



## HEARING BOARD STAFF REPORT

**TYPE:** STIPULATED ORDER of ABATEMENT

**CASE NOS:** 26-09-SA, 28-09-SA to 31-09-SA, and 33-09-SA to 53-09-SA (26 Cases in Total)

**DATE:** March 25, 2009

### **1.0 GENERAL INFORMATION:**

- 1.1 **RESPONDENT NAME:** 26 Cases. See Attachment 1
- 1.2 **EQUIPMENT LOCATION:** 26 Cases. See Attachment 1
- 1.3 **PERMIT NUMBER(S):** 26 Cases. See Attachment 1
- 1.4 **FACILITY NAME/ID:** 26 Cases. See Attachment 1
- 1.5 **FACILITY DESCRIPTION:** Gasoline stations with underground storage tanks.

**2.0 REASON FOR THE VARIANCE REQUEST:** The 26 Respondents subject to these Stipulated Orders of Abatement operate gasoline fueling stations throughout Santa Barbara County. Santa Barbara County Air Pollution Control District (“District”) Rule 316 and the orders and regulations of the Air Resources Board (“ARB”) require Phase II vapor recovery to be used when fueling passenger vehicles. All Phase II vapor recovery systems must be certified by the ARB. The ARB certification for the vapor recovery system currently used by the Respondents will expire on March 31, 2009. Therefore, gasoline dispensing facilities with underground storage tanks subject to Phase II vapor recovery requirements must upgrade to certified Enhanced Vapor Recovery (“EVR”) systems by April 1, 2009. The stations identified in Attachment 1 do not expect to meet the April 1, 2009 deadline. The District is petitioning the Hearing Board to grant a Stipulated Order of Abatement for each of the listed stations. If granted, the District will use enforcement discretion in allowing these stations to continue daily operations while they expeditiously move forward with the installation of the Phase II EVR equipment.

**3.0 BACKGROUND:** In April of 2005, the ARB approved the first Phase II EVR system (Healy VR-201). This action initiated the 4 year clock for all gasoline stations with underground storage tanks to comply with the Phase II EVR equipment standards. Many stations have already complied and approximately 28 more are currently in the process of installing the equipment. These 28 or so stations fully expect to be in compliance with the April 1, 2009 deadline. The 26 stations subject to today’s Hearing and the 11 stations previously heard at the March 18, 2009 Hearing do not believe they will meet the April 1, 2009 deadline.

The District has proactively contacted each station and has offered the Stipulated Order of Abatement process to each owner. The details are noted on the District’s advisory webpage <http://www.sbcpd.org/eng/compliance/gasoline/gdfsoa.htm>. To facilitate an

efficient process, we asked each station owner to complete 2 forms (see Attachment 2). On the first form we requested that the status of the following to be addressed:

- Was funding secured to purchase and install the equipment?
- Was a contractor selected to perform the upgrades?
- Was the Phase II EVR equipment ordered?
- Were they waiting on another agency's approval?
- Had they set a date to commence construction?
- What date did they believe compliance would be achieved?

The second form asked for the owner to provide an estimated date for each of the milestones listed above. The District has attached both forms (officially cited as Attachment 1 and Attachment 2) to each Stipulated Order of Abatement.

On March 4, 2009, District staff provided the Hearing Board a detailed briefing on both the overall process being undertaken and a description of the Phase II EVR equipment. The PowerPoint slides from that briefing may be viewed online on the District's Advisory webpage at <http://www.sbcapcd.org/eng/compliance/gasoline/gdfsoa.htm>.

About half of the stations are small locally owned and operated sites and the rest are medium size to larger companies. As noted in Attachment 1 of this staff report, the annual throughput is listed for each station.

- 4.0 PERMITTING HISTORY:** As a pre-requisite to filing this petition, the APCD required each owner to apply for and obtain an Authority to Construct permit. Each owner has done so and has been issued a permit by the District.
- 5.0 COMPLIANCE HISTORY:** None of the stations subject to the Stipulated Order of Abatement process have any significant history of violations. The Stipulated Order of Abatement does not have the effect of a variance. Unless compliance has been achieved, each station owner will be in violation on April 1, 2009. The District will document this by issuing a Notice of Violation. The fines will be determined through the District's standard mutual settlement process. Each settlement will be reviewed and settlement will be offered on a case-by-case basis. The station owners were made aware of this when they signed the Attachment 1 (on page 2), through the District FAQ and by District staff over the phone.
- 6.0 REGULATORY ANALYSIS:** Gasoline stations are subject to District Rule 316 (*Storage and Transfer of Gasoline*). Section C.3 of this rule requires the use of a State Certified Phase II vapor recovery system. The Air Resources Board certifies all vapor recovery systems pursuant to Order CP-201 (which is incorporated by reference in title 17, California Code of Regulations, section 94011). The current pre-EVR Phase II vapor recovery systems automatically loses their certification status on March 31, 2009. Effective April 1, 2009, the only certified Phase II vapor recovery systems allowed for use are the newer Enhanced Vapor Recovery systems (VR-201, VR-202, VR-203 and VR-204).

