

FILED

NOV - 9 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  
STATE OF CALIFORNIA

In the Matter of the Application of )  
)  
EQUILON ENTERPRISES LLC dba ) No. 3643  
SHELL OIL PRODUCTS US SAN JOSE )  
TERMINAL ) ORDER DENYING  
) EMERGENCY VARIANCE  
For a Variance from Regulation 8, Rule 5, )  
Section 322 )  
\_\_\_\_\_ )

The above-entitled matter, being an Application for Variance from the provisions of Regulation 8, Rule 5, Section 322, which pertain to the secondary seal requirements to limit organic compound emissions from storage tanks, having been filed on October 30, 2012, at 4:36 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:

a.1. Applicant filed this Application for Variance under the Emergency Variance (EV) 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

1 Application from the Executive Officer/Air Pollution Control Officer (APCO) for the Bay Area  
2 Air Quality Management District (Air District). The response recommended the EV be denied.

3 a.2. Applicant operates a bulk storage and loading terminal for petroleum products  
4 located at 2165 O'Toole Avenue, San Jose, CA 95131.

5 a.3. On October 28, 2012, a visual inspection revealed a tear/ hole in one location and a  
6 missing section of ~ 4 foot length in another location of the secondary seal on the floating roof of  
7 Source S-5 (Tank 60), which is not in compliance with Air District Regulation 8-5-322.

8 a.4. Applicant has determined repairs would be performed without emptying the tank  
9 and have scheduled the same for October 31, 2012. Applicant has requested a variance period of  
10 October 30, 2012 to November 13, 2012 (15 days).

11 a.5. Applicant estimates excess emissions during the repair period to be 1.8 lbs/day of  
12 VOCs.

13 a.6. Air District Regulation 8-5-402.1 requires primary and secondary seals be inspected  
14 at least once every ten years by measuring the gap between the seals (primary and secondary) and  
15 the tank wall. Inspection reports must be filed with the Executive Officer/APCO within 60 days,  
16 pursuant to Regulation 8-5-404.

17 a.7. No inspection reports have been filed with the Air District since Applicant  
18 informed the Air District on November 15, 2009, that the last inspection was in 2000. Timely  
19 inspection of the secondary seal on the floating roof tank could potentially have detected  
20 problems that led to the observed damage to the secondary seal in two locations.

21 a.8. Therefore, the Applicant does not meet the good cause standard for issuance of an  
22 EV.

23 THEREFORE, THE HEARING BOARD ORDERS:

24 1. An Emergency Variance from Regulation 8-5-322, be and is hereby denied for the  
25 period October 30, 2012 to November 13, 2012.

26 2. If the Applicant wishes to apply for a regular variance and use the date of filing of

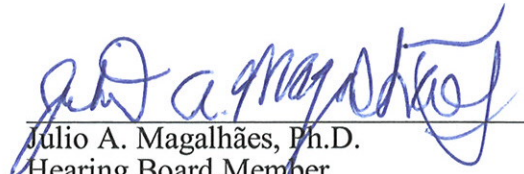
1 the EV application, Equilon Enterprises, LLC, must first submit documentation of inspections  
2 required by Regulation 8-5-402.1 for all inspections completed after November 15, 2009, plus any  
3 reported comments and observations made but not included in the inspection reports required by  
4 Regulation 8-5-404.

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6 DATED: November 9, 2012

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Julio A. Magalhães, Ph.D.  
Hearing Board Member

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BAY AREA AIR QUALITY MANAGEMENT DISTRICT  
STATE OF CALIFORNIA

In the Matter of the Application of )  
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EQUILON ENTERPRISES LLC dba SHELL )  
OIL PRODUCTS US SAN JOSE TERMINAL )  
 )  
For a Variance from Regulation 8, Rule 5, )  
Section 322 )  
\_\_\_\_\_ )

NO. 3643  
  
CERTIFICATE OF SERVICE

STATE OF CALIFORNIA )  
 ) ss.  
City and County of San Francisco )

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 Order Denying Emergency Variance on:


**Theresa Geijer  
Equilon Enterprises LLC  
2555 13<sup>th</sup> Avenue SW  
Seattle, WA 98134**

by depositing same in the United States certified mail, return receipt requested on December 11, 2012; and on

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

by hand-delivery deposit of same in the in-box of the District Counsel's office, on December 11, 2012.

DATED: December 11, 2012

  
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Sean Gallagher  
Clerk of the Boards