



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

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

Docket No. **3760**

Complainant,

vs.

OLAM WEST COAST, INC.

PETITION FOR
CONDITIONAL ORDER FOR
ABATEMENT

Respondent.

Pursuant to Sections 42451 and 42452 of the California Health & Safety Code, Complainant the Air Pollution Control Officer (APCO) of the Bay Area Air Quality Management Air District (Air District) requests that the Hearing Board issue a CONDITIONAL ORDER FOR ABATEMENT directed to Respondent Olam West Coast, Inc. (Respondent).

In support of this request, and upon information and belief, the APCO alleges as follows:

INTRODUCTION AND SUMMARY

1. Respondent operates an agricultural processing facility (hereinafter "Facility") at 1350 Pacheco Pass Highway in Gilroy, California.

2. Respondent operates six food dryers at the Facility on a seasonal basis from approximately April until November each year. The food dryers emit air pollutants, including nitrogen oxides (NOx) and carbon monoxide (CO), that the Air District regulates in order to protect air quality and public health.

3. The Air District authorized Respondent to install and start operating the food dryers in 2018, and imposed permit conditions limiting emissions from the food dryers to 22.8 tons per year of NOx and

1 53.5 tons per year of CO through rate-based concentration limitations and a facility-wide NOx emission
2 limitation.

3 4. After Respondent began operating the food dryers, emissions testing, indicated that the
4 estimates on which these permit conditions were based were significantly inaccurate. The testing indicated
5 that the food dryers could not meet the specified permit limits, and that they actually have the potential to
6 emit up to 56.7 tons per year of NOx and 182.6 tons per year of CO.

7 5. Respondent initially disputed the appropriate test methodology, which has significantly
8 delayed resolution of this issue. As such, Respondent has operated and is continuing to operate its food
9 dryers in violation of its NOx and CO permit conditions.

10 6. Respondent has now agreed to use the correct source test methodology and has committed
11 to seeking and obtaining revised permit conditions that will ensure that it operates in compliance with all
12 applicable air quality regulations. The APCO believes that increased NOx and CO limits may be allowable,
13 although it will need to evaluate Respondent's request for an increase in detail before approving any revised
14 emissions limits.

15 7. The APCO seeks an Order from this Hearing Board to ensure that Respondent will follow
16 through on its commitment to obtain a revised permit as expeditiously as possible to bring the food dryers
17 into compliance. Specifically, the APCO seeks an order establishing an appropriate deadline for Respondent
18 to obtain revised permit limits, along with interim milestones to ensure that Respondent makes diligent
19 progress towards final compliance – and that Respondent may not operate the food dryers in violation of its
20 current permit limits unless it complies with these requirements.

21 8. In light of the above, the APCO respectfully requests that the Hearing Board issue a
22 Conditional Order for Abatement requiring Respondent to cease and desist from operating its food dryers
23 in violation of its permit conditions, and of Regulation 2-1-307 (prohibiting operation in violation of permit
24 conditions),¹ unless Respondent complies with the terms and conditions contained in a Proposed Order that
25 the APCO will submit prior to the scheduled hearing.

26
27
28 ¹ All citations to regulations are to the Regulations of the Air District, which are available at
www.baaqmd.gov/en/rules-and-compliance/current-rules.

1 **THE PARTIES**

2 **Petitioner**

3 9. The Air District is the governmental agency charged with the primary responsibility for
4 controlling air pollution from stationary sources, for enforcing laws relating to air pollution, and for
5 maintaining healthy air quality in the San Francisco Bay Area. The Air District is organized pursuant to
6 Division 26, Part 3, Chapter 4 of the California Health & Safety (Health & Saf.) Code.

7 10. The Air District has established a permit system as authorized by the Health and Safety Code
8 to ensure that operating certain equipment will neither prevent nor interfere with the attainment or
9 maintenance of any applicable air quality standard. (Health & Saf. Code, §42301(a); see generally, Health &
10 Saf. Code, §§42300 et seq.; Regulation 2-1.) The APCO may impose conditions on any permit that the APCO
11 deems reasonably necessary to ensure compliance with federal, state, or Air District requirements.
12 (Regulation 2-1-403.)

