

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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

STATE OF CALIFORNIA



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

Docket No. 3747

**STIPULATED MOTION TO AMEND
ORDER OF ABATEMENT FOR
BERKELEY LANDFILL**

Complainant,
vs.
BERKELEY LANDFILL

Hearing Date: February 18, 2025
Time: 9:30 am
Place: Hearing Board
Bay Area Air Quality Mgt Dist
375 Beale Street, 1st Fl.
San Francisco, CA 94105

Respondent.

WHEREAS, on January 23 and February 6, 2024, the Hearing Board heard the Request of Complainant the Air Pollution Control Officer (APCO) of the Bay Area Air Quality Management District (BAAQMD) for an Order of Abatement for Respondent Berkeley Landfill. The Hearing Board entered the Findings and Decision for Order of Abatement for Berkeley Landfill on February 16, 2024.

WHEREAS, the Order of Abatement provides at p. 10:19-23 that "A. The Hearing Board shall retain jurisdiction over this matter until February 5, 2025 or until Respondent Berkeley Landfill has met all the Compliance Action Conditions and Increments of Progress set forth in Sections 1 through 11, whichever occurs first, unless this Order is amended or modified."

WHEREAS, Respondent Berkeley Landfill, owned by the City of Berkeley, has not yet attained full compliance with the Compliance Action Conditions and Increments of Progress set forth in Sections 1 through 11 of the Order of Abatement for Berkeley Landfill.

1 WHEREAS, Complainant APCO seeks to amend the Order of Abatement to eliminate
2 the February 5, 2025 expiration date of the Hearing Board’s jurisdiction over the Berkeley
3 Landfill Order of Abatement matter, and Respondent City of Berkeley does not oppose such
4 amendment.

5 WHEREAS, no additional excess emissions are estimated to result from this proposed
6 Amendment to this Order of Abatement.

7 WHEREAS, operation under this Order of Abatement is not expected to result in a
8 violation of Health and Safety Code Section 41700 (nuisance). Declaration of Paul Grazzini in
9 support of Motion to Amend Order of Abatement for Berkeley Landfill, paras. 3-6.

10 NOW THEREFORE, the Parties STIPULATE as follows:

11 (A) This matter should be placed on the Consent Calendar, and that the matter will be
12 heard on February 18, 2025;

13 (B) The Declaration of Paul Grazzini in support of Amendment to Order of Abatement
14 be admitted into evidence;

15 (C) All prior evidence and testimony accepted into evidence in the earlier Berkeley
16 Landfill Order of Abatement proceedings is incorporated herein;

17 (D) Operation under the Order of Abatement is not expected to result in a violation of
18 Health and Safety Code Section 41700 (nuisance); and

19 Complainant APCO REQUESTS and Respondent City of Berkeley does not oppose
20 such request that the Hearing Board strike Paragraph A on p. 10:19-23 of the Order of
21 Abatement, which currently provides:

22 “A. The Hearing Board shall retain jurisdiction over this matter until
23 February 5, 2025 or until Respondent Berkeley Landfill has met all
24 the Compliance Action Conditions and Increments of Progress set
 forth in Sections 1 through 11, whichever occurs first, unless this
 Order is amended or modified.”

 and replace it in its entirety with the following:

1 “A. The Hearing Board shall retain jurisdiction over this matter until
2 Respondent Berkeley Landfill has met all the Compliance Action
3 Conditions and Increments of Progress set forth in Sections 1
4 through 11, unless this Order is amended or modified.”

5 This requested amendment to the Order of Abatement deletes the two phrases, “until
6 February 5, 2025 or” and “whichever occurs first.”.

7 The effect of this requested amendment shall be retroactive to February 5, 2025.

8 All other terms and conditions of the Order of Abatement shall remain the
9 same.

10 SO STIPULATED AND RESPECTFULLY SUBMITTED.

11 Dated: January 23, 2025


BAY AREA AIR QUALITY MANAGEMENT
DISTRICT, OFFICE OF THE GENERAL
COUNSEL

12 By: 
13 _____
ALEXANDER G. CROCKETT
JOEL FREID

14 *Attorneys for Complainant*
15 AIR POLLUTION CONTROL OFFICER of
16 the BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

17 CITY OF BERKELEY

18 Dated: January 23, 2025

19 By: 
20 _____
MARC SHAPP
DEPUTY CITY ATTORNEY
21 *Attorney for Respondent*
22 CITY OF BERKELEY
23
24