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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. 3597

Complainant,)

vs,)

**CONDITIONAL ORDER
FOR ABATEMENT**

SAEED GHAFOORI, a.k.a. PAUL GHAFOORI; BPG)
PACIFIC, LLC; ALI KAZEMINI; FERDOUS MOLLAI)
a.k.a. FERDOUS MOLLAI MEHRJERDI; JAGDEEP)
SIDHU; IVNINDER SIDHU; CYROUS BANI-)
HASHEMI; VALLEJO FAST GAS, Site No. C9361,)

Respondents.)

On or about September 15, 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 Saeed Ghafoori, a.k.a. Paul Ghafoori; BPG Pacific, LLC; Ali Kazemini; Ferdous Mollai a.k.a. Ferdous Mollai Mehrjerdi; Jagdeep Sidhu; Ivninder Sidhu; Cyrous Bani-Hashemi; a gasoline dispensing facility located at 2269 Tennessee Street, Vallejo, Solano County, California, Site No. 9361 (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

1 desist transferring gasoline from the underground gasoline storage tanks to motor vehicles at
2 their gasoline dispensing facility, which is located at 2269 Tennessee Street, Vallejo, Solano
3 County, California,, Site No. C9361, also known as Vallejo Fast Gas (“Facility”), immediately
4 upon execution of the order by the Chair of the Hearing Board or his designee until Respondents
5 install enhanced vapor recovery (“EVR”) Phase II system equipment certified by the California
6 Air Resources Board (“ARB”) in accordance with the requirements of District Regulation 8,
7 Rule 7, Section 302.1.

8 None of the Respondents filed a Notice of Defense prior to the hearing. Pursuant to
9 Government Code § 11506 and Hearing Board Rule 5.8, a copy of each of which was served
10 with the Accusation, Respondents had also not utilized that opportunity to raise objections to the
11 Accusation in this matter. Pursuant to Hearing Board Rule 5.8 and Government Code § 11520,
12 the Hearing Board may take action on Respondents’ express admissions or upon other evidence
13 and affidavits without any notice thereof to the Respondents.

14 No Respondent appeared at the hearing.

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

16 The Clerk of the Hearing Board provided notice of the hearing on the Accusation in
17 accordance with the requirements of Health and Safety Code section 40823. The Hearing Board
18 heard the request for an Abatement Order on October 21, 2010.

19 The Hearing Board provided the public with an opportunity to testify at the hearing, as
20 required by the Health and Safety Code. No members of the public testified. The Hearing Board
21 heard evidence, testimony and oral argument from the APCO. The Hearing Board received a
22 letter dated October 21, 2010, from Respondents Ali Kazemini and Ferdous Mollai, through their
23 attorney Marvin Pederson, to Todd Gonsalves that admitted that Mr. Kazemini and Ms. Mollai
24 lease the Facility and that the Facility does not have a Phase II EVR Upgrade installed. The
25 letter also stated that the Facility has ceased dispensing gasoline pending installation of the
26 Upgrade and that Respondents Ali Kazemini and Ferdous Mollai do not object to the Hearing
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1 Board issuing an order that they cease operation until a Phase II EVR Upgrade is installed at the
2 Facility.

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 **FINDINGS OF FACT**

8 1. Saeed Ghafoori, a.k.a. Paul Ghafoori; BPG Pacific, LLC; Ali Kazemini; Ferdous
9 Mollai a.k.a. Ferdous Mollai Mehrjerdi; Jagdeep Sidhu; Ivninder Sidhu; Cyrus Bani-Hashemi,
10 each own and/or operate the gasoline dispensing facility (“GDF”) that is located at 2269
11 Tennessee Street, Vallejo, Solano County, California, Site No. 9361.

12 2. The Facility is subject to the jurisdiction of the District. The Facility contains
13 underground gasoline stationary storage tanks.

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

22 4. A GDF “vapor recovery system” collects gasoline vapors that are discharged
23 during gasoline transfer operations and processes the vapors to prevent their release into the
24 atmosphere.

