

FILED

JUL 02 2008

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Lisa Harper
Clerk, Hearing Board
Bay Area Air Quality
Management District

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

AIR POLLUTION CONTROL OFFICER of the BAY)
AREA AIR QUALITY MANAGEMENT DISTRICT)
)
)
Complainant,)
)
vs,)
)
MASOOD AMINI-FILABAD, *aka* AMINI FILABAD)
and HAMID AMINI, individually, and *d/b/a*)
LIVERMORE BEACON, Site No. C8876)
)
Respondent.)

DOCKET NO. 3548

AMENDED CONDITIONAL
ORDER FOR ABATEMENT

On January 30, 2008, the Air Pollution Control Officer (“APCO”) of the Bay Area Air Quality Management District (“District”), Complainant in the above-entitled matter, filed with this Hearing Board an Accusation and Request for Order of Abatement (“Accusation”) against Masood Amini-Filabad, *aka* Amini Filabad and Hamid Amini, individually and *d/b/a* Livermore Beacon, Respondent in this matter, to cease and desist from operating its gasoline dispensing facility, Livermore Beacon, until Respondent obtains a valid permit to operate the Facility and is in compliance with the requirements of District Regulation 8, Rule 7, Section 301.

Mr. Masood Amini-Filabad, owner of Livermore Beacon, located at 2620 East Old First Street, Livermore, California, Site No. C8876 (“Facility”), appeared on his own behalf.

Susan Adams, Assistant Counsel, appeared for the Air Pollution Control Officer.

1 The Clerk of the Hearing Board provided notice of the hearing on the Accusation in
2 accordance with the requirements of the Health and Safety Code. The Hearing Board heard the
3 request for an abatement order on March 20, 2008. At the hearing, the District withdrew that
4 portion of its request in the Accusation for an order that Respondent abate violations of District
5 Regulation 8, Rule 7, Section 301.

6 The Hearing Board provided the public with an opportunity to testify at the hearing, as
7 required by the Health and Safety Code. No members of the public testified. The Hearing Board
8 heard evidence, testimony and argument from the APCO and Respondent.

9 The Hearing Board closed the hearing after receiving evidence, testimony and argument,
10 and took the matter under submission for decision. After consideration of the evidence, on
11 March 21, 2008, the Hearing Board issued a Conditional Order for Abatement ("Order").

12 Thereafter, the APCO requested that the Hearing Board amend Paragraph 2 of the Order.
13 The Clerk of the Hearing Board provided notice to Respondent of the District's request for the
14 amendment. The Hearing Board, after reviewing the request for reconsideration, has voted to
15 issue an Amendment to Conditional Order for Abatement, as set forth below:

16 DISCUSSION

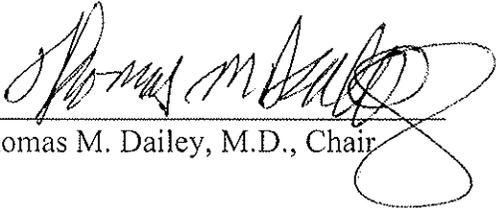
17 The Hearing Board issued a Conditional Order for Abatement on March 21, 2008 in this
18 matter, in which it required the District to "obtain the Facility's actual annual gasoline
19 throughput information for the period of 2003 - 2008 from the California Franchise Tax Board,
20 State Board of Equalization and/or other appropriate State agency or agencies." See, Paragraph
21 2 of the Order.

22 By letter dated April 24, 2008, Assistant Counsel Susan Adams, on behalf of the APCO,
23 requested a modification of Paragraph 2 of the Order. In the letter, the District stated that
24 District staff had confirmed that the State Board of Equalization was the correct entity to contact
25 for such records. However, the District learned thereafter that, pursuant to Cal. Revenue and
26 Taxation Code section 7056, in order for the District to obtain such records, the District had to
27 obtain prior written approval from the Governor and to enter into an agreement with the State
28 Board of Equalization. The District also stated that, according to staff of the State Board of

1 of Equalization and/or other appropriate State agency or agencies and shall provide a copy of
2 such information to the Hearing Board and the District on or before August 15, 2008.”

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4 2. Paragraphs 1, 3, 4, 5, and 6 of the Order shall remain in full force and effect.

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10 Thomas M. Dailey, M.D., Chair

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6-26-08

Date