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Hearing Board of the Santa Barbara County Air Pollution Control District

Terence Dressler,
Air Pollution Control Officer,
Petitioner,
and
[Name],
Respondent

Case No.
**STIPULATED;
ORDER OF ABATEMENT**

INTRODUCTION

1. [Name] , Respondent, is currently the operator of a gas station or other equipment that effects the transfer of gasoline into motor vehicles and is therefore subject to Santa Barbara County Air Pollution Control District (“District”) Rule 316 and the orders and regulations of the Air Resources Board that require Phase II vapor recovery on all such operations. The address of Respondent’s facilities (the “facilities”) is as follows:

[Address or addresses]

1 6. The Air Resources Board has established, pursuant to Health and Safety Code
2 sections 25290.1.2, 39600, 39601 and 41954, certification procedures for systems designed for
3 the control of gasoline vapor emissions during motor vehicle fueling operations. To that end,
4 the Air Resources Board has issued Order CP 201, "Certification Procedure for Vapor
5 Recovery Systems at Gasoline Dispensing Facilities," as last amended on May 25, 2006, and
6 incorporated by reference in title 17, California Code of Regulations, section 94011.

7 7. Pursuant to Section 16.1 of Order CP-201, Phase II vapor recovery systems are
8 certified by the Air Resources Board for a period of 4 years. The Air Resources Board
9 certification for the vapor recovery system used by Respondent will expire on March 31, 2009.
10 Therefore, gasoline dispensing facilities, such as Respondents, with underground storage tanks
11 subject to Phase II vapor recovery requirements must upgrade to Enhanced Vapor Recovery
12 Phase II vapor recovery by April 1, 2009.

13 8. Respondent has committed to complying with District Rule 316 and Air
14 Resources Board Order CP 201 as quickly as possible. Respondent's proposed schedule of
15 compliance is set forth in Attachment 2 to this Order, which is incorporated herein by this
16 reference. Respondent has represented and testified that this schedule represents Respondents
17 best reasonable good faith efforts to come into compliance with the Phase II Enhanced Vapor
18 Recovery requirements as soon as practicable. Respondent understands that if Respondent
19 cannot meet the schedule in Attachment 2, Respondent should timely contact the District to
20 report any delays in achieving milestones on Attachment 2. Should Respondent not meet the
21 milestones in Attachment 2, however, this shall not constitute a violation of this Order.

22 9. This Board has reviewed Respondent's explanation set forth in Attachment 1 as to
23 why compliance with the Phase II Enhanced Vapor Recovery requirements by April 1, 2009 is
24 not possible. This Board has held a public hearing on the Abatement Order and has heard
25

1 sworn testimony from Respondent and the District at the hearing and has determined that the
2 statutory grounds for issuance of this Abatement Order exist.

3 **ORDER OF ABATEMENT**

4 **[HEALTH & SAFETY CODE § 42451(b)]**

5 10. **NOW, THEREFORE, THE BOARD ORDERS** that Respondent shall not
6 operate the facilities subject to this Order unless Respondent meets the requirements set forth in
7 herein.

8 11. Respondent shall prepare and file a written report on Respondent's progress of
9 meeting the dates set forth in Attachment 2 and submit that report to the District and the Clerk
10 of the Hearing Board on or before the first business day of each month until the Order of
11 Abatement is rescinded by this Board.

12 12. Unless the Control Officer has determined that Respondent is in compliance with
13 Rule 316 and Order CP 201, Respondent shall appear before the Hearing Board on June 3,
14 2009 and any subsequent date as required by this Board to further report to this Board on
15 Respondent's progress coming into compliance with Rule 316 and Order CP 201.

16 13. Respondent shall be in compliance with District Rule 316 and Order CP 201 no
17 later than _____ [date] _____. If Respondent is not in compliance by that date or any subsequent
18 date approved by this Board, Respondent shall cease all operation of the facilities until
19 Respondent is in full compliance.

20 14. This Order shall become effective immediately and shall remain in full force and
21 effect until and unless modified or rescinded by this Board.

22 15. The Board recognizes the statement of intent of the parties that once Respondent
23 has installed the Phase II Enhanced Vapor Recovery, Respondent will be in compliance with
24 Rule 316 and Order CP 201. After such compliance has been demonstrated to the satisfaction
25

1 of the Control Officer, the Control Officer shall return to the Hearing Board to request
2 rescission of this Order.

3 16. This Board shall retain continuing jurisdiction over this matter.

4 17. Pursuant to Health and Safety Code section 42401, any violation of this
5 Abatement Order shall be subject to civil penalties of not more than \$25,000 per day for each
6 day in which the violation occurs.

7 18. The issuance of this Order shall not constitute a variance. Any violation of Rule
8 316 or Order CP-210 is subject to an enforcement action and the collection of civil fines by the
9 Control Officer pursuant to Division 26 of the Health and Safety Code and the District's
10 Mutual Settlement Policy. These civil fines are separate and apart from any civil penalties
11 referenced in paragraph 17, above.

12 **THIS ORDER IS HEREBY ISSUED** by the Air Pollution Control District
13 Hearing Board of the County of Santa Barbara, State of California, on this ____ day of March,
14 2009, by the following votes.

15 AYES

16 NOES

17 ABSTAIN

18 ABSENT

19
20 ATTEST
21 CLERK OF THE HEARING BOARD

22 _____
23 Deputy Clerk

24 _____
25 CHAIR
Santa Barbara County Air Pollution
Control District Hearing Board

24 APPROVED AS TO FORM
25 COUNTY COUNSEL

1 By: _____
2 Deputy County Counsel
3 Attorney for the Hearing Board

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5 Attachment 1

6 Attachment 2
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1 **STIPULATION TO ABATEMENT ORDER**

2 Pursuant to Health and Safety Code section 42451(b), the Control Officer and
3 Respondent hereby stipulate to the above Order of Abatement and consent to the terms and
4 conditions set forth therein.

5 This stipulation is executed by the parties on the dates indicated below, in the County of
6 Santa Barbara, State of California.

7
8 **TERRENCE DRESSLER**
9 **CONTROL OFFICER**

Respondent
[Name of Company]

10 By: _____

By: _____

11 Date: _____

Title: _____

12 Date: _____