25 5. A GDF vapor recovery system comprises a “Phase I” system, which controls
26 gasoline vapors during the transfer of gasoline from gasoline cargo tanks to a GDF’s stationary
27 storage tank, and a “Phase II” system, which controls gasoline vapors during transfer of gasoline

1 between the GDF's stationary storage tank and a motor vehicle.

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

5 7. State law requires that stations in existence as of April 1, 2005 with underground
6 stationary gasoline storage tanks had to install an enhanced vapor recovery ("EVR") Phase II
7 system as of April 1, 2009. As of April 1, 2009, only EVR Phase II equipment was ARB-
8 certified, and any Phase II system that was not ARB-certified as EVR Phase II was de-certified.

9 8. The District is authorized to tag "out of order" components at a GDF that are not
10 certified by ARB. Until such components are replaced, repaired or adjusted and the District has
11 reinspected the components (or authorized use of the components pending reinspection), no one
12 may operate them.

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

17 10. Respondents Ali Kazemini and Ferdous Mollai admit that the Facility is subject to
18 the requirement to have installed the Phase II EVR system as of April 1, 2009.

19 11. Respondents continued dispensing gasoline at the Facility on or after April 1,
20 2009.

21 12. On or about June 12, 2009, the District issued Respondents NOV No. A50481 for
22 conducting gasoline dispensing operations with an uncertified EVR Phase II system as of
23 April 1, 2009, in violation of District Regulation 8-7-302.1.

24 13. As of October 21, 2010, the Facility had not completed the required EVR Phase II
25 upgrade.

26 **CONCLUSIONS OF LAW**

27 Pursuant to Health and Safety Code sections 40750, 40752 and 42451(a), the APCO, who

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. Because no Respondent filed a Notice of Defense and no Respondent
9 appeared at the hearing on the matter, each of the Respondents has defaulted in this matter. As a
10 result, pursuant to Hearing Board Rule 5.8 and Government Code § 11520, the Hearing Board
11 may take action on Respondents' express admissions or upon other evidence and affidavits
12 without any notice thereof to the Respondents.

13 Cause for determination that Respondents are in violation of District Regulation 8-7-
14 302.1 is established by Findings of Fact Nos. 1, 2, 10, 11, and 13.

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

17 **ORDER**

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

21 1. That the APCO's Request for a Conditional Order for Abatement ("Order") shall
22 be and hereby is GRANTED as follows: Respondents Saeed Ghafoori, a.k.a. Paul Ghafoori;
23 BPG Pacific, LLC; Ali Kazemini; Ferdous Mollai a.k.a. Ferdous Mollai Mehrjerdi; Jagdeep
24 Sidhu; Ivninder Sidhu; Cyrus Bani-Hashemi, as well as Vallejo Fast Gas and any other gasoline
25 dispensing facility doing business at 2269 Tennessee Street, Vallejo, California and their agents,
26 employees, successors and assigns are hereby ordered to cease gasoline dispensing operations at
27 the Facility immediately, until:

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- a. Respondents pay all outstanding Permit to Operate fees and come into compliance with District Regulation 2-1-302; and
- b. Respondents come into compliance with Regulation 8, Rule 7, Section 302.1 by installing an ARB-certified EVR Phase II system that complies with the system manufacturer’s specifications and with the terms and conditions of the District authority to construct the EVR Phase II system at the Facility; and
- c. Respondents submit the EVR Phase II upgrade “start-up notification” to Respondents’ District permit engineer, as required by the EVR Phase II system’s authority to construct, with a copy submitted simultaneously to this 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.

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

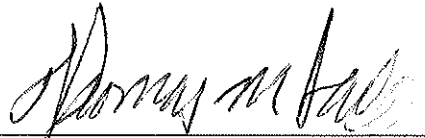
Moved by: Christian Colline, P.E.

Seconded by: Terry A. Trumbull, Esq.


AYES: Christian Colline, P.E., Rolf Lindenhayn, Esq., Julio Magalhaes, Ph.D., Terry A. Trumbull, Esq., and Thomas M. Dailey, M.D.

NOES: None

ABSTAINED: None



 Thomas M. Dailey, M.D., Chair



 Date