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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. 3601

Complainant,)

vs,)

**CONDITIONAL ORDER
FOR ABATEMENT**

Western Dealer Holding Company, LLC; Double AA
Corporation; Nella Oil Company, LLC; Brentwood
Station Management, Inc.; RJ Oil, LLC; a Gasoline
Dispensing Facility located at 42245 Fremont Boulevard,
Fremont, California, Site No. C0189, known as Double
AA Gas, also known as Nella Oil, Flyers, Fremont Fuel
& Food, and/or RC Fuel & Food,)

Respondents.)

On or about October 6, 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 Western Dealer Holding Company, LLC; Double AA Corporation; Nella Oil Company, LLC; Brentwood Station Management, Inc.; RJ Oil, LLC; and a Gasoline Dispensing Facility located at 42245 Fremont Boulevard, Fremont, California, Site No. C0189, known as Double AA Gas, also known as Nella Oil, Flyers, Fremont Fuel & Food, and/or RC Fuel & Food (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

1 gasoline from the underground gasoline storage tanks to motor vehicles at their gasoline
2 dispensing facility, which is located at 42245 Fremont Boulevard, Fremont, Alameda County,
3 California, Site No. C0189 (“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 The Clerk of the Hearing Board provided notice of the hearing on the Accusation in
8 accordance with the requirements of Health and Safety Code section 40823. The Hearing Board
9 heard the request for an Abatement Order on November 4, 2010. Mr. DeLong Liu appeared for
10 Western Dealer Holding Company, LLC, and Brentwood Station Management, Inc.

11 Double AA Corporation made no appearance and did not file a notice of defense.

12 Kathleen Cordova Lyon, Esq., appeared for Nella Oil Company, LLC.

13 Edwin Hausmann, Esq., appeared for RJ Oil, LLC.

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

15 The Hearing Board provided the public with an opportunity to testify at the hearing, as
16 required by the Health and Safety Code. No members of the public testified. At the hearing on
17 the matter, respondents Western Dealer Holding Company, LLC; Brentwood Station
18 Management, Inc.; and RJ Oil, LLC, (collectively, the “Stipulating Respondents”) and the APCO
19 (together with Stipulating Respondents, the “Stipulating Parties”) stipulated to entry of a
20 Conditional Order for Abatement (“Conditional Order”), and requested that this Hearing
21 Board enter a Conditional Order for Abatement against Stipulating Respondents that would
22 require Stipulating Respondents to cease and desist transferring gasoline from the underground
23 gasoline storage tanks to motor vehicles at the Facility forty-five days from November 4, 2010,
24 or until Stipulating Respondents install Phase II EVR system equipment certified by the ARB in
25 accordance with the requirements of District Regulation 8, Rule 7, Section 302.1, and that would
26 otherwise provide all the relief sought in the Accusation.

27 At the request of the APCO and Nella Oil Company, the Hearing Board dismissed the
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1 Accusation as to Nella Oil Company, LLC, also known as Flyers because as of October 15, 2007
2 it ceased to have an ownership interest in the Facility.. At the request of the APCO, the Hearing
3 Board also dismissed the Accusation as to Double AA Corporation.

4 **WRITTEN EXPLANATION OF ACTION**

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

9 The Stipulating Parties have agreed to address the problems identified in the Accusation
10 and to provide the relief sought. The Stipulating Parties have agreed that Stipulating
11 Respondents own and operate the Facility and that Stipulating Respondents are in continuing
12 violation of District Regulation 8, Rule 7, Section 302.1 because Stipulating Respondents have
13 not yet completed the required Phase II EVR upgrade at the Facility. As such, the Stipulating
14 Parties have agreed that Stipulating Respondents should be required to cease and desist
15 transferring gasoline from the underground gasoline storage tanks to motor vehicles at their
16 Facility forty-five days from November 4, 2010, or until Stipulating Respondents install a
17 certified Phase II EVR system.

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

21 **ORDER**

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

25 1. That the APCO's Request for a Conditional Order for Abatement ("Order") shall
26 be and hereby is GRANTED as follows: Respondents Western Dealer Holding Company, LLC;
27 Brentwood Station Management, Inc.; RJ Oil, LLC, known as Double AA Gas and any other
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1 gasoline dispensing facility doing business at 42245 Fremont Boulevard, Fremont, California,
2 and their agents, employees, successors and assigns are hereby ordered to cease gasoline
3 dispensing operations at the Facility forty-five (45) days from the date of the hearing on this
4 matter, until:

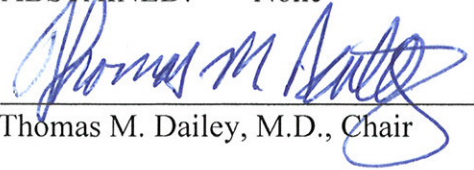
- 5 a. Respondents come into compliance with Regulation 8, Rule 7, Section 302.1
6 by installing an ARB-certified EVR Phase II system that complies with the
7 system manufacturer's specifications and with the terms and conditions of the
8 District authority to construct the EVR Phase II system at the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

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

15 3. That this Hearing Board require Respondents to provide an address at which
16 Respondents will accept service of the Order for Abatement;

17 4. That the Hearing Board shall retain jurisdiction over this matter until Respondents
18 come into compliance with the EVR Phase II requirements of Regulation 8, Rule 7, Section
19 302.1 and submit "start-up notification" in accordance with the requirements set forth in
20 Paragraph 1 of this Conditional Order for Abatement.

21 Moved by: Christian Colline, P.E.
22 Seconded by: Valerie J. Armento, Esq.
23 AYES: Valerie J. Armento, Esq., Christian Colline, P.E., Julio Magalhães,
24 Ph.D., Terry A. Trumbull, Esq., and Thomas M. Dailey, M.D.
25 NOES: None
26 ABSTAINED: None

27 
28 Thomas M. Dailey, M.D., Chair

11.10.10
Date