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HEARING BOARD  
BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT

**Lisa Harper**  
**Clerk, 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

DOCKET NO. 3596

STIPULATED CONDITIONAL  
ORDER FOR ABATEMENT

Complainant,

vs.

REZA MAHMOODI, individually and *d/b/a* Hillcrest  
Fuel Mart and/or Hillcrest Valero; REZA INC.,  
individually and *d/b/a* Hillcrest Fuel Mart and/or  
Hillcrest Valero; AMAN POHYAR, individually and  
*d/b/a* Hillcrest Fuel Mart and/or Hillcrest Valero; a  
Gasoline Dispensing Facility located at 1801 Hillcrest  
Avenue, Antioch, California, Site No. C9147,

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 Reza Mahmoodi, individually and doing business as Hillcrest Fuel Mart and/or Hillcrest Valero; Reza Inc., individually and doing business as Hillcrest Fuel Mart and/or Hillcrest Valero; Aman Pohyar, individually and doing business as Hillcrest Fuel Mart and/or Hillcrest Valero; and a Gasoline Dispensing Facility located at 1801 Hillcrest Avenue, Antioch, California, Site No. C9147 ("Respondents"). The APCO filed its Accusation on September 14, 2010, seeking an order from this Hearing Board requiring Respondents to cease and desist

1 transferring gasoline from the underground gasoline storage tanks to motor vehicles at their gasoline  
2 dispensing facility, which is located at 1801 Hillcrest Avenue, Antioch, California, 94509, Site No.  
3 C9147 ("Facility"), thirty days from the date of hearing in this matter until Respondents install enhanced  
4 vapor recovery ("EVR") Phase II system equipment certified by the California Air Resources Board  
5 ("ARB") in accordance with the requirements of District Regulation 8, Rule 7, Section 302.1. This  
6 Accusation was assigned Docket No. 3596 and a hearing was set for October 21, 2010.

7 On or about October 18, 2010, the APCO and Respondents jointly filed with this Hearing  
8 Board a Stipulation for Entry of [Proposed] Conditional Order for Abatement ("Conditional Order").  
9 The Stipulation requested that this Hearing Board enter a Conditional Order for Abatement against  
10 Respondents that would require Respondents to cease and desist transferring gasoline from the  
11 underground gasoline storage tanks to motor vehicles at the Facility on or before November 15, 2010,  
12 until Respondents install Phase II EVR system equipment certified by the ARB in accordance with the  
13 requirements of District Regulation 8, Rule 7, Section 302.1.

#### 14 **WRITTEN EXPLANATION OF ACTION**

15 Because the Parties have stipulated to the entry of this Conditional Order, the Hearing Board  
16 must include a written explanation of its action in this Conditional Order, but it is not required to  
17 make any factual findings to support the Conditional Order under Health and Safety Code Section  
18 42451(b). To that end, the Hearing Board explains its action as follows.

19 The Parties have agreed to address the problems identified in the Accusation and to provide the  
20 relief sought. The Parties have agreed that Respondents own and operate the Facility as specified in  
21 the Stipulation. Respondents also agree they are in continuing violation of District Regulation 8, Rule  
22 7, Section 302.1 because Respondents have not yet completed the required Phase II EVR upgrade at  
23 the Facility. As such, the Parties have agreed that Respondents should be required to cease and desist  
24 transferring gasoline from the underground gasoline storage tanks to motor vehicles at their Facility, on  
25 or before November 15, 2010, until Respondents install a certified Phase II EVR system.

