

FILED

JUN 19 2003

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

MARY ROMAIDIS
CLERK
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

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BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the Matter of the Application of)	
)	
TESORO REFINING AND)	No. 3432
MARKETING COMPANY)	
)	ORDER DENYING
For a Variance from Regulation 9, Rule 10,)	<u>EMERGENCY VARIANCE</u>
Sections 301 and 304 and Regulation 2,)	
Rule 1, Section 307)	
_____)	

The above-entitled matter, being an Application for Variance from the provisions of Regulation 9-10-301 and 304 and Regulation 2-1-307, having been filed on June 11, 2003 at 4:27 p.m., and having been considered by the Hearing Board:

THE HEARING BOARD STATES as the reasons for its decision and FINDS as to those matters in which findings are required:

1. Applicant filed this Application for Variance under the Emergency Variance procedures, Hearing Board Rules, Section 2.5. Pursuant to Health and Safety Code Sections 42359 and 42359.5, the Hearing Board determined that this Application properly could be ruled upon without notice and hearing. Prior to making this determination, and in accordance with Hearing Board Rules Section 2.5.d.2, the Hearing Board requested and received a response to this Application from the Air Pollution Control Officer. That response recommended the Emergency

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1 Variance be denied because the issues are too complex for an emergency variance and no special
2 circumstances exist to forego a public hearing.

3 2. Applicant operates a petroleum refinery located at 150 Solano Way, Martinez,
4 CA 94553.

5 3. On June 11, 2003, Applicant experienced an unexpected emergency boiler tube
6 failure at the No. 5 boiler, which caused a shutdown of that boiler, necessitating the diversion of
7 the flue gasses to No. 6 boiler. As a result, Applicant was unable to comply with the applicable
8 regulation.

9 4. The No. 6 boiler was running in normal operation utilizing refinery fuel gas to
10 produce steam when the No. 5 boiler required an emergency shutdown due to a boiler tube leak.
11 The Coker gas that typically fuels the No. 5 boiler was routed to the No. 6 boiler (a permitted
12 alternate fuel source). With the Coker gas as fuel for the No. 6 boiler, the No. 6 boiler exceeded
13 its NOx emissions limits, and as a result of the No. 5 boiler being shutdown, the refinery also
14 exceeded its NOx bubble limit.

15 5. Christina H. McDowell, Air Monitoring Engineer, Tesoro Refining and
16 Marketing and Bruce C. Paltenghi of Gordon, DeFraga, Watrous and Pezzaglia, representing the
17 Applicant, estimated this defect can be repaired by June 25, 2003. Excess emissions after
18 mitigation are estimated to be 4700 pounds of NOx per day.

19 6. Information provided to the Hearing Board is insufficient to justify granting a
20 Variance without a hearing. In addition, denial of the Emergency Variance is based on there being
21 no special circumstances shown to support a finding of good cause.

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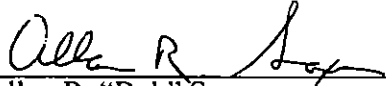
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7. In accordance with Section 2.5.e of the Hearing Board Rules, Applicant may submit a written Application for Variance by June 18, 2003.

THEREFORE, THE HEARING BOARD ORDERS:

A Variance from Regulation 9-10-301 and 304 and Regulation 2-1-407, with respect to condition numbers 17322 and 4357, be and is hereby denied.

DATED: June 12, 2003



Allan R. "Bob" Saxe