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OCT 17 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
STATE OF CALIFORNIA

In the Matter of the Application of

Chevron Products Company

For a Variance from Regulation 2, Rule 1,
Section 307 and Regulation 2, Rule 6,
Section 307, insofar as they require
compliance with (i) Condition No. 15698,
Part 1, and Tables II-B and IV.C.3.1 of the
Refinery's Major Facility Review Permit;
and (ii) Standard Condition I.B.2 of the
Refinery's Major Facility Review Permit,
insofar as it requires compliance with
Condition No. 15698, Part 1, and Tables II-B
and IV.C.3.1 of the Refinery's Major Facility
Review Permit.

No. 3559

ORDER GRANTING SHORT TERM
VARIANCE

The above-entitled matter, being an Application for a Short Term Variance from the provisions of Regulation 2, Rule 1, Section 307 and Regulation 2, Rule 6, Section 307, insofar as they require compliance with (i) Condition No. 15698, Part 1, and Tables II.B and IV.C.3.1 of the Refinery's Major Facility Review Permit; and (ii) Standard Condition I.B.2 of the Refinery's Major Facility Review Permit, insofar as it requires compliance with Condition No. 15698, Part 1, and Tables II.B and IV.C.3.1 of such Permit, came on

1 regularly for hearing on October 2, 2008 before the Hearing Board of the Bay Area Air
2 Quality Management District.

3 John T. Hansen, Esq. and Rita S. Chan, Esq., appeared on behalf of Chevron
4 Products Company (“Applicant”).

5 Adan Schwartz, Senior Assistant Counsel, appeared as counsel for the Air Pollution
6 Control Officer (“APCO” or “District”).

7 The Clerk of the Hearing Board provided notice of this hearing on the Application
8 for Variance in accordance with the requirements of the California Health and Safety Code.

9 The Application for Variance sought variance relief for the period August 8, 2008
10 through November 6, 2008. At the hearing on October 2, 2008, Applicant amended its
11 Application by requesting a variance for the period August 8, 2008 through November 5,
12 2008.

13 The Hearing Board provided the public an opportunity to testify at the hearing, as
14 required by the California Health and Safety Code. No member of the public offered
15 testimony. The Hearing Board heard evidence and argument from Applicant and argument
16 from the District. Applicant’s evidence was presented through two witnesses, Mr. Donald
17 Tarter and Ms. Megan Bleckinger. The APCO did not oppose the granting of the variance.
18 After Applicant presented its case, the Hearing Board voted to grant the requested variance,
19 as set forth in more detail below:

20 BACKGROUND

21 Applicant operates an oil refinery at 841 Chevron Way in Richmond, California
22 (“Refinery”). The Refinery has a Major Facility Review Permit (“Title V Permit”).
23 Applicant is not considered a small business as described by California Health and Safety
24 Code Section 42352.5(b)(2).

25 The subjects of this Short Term Variance are water scrubbers A-0261 and A-0262,
26 which are used to abate methanol emissions from the Refinery’s hydrogen plant de-aerator
27 vents. The scrubbing process requires the use of water that is provided entirely by the East
28 Bay Municipal Utility District (“EBMUD”).

1 Permit Condition No. 15698, Part 1, of the Refinery's Title V Permit provides:
2 "Washwater temperature shall not exceed 80 degrees Fahrenheit during any 3-hour
3 averaging period." This condition is also referenced in Tables II.B and IV.C.3.1 of the
4 Refinery's Title V Permit. Noncompliance with Permit Condition No. 15698, Part 1, also
5 results in noncompliance with Standard Condition I.B.2 of the Refinery's Title V Permit
6 and with District Regulation 2, Rule 1, Section 307 and Regulation 2, Rule 6, Section 307.

7 Mr. Tarter, the North Yard Environmental Field Coordinator at the Refinery, who is
8 responsible for overseeing environmental compliance there, and Ms. Bleckinger, the
9 Hydrogen Plant Process Engineer, testified on behalf of Applicant at the October 2 variance
10 hearing. Mr. Tarter and Ms. Bleckinger stated at the beginning of their testimony that they
11 were familiar with the circumstances that necessitated the variance proceeding. The
12 information set forth in this Background section is based on the Application for Variance
13 and the witnesses' testimony confirming the statements presented in the Application for
14 Variance.

15 The Application for Variance stated, and Mr. Tarter confirmed during the hearing,
16 that the temperature of the washwater before it enters the scrubbers is monitored and when
17 the temperature of the washwater approaches 80-degrees Fahrenheit, an alarm is activated.
18 On July 8, 2008, the alarm was activated, indicating that the temperature of the washwater
19 entering the water scrubbers was approaching 80-degrees Fahrenheit. The Refinery
20 determined that the washwater temperature at the scrubbers was 81-degrees Fahrenheit over
21 several three-hour periods on that day.

