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FILED
AUG 19 2011
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Kris Perez Krow
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,

Complainant,

vs,

Vinod Chand Bansal; Vinod Chand Bansal, Inc.,
individually, and *d/b/a* Valero; and Valero, a Gasoline
Dispensing Facility, Site No. D0363,

Respondents.

DOCKET NO. 3615

**CONDITIONAL ORDER
FOR ABATEMENT**

On or about June 23, 2011, 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 Vinod Chand Bansal; Vinod Chand Bansal, Inc., individually, and *d/b/a* Valero; and Valero, a gasoline dispensing facility, Site No. D0363 (all of whom are hereafter referred to as “Respondents”); and Does 1 through 50, inclusive, requesting that the Hearing Board order Respondents to cease and desist transferring gasoline from the underground gasoline storage tanks to motor vehicles at their gasoline dispensing facility, which is located at 503 Whipple Avenue, Redwood City, San Mateo County, California, Site No. D0363 (“Facility”), thirty days

1 from the date of hearing in this matter until Respondents install in-station diagnostic (“ISD”)
2 equipment certified by the California Air Resources Board (“ARB”) in accordance with the
3 requirements of District Regulation 8, Rule 7, Section 302.1.

4 Mr. Vinod Bansal and Mrs. Janak Bansal appeared for Respondents.

5 Todd Gonsalves, Assistant Counsel, Amy McGeever, legal intern, and David Vincent,
6 legal intern, appeared for the Air Pollution Control Officer.

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 July 28, 2011.

10 Mr. Vinod Bansal and Mrs. Janak Bansal testified for the Respondents.

11 Mr. Chris Berglund testified for the APCO.

12 The Hearing Board provided the public with an opportunity to testify at the hearing, as
13 required by the Health and Safety Code. No members of the public testified. The Hearing Board
14 heard evidence, testimony and oral argument from the APCO and Respondents. At the hearing
15 on the matter, Respondents admitted that Respondents own and have operated the Facility
16 without ISD equipment since September 1, 2010, in violation of state and District regulations, as
17 alleged in the Accusation. Also, it was not disputed that the ARB has yet to certify ISD
18 equipment for the Emco Wheaton Retail Corporation Phase II Enhanced Vapor Recovery
19 (“EVR”) System with a Hirt VCS 100 Thermal Oxidizer in the multi-hose (“six pack”) dispenser
20 configuration operated by the Facility. At the hearing on the matter and before the Hearing
21 Board, the Parties stipulated to entry of a Conditional Order for Abatement (“Conditional
22 Order”), and requested that this Hearing Board enter a Conditional Order for Abatement
23 against Respondents that (1) would require Respondents to apply to the District, in accordance
24 with District Regulation 2, Rule 1, Section 301, for an Authority to Construct at the Facility an
25 ISD system certified for use with the Emco Wheaton EVR System and Hirt VCS 100 thermal
26 oxidizer in the six pack dispenser configuration operated by the Facility no later than twenty
27 days after the date the ARB so certifies such ISD equipment, and that (2) would require
28 Respondents to cease and desist transferring gasoline from the underground gasoline storage

1 tanks to motor vehicles at the Facility by ninety days after the date the ARB certifies ISD
2 equipment for use with the Emco Wheaton EVR System and Hirt VCS 100 thermal oxidizer in
3 the six pack dispenser configuration operated by the Facility, or the date the District grants
4 Respondents authority to construct such ISD equipment at the Facility, whichever is later, and
5 until Respondents install ISD equipment certified by the ARB in accordance with the
6 requirements of District Regulation 8, Rule 7, Section 302.1.

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

11 **WRITTEN EXPLANATION OF ACTION**

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

16 The Parties have agreed to address the problems identified in the Accusation and to
17 provide the relief sought. The Parties have agreed that Respondents own and operate the Facility
18 and that Respondents are in continuing violation of District Regulation 8, Rule 7, Section 302.1
19 because Respondents have not yet installed ISD equipment at the Facility as required; however,
20 the Parties also agree that ARB has yet to certify ISD equipment for use with the six-pack
21 dispenser configuration of the particular Phase II EVR system the Facility operates. As such, the
22 Parties have agreed that Respondents should be required (1) to apply to the District for an
23 Authority to Construct an ISD system certified for use with the Emco Wheaton EVR System
24 and Hirt VCS 100 thermal oxidizer in the six pack dispenser configuration operated by the
25 Facility no later than twenty days after the date the ARB so certifies such ISD equipment, and
26 (2) to cease and desist transferring gasoline from the underground gasoline storage tanks to
27 motor vehicles at the Facility by ninety days after the date the ARB certifies ISD equipment for
28 use with the Emco Wheaton EVR System and Hirt VCS 100 thermal oxidizer with the six pack

1 dispenser operated by the Facility, or the date the District grants Respondents an Authority to
2 Construct such ISD equipment at the Facility, whichever is later, and until Respondents install
3 certified ISD equipment.

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

6 **ORDER**

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

10 1. That the APCO's Request for a Conditional Order for Abatement ("Order") shall
11 be and hereby is GRANTED as follows: Respondents Vinod Chand Bansal and Vinod Chand
12 Bansal, Inc., as well as Valero and any other gasoline dispensing facility doing business at 503
13 Whipple Avenue, Redwood City, California, and their agents, employees, successors and
14 assignees are hereby ordered to apply to the District, in accordance with District Regulation 2,
15 Rule 1, Section 301, for an Authority to Construct at the Facility an ISD system certified for
16 use with the Emco Wheaton Retail Corporation Phase II EVR System with Hirt VCS 100
17 thermal oxidizer in the six pack dispenser configuration operated by the Facility no later than
18 twenty days after the date the ARB so certifies such ISD equipment and to cease gasoline
19 dispensing operations at the Facility by ninety days after the date the ARB certifies ISD
20 equipment for use with the Emco Wheaton Retail Corporation Phase II EVR System with Hirt
21 VCS 100 thermal oxidizer in a six pack dispenser configuration, or the date the District grants
22 Respondents an Authority to Construct such ISD equipment at the Facility, whichever is later,
23 until:

- 24 a. Respondents come into compliance with Regulation 8, Rule 7, Section 302.1
25 by installing an ARB-certified ISD system that complies with the system
26 manufacturer's specifications and with the terms and conditions of the District
27 authority to construct the ISD system at the Facility; and
28 b. Respondents submit the ISD "start-up notification" to Respondents' District

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permit engineer, as required by the ISD system's authority to construct, with a copy submitted simultaneously to this Hearing Board and to the District Legal Division, attention Brian C. Bungler, 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.

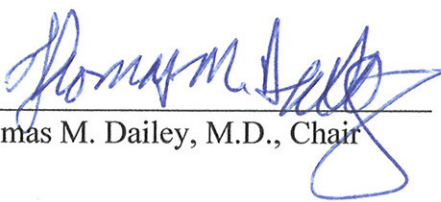
Moved by: Christian Colline, P.E.

Seconded by: Terry A. Trumbull, Esq.

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

NOES: None

ABSTAINED: None



Thomas M. Dailey, M.D., Chair

8-18-11
Date