**7.0 EMISSIONS ANALYSIS:**

- 7.1 CRITERIA POLLUTANTS: Implementation of Phase II EVR in Santa Barbara County will reduce emissions of reactive organic compounds (ROC) by approximately 35 tons per year. ROCs are a criteria pollutant that is termed a pre-cursor pollutant to the formation of ozone. The District is currently not in attainment with the State 8-hour ozone standard.
- 7.2 AIR TOXIC POLLUTANTS: Gasoline stations emit toxic air containments. The reactive organic compounds emitted from the fueling operations contain small amounts of benzene.
- 7.3 EXCESS EMISSIONS: Excess emissions are defined as any emissions exceeding those that should have occurred had compliance been achieved by the April 1, 2009 deadline. Basically the difference in the current emission factor versus the lower emission factor for the implementation of Phase II EVR provides a general idea of percent excess emissions. The current non-Phase II EVR emission factor is 1.24 lb/1000 gallons ROC and the new emission factor using Phase II EVR is 0.77 lb/1000 gallons ROC. Therefore, the excess ROC emissions for each station subject to this abatement order process will be approximately **61 percent more** had the Phase II EVR equipment been installed per the April 1, 2009 deadline.

**8.0 *RESERVED***

- 9.0 OTHER FACTORS:** Each station's unique factors are described on Attachment 1 to the Stipulated Order of Abatement.

- 10.0 DISTRICT RECOMMENDATION:** By bringing these petitions to the Hearing Board, the District recommends the issuance of each of the 11 Stipulated Orders of Abatement.

- 10.1 DISTRICT RECOMMENDED REQUIREMENTS: The District recommends the following requirements for the Stipulated Order of Abatement:

- (1) Respondent shall prepare and file a written report on Respondent's progress of meeting the dates set forth in Attachment 2 of the Order and shall submit that report to the District and the Clerk of the Hearing Board on or before the first business day of each month until the Order of Abatement is rescinded by the Board.
- (2) Unless the Control Officer has determined that Respondent is in compliance with Rule 316 and Order CP 201, Respondent shall appear before the Hearing Board on June 3, 2009 and any subsequent date as required by the Board to further report to the Board on Respondent's progress coming into compliance with Rule 316 and Order CP 201.
- (3) Respondent shall be in compliance with District Rule 316 and Order CP 201 no later than the date listed in Section 13 of the Order. If Respondent is not in compliance by that date or any subsequent date approved by the Board, Respondent shall cease all operation of the facilities until Respondent is in full compliance.

**11.0 ATTACHMENTS:**

- 11.1 Attachment 1 – Station List
- 11.2 Attachment 2 – Forms 1 and 2

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Michael Goldman, Manager  
Engineering & Compliance Division

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Date

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**11.1 Attachment 1 – Station List**

HB Case No.	Facility ID	Company	Respondent Name	Equipment Location / Facility Name	City	ATC Permit #	2008 TP
HB Case No. 26-09-SA	1677	Moller Investment Group	Brian E. Mercer	150 S. La Cumbre Rd.	Santa Barbara	13099	1,449,742
HB Case No. 28-09-SA	1432	American Fuel	David Dabbour	2234 De la Vina St.	Santa Barbara	13100	226,570
HB Case No. 29-09-SA	2004	Moralez Property Enterprises, Inc.	Consuelo N. Moralez	1502 San Andres St.	Santa Barbara	13077	720,000
HB Case No. 30-09-SA	1826	Stop & Shop Gas 2	Aied Abdullatif	134 S. Milpas St.	Santa Barbara	13097	393,564
HB Case No. 31-09-SA	1258	Carpinteria 76	Mohamed Elmoussaid	5085 Carpinteria Ave.	Carpinteria	13037	850,000
HB Case No. 33-09-SA	1460	Donovan Chevron	Bruce Sayahan	739 E. Donovan Rd.	Santa Maria	13073	3,000,000
HB Case No. 34-09-SA	1590	Chumash CA Gas Station #2, LLC	Greg Pensa	3545 E. Highway 246	Santa Ynez	13024	337,096
HB Case No. 35-09-SA	1844	Chumash CA Gas Station #1, LLC	Greg Pensa	3101 Mission Dr.	Solvang	13095	387,550
HB Case No. 36-09-SA	1566	The Pommerville Corp.	Don Pommerville	1001 N. H Street	Lompoc	12881	377,216
HB Case No. 37-09-SA	2434	Educated Car Wash	Spencer Wasem	3735 State Street	Santa Barbara	13058	955,688
HB Case No. 38-09-SA	1488	Fairview 76	Tom Price	42 N. Fairview Ave.	Goleta	13091	772,767
HB Case No. 39-09-SA	3675	Winchester 76 and Market	Tom Price	20 Winchester Canyon Rd.	Goleta	13090	984,356
HB Case No. 40-09-SA	2645	North Turnpike Partners LP	John Price	175 N. Turnpike Rd.	Santa Barbara	13086	2,359,685
HB Case No. 41-09-SA	1362	Jemesa LLC	John Price	1929 Cliff Drive	Santa Barbara	13085	1,711,374
HB Case No. 42-09-SA	2438	Channel Auto Services LP	John Price	3898 State Street	Santa Barbara	13087	920,257
HB Case No. 43-09-SA	1262	Seaside Shell General Partnership	John Price	101 W. Carrillo Street	Santa Barbara	13089	1,597,385
HB Case No. 44-09-SA	2646	Turnpike Fuel Parntners LP	John Price	250 N. Turnpike Rd.	Santa Barbara	13088	195,590
HB Case No. 45-09-SA	2424	World Oil Marketing Company	John Hundley	1800 State Street	Santa Barbara	13109	2,428,768
HB Case No. 46-09-SA	1605	World Oil Marketing Company	John Hundley	5648 Hollister Ave.	Goleta	13111	3,119,566
HB Case No. 47-09-SA	1433	World Oil Marketing Company	John Hundley	2837 De la Vina	Santa Barbara	13053	2,546,483
HB Case No. 48-09-SA	1245	World Oil Marketing Company	John Hundley	5960 Calle Real	Goleta	13110	2,295,798
HB Case No. 49-09-SA	1490	Shell Oil Products US	Francisco Bernal	55 N. Fairview Ave.	Goleta	12957	732,923
HB Case No. 50-09-SA	1264	ConocoPhillips	Griff Williamson	303 W. Carrillo Street	Santa Barbara	12961	318,922
HB Case No. 51-09-SA	1691	Summerland Food and Liquor	Elian Hanna	2285 Lillie Avenue	Summerland	13094	360,000
HB Case No. 52-09-SA	2426	Serfa Service Station, LP	Robert Kofdarali	1935 State Street	Santa Barbara	12727	1,725,608
HB Case No. 53-09-SA	1372	Olive Oil and Gas LP	John Price	1298 Coast Village Rd.	Santa Barbara	13092	758,889