22 Mr. Tarter further testified to the following actions that the Refinery took upon
23 discovery of the problem. First, the Refinery conducted an internal investigation, and
24 concluded that it had not done, nor was it doing, anything that could have contributed to the
25 temperature exceedances. The Refinery then contacted EBMUD, and was told that the
26 elevated temperature of the washwater was a function of the high ambient temperature in
27 the Bay Area and the low water levels at EBMUD reservoirs. Anticipating continuing
28 intermittent high ambient temperatures, the Refinery also considered various measures to

1 cool the water, but determined that none would provide an immediate solution to the
2 problem. Accordingly, the Refinery applied for an emergency variance on July 9, 2008.
3 The Hearing Board granted the requested emergency variance on July 16. During the
4 emergency variance period, which began on July 9 and ended on August 7, the temperature
5 of the washwater at the scrubbers exceeded the three-hour average limit on two days: July 9
6 and July 26.

7 As explained by Mr. Tarter's and Ms. Bleckinger's testimony, Applicant also
8 considered long-term technical solutions for solving the problem. For example, the
9 Refinery considered obtaining washwater from a different source, but concluded that no
10 such source is available. In addition, the Refinery considered using a portable refrigeration
11 unit to cool the water, or using a portable tank to store water at night so that the cooler
12 water could be used as washwater for the scrubbers during the day when the ambient
13 temperature was elevated. The Refinery found these options to be neither practical nor
14 cost-effective, given the low methanol emission levels involved. In an attempt to prevent
15 future noncompliance, the Refinery installed insulation on the water line bringing the
16 EBMUD water to the two scrubbers. This work began on August 5 and was completed on
17 August 18. The insulation work involved the installation of ceramic fiber and metal
18 wrapping at locations where there is greater exposure to heat. Mr. Tarter stated that the
19 insulation has not proven effective, as the washwater temperature exceeded the 80-degrees
20 Fahrenheit limit over several three-hour averaging periods on September 1 and September
21 2, 2008, after the insulation was installed.

22 District Regulation 8, Rule 2, Section 301, as incorporated in the Refinery's Title V
23 Permit, provides a maximum emission limit of 15 lbs C/day for each de-aerator vent.
24 Applicant's witnesses testified that the Refinery estimates that the methanol emissions from
25 each vent for the July 8, July 9, July 26, September 1, and September 2 events resulted in
26 the emission of approximately 0.002 lbs C/day, well below the allowed 15 lbs C/day level.
27 They further testified that this 0.002 lbs C/day figure is a conservative estimate because it
28 assumes, among other things, that the washwater temperature exceeded the 80-degrees

1 Fahrenheit limit for the entire day, while in fact on each of those five days the washwater
2 only exceeded 80-degrees Fahrenheit over several three-hour averaging periods. Further,
3 the Refinery estimates that the emissions would only be approximately 0.003 lbs C/day
4 even when the washwater temperature is at 90-degrees Fahrenheit, the increased limit that
5 the Refinery is seeking in its application to amend its Title V Permit.

6 Under these circumstances, according to Mr. Tarter, the Refinery believes that the
7 only long-term option it has is to amend its Title V Permit, and, to that end, on September
8 25, 2008 the Refinery applied to amend its Title V Permit to increase the washwater
9 temperature limit from 80- to 90-degrees Fahrenheit, averaged over a three-hour period.

10 DISCUSSION

11 Applicant was and will likely continue to be in intermittent violation of Permit
12 Condition No. 15698, Part 1, and as a result was and will likely continue to be in
13 intermittent violation of Standard Condition I.B.2, District Regulation 2, Rule 1, Section
14 307 and District Regulation 2, Rule 6, Section 307.

15 The noncompliance was and would continue to be beyond the reasonable control of
16 Applicant. Despite Applicant's diligent efforts, it has not been able to determine a long-
17 term, practical, and cost-effective technical solution for the problem.

18 Based on the Refinery's conservative estimates, there were no excess emissions
19 from the de-aerator vents during the five days on which the washwater temperature
20 exceeded the 80-degrees Fahrenheit limit, and there would be no excess emissions during
21 the period that the variance would be in effect.

22 Shutting down the water scrubbers would result in the shutdown of the hydrogen
23 plant, and because the hydrogen plant is essential to the production of gasoline, diesel, and
24 jet fuel at the Refinery, shutting down the hydrogen plant would likely result in product
25 shortages in the Bay Area region, to the detriment of the public and, as well, in economic
26 harm to the Refinery. Requiring compliance would result in the practical closing and
27 elimination of a lawful business and would be without a corresponding benefit in reducing
28 air contaminants.