13 11. The APCO is appointed by the Bay Area Air Quality Management Air District Board of
14 Directors to enforce the Air District's rules and regulations, including its permit system. (Health & Saf. Code,
15 § 40750 *et seq.*) The APCO is authorized to seek an order for abatement from the Air District's Hearing Board
16 to stop a person from operating equipment in violation of the terms and conditions of a valid Air District
17 permit, which is a violation of Regulation 2-1-307. (Health & Saf. Code, §42451(a); Hearing Board Rules,
18 Bay Area Air Quality Management Air District, §10.1 (July 30, 2024).)

19 **Respondent**

20 12. Respondent Olam West Coast, Inc. is a corporation subject to the jurisdiction of the Air
21 District. Respondent operates the Facility, a food drying operation, at 1350 Pacheco Pass Highway in Gilroy,
22 California.

23 **RELEVANT REGULATIONS**

24 13. Pursuant to Regulation 2, Rule 1, the Air District regulates emissions from facilities such as
25 Respondent's by requiring the owner/operator to obtain a permit, and to comply with permit conditions
26 necessary to minimize emissions.

27 14. Regulation 2-1-301 requires the owner/operator to obtain an Authority to Construct before
28 installing its equipment. The Air District issues the Authority to Construct based on estimates of the amount

1 of emissions the equipment will emit.

2 15. The Air District imposes permit conditions in the Authority to Construct based on (inter alia)
3 the requirements of the District's "New Source Review" permitting program, which are set forth in
4 Regulation 2, Rule 2. The New Source Review permitting requirements including a requirement that the
5 applicant use the "Best Available Control Technology" to limit emissions (*see* Reg. 2-2-301), and to provide
6 "offsets" for certain pollutants – which are emission reduction credits generated by the shutdown of other
7 emissions sources – to ensure that there is no net increase in emissions of those pollutants regionwide.

8 16. Obtaining an Authority to Construct under Regulation 2-1-301 authorizes the applicant to
9 install and begin operating the equipment, subject to the permit conditions established in the Authority to
10 Construct. The applicant then needs to demonstrate that it has installed and is operating the equipment in
11 compliance with all applicable permit conditions. Upon confirmation that the equipment complies, the
12 APCO issues a Permit to Operate to authorize ongoing operation.² The Permit to Operate is then renewed
13 annually thereafter.

14 17. Operating equipment in violation of any condition set forth in an Authority to Construct or
15 Permit to Operate is a violation of Regulation 2-1-307.

16 18. When the Air District issues permits under these regulations, it must also be sure to comply
17 with applicable environmental review requirements of the California Environmental Quality Act ("CEQA").

18 **POTENTIAL FOR PUBLIC HEALTH IMPACTS IF RESPONDENT FAILS TO**
19 **COMPLY WITH AIR DISTRICT REGULATORY REQUIREMENTS**

20 19. Respondent's food dryers emit multiple regulated air pollutants including NO_x and CO.

21 20. NO_x is one of the six pollutants commonly known as criteria air pollutants, for which air
22 quality standards have been established pursuant to the federal Clean Air Act and analogous California laws.
23 NO_x emissions impact local and regional air quality and contribute to the formation of ozone and fine
24 particulate matter, or PM_{2.5}. Exposure to NO_x has been linked to coughing, wheezing, difficulty breathing,

25 ² An Authority to Construct authorizes initial operation of the source during the start-up period. Reg. 2-1-411. The start-up
26 period is the period of time between initial operation and the issuance or denial of a permit to operate. Reg. 2-1-210. All
27 conditions in the Authority to Construct are in effect during the startup period. Reg. 2-1-411. The purpose of the startup period
28 is to evaluate the equipment as installed and determine whether it is operating in compliance with all applicable permit
conditions. If the APCO determines that the equipment is complying with all applicable permit conditions, it issues a Permit to
Operate authorizing ongoing operation; if the APCO determined that it is not complying, it denies the Permit to Operate. Reg.
2-1-305.

