

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

## Memorandum

To: Chairperson Liz Kniss and Members  
of the Executive Committee

From: Chairperson Terry Trumbull, Esq., and Members  
of the Hearing Board

Date: February 8, 2017

Re: Hearing Board Quarterly Report: July – September 2016 and October – December 2016

**RECOMMENDED ACTION**

None; receive and file.

**DISCUSSION**

As the third quarter Hearing Board Quarterly Report of 2016 was not included on the November 21, 2016 Executive Committee meeting agenda, this report will cover the third *and* fourth quarters of 2016.

During the **third** quarter of 2016 (July - September), the Hearing Board:

- Held one Hearing on an Accusation (3692) and one Hearing on a variance (3693); and
- Processed a total of four Orders, including three Orders for Dismissal (3688, 3693, 3694) and one Order Granting Emergency Variance (3691); and
- Collected a total of \$0.00 in filing fees.

Below is a detail of Hearing Board activity during the same period:

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**Locations:** Alameda County; City of Fremont; AND Solano County; City of Vallejo

**Docket:** 3688 - APCO vs. SB Gas and Wash Management, Inc., et al – *Accusation*

**Regulation(s):** Regulation 2, Rule 1 - Section 302

**Synopsis:** Complainant alleged that since at least May 2014, Respondents have owned or operated two gasoline dispensing facilities (GDF) in Fremont and Vallejo, California, for which they must hold a current and valid District permit to operate gasoline dispensing equipment, pursuant to District Regulation 2, Rule 1. After taking ownership, Respondents did not renew the expired permits for either facility or submit applications for obtain new permits, but continued to operate these facilities continuously in violation of District Regulation 2-1-302. Despite efforts by the District to bring Respondents in compliance with permit requirements, Respondents continued to operate in violation of District Regulation 2-1-302. Complainant sought an Abatement Order that Respondents cease violating District regulation 2, Rule 1, Section 302, at its Vallejo and Fremont facilities unless and until Respondents obtain valid District permits to operate.

**Status:** Hearing was originally scheduled for June 2, 2016 and was continued to August 11, 2016, and then to September 29, 2016; the parties resolved the matter and the Complainant sought a Dismissal, which the Hearing Board granted on September 22, 2016; Order for Dismissal filed September 26, 2016; docket closed.

**Period of Variance:** n/a

**Estimated Excess Emissions:** n/a

**Fees collected this quarter:** n/a

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**Location:** Santa Clara County; City of San Jose

**Docket:** 3691 - Shell Oil Products – *Application for Emergency Variance*

**Regulation(s):** Regulation 8, Rule 5 - Section 322

**Synopsis:** Applicant operates a storage tank, an internal floating roof tank storing ethanol used for bulk storage and loading of petroleum products. Tears in the secondary seal of the tank were noticed upon inspection on May 10, 2016, and Applicant determined that the cause of the failure was unknown. Excess emissions were considered negligible. Repairs were scheduled to begin on May 11, 2016.

**Status:** On May 12, 2016, the Hearing Board Granted the Applicant's request for an Emergency Variance; Order Granting Emergency Variance filed on August 8, 2016; docket closed.

**Period of Variance:** May 11, 2016, at 1:00 p.m., to June 10, 2016, at 1:00 p.m. (30 days)

**Estimated Excess Emissions:** 4.75 lbs per day of Pollutants of Concern

**Fees collected this quarter:** \$0

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**Location:** Alameda County; City of Union City

**Docket:** 3692 - APCO vs. K&A Gas and Auto Repair, Inc., et al – *Accusation*

**Regulation(s):** Regulation 2, Rule 1 - Section 302

**Synopsis:** Respondents own or operate a GDF in Union City, California for which they must hold a current and valid District permit to operate gasoline dispensing equipment, pursuant to District Regulation 2, Rule 1. Since February 2014, Respondents have been conducting gasoline dispensing operations continuously at this gas station without a permit to operate, in violation of District Regulation 2-1-302. Complainant seeks an order that Respondents cease gasoline dispensing operations at this facility until the obtain a current, valid District permit to do so.

