

BAY AREA AIR QUALITY MANAGEMENT DISTRICT

Memorandum

To: Chairperson David Hudson and Members
of the Executive Committee

From: Chairperson Valerie J. Armento, Esq., and Members
of the Hearing Board

Date: April 2, 2018

Re: Hearing Board Quarterly Report: January – March 2018

RECOMMENDED ACTION

None; receive and file.

DISCUSSION

During the first calendar quarter of 2018 (January - March), the Hearing Board:

- Held two hearings;
- Processed a total of six orders; and
- Collected a total of \$3,912.00 in filing fees.

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

Location: Sonoma County; City of Petaluma

Docket: 3698 - APCO vs. Spring Hill Jersey Cheese, Inc., et al – *Accusation*

Regulation(s): Regulation 2, Rule 1 (Permits, General Requirements); and Regulation 9, Rule 7 (Inorganic Gaseous Pollutants, Nitrogen Oxides and Carbon Monoxide from Industrial, Institutional, and Commercial Boilers, Steam Generators, And Process Heaters)

Synopsis: Complainant alleged on information and belief that since 2004, Respondents had owned or been operating a dairy facility in Petaluma, California without a District permit to operate two boilers and a milk dryer required pursuant to District Regulation 2, Rule 1, despite knowing about this requirement. Further, despite the prohibition to do so, Respondents had been operating the boilers, which violated requirements of District Regulation 9, Rule 7. Complainant sought an order that Respondents cease operating the unpermitted and non-compliant equipment until they complied with District Regulation 2, Rule 1 and Regulation 9, Rule 7.

Background: Accusation filed on February 28, 2017; Pre-Hearing Conference scheduled for March 28, 2017, was cancelled due to a schedule conflict of the Respondent; Hearing held on April

18, 2017; Stipulated Conditional Order for Abatement filed on April 19, 2017, requiring Respondent to:

- install new, or retrofit existing boilers at the Facility that comply with all applicable requirements of District Regulation 9, Rule 7 by September 30, 2017; and
- complete all necessary tasks to obtain a permit to operate the Facility, including Facility boilers, in compliance with District permitting requirements, including those set forth in Regulation 2, Rule 1, by September 30, 2017; and
- operate the Facility in accordance with a District permit to operate and in accordance with District Regulation 9, Rule 7, by October 2, 2017.

A Continued Hearing was scheduled for October 24, 2017, but Respondent's attorney was unable to attend, due to travel delay beyond his control, so the Continued Hearing was postponed until November 28, 2017; Complainant's counsel experienced a medical emergency on November 28, 2017, so the Continued Hearing was moved to January 9, 2018.

Status: Second hearing held on January 9, 2018; Minute Order filed on January 10, 2018; Second Conditional Order for Abatement filed on January 22, 2018, requiring Respondent to:

- submit a complete application for a permit to operate no later than close of business January 19, 2018.
- no later than March 9, 2018, submit to the Hearing Board, (with a copy of such documentation to Brian C. Bunger, District Counsel, on behalf of the Air Pollution Control Officer), either (a) copy of a current and valid District permit to operate the Facility, or (b) written affirmation executed by Respondents that they ceased operating boiler equipment at the Spring Hill Cheese facility and that they shall not recommence operations using a boilers until all applicable requirements to obtain and maintain a valid District permit to operate are met.

On February 8, Complainant sent a letter to the Respondent informing the Respondent that his permit application submitted on January 19, 2018, was determined incomplete by District staff, and requesting immediate submission of needed information to complete the application. No further update on status of application provided.

Location: Contra Costa County; City of Richmond

Docket: 3702 – Chevron Products Company – *Request for Interim/Regular Variance*

Regulation(s): Regulation 2, Rule 1, Section 307 (Failure to meet permit conditions); and Regulation 2, Rule 6, Section 307 (Permits, Non-Compliance, Major Facility Review)

Synopsis: In March 2017 Chevron discovered that a furnace at its Richmond oil refinery was intermittently failing to comply with Air District-imposed emission limits for Nitrogen Oxides and Carbon Monoxide. Chevron immediately began trouble-shooting and tried substituting new burners in the furnace but was not able to solve the problem. Chevron sought a variance that would enable it to continue operating the furnace while it searched for a technical solution. The Air

District and Chevron subsequently negotiated an agreement allowing Chevron to continue operating while switching the furnace to natural gas, thereby at least temporarily avoiding the need for a variance. The negotiated agreement was provided to the Hearing Board for informational purposes.

Background: Applicant submitted application for interim/regular variance on October 30, 2017; Interim Variance Hearing originally scheduled for January 16, 2018, and Regular Variance Hearing originally scheduled for January 23, 2018;

Status: Interim Variance Hearing rescheduled from January 16, 2018 to January 23, 2018, and Regular Variance Hearing rescheduled from January 23, 2018 to February 13, 2018; Applicant requested to withdraw application on January 19, 2018; Order for Dismissal filed on January 25, 2018.

Period of Variance: October 27, 2017 to October 27, 2018.

Estimated Excess Emissions: 1.5 lbs/day of NO_x (nitrogen oxides); 8 lbs/day of CO (Carbon Monoxide) (net emissions after mitigation)

Location: Santa Clara County; City of Milpitas

Docket: 3703 – APCO vs. Arif Rana, et al - *Accusation*

Regulation(s): Regulation 2, Rule 1, Section 302 (Permit to Operate)

Synopsis: Respondents own or operate a gasoline dispensing facility in Milpitas, California, for which a District permit to operate is required pursuant to District Regulation 2, Rule 1. Complainant alleged that Respondents were conducting gasoline dispensing operations knowingly without a current or valid District permit to do so, despite Complainant's prior efforts to end the violation as of September 1, 2017, through a prior abatement action before the Hearing Board and a 2016 judgment from Santa Clara County Superior Court. Complainant sought an order that Respondents cease violation of District Regulation 2, Rule 1, continuing as of September 1, 2017.