1 asthma, and increased susceptibility to respiratory infections.

2 21. CO is another type of criteria air pollutant for which federal and state standards have been
3 established. CO is harmful because it binds to hemoglobin in the blood, reducing the blood's ability to carry
4 oxygen. This interferes with oxygen delivery to the body's organs. The most common effects of CO exposure
5 are fatigue, headaches, confusion, and dizziness due to inadequate oxygen delivery to the brain. For people
6 with cardiovascular disease, short-term CO exposure can further reduce their body's already compromised
7 ability to respond to the increased oxygen demands of exercise, exertion, or stress. Inadequate oxygen
8 delivery to the heart muscle leads to chest pain and decreased exercise tolerance. Children born to mothers
9 who experience high levels of CO exposure during pregnancy are at risk of adverse developmental effects.

10 22. Particulate matter is also a criteria air pollutant, for which federal and state standards have
11 been established. The levels of particulate matter in the ambient air in the San Francisco Bay Area are
12 currently in violation of several health-based state and federal air quality standards. Specifically, for PM_{2.5}
13 (fine particulate matter smaller than 2.5 microns across), the Bay Area is in violation of the state standard,
14 which applies to PM_{2.5} concentrations measured over a one-year period, and the federal short-term standard,
15 which applies to PM_{2.5} concentrations measured over a 24-hour period.

16 23. Breathing elevated levels of particulate matter in excess of the federal and state standards
17 causes serious public health problems. Epidemiological studies have demonstrated that inhalation of
18 particulate matter leads to increased respiratory irritation, decreased lung function, aggravated asthma, the
19 development of bronchitis, irregular heartbeats, and premature death in people with heart or lung disease. In
20 addition, particulate matter has harmful effects on the environment as well. Studies have shown that
21 particulate matter reduces visibility in the form of haze, and that it can stain and corrode stone and other
22 materials. Furthermore, particulate matter can be carried long distances by wind and settle on ground or in
23 water, leading to acidic lakes and streams that may damage ecosystems.

24 24. Olam's Facility is located in Gilroy, California, a historically overburdened and disadvantaged
25 community.

26 25. CalEnviroScreen, a mapping tool that helps identify California communities that are most
27 affected by many sources of pollution, identifies Gilroy as having an overall score at or above the 70th
28 percentile, meaning that it suffers from a pollution burden than over 70% of all California communities. This

1 disproportionate pollution burden means that it is an “overburdened community” as defined in Regulation
2 2-1-243.

3 26. Given the disproportionate pollution burden in this area, it is especially important that
4 sources of air pollution obtain proper permits that will allow the Air District to ensure that they are operating
5 in compliance with all applicable emissions limitations and related regulatory requirements.

6 **RESPONDENT’S ONGOING NON-COMPLIANCE AND**
7 **NEED FOR AN ABATEMENT ORDER**

8 27. Respondent’s operation includes eight food dryers, four curing sheds, an onion toast dryer, a
9 dry trash collection system, an onion milling system, two flake mills, a powder mill, eighteen garlic mills, four
10 hammer mills, fourteen garlic screeners, a destoner, a garlic flake hopper, seven garlic packout stations, a
11 garlic powder package line, an emergency fire pump, and three boilers.

12 28. This Petition concerns six of the food dryers, designated as sources S-3, S-4, S-7, S-8, S-9,
13 and S-10. These six dryers operate seasonally from approximately April to November each year. When
14 operating, the units typically operate twenty-four hours per day.

15 29. Respondent applied for an Authority to Construct and Permit to Operate for the six food
16 dryers in 2018. Respondent’s permit application stated that the six dryers combined would have the potential
17 to emit up to 53.5 tons per year of CO and 22.8 tons per year of NOx.