**Status:** First Hearing held July 14, 2016.

**Period of Variance:** n/a

**Estimated Excess Emissions:** n/a

**Fees collected this quarter:** n/a

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**Location:** Contra Costa County; City of Martinez

**Docket:** 3693 - Shell Chemicals, LP - *Application for Short-Term Variance*

**Regulation(s):** Regulation 8, Rule 5 - Section 307; Permit Conditions 19945 and 15124

**Synopsis:** The plant subject to this variance request manufactures solid and liquid catalyst used in the petrochemicals business. The Applicant planned that two abatement devices would be out of service for maintenance and natural gas supply piping upgrades during variance period, leaving eight other devices unabated while organic liquids or vapors were present. The facility did not plan to operate processes associated with these sources during the variance period, and did not anticipate any changes in chemicals in the vessels. Negligible emissions were anticipated during this short variance period. When the application was submitted, the Applicant was in compliance with permit conditions, but was requesting variance relief for planned work. The applicant planned to return to compliance upon completion of the planned work on the natural gas line.

**Status:** Hearing was originally scheduled for July 7, 2016; on July 1, 2016, parties filed joint request to continue the Hearing, and the Hearing Board denied this request; on July 6, Applicant requested the withdrawal of the application, but the Hearing Board chose to meet on July 7 as planned, as this request was submitted less than 24 hours prior to the scheduled Hearing; Order for Dismissal filed on July 14, 2016; docket closed.

**Period of Variance:** July 11, 2016 to July 26 2016 (15 days)

**Estimated Excess Emissions:** 0.56 lbs per day of Pollutants of Concern

**Fees collected this quarter:** \$0

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**Location:** Santa Clara County; City of San Jose

**Docket:** 3694 - APCO vs. Classic Auto Body & Paint Five Star, Inc., et al – *Accusation*

**Regulation(s):** Regulation 2, Rule 1

**Synopsis:** Complainant was informed and believed and thereon alleged that since 2004, one or both of the Respondents have owned or operated a facility in San Jose, California where they conduct motor vehicle refinishing operations, for which they must hold a current and valid District permit to operate, pursuant to District Regulation 2, Rule 1. At the time that the Accusation was filed, Respondents operated that facility without a current permit, despite their knowledge of the permit requirements. Since owning or operating the facility, Respondents had never renewed or reinstated their permit to operate in a timely manner. Complainant sought an Order that Respondents cease conducting these operations until they obtain a District permit to do so.

**Status:** Complainant requested a Dismissal on August 3, 2016, and the Hearing Board approved; Order for Dismissal filed on August 10, 2016; docket closed.

**Period of Variance:** n/a

**Estimated Excess Emissions:** n/a

**Fees collected this quarter:** n/a

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During the **fourth** quarter of 2016 (October - December), the Hearing Board:

- Held no Hearings of any kind; and
- Processed a total of five Orders, including three Orders for Dismissal (3692, 3695, 3697), one Order Granting Emergency Variance (3687), and one Order Denying Emergency Variance (3696); and
- Collected a total of \$5,703.00 in filing fees, including one Emergency Variance (3696), and one Short-Term/Interim Variance (3697).

Below is a detail of Hearing Board activity during the same period:

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**Location:** Contra Costa County; City of Richmond

**Docket:** 3687 - Chevron Products Co. – *Application for Emergency Variance*

**Regulation(s):** Regulation 8, Rule 5, Sections 304, 321.1, 321.3, 322.1, 322.3, and 322.5

**Synopsis:** Applicant operates a Title V refinery that refines crude oil and intermediates for gasoline and diesel fuel. On April 6, 2016, Applicant discovered that a portion of the primary and secondary rim seals on tank T-3197, which contained naphtha, were damaged. There was no indication of rim seal problems at the last inspection of T-3197, which is regularly inspected. Once damage to the seals was discovered, Applicant acted promptly to stop product from entering or leaving the tank, informed the Air District of the problem, and injected construction foam to suppress excess VOC emissions from the damaged section of the tank. Fire foam was used to reduce excess VOC emissions during decommissioning.

**Status:** On October 4, 2016, the Hearing Board granted the Applicant's request for an Emergency Variance. Order Granting Emergency Variance filed on October 4, 2016; docket closed.

**Period of Variance:** April 8, 2016, at 9:00 a.m., to April 18, 2016 (10 days)

**Estimated Excess Emissions:** 10 lbs per day of Hydrocarbon.

**Fees collected this quarter:** \$0

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**Location:** Alameda County; City of Union City

**Docket:** 3692 - APCO vs. K&A Gas and Auto Repair, Inc., et al – *Accusation*

**Regulation(s):** Regulation 2, Rule 1 - Section 302

**Synopsis:** Respondents own or operate a GDF in Milpitas, California for which they must hold a current and valid District permit to operate gasoline dispensing equipment, pursuant to District Regulation 2, Rule 1. Since at least October 2010, one or more of the Respondents had been conducting gasoline dispensing operations continuously at this GDF. Since at least September 1, 2012, they had been operating without a permit to operate, in violation of District Regulation 2-1-302. Complainant sought an order that Respondents cease gasoline dispensing operations at this facility until they obtain a current, valid District permit to do so.

