, or until  
19 Respondents install a certified Phase II EVR system, and (2) to install Phase II EVR compatible  
20 hanging hardware at each pump at the Facility in accordance with Respondent's April 20, 2009,  
21 Authority to Construct.

22 The Hearing Board therefore believes that the Parties' agreed course of action is in the  
23 public interest and that entry of this Conditional Order is appropriate under the circumstances.

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1 ORDER

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

5 1. That the APCO's Request for a Conditional Order for Abatement ("Order") shall  
6 be and hereby is GRANTED as follows: Respondents Parminder Gillon and Simvir, Inc, as well  
7 as GRAFCO Station and any other gasoline dispensing facility doing business at 1309 Portola  
8 Avenue, Livermore, California, and their agents, employees, successors and assigns are hereby  
9 ordered to cease gasoline dispensing operations at the Facility, by November 14, 2010, or fifty-  
10 two (52) days from the date of the hearing on this matter, until:

- 11 a. Respondents come into compliance with Regulation 8, Rule 7, Section 302.1  
12 by installing an ARB-certified EVR Phase II system that complies with the  
13 system manufacturer's specifications and with the terms and conditions of the  
14 District authority to construct the EVR Phase II system at the Facility; and  
15 b. Respondents submit the EVR Phase II upgrade "start-up notification" to  
16 Respondents' District permit engineer, as required by the EVR Phase II  
17 system's authority to construct, with a copy submitted simultaneously to this  
18 Hearing Board and to the District Legal Division, attention Brian C. Bunger,  
19 via facsimile or certified mail;

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

21 3. That Respondents shall replace all Hanging Hardware at the Facility with Phase II  
22 EVR compatible Hanging Hardware, in accordance with the terms and conditions of the District  
23 authority to construct the EVR Phase II system at the Facility;

24 4. That the Hearing Board shall retain jurisdiction over this matter until Respondents  
25 come into compliance with the EVR Phase II requirements of Regulation 8, Rule 7, Section  
26 302.1 and submit "start-up notification" in accordance with the requirements set forth in  
27 Paragraph 1 of this Conditional Order for Abatement.

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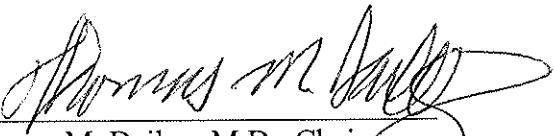
Moved by: Christian Colline, P.E.

Seconded by: Terry Trumbull, Esq.

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

NOES: None

ABSTAINED: None

  
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Thomas M. Dailey, M.D., Chair

9-28-10  
Date