18 30. At that time the City of Gilroy conducted review of the proposed operations under California
19 Environmental Quality Act (CEQA) and issued a Mitigated Negative Declaration on December 22, 2017.
20 The City’s environmental review was based on these emissions estimates of up to 53.5 tons per year of CO
21 and 22.8 tons per year of NOx from the 6 modified food dryers.

22 31. The Air District issued an Authority to Construct to Respondent for the six food dryers in
23 February of 2018. The Authority to Construct imposed permit conditions limiting emissions from the food
24 dryers to the 53.5 tons per year of CO and 22.8 tons per year of NOx that Respondent had estimated in its
25 application through rate-based CO and NOx concentration limitations and an annual facility-wide NOx
26 limitation of 34.0 tons per year that were incorporated into the Authority to Construct. The Air District relied
27 on the City of Gilroy’s environmental analysis – including the assumption of CO and NOx emissions within
28 these limits – to comply with CEQA in connection with issuance of the Authority to Construct.

1 32. The Authority to Construct also required Respondent to conduct emissions testing within
2 sixty days of start-up to demonstrate that the food dryers comply with the permit limits. Respondent
3 conducted testing as follows:

- 4 a. Respondent started up two of the dryers (units S-7 and S-8) on May 14, 2018, and
5 conducted emissions testing on June 7, 2018.
- 6 b. Respondent started up the other four dryers (units S-3, S-4, S-9, and S-10) on May 17,
7 2019, and conducted emissions testing on October 4, 2019.
- 8 c. Respondent conducted two more emissions tests on units S-3, S-4, S-9, and S-10 in 2020
9 and 2021.

10 33. Respondent used EPA Method 19 as the source test methodology for calculating mass
11 emissions; however, EPA Method 19 is not the correct methodology for the units at issue. The food dryers
12 are designed and operated in a manner that allows a significant percentage of ambient air to enter the stack,
13 diluting the NO_x and CO concentration measurements. Using EPA Method 19 does not account for this
14 influx of ambient air, so mass emissions calculations are incorrect. EPA Method 2F is the correct method
15 for the food dryers because the mass emissions are calculated using the measured exhaust volumetric flow
16 rate and concentration measurements from source test data.

17 34. Based on EPA Method 2F, the test results show that the six units significantly exceeded the
18 emissions limit for NO_x and CO. As noted, violating these emissions limits in the permit conditions is a
19 violation of Regulation 2-1-307.

20 35. In addition, since the dryers did not meet the terms and conditions in the Authority to
21 Construct, the APCO could not issue Respondent a Permit to Operate.

22 36. On April 26, 2023, Respondent sent a letter to the Air District contending that EPA Method
23 19 is the correct method for this Facility because these food dryers are similar to food dryers Respondent
24 operated at a different facility outside of the Bay Area and EPA Method 19 was used for that project. On
25 February 16, 2024, the Air District responded explaining why EPA Method 2F is the correct methodology
26 to ensure accurate emissions calculations. On May 3, 2024, Respondent again challenged the methodology
27 in a letter to the Air District. Finally, the Parties came to an agreement to use EPA Method 2F in a conference
28 call on August 15, 2024, as confirmed in an email from the Air District to Respondent.

37. Based on a review of the test results in 2023, the Air District determined that the six dryers actually have the potential to emit up to 182.6 tons per year of CO and 56.7 tons per year of NOx.

38. The APCO believes that the dryers may comply with applicable regulatory requirements at these elevated CO and NOx emissions levels. It may therefore be possible for Respondent to come into compliance by applying for and obtaining revised permit conditions corresponding to the equipment's actual potential to emit CO and NOx – although it is not possible to say for certain unless Respondent submits an application and Air District staff evaluate it.

39. Moreover, even if the equipment complies at the higher emissions levels, Respondent will be required to provide additional emission reduction credits to offset the higher emissions pursuant to the Air District's "offsets" requirements. The Air District will also be required to review the CEQA environmental evaluation that was conducted for the equipment in light of the increased emissions levels.