**11.2 Attachment 2 – Forms 1 and 2**

## ATTACHMENT 1

Stipulated Order of Abatement Case No: \_\_\_\_\_

Facility Address: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

Phone: \_\_\_\_\_ Fax: \_\_\_\_\_

E-Mail: \_\_\_\_\_

Contact Mailing Address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Authority to Construct No: \_\_\_\_\_ 2008 Gasoline Throughput: \_\_\_\_\_ gal/year

*Circle Yes/No and state the reasons. Use additional paper to amplify your response if needed.*

Yes / No	Funding Secured for the Phase II EVR Upgrades? <i>If No, explain why and the date funding will be secured:</i>
Yes / No	Has a contractor been secured to perform the upgrades? <i>If No, explain why and the date a Contractor will be secured:</i>
Yes / No	Has the Phase II EVR equipment been ordered? <i>If Yes, when. If No, explain why not and the date the equipment will be ordered:</i>
Yes / No	Are you waiting on another agency? <i>If Yes, explain which one and the date they expect to grant your approval:</i>
Yes / No	Do you have a date set to commence construction? <i>If yes, what is that date. If No, explain why not and what date you expect to start construction.</i>

# ATTACHMENT 1

Stipulated Order of Abatement Case No: \_\_\_\_\_

Given your circumstances, what date do you expect to be in compliance? \_\_\_\_\_  
(Compliance is defined as installing the Phase II EVR equipment)

As the responsible official for my company, I certify that an ATC permit has been obtained for the gasoline station at the facility address above. Further, this station is not expected to be in compliance with District Rule 316.C.3 as we will not have a State Certified Phase II vapor recovery system installed by that date. My company agrees to the Stipulated Order of Abatement process in order to allow for continued operations of our gasoline station until the Phase II Enhanced Vapor Recovery equipment is installed. Our company understands that, notwithstanding the Stipulated Order of Abatement, we will be in violation of Rule 316.C.3 on April 1, 2009 and thereafter until the equipment is installed. We further agree that a company representative will be present at the APCD Hearing Board when our case is heard.

\_\_\_\_\_  
Responsible Office Name (print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Responsible Office Name (signature)

## ATTACHMENT 2

Stipulated Order of Abatement Case No: \_\_\_\_\_

Facility Address: \_\_\_\_\_

Company Name: \_\_\_\_\_

Contact Name: \_\_\_\_\_

### SCHEDULE OF COMPLIANCE

*Provide the date in the box. State "done" if that milestone has already been reached.*

Date	Milestone
	Secure funding for the Phase II EVR Upgrades.
	Secure contractor to perform the upgrades.
	Order the Phase II EVR equipment.
	Obtain final permit approvals for other agency(ies).
	Commence construction.
	Phase II EVR equipment installed. Date of Compliance.

\_\_\_\_\_  
Responsible Office Name (print)

\_\_\_\_\_  
Date

\_\_\_\_\_  
Responsible Office Name (signature)