

FILED

JAN 10 2013

HEARING BOARD  
BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT  
Sean Gallagher  
Clerk of the Boards  
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.  
  
COSTA LOMA LIMITED CORPORATION, a California  
Corporation;  
  
JAMES A. WILKINSON, *a/k/a* Jim Wilkinson,  
individually and *d/b/a* Costa Loma Ltd., Corporation;  
and  
  
DOES 1 through 25, inclusive,  
  
Respondents.

DOCKET NO. 3638

[PROPOSED]  
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 Conditional Order for Abatement (“Accusation”) against Costa Loma Limited Corporation, a California corporation; James A. Wilkinson, *a/k/a* Jim Wilkinson, individually and *d/b/a* Costa Loma Ltd., Corporation; and DOES 1 through 25, inclusive (“Respondents”), requesting that the Hearing Board order Respondents to cease and desist operations at Costa Loma, an oil production facility located at 37.240N, 122.165W in La Honda, San Mateo County,

1 California (the "Facility"), until Respondents come into compliance with District Regulation 2, Rule 1,  
2 Section 302.

3 The Clerk of the Hearing Board provided notice of the hearing on the Accusation in accordance  
4 with the requirements of Health and Safety Code Section 40823. The Hearing Board heard the request  
5 for an Abatement Order on December 6, 2012.

6 Camille Ching, Assistant Counsel Legal Intern, and Randi Wallach, Assistant Counsel, appeared  
7 for the Air Pollution Control Officer ("APCO").

8 James M. Wilkinson appeared on behalf of himself and Costa Loma Limited Corporation for the  
9 Respondents. The Accusation named James A. Wilkinson as a Respondent in error; Mr. Wilkinson  
10 testified that he is the proper Respondent and his full name is James M. Wilkinson.

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

14 Mr. Simon Winer and Mr. Gregory Solomon testified for the APCO.

15 Mr. Wilkinson testified for Respondents.

16 At the outset of the hearing, the District requested that the Hearing Board enter a Conditional  
17 Order for Abatement requiring Respondents to come into compliance with District Regulation 2, Rule 1,  
18 Section 302 as quickly as reasonably possible or else cease and desist operations. During closing  
19 argument, the APCO requested that Respondents come into compliance with District Regulation 2, Rule  
20 1, Section 302 by August 1, 2013 and complete several increments of progress before that date.

21 Respondents did not object to the issuance of a Conditional Order for Abatement and  
22 accompanying increments of progress, but requested that compliance with District Regulation 2, Rule 1,  
23 Section 302 be required at a later date: on or before October 31, 2013, and that the schedule for the  
24 increments of progress be extended.

25 The Hearing Board closed the hearing after receiving evidence, testimony, and argument, and  
26 took the matter under submission for decision. After consideration of the evidence, the Hearing Board  
27 voted to issue a Conditional Order for Abatement against Respondents, as set forth in more detail below.

**FINDINGS OF FACT**

1  
2           1.       Respondents own and/or operate the crude oil production facility located at 37.240N,  
3 122.165W in La Honda, San Mateo County, California, known as Costa Loma (hereinafter "Facility").  
4 Respondents have owned and/or operated the Facility since 1997.

5           2.       Respondents were properly served with the Accusation and notice of the hearing in this  
6 matter.

7           3.       Crude oil production facilities emit air pollutants, including volatile organic compounds  
8 ("VOCs") and toxic air contaminants ("TACs") as a result the extraction of crude oil from the ground  
9 and the introduction of three process streams – crude oil, produced natural gas and produced  
10 contaminated water – above ground.

11           4.       District Regulation 2, Rule 1, Section 302 prohibits the use or operation of any article,  
12 machine, equipment, or other contrivance that causes or controls the issuance of air contaminants –  
13 including VOCs and TACs such as those emitted by crude oil production facilities – by any person (as  
14 described in District Regulation 2, Rule 1, Section 401) without first obtaining written authorization  
15 from the APCO in the form of a Permit to Operate.

16           5.       The purpose of District Regulation 2, Rule 1, Section 302, which requires a Permit to  
17 Operate before the operation of any machine or instrument that causes the emission of air contaminants,  
18 is to limit emissions of air pollutants.

