

FILED

OCT 11 2012

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT
Sean Gallagher
Clerk of the Boards
Bay Area Air Quality
Management District

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

AIR POLLUTION CONTROL OFFICER of the BAY
AREA AIR QUALITY MANAGEMENT DISTRICT

DOCKET NO. 3637

Complainant,

vs,

PINOLE RODEO AUTO WRECKER; JIM TAYLOR,
individually, and *d/b/a* Pinole Rodeo Auto Wrecker

Respondents.

**REVISED CONDITIONAL
ORDER FOR
ABATEMENT**

On June 28, 2012, 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 Pinole Rodeo Auto Wrecker and Jim Taylor, individually and *d/b/a* Pinole Rodeo Auto Wrecker, Respondents in this matter, to cease operating the internal combustion diesel engine located at Pinole Rodeo Auto Wrecker until Respondents obtain a permit to operate and regain compliance with the requirements of District Regulation 2, Rule 1, Section 302.

Eric DiIulio, Legal Intern, appeared on behalf of the APCO.

Kevin Vo and Douglas Hall testified on behalf of the APCO.

The Clerk of the Hearing Board provided notice of the hearing on the Accusation in accordance with the requirements of the Health and Safety Code. The Hearing Board heard the request for an abatement order on August 2, 2012.

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

4 The Hearing Board closed the hearing after receiving evidence, testimony and argument,
5 and took the matter under submission for decision. After consideration of the evidence, the
6 Hearing Board voted to issue a Conditional Order of Abatement, as set forth in more detail
7 below:

8 **BACKGROUND**

9 Since 1980, the District has required all sources of air contaminants to obtain a permit to
10 operate. District Regulation 2, Rule 1, Section 302 ("2-1-302"). Respondents operate an internal
11 combustion diesel engine to power a car crusher ("Engine"). The Engine is subject to 2-1-302
12 because it releases contaminants. Respondents continue to operate, and have done so since at
13 least 2009, without the mandated permit to operate. Respondent Taylor has owned the Pinole
14 Rodeo Auto Wrecker facility since at least 2009.

15 **DISCUSSION**

16 Pursuant to Health and Safety Code Section 42351(a), the Hearing Board may issue an
17 order for abatement if it finds that a person is operating an internal combustion diesel engine in
18 violation of a District rule or regulation that prohibits or limits the discharge of air contaminants.

19 At the hearing, the District presented evidence that Respondents have never obtained a
20 permit to operate the Engine on site in violation of District Regulation 2-1-302. The District
21 issued Notice of Violation No. A50230 for this violation. The District also presented evidence
22 that Respondents had submitted permit applications on two separate occasions; however, both
23 applications were incomplete. Thus, the District has been and will continue to be unable to issue
24 a permit absent further information from the Respondents.

25 At the conclusion of the evidentiary hearing, the District testified that it would support a
26 Conditional Order of Abatement which would require that Respondents cease operating the
27 Engine within six months if Respondents have not obtained a permit to operate from the District.
28

1 **SPECIFIC FINDINGS**

2 The Hearing Board finds that Respondents are currently operating the Engine in violation
3 of District Regulation 2-1-302.

4 The Hearing Board finds that Respondent Taylor is a responsible party for these
5 violations and is aware of these violations.

6 **THEREFORE, pursuant to Sections 42451(a) and 42452 of the California Health**
7 **and Safety Code, THE HEARING BOARD of the BAY AREA AIR QUALITY**
8 **MANAGEMENT DISTRICT hereby ORDERS:**

9 1. That the APCO's Request for a Conditional Order For Abatement shall be and
10 hereby is GRANTED as follows: Pinole Rodeo Auto Wrecker and Jim Taylor, individually and
11 d/b/a Pinole Rodeo Auto Wrecker, Respondents in this matter, are hereby ordered to comply
12 with each of the following conditions. If Respondents do not comply with each of the following
13 conditions, Respondents shall cease operating the Facility as set forth herein:

14 a. On or before October 2, 2012, Respondents shall provide the District the
15 necessary information to allow the District to deem the application complete and pay all
16 requisite permitting fees. If Respondents fail to comply with this condition, Respondents
17 shall cease operating the Engine on October 3, 2012.

18 b. On or before December 2, 2012, the District shall provide the Hearing
19 Board and Respondents with a status report. The Status Report will address whether the
20 Engine may be permitted as is or whether modification or replacement is required to
21 comply with air quality requirements.

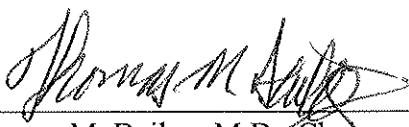
22 c. If Respondents have not obtained a District operating permit for the
23 Engine by February 2, 2013, Respondents shall cease operating the Engine on that date.

24 2. This Order shall become effectively immediately upon the filing of this Order and
25 shall be served upon Respondents immediately thereafter.

26 3. This Order shall expire upon the filing of a letter from the District to Respondents
27 and to this Hearing Board stating that Respondents have obtained a permit to operate and are in
28 compliance with District Regulation 2-1-302.

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Moved by: Chris Colline, P.E.
Seconded by: Terry Trumbull, Esq.
AYES: Terry Trumbull, Esq., Rolf Lindenhayn, Esq., Chris Colline, P.E.,
Julio Magalhães, Ph.D., and Thomas M. Dailey, M.D.
NOES: None
ABSTAINED: None



Thomas M. Dailey, M.D., Chair

10-11-12
Date

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

AIR POLLUTION CONTROL OFFICER of the)
BAY AREA AIR QUALITY MANAGEMENT)
DISTRICT,)

Complainant,)

vs.)

PINOLE RODEO AUTO WRECKER, Site No.)
A8423;)

JIM TAYLOR, individually and *d/b/a* Pinole)
Rodeo Auto Wrecker;)
and)

DOES 1 through 25, inclusive,)

Respondents)

DOCKET NO. 3637

CERTIFICATE OF SERVICE

I, Sean Gallagher, do hereby certify under penalty of perjury as follows:

That I am a citizen of the United States, over the age of eighteen years and not a party to the above entitled action; that I served a true copy of the attached Revised Conditional Order for Abatement on:

**Pinole Rodeo Auto Wrecker
700 Parker Avenue
Rodeo, CA 94572**

and


**Jim Taylor
Individually and *d/b/a* Pinole Rodeo Auto Wrecker
700 Parker Avenue
Rodeo, CA 94572**

by depositing same in the United States certified mail with return receipt requested, postage prepaid, on October 15, 2012; and

Brian C. Bunger
District Counsel
Bay Area Air Quality Management District
939 Ellis Street, 7th Floor
San Francisco, CA 94109

by hand-delivery deposit of same in the in-box of the District Counsel's office on October 15, 2012.

DATED: October 15, 2012


Sean Gallagher
Clerk of the Boards

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