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

28 ////

1 Conditional Order for Abatement

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

5 1. That the APCO's and Respondents' Request for this Stipulated Conditional Order for  
6 Abatement shall be and hereby is GRANTED as follows: Respondents Reza Mahmoodi, individually  
7 and doing business as Hillcrest Fuel Mart and/or Hillcrest Valero; Reza Inc., individually and doing  
8 business as Hillcrest Fuel Mart and/or Hillcrest Valero; Aman Pohyar, individually and doing business  
9 as Hillcrest Fuel Mart and/or Hillcrest Valero; a Gasoline Dispensing Facility located at 1801 Hillcrest  
10 Avenue, Antioch, California, Site No. C9147; and their agents, employees, successors and assigns are  
11 hereby ordered to cease gasoline dispensing operations at the Facility on or before November 15, 2010,  
12 until:

- 13 a. Respondents come into compliance with Regulation 8, Rule 7, Section 302.1 by  
14 installing an ARB-certified EVR Phase II system at the Facility that complies with  
15 the system manufacturer's specifications and with the terms and conditions of the  
16 District authority to construct the EVR Phase II system at the Facility; and  
17 b. Respondents submit the EVR Phase II upgrade "start-up notification" to  
18 Respondents' District permit engineer, as required by the EVR Phase II system's  
19 authority to construct, with a copy submitted simultaneously to this Hearing Board  
20 and to the District Legal Division, attention Brian C. Bunker, via facsimile or  
21 certified mail;

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

23 \\\

24 \\\

25 \\\

26 \\\

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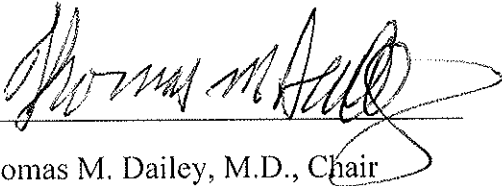
1           3.       That the Hearing Board shall retain jurisdiction over this matter until Respondents come  
2 into compliance with the EVR Phase II requirements of Regulation 8, Rule 7, Section 302.1 and submit  
3 "start-up notification" in accordance with the requirements set forth in Paragraph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

5  
6 Moved by:           Terry A. Trumbull, Esq.

7 Seconded by:       Christian Colline, P.E.

8 AYES:               Christian Colline, P.E., Rolf Lindenhayn, Esq., Julio Magalhães, Ph.D., Terry A.  
9                       Trumbull, Esq., and Thomas M. Dailey, M.D.

10 NOES:              None

11  
12   
13 Thomas M. Dailey, M.D., Chair

10-28-10  
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Date

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OCT 2 2010

HEARING BOARD  
BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT

**Lisa Harper**  
Clerk, 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.

REZA MAHMOODI, individually and *d/b/a* Hillcrest  
Fuel Mart and/or Hillcrest Valero; REZA INC.,  
individually and *d/b/a* Hillcrest Fuel Mart and/or  
Hillcrest Valero; AMAN POHYAR, individually and  
*d/b/a* Hillcrest Fuel Mart and/or Hillcrest Valero; a  
Gasoline Dispensing Facility located at 1801 Hillcrest  
Avenue, Antioch, California, Site No. C9147,

Respondents.

) DOCKET NO. 3596

) STIPULATION FOR ENTRY OF  
) [PROPOSED] STIPULATED  
) CONDITIONAL ORDER FOR  
) ABATEMENT

) (HEALTH & SAFETY CODE  
) SECTION 42451(b))

Complainant in the above-captioned matter, the Air Pollution Control Officer ("APCO") of the Bay Area Air Quality Management District ("District"), and Respondents Reza Mahmoodi, individually and doing business as Hillcrest Fuel Mart and/or Hillcrest Valero; Reza Inc., individually and doing business as Hillcrest Fuel Mart and/or Hillcrest Valero; Aman Pohyar, individually and doing business as Hillcrest Fuel Mart and/or Hillcrest Valero; a Gasoline Dispensing Facility located at 1801 Hillcrest Avenue, Antioch, California, Site No. C9147 ("Respondents"), (collectively, the "Parties"), hereby stipulate and consent to the entry of the attached [PROPOSED] STIPULATED CONDITIONAL ORDER FOR ABATEMENT ("Proposed Abatement Order").