1 Applicant considered curtailing its operation of the hydrogen plant. However,
2 curtailing operation would not bring the Refinery into compliance, since the Refinery's
3 Title V Permit requires that the scrubbers be operated whenever the hydrogen plant is in
4 operation, no matter what that level of operation may be. Thus, curtailing operation of the
5 hydrogen plant would not eliminate the need to run the scrubbers. If the temperature of the
6 washwater received from EBMUD during curtailed hydrogen plant operation exceeded 80-
7 degrees Fahrenheit averaged over a three-hour period, the Refinery would be in violation of
8 Permit Condition No. 15698, Part 1.

9 SPECIFIC FINDINGS

10 The Hearing Board finds, pursuant to Health and Safety Code Section 42352, that:

11 1. Applicant has been, and will likely continue to be, in intermittent violation
12 of Condition No. 15698, Part 1, of the Refinery's Title V Permit, and as a result, has also
13 been, and will also likely continue to be, in intermittent violation of Standard Condition
14 I.B.2 of such Permit, as well as of District Regulation 2, Rule 1, Section 307 and
15 Regulation 2, Rule 6, Section 307.

16 2. Due to circumstances beyond Applicant's reasonable control, requiring
17 compliance with Permit Condition No. 15698, Part 1, would result in an unreasonable
18 taking or practical closure of Applicant's lawful business. Applicant's non-compliance has
19 been, and would continue to be, beyond its reasonable control because the washwater
20 temperature is a function of high ambient temperature in the Bay Area and low water levels
21 in EBMUD reservoirs, matters over which the Refinery has no control. Moreover, despite
22 its diligent efforts, the Refinery has not been able to determine a long-term technical
23 solution for the problem that is both practical and cost-effective.

24 3. The hardship due to requiring immediate compliance with Permit Condition
25 No. 15698, Part 1, would be without a corresponding benefit in reducing air contaminants.

26 4. Applicant considered curtailing operation of the hydrogen plant in lieu of
27 seeking a variance. However, curtailing operation would not achieve compliance. Even if
28 the operational level of the hydrogen plant were reduced, the Refinery would still be

1 required by its Title V Permit to operate the scrubbers. If the EBMUD water entering the
2 scrubbers exceeded the 80-degrees Fahrenheit limit, the Refinery would be in violation of
3 Condition No. 15698, Part 1.

4 5. Applicant estimates that, during the period that the variance would be in
5 effect, there would not be any excess emissions from the de-aerator vents.

6 6. Applicant agrees to monitor or otherwise quantify emission levels from the
7 source and report these emission levels, if requested to do so by the District.

8 THEREFORE, THE HEARING BOARD ORDERS:

9 A Short Term Variance — from District Regulation 2, Rule 1, Section 307 and
10 Regulation 2, Rule 6, Section 307, insofar as they require compliance with (i) Condition
11 No. 15698, Part 1 and Tables II-B and IV.C.3.1 of the Refinery's Major Facility Review
12 Permit; and (ii) Standard Condition I.B.2 of the Refinery's Major Facility Review Permit,
13 insofar as it requires compliance with Condition No. 15698, Part 1, and Tables II-B and
14 IV.C.3.1 of such Permit — is hereby granted from August 8, 2008 to and including
15 November 5, 2008, subject to the following conditions:

16 1. The temperature of the washwater entering scrubber A-0261 and scrubber A-
17 0262 during the variance period shall not exceed 90-degrees Fahrenheit during any three-
18 hour averaging period.

19 2. If the temperature of the washwater entering scrubber A-0261 or scrubber A-
20 0262 exceeds 80-degrees Fahrenheit during any three-hour averaging period during the
21 variance period, Applicant shall report to its District Inspector within 24 hours.

22 3. Applicant shall report to the Hearing Board, in an original plus nine copies,
23 within fifteen (15) days following the end of the variance period, all exceedances of the 80-
24 degrees Fahrenheit limit, averaged over a three-hour period, occurring during the variance
25 period.

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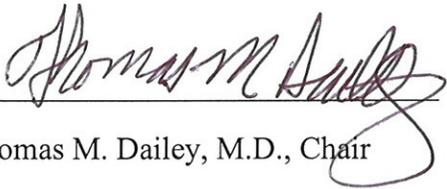
27 Moved by: Christian Colline, P.E.

28 Seconded by: Terry A. Trumbull, Esq.

1 AYES: Christian Colline, P.E., Valerie J. Armento, Esq., Julio Magalhães, Ph.D.,
2 Terry A. Trumbull, Esq., and Thomas M. Dailey, M.D.

3 NAYS: None

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Thomas M. Dailey, M.D., Chair

10-17-08
Date

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