40. It will take some time to complete these analyses and make a final determination on whether the increased permit limits are allowable. The APCO therefore seeks an order from the Hearing Board that will require Respondent to come into compliance, but that will provide for the time necessary to do so by submitting a permit application to provide Air District staff with the information necessary to evaluate increased emissions limits and (assuming the dryers will comply at those higher emissions levels) issue revised permit conditions. The order should also include requirements to ensure Respondent stays on track to complete the permit application and review process, including a deadline for submitting a complete and accurate application for revised permit conditions, a requirement to respond promptly to any questions from Air District staff or requests for additional information, and a deadline to obtain a final determination on the application.

41. Finally, the order should also provide that, if the dryers will not comply at the higher emissions levels and Respondent's request for the increased permit limits denied, that Respondent must remain within the current permit conditions related to CO and NOx (or other limits specified in any revised permit conditions that are issued).

42. Based on the above, a Conditional Order for Abatement is necessary to compel Respondent to come into compliance as expeditiously as is reasonably possible, either by obtaining increased emissions limits in its permit conditions or, if the increased emissions will not comply with applicable regulations, by

1 reducing its emissions to permitted levels.

2 **THE HEARING BOARD HAS JURISDICTION TO ISSUE A**
3 **CONDITIONAL ORDER FOR ABATEMENT**

4 43. The Hearing Board may, after notice and a hearing, issue an order for abatement against a
5 person when it finds that the person is operating any equipment or other contrivance in violation of an Air
6 District rule or regulation. (Health & Saf. Code, § 42451(a).) The Hearing Board's order must require that
7 the person either refrain from a particular act or refrain from a particular act unless certain conditions are
8 met. (Health & Saf. Code, §42452.)

9 **GOOD CAUSE FOR CONDITIONAL ORDER OF ABATEMENT**

10 44. Respondent is operating the six food dryers (Sources S-3, S-4, S-7, S-8, S-9, and S10) in
11 violation of permit conditions 26683 and 26684 in its Authority to Construct and in violation of Regulation
12 2-1-307.

13 45. Respondent has been and will continue to be in violation of Regulation 2-1-307 as long as it
14 continues to operate the dryers in violation of the emissions limits in permit condition 26683 and 26684. To
15 ensure compliance as expeditiously as reasonably possible under the circumstances, the APCO is seeking a
16 Conditional Order For Abatement directing Respondent to cease operating the dryers in violation of
17 applicable permit limits by a date certain, to be established at the hearing based on the most expeditious time
18 period in which Respondent can reasonably apply for and obtain a decision on its request for increased
19 emissions limits. The APCO also submits that the order should include interim milestones and other
20 requirements to ensure that Respondent diligently pursues its requested permit condition revisions and
21 minimizes the potential for air pollution impacts while the permit review process is underway.

22 46. It would not be unreasonable to require Respondent to comply with these requirements.
23 Respondent obtains a significant economic benefit by operating the Facility. Companies with similar
24 operations throughout the Air District comply with the Air District's regulations, including requirements to
25 comply with permit conditions aimed at limiting NOx and CO emissions and impacts. It is not unreasonable
26 to expect Respondent to do the same.

27 47. The issuance of a Conditional Order for Abatement will not constitute a taking of property
28 without due process of law.

1 48. The APCO does not anticipate that the issuance of a Conditional Order for Abatement will
2 result in the closing or elimination of an otherwise lawful business, but even if it were to have that effect,
3 such closing would not be without a corresponding benefit in reducing air contaminants.

4 49. The issuance of a Conditional Order for Abatement would not have the effect of permitting
5 a variance.

6 50. The APCO therefore submits that the requirements for issuance of a Conditional Order For
7 Abatement under Health & Safety Code sections 42451(a) and 42452 are satisfied and that such an Order is
8 appropriate under the circumstances.

