



1 Respondents cease operating certain equipment at its facility located at 621 Western Avenue,  
2 Petaluma, Sonoma County, California, District Facility Identification No. 18712 (“Facility”) unless and  
3 until Respondents came into compliance with District Regulation 2, Rule 1, and District Regulation 9,  
4 Rule 7.

5 Public Hearing, April 18, 2017

6 The Hearing Board conducted a public hearing on April 18, 2017. Susan Adams, Assistant  
7 Counsel, appeared on behalf of the Complainant. Respondents’ attorney, Michael Brook,  
8 appeared on behalf of Respondents. Respondents did not attend, nor did they file a notice of  
9 defense in advance of the hearing. Complainant’s staff, Hari Doss, a District permit engineer, and  
10 Richard Murray, a District inspector were in attendance. Complainant stated that the Parties had  
11 agreed on terms for a stipulated conditional order for abatement to resolve the alleged violations  
12 which are the subject of this action. Complainant summarized the facts and undisputed allegations  
13 and the terms of the proposed order; Respondents concurred with the statements. The Parties  
14 requested approval of the proposed stipulated conditional order for abatement. Complainant moved  
15 for entry into the record of proposed exhibits that had been lodged with the Hearing Board prior to  
16 the hearing. Following Hearing Board member discussions, the Hearing Board entered  
17 Complainant’s exhibits into the record and approved issuance of a stipulated conditional order for  
18 abatement (“Stipulated Order”) with the terms requested by the Parties, which included their  
19 agreement that the Hearing Board conduct a follow-up hearing in as early as mid-October 2017 to  
20 confirm whether or not compliance with Stipulated Order’s deadlines had been achieved. The  
21 Hearing Board set October 24, 2017 for the follow-up hearing. On April 19, 2017, the Hearing  
22 Board filed the Stipulated Conditional Order for Abatement in this matter.,

23 Public Hearing, October 24, 2017

24 On October 23, 2017, after business hours, Respondents’ counsel, Michael Brook, requested  
25 by email an emergency continuance of the October 24<sup>th</sup> hearing, stating his flight that evening from  
26 the East Coast was delayed due weather.

27 The Hearing Board conducted a short public hearing on October 24, 2017. Susan Adams,  
28

1 Assistant Counsel, appeared on behalf of the Complainant. Neither Respondents nor anyone on their  
2 behalf, appeared. In response to a query from the Chair, Complainant stated the purpose of this  
3 hearing was to determine if Respondents had complied with the compliance deadlines of the  
4 Stipulated Order and stated further that if compliance had been achieved, either party could request a  
5 cancellation of the follow-up hearing under the terms of the Stipulated Order. It was the District's  
6 position that Respondents had failed to comply with the deadlines. Again in response to a query by  
7 the Chair, Complainant summarized interactions between the parties since April 18, 2017, as follows:

8  Since April 2017, Richard Murray had conducted three Facility site visits: once in July, and  
9 twice in October. In July, he checked on the status of the boilers and reminded the operator of the  
10 September 30, 2017 compliance deadline. During both October site visits, Mr. Murray took  
11 photographs of the non-compliant boilers. Mr. Murray's October 4, 2017 site visit was prompted by  
12 Ms. Adams' call to Mr. Brook after September 30 concerning the status of Respondents' compliance.

13  After September 30<sup>th</sup>, Ms. Adams informed Mr. Brook that as of September 30, 2017, the  
14 District had not received Respondents' permit application to operate the Facility, or to install or  
15 retrofit the boilers, and she inquired whether Respondents may have been undertaken, but without a  
16 permit; she reminded him of the September 30, 2017 compliance deadline. Ms. Adams stated that Mr.  
17 Brook had told her that he would get back to the Complainant, but that he had not done so.

