

FILED

AUG 19 2010

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Lisa Harper
Clerk of the Boards
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

DOCKET NO. 3586

STIPULATED CONDITIONAL
ORDER FOR ABATEMENT

Complainant,

vs.

DEVINDER DHILLON individually, and *d/b/a* IDEAL
MILES PLUS; IDEAL MILES PLUS GASOLINE, INC.,
individually, and *d/b/a* IDEAL MILES PLUS; IDEAL
MILES PLUS, Site No. C9838; and DOES 1 through 10,
inclusive,

Respondents.

The above-captioned matter is an "Accusation and Request For Conditional Order For Abatement" filed by Complainant, the Air Pollution Control Officer ("APCO") of the Bay Area Air Quality Management District ("District") against Respondents DEVINDER DHILLON individually, and *d/b/a* IDEAL MILES PLUS; IDEAL MILES PLUS GASOLINE, INC., individually, and *d/b/a* IDEAL MILES PLUS; IDEAL MILES PLUS, Site No. C9838 ("Respondents"). The APCO filed its Accusation on July 8, 2010, seeking an order from this Hearing Board requiring Respondents to cease and desist transferring gasoline from the underground gasoline storage tanks to motor vehicles at their gasoline dispensing facility, which is located at 699 Ygnacio Valley Road, Walnut Creek, California, Site No. C9838 ("Facility"), forty-five days from the date of hearing in this matter until Respondents install enhanced vapor recovery ("EVR") Phase II system equipment certified by the California Air Resources Board ("ARB") in accordance with the requirements of District Regulation 8, Rule 7, Section 302.1. This Accusation was assigned Docket No. 3586 and a hearing was set for August 19, 2010. On July 21, 2010, the APCO filed with this Hearing Board a request to amend the Accusation to require Respondents, and their agents, employees, successors and assigns, to cease

1 gasoline dispensing operations at the facility in question immediately upon execution of the order by
2 the Chair of the Hearing Board or his designee.

3 On or about August 17, 2010, the APCO and Respondents jointly filed with this Hearing
4 Board a Stipulation for Entry of [Proposed] Conditional Order for Abatement ("Conditional Order").
5 The Stipulation requested that this Hearing Board enter a Conditional Order for Abatement against
6 Respondents that would require Respondents to cease and desist transferring gasoline from the
7 underground gasoline storage tanks to motor vehicles at the Facility forty-five days from August 19,
8 2010, or by October 3, 2010, until Respondents install Phase II EVR system equipment certified by the
9 ARB in accordance with the requirements of District Regulation 8, Rule 7, Section 302.1.

10 WRITTEN EXPLANATION OF ACTION

11 Because the Parties have stipulated to the entry of this Conditional Order, the Hearing Board
12 must include a written explanation of its action in this Conditional Order, but it is not required to
13 make any factual findings to support the Conditional Order under Health and Safety Code Section
14 42451(b). To that end, the Hearing Board explains its action as follows.

15 The Parties have agreed to address the problems identified in the Accusation and to provide the
16 relief sought. The Parties have agreed that Respondents own and operate the Facility and that
17 Respondents are in continuing violation of District Regulation 8, Rule 7, Section 302.1 because
18 Respondents have not yet completed the required Phase II EVR upgrade at the Facility. As such, the
19 Parties have agreed that Respondents should be required to cease and desist transferring gasoline from
20 the underground gasoline storage tanks to motor vehicles at their Facility, forty-five days from August
21 19, 2010, or by October 3, 2010, until Respondents install a certified Phase II EVR system.

22 The Hearing Board therefore believes that the Parties' agreed course of action is in the public
23 interest and that entry of this Conditional Order is appropriate under the circumstances.

24 Conditional Order for Abatement

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

28 1. That the APCO's and Respondents' Request for this Stipulated Conditional Order for
Abatement shall be and hereby is GRANTED as follows: Respondents Devinder Dhillon; Ideal Miles
Plus Gasoline, Inc.; a Gasoline Dispensing Facility located at 699 Ygnacio Valley Road, Walnut Creek,
California, 94596, *also known as* Ideal Miles Plus, Site No. C9838; and any other gasoline dispensing

1 facility doing business at 699 Ygnacio Valley Road, Walnut Creek, California, 94596; and their agents,
2 employees, successors and assigns are hereby ordered to cease gasoline dispensing operations at the
3 Facility forty-five (45) days from August 19, 2010, or by October 3, 2010, until:

- 4 a. Respondents come into compliance with Regulation 8, Rule 7, Section 302.1 by
5 installing an ARB-certified EVR Phase II system that complies with the system
6 manufacturer's specifications and with the terms and conditions of the District
7 authority to construct the EVR Phase II system at the Facility; and
8 b. Respondents submit the EVR Phase II upgrade "start-up notification" to
9 Respondents' District permit engineer, as required by the EVR Phase II system's
10 authority to construct, with a copy submitted simultaneously to this Hearing Board
11 and to the District Legal Division, attention Brian C. Bunger, via facsimile or
12 certified mail;

13 2. That this Conditional Order for Abatement shall become effective immediately; and

14 3. That the Hearing Board shall retain jurisdiction over this matter until Respondents come
15 into compliance with the EVR Phase II requirements of Regulation 8, Rule 7, Section 302.1 and submit
16 "start-up notification" in accordance with the requirements set forth in Paragraph 1 of this Conditional
17 Order for Abatement.

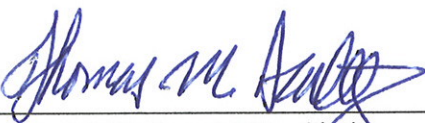
18 Moved by: Christian Colline, P.E.


19 Seconded by: Valerie J. Armento, Esq.

20 AYES: Valerie J. Armento, Esq., Christian Colline, P.E., Richard D. Grundy, Julio
21 Magalhães, Ph.D., and Thomas M. Dailey, M.D.

22 NOES: None

23 ABSTAINED: None

24 
25 Thomas M. Dailey, M.D., Chair

26 
27 Date