9 **REQUEST FOR CONDITIONAL ORDER OF ABATEMENT**

10 WHEREFORE, the APCO requests as follows:

11 1. That the Hearing Board issue a Conditional Order for Abatement prohibiting Respondent
12 Olam West Coast, Inc., from operating food dryers S-3, S-4, S-7, S-8, S-9, and S10 in violation of the NOx
13 and CO emissions limits specified in permit conditions 26683 and 26684 unless Respondent takes all of the
14 following actions:

- 15 a. Submits a complete application seeking an increase in the NOx and CO emissions limits
16 as expeditiously as possible, and in any event by a date to be determined at the Hearing.
- 17 b. Diligently pursues the application for increased emissions limits so as to allow the APCO
18 make a determination on the application as expeditiously as possible;
- 19 c. Responds promptly to any questions from Air District staff or requests for additional
20 information in connection with evaluating the application for increased emissions limits;
- 21 d. Complies with interim operating conditions to be submitted prior to the hearing;
- 22 e. Ceases any operation of the food dryers in violation of applicable NOx and CO emissions
23 limits by the earlier of (i) the date APCO makes a final determination on the request for
24 increased limits or (ii) a final compliance deadline to be established at the hearing, either
25 by complying with approved revised emissions limits or by complying with the current
26 limits if no revised emissions limits have been approved.

27 2. That the Hearing Board require Respondent to provide periodic written status updates to the
28 Hearing Board and to appear at status hearings as requested by either the APCO or the Hearing Board

1 3. That the Hearing Board retain jurisdiction over this matter until Respondent achieves
2 compliance or one year from the hearing date, whichever is later, pursuant to Hearing Board Rule 10.15
3 during which period the parties may apply to modify or terminate the Order in accordance with the Rules of
4 the Hearing Board.

5 4. For such other and further relief as the Hearing Board deems just and proper.

6
7 Respectfully submitted,

8 Dated: April 30, 2025

ALEXANDER G. CROCKETT, ESQ.
General Counsel
CARRIE SCHILLING, ESQ.
Senior Assistant Counsel

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11 Attorneys for
12 PHILIP M. FINE
13 Executive Officer/APCO
14 BAY AREA AIR QUALITY MANAGEMENT DISTRICT

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By: Carrie Schilling
Carrie Schilling, Esq.

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Docket No. 3760

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5 Legalinc Registered Agents, Inc.
6 Agent for Service of Process for
7 Olam West Coast, Inc.
8 500 N. Brand Blvd., Suite 890
9 Glendale, California 91203

10 I declare under penalty of perjury under the laws of the State of California that the foregoing
11 is true and correct. Executed on May 1, 2025, at Richmond, California.

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13 _____
14 Magnolia Vinluan-Chan
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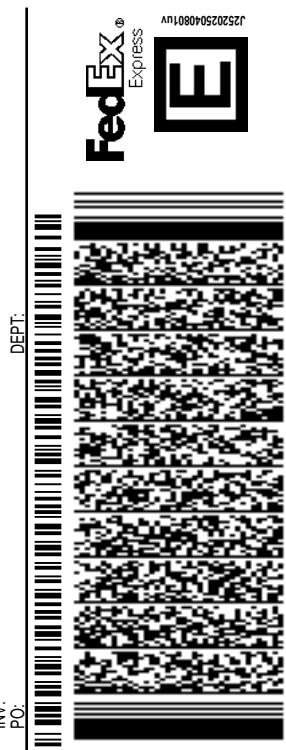
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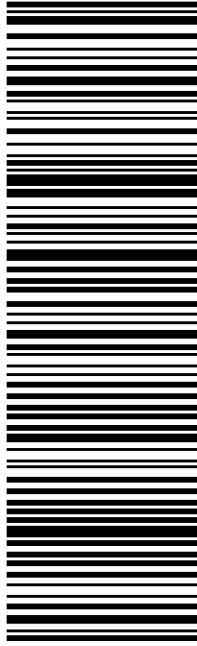
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