19           6.       In addition to permitting requirements, crude oil production facilities are subject to  
20 substantive source-specific District Regulations, which may include District Regulation 8, Rule 5 for the  
21 storage of organic liquids; District Regulation 8, Rule 37 for oil and gas production facilities; and  
22 District Regulation 9, Rule 8 for internal combustion engines.

23           7.       The Facility is subject to the jurisdiction of the District. The Facility operates, among  
24 other equipment, a 1000 barrel capacity crude oil production tank, known as District Source No. 1 and  
25 two natural gas fired internal combustion engines greater than 50 horsepower. Respondents' operation  
26 of this equipment at the Facility causes the emission of VOCs and TACs, and is subject to the permitting  
27 requirements of District Regulation 2, Rule 1, Section 302. The Facility is also subject to District  
28

1 Regulations 8-5, 8-37 and 9-8.

2 8. Respondents and the Facility do not now, and never have had a District Permit to Operate  
3 the Facility.

4 9. Respondents submitted an Application for a Permit to Operate their currently existing  
5 equipment to the District on or about August 13, 2012. That Application is currently incomplete.

6 10. The District introduced evidence that, while Respondent's Application for a Permit to  
7 Operate is currently incomplete, based on the information received to date, Respondents likely have  
8 equipment that is not capable of meeting the emissions limitations in currently applicable District  
9 Regulations. Respondents thus likely need to consider the retrofit of this existing equipment with  
10 abatement devices and/or the purchase and installation of new equipment after receipt of proper  
11 authorities to construct from the District before a Permit to Operate can be issued for the Facility.

12 11. The District introduced into evidence Complainant's Exhibit No. 1, a diagram of the  
13 Facility. The Hearing Board accepted the document into evidence.

14 12. The District also introduced into evidence a video shot using a FLIR infrared camera at  
15 the Facility on November 18, 2009. The Hearing Board accepted the video into evidence.

16 13. Respondents testified that they are working diligently to come into compliance with  
17 District permitting and substantive regulations, but that they need more time to do so, due in part to the  
18 complexity of the equipment on site and the permitting requirements and also due to the current weather  
19 conditions which prevent Respondents from the installation of a new storage tank at the Facility until the  
20 dry season in 2013.

21 14. Evidence establishes that Respondents have continuously since 1997, and continue, to  
22 operate the Facility without a valid Permit to Operate.

23 **CONCLUSIONS OF LAW**

24 Pursuant to Health and Safety Code Section 42451(a), the Hearing Board may issue an Order for  
25 Abatement if it finds that a person is operating a facility without a required permit to operate or  
26 otherwise in violation of a District rule or regulation that prohibits or limits the discharge of an air  
27 contaminant into the air.

1 Cause for determination that Respondents are in violation of District Regulation 2, Rule 1,  
2 Section 302 is established by Findings of Fact Nos. 1, 4, 7, 8, 13 and 14.

3 Cause for issuance of an order that Respondents abate this violation is established by Findings of  
4 Fact Nos. 1 through 14, inclusive.

5 **ORDER**

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

9 That the APCO's Request for a Conditional Order for Abatement ("Order") shall be and hereby  
10 is GRANTED as follows: Costa Loma Limited Corporation, and Mr. James M. Wilkinson, also known  
11 as Jim Wilkinson, individually and doing business as Costa Loma Limited Corporation, Respondents in  
12 this matter, and their agents, employees, successors and assigns to either obtain a permit to operate or  
13 shut down operations, pursuant to the following conditions:

14 1) In order to obtain a permit to operate, Respondents shall:

15 (a) Submit a compliance plan to the District that addresses how the Respondents will  
16 ensure that their existing or proposed new equipment will properly handle the crude  
17 oil, produced natural gas and produced contaminated water streams in compliance  
18 with District Regulations 2-2, 8-37, 8-5 and 9-8 no later than 60 days from the date of  
the hearing;

19 (b) Submit any and all necessary, complete permit applications and paying the  
20 accompanying permit fees no later than April 15, 2013; and

21 (c) Achieve compliance with District Regulation 2-1-301/302 no later than October 31,  
22 2013.

23 2) If at any time during pursuit of the conditions outlined in condition one, above, Respondents  
24 choose to shut down operations in lieu of compliance with District Regulation 2-1 by  
25 obtaining a permit to operate, they shall shut down oil production operations and properly  
26 close the site so that no air contaminant emissions continue no later than October 31, 2013,  
and conduct three steps:

1 (a) Shut in the oil wells pursuant to the requirements of the California Department of Oil  
2 and Gas Resources;

3 (b) Drain the liquid and gas storage tanks in a District-approved manner; and

4 (c) Remove all liquids and gases from the site in a District-approved manner.