1           **Procedural History**

2           On or about September 14, 2010, the APCO filed with this Hearing Board an Accusation and  
3 Request for Order for Abatement (“Accusation”) against Respondents, requesting that the Hearing  
4 Board order Respondents to cease and desist transferring gasoline from the underground gasoline  
5 storage tanks to motor vehicles at their gasoline dispensing facility, which is located at 1801 Hillcrest  
6 Avenue, Antioch, California, 94509, Site No. C9147 (“Facility”), thirty days from the date of hearing in  
7 this matter until Respondents install enhanced vapor recovery (“EVR”) Phase II system equipment  
8 certified by the California Air Resources Board (“ARB”) in accordance with the requirements of District  
9 Regulation 8, Rule 7, Section 302.1. A hearing on the Accusation was set by this Hearing Board for  
10 October 21, 2010 at 9:35 a.m.

11           On or about September 28, 2010, Respondents, through Respondent Reza Mahmoodi, contacted  
12 the District to resolve the matter. The Parties thereafter agreed that it was in the best interests of both  
13 parties to stipulate to the entry of the Proposed Abatement Order, a conditional order for abatement that  
14 would require Respondents to stop operating the Facility on or before November 15, 2010 until  
15 Respondents install and operate a certified Phase II EVR system at the Facility.

16           **Factual Background**

17           The Parties understand and agree to the following facts:

18           The District

- 19           1.       The District is and has been organized and existing under Chapter 4 of Part 3 of Division  
20                   26 (sections 40200 to 40276) of the California Health and Safety Code. The District is  
21                   and has been a governmental agency charged with the primary responsibility for  
22                   controlling air pollution from all sources other than motor vehicles, which responsibility  
23                   includes adopting and enforcing rules and regulations relating to air pollution and  
24                   maintaining healthy air quality in the Counties of Alameda, Contra Costa, Marin, Napa,  
25                   San Francisco, San Mateo, and Santa Clara, and portions of the Counties of Sonoma and  
26                   Solano.
- 27           2.       The APCO is appointed by the District Board of Directors (“District Board”) to enforce  
28                   all rules and regulations adopted or prescribed by the District Board. *California Health*

1           *and Safety (Health & Saf.) Code §§40750 and 40752.* The APCO is also authorized to  
2           seek an order for abatement from the District’s Hearing Board to stop violations of a  
3           District rule or regulation prohibiting or limiting the discharge of an air contaminant into  
4           the air. *Health & Saf. Code §42451(a).*

5   Respondents

- 6           3.     Hillcrest Fuel Mart, *also known as* Hillcrest Valero, is a gasoline dispensing facility  
7           (“GDF”) that is located at 1801 Hillcrest Avenue, Antioch, California, 94509, Site No.  
8           C9147 (“Facility”), and is subject to the jurisdiction of the District. The Facility contains  
9           2 underground gasoline stationary storage tanks. The Facility’s annual gasoline  
10          throughput has varied from approximately 500,000 to 1,560,000 gallons.  
11          4.     Reza Mahmoodi is President and owner of Reza, Inc. (hereinafter “Owner”), which owns  
12          and/or operates the Facility and has owned and/or operated the Facility since at least  
13          2010. Aman Pohyar currently owns the property underlying the Facility, and owned the  
14          GDF business until December 31, 2009.

15   District Hearing Board

- 16          5.     The District Hearing Board may, upon stipulation of the APCO and Respondents accused  
17          of operating any equipment or other contrivance in violation of a District rule or  
18          regulation that prohibits or limits the discharge of an air contaminant into the air, issue an  
19          order for abatement against Respondents, upon the terms and conditions set forth in the  
20          stipulation, so long as the Hearing Board includes a written explanation of its action in  
21          the order for abatement. *Health & Saf. Code § 42451(b).*  
22          6.     The Hearing Board’s order will require a respondent either to refrain from a particular act  
23          or to refrain from a particular act unless certain conditions are met. *Health & Saf. Code*  
24          *§42452.*

25   Phase II EVR Requirements

- 26          7.     Volatile organic compounds (“VOCs”) are organic compounds that evaporate quickly  
27          into the atmosphere. VOCs, reacting with oxides of nitrogen in sunlight, create ground  
28          level ozone. Ground level ozone is the primary component of photochemical smog,



1 which is a significant air quality problem in the Bay Area. Ozone aggravates respiratory  
2 diseases, reduces visibility, causes eye irritation, and damages vegetation. One of the  
3 common sources of VOCs is gasoline vapors. Gasoline vapor, which contains  
4 hydrocarbons, is an air contaminant. Gasoline contains benzene, a known carcinogen. In  
5 the Bay Area, gasoline dispensing facilities are a major source of VOC emissions.