Background: Accusation filed on December 29, 2017; Hearing scheduled for February 6, 2018.

Status: Hearing held on February 6, 2018, and Respondent was not present; Conditional Order for Abatement filed on February 16, 2018, requiring Respondent to:

- no later than the fifteenth (15th) calendar day after February 15, 2018, Respondents and their agents, employees, successors and assigns shall cease violation of District Regulation 2, Rule 1, Section 302 at 10 North Main Street, Milpitas, Santa Clara County, California, listed in the District's records as Facility Identification Number 112384 (Facility), either by (a) obtaining a valid Permit for the Facility current through September 2, 2018; or (b) ceasing operation of gasoline dispensing operations at the Facility unless and until they obtain a current and valid permit to do so; and

- demonstrate compliance with the Order by submitting to the Hearing Board either (a) a copy of a current and valid District permit to operate the Facility, or (b) written affirmation executed by Respondents that they ceased conducting gasoline dispensing operations at the Facility and that they shall not recommence gasoline dispensing operations, if ever, until they have met all applicable requirements to obtain and maintain a valid District permit to operate pursuant to District Regulation 2, Rule 1. Respondents shall deliver such documentation via electronic mail and certified mail to the Clerk of the Hearing Board, by no later than fifteen (15) calendar days from February 15, 2018, (with a copy of such documentation to Brian C. Bunger, District Counsel, also delivered via electronic mail and certified mail).
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Location: Santa Clara County; City of San Jose

Docket: 3704 – Chevron Products Company – *Application for Emergency Variance*

Regulation(s): Regulation 8, Rule 5, Section 305 (Organic Compounds, Storage of Organic Liquids, Requirement for Internal Floating Roof Tanks)

Synopsis: The Chevron San Jose Terminal is a petroleum marketing and distribution terminal, and receives petroleum products by pipeline and tanker truck. The Terminal blends products and distributes the blended products to retail gasoline facilities. Vapors generated during truck loading operations are captured and prevented from release into the environment. The Terminal operates petroleum storage tanks and blending equipment to provide fuel products to the market. Tank 148 (Source S# 8) is an internal floating roof denatured ethanol storage tank located at the Terminal. Tank 148 is equipped with both primary and secondary seals to minimize the release of volatile organic compounds. A leak was discovered on a weld seam in the access hatch on Tank 148. Repairs were attempted, but were unsuccessful. The Applicant is working expeditiously to remove denatured ethanol from Tank 148 and take the tank out of service to achieve compliance.

Status: Application for Emergency Variance filed by Applicant on March 19, 2018; District staff response received on March 22, 2018; Hearing Board response received on March 27, 2018; Order Denying Emergency Variance filed on March 27, 2018.

Period of Variance: March 14, 2018 to April 2, 2018

Estimated Excess Emissions: 0.04 lbs. per day of Volatile Organic Compound (net emissions after mitigation)

Fees collected this quarter: \$1,149.00

Location: Solano County; City of Suisun City

Docket: 3705 – Potrero Hills Landfill, Inc. – *Request for Short-Term Variance*

Regulation(s): Regulation 2, Rule 1, Section 301 (Permits, General Requirements, Authority to Construct)

Synopsis: The Potrero Hills Landfill (PHLF) is a municipal solid waste landfill equipped with a landfill gas (LFG) collection and control system. The facility provides solid waste management services for the local communities, including collection, re-use, recycling, and disposal of municipal solid waste. The majority of the collected LFG is sent to a landfill gas to energy facility, which is permitted separately from the Landfill, in order to produce renewable energy. A Variance is being sought for the central function of the site: To accept and place municipal solid waste and other waste material in the landfill. Curtailing operations would deprive the community of vital public services. In addition, PHLF would suffer substantial economic losses if forced to curtail landfilling operations. An application for a landfill expansion at the PHLF was first submitted to the BAAQMD in 2004. Permitting was delayed for several years due to protracted legal challenges to Solano County's environmental approval of the project. These legal challenges were resolved in early 2014. Several applications updating the original application have subsequently been submitted since the original 2004 application, with the most recent permit application (application # [AIN] 27654) submitted on November 11, 2015. The intent of that application was to update and replace the original 2004 application (AIN 11378). BAAQMD determined the updated application to be complete on July 25, 2016; however, the District has not yet issued a permit. A primary factor in the delayed completion of the permitting is staffing/workload constraints on permitting staff, a factor beyond the control of PHLF. PHLF initially expected an Authority to Construct (ATC) increasing the cumulative disposal limit, based on the updated application, to be issued by the end of 2016. Now, in 2018, PHLF is rapidly approaching its current cumulative limit and expects to reach it by the end of March 2018. It is not feasible for PHLF to curtail operations, as it would deprive the community of vital public services. As such, a variance is needed to allow the landfill to continue landfilling operations.

Status: Applicant submitted an application for a short-term variance on March 22, 2018; Hearing scheduled for April 10, 2018; Applicant requested to withdraw application on April 3, 2018 due to negotiations with staff for a Compliance/Enforcement Agreement; Order for Dismissal filed on April 4, 2018.

Period of Variance: March 21, 2018 to Issuance of Authority to Construct

Estimated Excess Emissions: 21.66 tons of fugitive Particle Oxidation Catalysts emissions/year

Fees collected this quarter: \$2,763.00

Respectfully submitted,

Valerie J. Armento, Esq.
Chair, Hearing Board

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson