

BEFORE THE HEARING BOARD  
OF THE  
BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
STATE OF CALIFORNIA

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

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In the Matter of the Application of )  
)  
) Docket No. 3602  
**TRANSCONTINENTAL NORTHERN** )  
**CALIFORNIA (FREMONT)** ) ORDER DENYING VARIANCE  
For Interim Variance from Regulation 2, )  
Rule 1, Section 301, and Permit to Operate )  
Condition 23914, Part 8 )  
\_\_\_\_\_ )

The above-entitled matter is an Application for Variance from the provisions of Regulation 2, Rule 1, Section 301 of the Rules and Regulations of the Bay Area Air Quality Management District (the "District"), and from the provisions of Condition 23914, Part 8, of the Authority to Construct under which Transcontinental Northern California operates four heatset printing presses with dryers at 47550 Kato Road, in Fremont, California, District Plant No. 18469, Variance Application No. 3602 ("Facility"). The Application for Variance was filed on October 27, 2010, and requested interim relief for the period from October 27, 2010, through the hearing on the matter, currently calendared for hearing December 9, 2010.

Terry Hubner, of Transcontinental and Paul Seidl, of MEGTEC Systems, appeared and testified on behalf of Transcontinental Northern California ("Applicant").

Todd Gonsalves, Assistant Counsel, appeared on behalf of the Air Pollution Control Officer ("APCO"). Carol Lee, Senior Air Quality Engineer, testified on behalf of the District.

The Clerk of the Hearing Board provided notice of the hearing on the Application for Variance in accordance with the requirements of the California Health and Safety Code. The Hearing Board heard the request for variance on November 18, 2010.

1 The Hearing Board provided the public with an opportunity to testify at the hearing, as  
2 required by the Health and Safety Code. No members of the public testified. The Hearing Board  
3 heard evidence, testimony and argument from Applicant and the APCO. The APCO opposed the  
4 granting of the Variance.

5 The Hearing Board declared the hearing closed after receiving evidence, testimony and  
6 argument, and took the matter under submission for decision. After consideration of the evidence,  
7 the Hearing Board voted to deny the request for Variance, as set forth in more detail below:

#### 8 BACKGROUND

9 Applicant operates a newspaper printing facility with four heatset printing presses with dryers  
10 in Fremont. Applicant's customers include the San Francisco Chronicle. Applicant currently  
11 operates the Facility with an expired Authority to Construct ("ATC"). The Facility's ATC required  
12 Applicant to submit source tests no later than 120 days from the initial startup of each press  
13 demonstrating, in part, that the presses comply with Condition 23914, Part 8 of the ATC, which  
14 imposes a 50 ppm, corrected to 15% oxygen, limit on the presses' emissions of oxides of nitrogen  
15 ("NOx") (the "NOx limit"). The printers are unable to comply with the NOx limit while idling, and  
16 the ATC expired in February 2010. Also, the Applicant made no request to the District to extend the  
17 ATC.

#### 18 DISCUSSION

19 The Hearing Board may grant an interim variance upon finding of good cause as set forth in  
20 Health and Safety Code section 42351. The burden is on Applicant to establish the basis for making  
21 the finding. In this matter, Applicant has not provided sufficient evidence to demonstrate that good  
22 cause exists to grant the interim variance. The reasons Applicant cited for its noncompliance, such as  
23 personnel turnover, are circumstances within the reasonable control of Applicant.

#### 24 SPECIFIC FINDINGS

25 The Hearing Board finds pursuant to Health and Safety Code section 42351 that:

26 Applicant has not shown good cause for the granting of an interim variance as set forth in

1 Health and Safety Code section 42351.

2 THEREFORE, THE HEARING BOARD ORDERS:

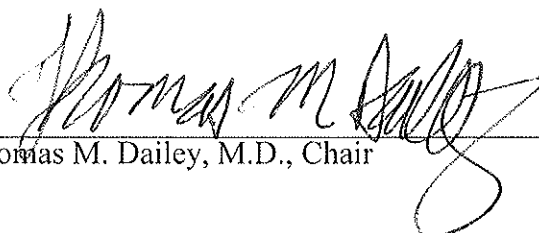
3 The interim variance from Regulation 2, Rule 1, Section 301 of the Bay Area Air Quality  
4 Management District Rules and Regulations and from the provisions of Condition 23914, Part 8,  
5 of the Authority to Construct under which Applicant operates the Facility is hereby denied.

6 Moved by: Christian Colline, P.E.

7 Seconded by: Julio Magalhães, Ph.D.

8 AYES: Valerie J. Armento, Esq., Christian Colline, P.E., Julio Magalhães, Ph.D.,  
9 and Thomas M. Dailey, M.D.

10 NOES: None

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Thomas M. Dailey, M.D., Chair

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Date 12-2-10