

FILED

OCT 13 2011

HEARING BOARD
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.

KAFV, INC., a California corporation, also *d/b/a* NAPA
GAS, NAPA GAS U-HAUL, and IMOLA GAS U-
HAUL, a Gasoline Dispensing Facility, Site No. C8262;
MOJTABA KARIMABADI, an individual also *d/b/a*
NAPA GAS and NAPA GAS-UHAUL; J. GOLPAD,
a/k/a JASON GOLPAD, an individual, *d/b/a* NAPA
GAS; MELVIN K. LOUIE, Successor Trustee,

Respondents.

DOCKET NO. 3626

STIPULATED CONDITIONAL
ORDER FOR ABATEMENT

On or about August 31, 2011, the Air Pollution Control Officer ("APCO") of the Bay Area Air Quality Management District ("District"), Complainant in this matter, filed an accusation and request for conditional order for abatement filed by against KAFV, INC., a California corporation, also *d/b/a* NAPA GAS, NAPA GAS U-HAUL, and IMOLA GAS U-HAUL, a Gasoline Dispensing Facility, Site No. C8262 ("KAFV, INC."); MOJTABA KARIMABADI, an individual also *d/b/a* NAPA GAS and NAPA GAS-UHAUL ("KARIMABADI"); J. GOLPAD, *a/k/a* JASON GOLPAD, an individual, *d/b/a* NAPA GAS; MELVIN K. LOUIE, Successor Trustee ("LOUIE"), and DOES 1 through 25, inclusive ("Respondents"). The APCO sought an order from this Hearing Board requiring Respondent to cease dispensing gasoline dispensing operations at the gasoline dispensing facility

1 located at 2442 Imola Avenue W., Napa, Napa County, California, 94558, Site No. C8262, also known
2 as "Napa Gas and Snacks" ("Facility"), immediately upon the execution of the Conditional Order for
3 Abatement in this matter by the Chair of the Hearing Board or his designee Respondents come into
4 compliance with District Regulation 2, Rule 1, Section 302.

5 The Clerk of Hearing Board assigned this matter Docket No. 3626 and set a hearing for
6 October 6, 2011. The Clerk of the Hearing Board provided notice of the hearing on the Accusation in
7 accordance with the requirements of Health and Safety Code section 40823. The Hearing Board
8 conducted a hearing on the District's request for an Abatement Order on October 6, 2011.

9 Respondent KARIMABADI appeared for KAFV, INC. and himself.

10 Susan Adams, Assistant Counsel, appeared for the Air Pollution Control Officer.

11 On or about October 4, the APCO and Respondents KARIMABADI and KAFV, INC. executed
12 a settlement agreement, pursuant to which Respondents agreed to pay in installments all Facility permit
13 to operate fees, including reinstatement fees, due for the period of November 1, 2004 through November
14 1, 2012 and civil monetary penalties for the violation of District Regulation 2, Rule 1, Section 302
15 ("Settlement Agreement"). The Settlement Agreement requires that Respondents KARIMABADI and
16 KAFV, INC. provide for the District to receive the final installment of monies due on or before
17 December 12, 2011. In consideration of the District having received a signed Settlement Agreement and
18 first installment of monies due from said Respondents, the APCO agreed that at the October 6, 2011
19 hearing, the District would present the Settlement Agreement to the Hearing Board and propose for the
20 Hearing Board's consideration that either it adjourn this matter to the first hearing date following
21 December 12, 2011 or it issue a conditional order for abatement that requires compliance with District
22 Regulation 2, Rule 1, Section 302 on or before December 12, 2011 or cease gasoline dispensing
23 operations until such compliance is achieved.

24 At the commencement of the hearing, the APCO requested that the Hearing Board remove
25 LOUIE as a party to this action. The District alleged that LOUIE is an owner of the real property at
26 which the Facility is located. During a hearing recess, the Parties reached agreement on the terms
27 for a stipulated conditional order for abatement in this matter, Docket No. 3626, which terms are set
28 forth in this [Proposed] Stipulated Conditional Order for Abatement ("Proposed Conditional

Order"). The Proposed Conditional Order requires that if Respondents fail to pay all monies due under the Settlement Agreement, which the District must receive on or before December 12, 2011, the abatement order would take effect on December 13, 2011 and Respondents will cease gasoline dispensing operations at the Facility immediately as of December 13, 2011 until Respondents come into compliance with District Regulation 2, Rule 1, Section 302. The Proposed Conditional Order requires also that Respondent KARIMABADI provide accurate ownership and contact information of the Facility to the District. Following the recess, the APCO presented the proposed stipulation, and Respondent KARIMABADI stated on the record his agreement to the stipulation.