5 3) That this Hearing Board retain jurisdiction over this matter until Respondents come into  
6 compliance with District Regulation 2, Rule 1, Section 302 in accordance with the  
7 requirements set forth in Paragraph 1 above or shut down operations in accordance with the  
8 requirements set forth in Paragraph 2 above, whichever is sooner.

9 4) That this Conditional Order for Abatement shall become effective immediately.

10 Moved by: Julio Magalhaes, Ph.D.

11 Seconded by: Rolf Lindenhayn, Esq.

12 AYES: Rolf Lindenhayn, Esq., Julio Magalhaes, Ph.D., Thomas M. Dailey, M.D.,  
13 Christian Colline, P.E., and Terry A. Trumbull, Esq.

14 NOES: None

15 ABSTAINED: None

16  
17  
18 **After further discussion, THE HEARING BOARD of the BAY AREA AIR QUALITY**  
19 **MANAGEMENT DISTRICT hereby AMENDS THE ORDER as follows:**

20 That the APCO's Request for a Conditional Order for Abatement ("Order") shall be and hereby  
21 is GRANTED as follows: Costa Loma Limited Corporation, and Mr. James M. Wilkinson, also known  
22 as Jim Wilkinson, individually and doing business as Costa Loma Limited Corporation, Respondents in  
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24 shut down operations, pursuant to the following conditions:

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1 oil, produced natural gas and produced contaminated water streams in compliance  
2 with District Regulations 2-2, 8-37, 8-5 and 9-8 no later than 60 days from the date of  
3 the hearing;

4 (b) Submit any and all necessary, complete permit applications and paying the  
5 accompanying permit fees no later than May 15, 2013; and

6 (c) Achieve compliance with District Regulation 2-1-301/302 no later than October 31,  
7 2013.

8 2) If at any time during pursuit of the conditions outlined in condition one, above, Respondents  
9 choose to shut down operations in lieu of compliance with District Regulation 2-1 by  
10 obtaining a permit to operate, they shall shut down oil production operations and properly  
11 close the site so that no air contaminant emissions continue no later than October 31, 2013,  
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14 and Gas Resources;

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16 (c) Remove all liquids and gases from the site in a District-approved manner.

17 3) That this Hearing Board retain jurisdiction over this matter until Respondents come into  
18 compliance with District Regulation 2, Rule 1, Section 302 in accordance with the  
19 requirements set forth in Paragraph 1 above or shut down operations in accordance with the  
20 requirements set forth in Paragraph 2 above, whichever is sooner.

21 4) That this Conditional Order for Abatement shall become effective immediately.

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1 Moved by: Julio Magalhaes, Ph.D.

2 Seconded by: Rolf Lindenhayn, Esq.

3 AYES: Rolf Lindenhayn, Esq., Julio Magalhaes, Ph.D., and Thomas M. Dailey,  
4 M.D.

5 NOES: Christian Colline, P.E.; Terry A. Trumbull, Esq.,

6 ABSTAINED: None

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9 \_\_\_\_\_  
Thomas M. Dailey, M.D., Chair

1-10-13  
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Date

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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. )

COSTA LOMA LIMITED CORPORATION, a )  
California corporation; )

JAMES A. WILKINSON, *a/k/a* Jim Wilkinson, )  
individually and *d/b/a* Costa Loma Ltd., )  
Corporation; )  
and )

DOES 1 through 25, inclusive, )

Respondents )

DOCKET NO. 3638

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 Conditional Order for Abatement on:

**James M. Wilkinson, Agent for Service of Process  
Costa Loma Limited Corporation  
890 Sonora Avenue  
Half Moon Bay, CA 94019**

and


**James A. Wilkinson, *a/k/a* Jim Wilkinson  
Individually and *d/b/a* Costa Loma Ltd. Corporation  
890 Sonora Avenue  
Half Moon Bay, CA 94019**

by depositing same in the United States certified mail, return receipt requested, on January 17, 2013; and on:

**Randi Wallach**  
**Assistant 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 January 17, 2013.

DATED: January 17, 2013

  
\_\_\_\_\_  
Sean Gallagher  
Clerk of the Boards

:sg