18  On October 5, 2017, Ms. Adams received a phone call from the R.J. McDonald Company,  
19 who claimed to be a contractor for the Facility. He informed her there was no contract yet to  
20 purchase boilers and that Respondents wished to replace or retrofit one of the two boilers and to  
21 convert the second, existing boiler to a "low fuel usage" boiler without a retrofit or replacement. The  
22 Complainant explained that, under District Regulation 9, Rule 7, Section 112, operating one of the  
23 existing boilers as a "low fuel usage boiler" was not a viable option as of January 1, 2012.

24  During Mr. Murray's October 20, 2017 visit, Respondent Larry Peter did not provide any  
25 plan or solution to achieving compliance. Respondent said that he was going to install equipment that  
26 would take sixty to ninety days; the Complainant stated that the contractor estimated completion in  
27 January 2018.

28  Ms. Adams spoke with Mr. Brook on the afternoon of October 23, 2017, during which call,

1 Mr. Brook stated the Respondent still has no plan to achieve compliance and resolve the work. Later  
2 that day, Mr. Brook alerted the Clerk and Complainant about his likely absence at the October 24,  
3 2017 hearing.

4 After some discussion, the Hearing Board waived Hearing Board Rule § 6.16 (Continuances)  
5 which states that the request for a continuance must be received by the Clerk 72 hours prior to the  
6 time set for the hearing and set a date of November 28, 2017 for the continued hearing, with the  
7 caveat that the hearing will not be continued further.

8 Based on these statements and those made by Respondents' counsel to the Clerk, the Hearing  
9 Board voted unanimously to order a continuation of the October 24, 2017 hearing to a later date with  
10 the terms and scope specified in the following order:

11 **THE HEARING BOARD ORDERS:**

12 1. This matter is continued to November 28, 2017 at 9:35 am at 375 Beale Street, 1st Floor  
13 Board Room, San Francisco, California 94105.

14 2. At the hearing, each of the items noted in the Stipulated Conditional Order for Abatement  
15 shall be reviewed. Respondent shall provide:

- 16 a. An explanation of why compliance deadlines were not met;
- 17 b. A solution or plan to achieve compliance; and
- 18 c. A timeframe for achieving compliance.

19 3. Respondent shall be prepared to provide a full and complete explanation, with supporting  
20 data, related to any claim of financial hardship if relied upon as a basis for difficulty with or failure  
21 for coming into compliance.

22 DATE: 10/31/17

  
Valerie J. Armento, Esq., Chair

23 **Moved By:** Valerie J. Armento, Esq., Chair

24 **Seconded By:** Peter Y. Chiu, M.D., P.E.

25 **Ayes:** Armento, Chiu, Toole, O'Neil

26 **Noes:** None

27 **Absent:** Ralph

28 **Abstain:** None

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.

SPRING HILL JERSEY CHEESE, INC., a  
California corporation; LARRY K. PETER, an  
Individual; and DOES 1 - 25, inclusive,

Respondents.

Docket No.: 3698

CERTIFICATE OF SERVICE -  
Order for Continuance



STATE OF CALIFORNIA )

City and County of San Francisco )

ss.

I, Marcy Hiratzka, do hereby certify under penalty of perjury as follows:

I am a citizen of the United States, over the age of eighteen years and not a party to the above entitled action. I served a true copy of the attached Order for Continuance to the addressees listed below at the addresses specified:

**Michael Brook, Esq.**  
**Law Offices of Michael Brook**  
**645 4<sup>th</sup> Street, Ste. 200**  
**Santa Rosa, CA 95404**

by depositing same in the United States certified mail, return receipt requested, and via email, on October 31, 2017; and on

**Susan Adams, Assistant Counsel**  
**Bay Area Air Quality Management District**  
**375 Beale Street, Suite 600**  
**San Francisco, California 94105**

by hand-delivery deposit of same in the in-box of the District Counsel's office, and via email, on October 31, 2017.

DATED: October 31, 2017

A handwritten signature in blue ink, appearing to be "Marcy Hiratzka", written over a horizontal line.

Marcy Hiratzka  
Clerk of the Boards