- 6 8. A GDF "vapor recovery system" collects gasoline vapors that are discharged during  
7 gasoline transfer operations and processes the vapors to prevent their release into the  
8 atmosphere.
- 9 9. A GDF vapor recovery system comprises a "Phase I" system, which controls gasoline  
10 vapors during the transfer of gasoline from gasoline cargo tanks to a GDF's stationary  
11 storage tank, and a "Phase II" system, which controls gasoline vapors during transfer of  
12 gasoline between the GDF's stationary storage tank and a motor vehicle.
- 13 10. District Regulation 8, Rule 7, Section 302.1 prohibits a person from transferring gasoline  
14 between a GDF's stationary storage tank and a motor vehicle without an ARB-certified  
15 Phase II system in place and in operation.
- 16 11. State law requires that stations in existence as of April 1, 2005 with underground  
17 stationary gasoline storage tanks had to install an enhanced vapor recovery ("EVR")  
18 Phase II system as of April 1, 2009. As of April 1, 2009, only EVR Phase II equipment  
19 was ARB-certified, and any Phase II system that was not ARB-certified as EVR Phase II  
20 was de-certified.

21 **Respondents Are in Continuing Violation of District Regulation 8-7-302.1**

- 22 12. Respondents have not yet completed the Phase II EVR upgrade and did not curtail or  
23 cease GDF operations on or after April 1, 2009.
- 24 13. On or about September 23, 2009, the District issued Respondents NOV No. A50523 for  
25 conducting gasoline dispensing operations with an uncertified EVR Phase II system as of  
26 April 1, 2009. A copy of NOV No. A50523 is annexed to this Accusation in this matter  
27 as Exhibit 1.
- 28 14. Respondents were fully aware of their obligation to install the upgrade as of April 1,



2009.

15.

As of the date of this Stipulation, Respondents continue to operate the Facility without ARB-certified EVR Phase II equipment, in violation of District rules and regulations and state law.

**Proposed Abatement Order**

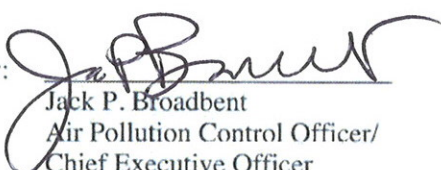
The Parties believe that the course of action set forth in the Proposed Abatement Order is necessary, reasonable, and appropriate to address the problems identified in the Accusation. The Parties further believe that it is in their own interests, and in the interest of the public, to have the Proposed Abatement Order entered by this Hearing Board. Therefore, in light of the foregoing, the Parties stipulate to and respectfully request the entry of the attached [PROPOSED] STIPULATED CONDITIONAL ORDER FOR ABATEMENT.

SO AGREED, STIPULATED AND EXECUTED.

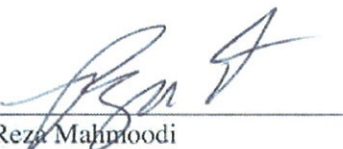
BAY AREA AIR QUALITY  
MANAGEMENT DISTRICT  
939 Ellis Street  
San Francisco, CA 94109

Reza Mahmoodi  
Reza Inc.  
Hillcrest Fuel Mart  
1801 Hillcrest Avenue  
Antioch, CA 94509

By:

  
Jack P. Broadbent  
Air Pollution Control Officer/  
Chief Executive Officer

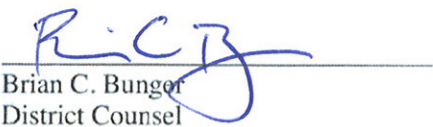
By:

  
Reza Mahmoodi  
President

Date: 10/20/10

Date: 10/15/10

Approved as to form:

  
Brian C. Bungert  
District Counsel

Date: 10/19/2010