**Status:** First Hearing held July 14, 2016; request for a Continued Hearing on November 3, 2016 was filed by the Complainant on October 6, 2016 and approved by the Hearing Board; Order for Dismissal filed October 19, 2017; docket closed.

**Period of Variance:** n/a

**Estimated Excess Emissions:** n/a

**Fees collected this quarter:** n/a

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**Location:** Santa Clara County; City of Milpitas

**Docket:** 3695 - APCO vs. California Auto Tech 2, Inc., et al - *Accusation*

**Regulation(s):** Regulation 2, Rule 1

**Synopsis:** Respondents own or operate a gas station in Milpitas, California for which they must hold a current and valid District permit to operate gasoline dispensing equipment, pursuant to District Regulation 2, Rule 1. Since at least September 2011, gasoline dispensing operations have been conducted continuously at the gas station without a District permit in violation of District Regulation 2-1-302. Complainant seeks an order that Respondents cease gasoline dispensing operations at this facility until they obtain a current, valid District permit to do so.

**Status:** Pre-Hearing was originally scheduled for October 27, 2016, but was continued to November 10, 2016; request to cancel Pre-Hearing and schedule a Hearing for December 8, 2016 filed by Complainant on November 1, 2016 was approved by the Hearing Board; request for Dismissal filed by Complainant on November 28, 2016 was approved by Hearing Board; Order for Dismissal filed on December 7, 2016; docket closed.

**Period of Variance:** n/a

**Estimated Excess Emissions:** n/a

**Fees collected this quarter:** \$0

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**Location:** Santa Clara County; City of San Jose

**Docket:** 3696 - Shell Oil Products - *Application for Emergency Variance*

**Regulation(s):** Regulation 8, Rule 5 - Section 322.1

**Synopsis:** Applicant submitted application for the same equipment failure at the same facility in May 2016 (Docket No. 3691.) Applicant operates a storage tank, an internal floating roof tank storing ethanol used for bulk storage and loading of petroleum products. Tears in the secondary seal of the tank were noticed upon inspection on November 17, 2016, and Applicant determined that the cause of the failure was unknown. Excess emissions were considered negligible. Repairs were scheduled to begin on November 30, 2016.

**Status:** On November 23, 2016, the Hearing Board denied the Applicant's request for an Emergency Variance; Order Denying Emergency Variance filed on December 7, 2016; docket closed.

**Period of Variance:** November 17, 2016 at 2:30 p.m. to December 17, 2016 at 2:30 p.m. (30 days)

**Estimated Excess Emissions:** None.

**Fees collected this quarter:** \$1,054.00

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**Location:** Santa Clara County; City of San Jose

**Docket:** 3697 - Shell Oil Products - *Application for Short-Term/Interim Variance*

**Regulation(s):** Regulation 8, Rule 5 - Section 322

**Synopsis:** Applicant submitted this application in response to the Hearing Board's denial of an Emergency Variance for Docket No. 3696, regarding the same equipment failure at the same facility. Applicant operates a storage tank, an internal floating roof tank storing ethanol used for bulk storage and loading of petroleum products. Tears in the secondary seal of the tank were noticed upon inspection on November 17, 2016, and Applicant determined that the cause of the failure is unknown. Repairs were completed on November 30, 2016. Primary and secondary seals will be replaced, but the tank must be taken out of service prior to seal replacements. Efforts to empty the tank and remove it from service were expected to be completed no later than December 15, 2016, and a full API 653 inspection will be completed once the tank has been taken out of service.

**Status:** Hearings for both the Short-Term and Interim Variances were scheduled on December 22, 2016; on December 13, 2016, Applicant requested withdrawal of the application, which was approved by the Hearing Board; Order for Dismissal filed on December 22, 2016; docket closed.

**Period of Variance:** November 17, 2016 to December 15, 2016 (29 days)

**Estimated Excess Emissions:** <<14.1 lbs per day of Volatile Organic Compounds

**Fees collected this quarter:** \$4,649.00

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Respectfully submitted,

Terry Trumbull, Esq.  
Chair, Hearing Board

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