The Hearing Board provided the public with an opportunity to testify at the hearing, as required by the Health and Safety Code. No members of the public testified. The Hearing Board closed the hearing and approved the stipulation unanimously. The Hearing Board did not take action on the request to dismiss LOUIE from this matter.

WRITTEN EXPLANATION OF ACTION

Because the Parties have stipulated to the entry of the Proposed Conditional Order as the Stipulated Conditional Order for Abatement ("Conditional Order") in this matter, the Hearing Board must include a written explanation of its action in this Conditional Order, but it is not required to make any factual findings to support the Conditional Order under Health and Safety Code Section 42451(b). To that end, the Hearing Board explains its action as follows.

Respondents KARIMABADI and KAFV, INC. have agreed to address the violations of District Regulation 2, Rule 1, Section 302 identified in the Accusation and to provide the relief sought by the District all in accordance with the terms of the Settlement Agreement. The Parties have agreed that Respondents KAFV, INC, and KARIMABADI own and operate the Facility. Respondents KAFV, INC, and KARIMABADI agree they are in continuing violation of District Regulation 2, Rule 1, Section 302 by operating the gasoline dispensing facility at 2442 Imola Avenue W., Napa, Napa County, California since November 1, 2004 without a valid, current annual District permit to operate. As such, the Parties have agreed that Respondent should be required to cease gasoline dispensing operations at 2442 Imola Avenue W., Napa, Napa County, California, as of December 13, 2011 until Respondent obtains a valid, current District permit to operate.

1 Said Respondents agreed also to provide complete and accurate information concerning the
2 ownership and Facility contact persons for the Facility to the District.

3 Said Respondents agreed orally to conduct the required annual source tests at the Facility, which
4 are currently past due, within the next week.

5 The Hearing Board believes that the Parties' agreed course of action is in the public interest
6 and that therefore, the entry of this Conditional Order for Abatement is appropriate under the
7 circumstances.

8 **Conditional Order for Abatement**

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

12 1. That the APCO's and Respondents' request for this Stipulated Conditional Order for
13 Abatement shall be and hereby is GRANTED as follows: Respondents KAFV, INC., a California
14 corporation, also *d/b/a* NAPA GAS, NAPA GAS U-HAUL, and IMOLA GAS U-HAUL, a Gasoline
15 Dispensing Facility, Site No. C8262; MOJTABA KARIMABADI, an individual also *d/b/a* NAPA GAS
16 and NAPA GAS-UHAUL ("KARIMABADI"); J. GOLPAD, *a/k/a* JASON GOLPAD, an individual,
17 *d/b/a* NAPA GAS; and MELVIN K. LOUIE, Successor Trustee ("LOUIE"); and Respondents' agents,
18 employees, successors and assigns are hereby ordered to cease gasoline dispensing operations at a
19 gasoline dispensing facility, located at 2442 Imola Avenue W., Napa, Napa County, California, District
20 Site No. C8262, known commonly as "Napa Gas and Snacks," immediately as of December 13, 2011
21 until:

- 22 a. Respondents come into compliance with District Regulation 2, Rule 1, Section 302 by
23 full payment of all annual District permit to operate fees, including reinstatement
24 fees, for the period of November 1, 2004 to November 1, 2012;
- 25 b. Respondents KARIMABADI shall deliver to the District the updated and accurate
26 ownership and contact information of the Facility;

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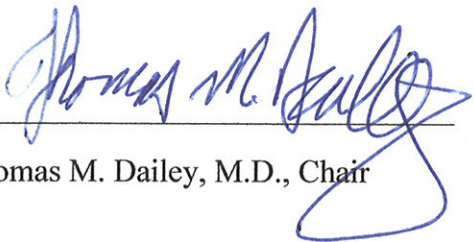
1 2. That this Conditional Order for Abatement shall become effective December 13, 2011;
2 and
3 3. That the Hearing Board shall retain jurisdiction over this matter until Respondent comes
4 into compliance with the EVR Phase II requirements of Regulation 2, Rule 1, Section 302.
5

6 Moved by: Terry Trumbull

7 Seconded by: Rolf Lindenhayn

8 AYES: Gilbert G. Bendix, P.E.; Terry A. Trumbull, Esq.; Julio Magalhães, Ph.D.; Rolf
9 Lindenhayn, Esq.; Thomas M. Dailey, M.D.

10 NOES: None

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13 Thomas M. Dailey, M.D., Chair

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Date