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

In the Matter of the APPLICATION of
EQUILON ENTERPRISES LLC
dba SHELL OIL PRODUCTS US
For Emergency Variance from
Regulation 8, Rule 5, Section 322.

The above-entitled matter, being an Application for Emergency Variance (EV) from the provisions of Regulation 8, Rule 5, Section 322 (Secondary Seal Requirements), was filed on December 17, 2020, by Equilon Enterprises LLC dba Shell Oil Products US (Applicant) after an initial contact by telephone on 4:49 p.m. on December 16, 2020, and having been considered by the Hearing Board,

THE HEARING BOARD STATES as the reasons for its decision and FINDS:

A. Applicant filed this Application for Variance under the EV procedures, and Hearing Board Rules, Section 2.5, pursuant to Health and Safety Code Sections 42359 and 42359.5, which provide that this Application could be ruled upon without notice and hearing. In accordance with Hearing Board Rules Section 2.5.d.2, upon receipt of this Application, the Clerk promptly requested and received a response to this Application from the Executive Officer / Air Pollution Control Officer (APCO) for the Bay Area Air Quality Management District (Air District). The response recommended the EV be granted.

B. Applicant operates a floating roof petroleum product storage tank (Source # 5) located at 2165 O’Toole Ave, San Jose, CA 95131.

C. On November 30, 2020, Applicant discovered on a routine visual inspection that a section of the secondary seal on Tank 60 (Source # 5) was separated and/or torn.
 Applicant arranged for repairs to be made, which first required a pipeline delivery in order to raise the floating tank roof. Pipeline delivery began the morning of December 2, 2020 and repairs were completed by 3:45 p.m. the same day. Applicant requested an EV to temporarily suspend secondary seal requirements on Tank 60 from 9:00 a.m. to 11:59 p.m. on December 2, 2020.

D. Although Applicant appears to have made good-faith efforts to complete the repairs within the 48-hour repair period provided for in Regulation 8, Rule 5, Section 119, that provision specifically contemplates the possibility of secondary seal equipment failure and provides a grace period for correcting any equipment failures. As a result, the possibility of equipment failure was foreseeable, no matter the age of the equipment in question.

E. Applicant completed quarterly inspection and maintenance requirements with respect to Tank 60, indicating that issues of poor maintenance or negligence were not a factor in this matter. However, Applicant has not specified why delays in pipeline deliveries needed to raise the floating roof were unforeseeable or outside of its reasonable control.

F. Applicant's request does not meet the good cause standard for an EV because the failure of its secondary seal was not unforeseeable and because Applicant has not demonstrated that remedying the problem within the 48-hour period allowed by Regulation 9, Rule 5, Section 119 was beyond its reasonable control.

THEREFORE, THE HEARING BOARD ORDERS:

The Application for EV from Regulation 8, Rule 5, Section 322 is denied, as the request does not meet the good cause standard for issuance of an EV.

Danny Cullenward, PhD, JD Date
Hearing Board Member

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ORDER DENYING EMERGENCY VARIANCE - DOCKET NO. 3727
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BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the Matter of the Application of

EQUILON ENTERPRISES LLC DBA SHELL
OIL PRODUCTS US

For Emergency Variance from Regulation 8, Rule
5, Section 322.

STATE OF CALIFORNIA

City and County of San Francisco

I, Marcy Hiratzka, 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 Order Denying Emergency
Variance on:

Theresa Geiger, Environmental Advisor
Equilon Enterprises dba Shell Oil Products US
2165 O'Toole Avenue
San Jose, CA 95131

by depositing same in the U.S. certified mail, and via e-mail, on December 31, 2020; and on

Brian Bunger, District Counsel
Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105

by hand-delivery deposit of same in the in-box of the District Counsel’s office, on December 31,
2020.

Marcy Hiratzka, Clerk of the Boards

12/31/20
December 31, 2020