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HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

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

Complainant,

vs.

DOUBLE AA CORPORATION *d/b/a* JUNIPERO
SERRA 76; BPG Pacific LLC; a Gasoline Dispensing
Facility located at 1101 Junipero Serra Boulevard, San
Francisco, Site Nos. C9485 and D2129; and DOES 1
through 10, inclusive,

Respondents.

DOCKET NO. 3616

STIPULATED CONDITIONAL
ORDER FOR ABATEMENT

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 Double AA Corporation, doing business as Junipero Serra 76; BPG Pacific LLC; a Gasoline Dispensing Facility located at 1101 Junipero Serra Boulevard, San Francisco, Site Nos. C9485 and D2129 ("Respondents"). The APCO filed its Accusation on June 28, 2011, 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 1101 Junipero Serra Boulevard, San Francisco, Site Nos. C9485 and D2129 ("Facility"), thirty days from the date of hearing in this matter until

1 Respondents install in-station diagnostics (ISD) system equipment certified by the California Air
2 Resources Board (“ARB”) in accordance with the requirements of District Regulation 8, Rule 7, Section
3 302.1. This Accusation was assigned Docket No. 3616 and a hearing was set for July 28, 2011.

4 On or about July 28, 2011, the APCO and Respondents jointly filed with this Hearing Board
5 a Stipulation for Entry of [Proposed] Conditional Order for Abatement (“Conditional Order”). The
6 Stipulation requested that this Hearing Board enter a Conditional Order for Abatement against
7 Respondents that would require Respondents to cease and desist transferring gasoline from the
8 underground gasoline storage tanks to motor vehicles at the Facility on or before August 31, 2011 until
9 Respondents install ISD system equipment certified by the ARB in accordance with the requirements of
10 District Regulation 8, Rule 7, Section 302.1. As an increment of progress, the Proposed Abatement
11 Order would require Respondents to submit an application for an authority to construct the ISD upgrade
12 by August 5, 2011.

13
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 ISD upgrade at the
23 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 August 31, 2011 until Respondents install a certified ISD 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.

1 STIPULATED 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 Double AA Corporation *d/b/a*
7 Junipero Serra 76; BPG Pacific LLC; a Gasoline Dispensing Facility located at 1101 Junipero Serra
8 Boulevard, San Francisco, Site Nos. C9485 and D2129; and their agents, employees, successors and
9 assigns are hereby ordered to cease gasoline dispensing operations at the Facility on or before August
10 31, 2011 until Respondents come into compliance with Regulation 8, Rule 7, Section 302.1 by installing
11 an ARB-certified ISD system at the Facility that complies with the system manufacturer's specifications
12 and with the terms and conditions of the District authority to construct the ISD system at the Facility

13 2. That Respondents submit an application for an authority to construct the ISD upgrade to
14 the District by August 5, 2011.

15 3. That this Conditional Order for Abatement shall become effective immediately; and

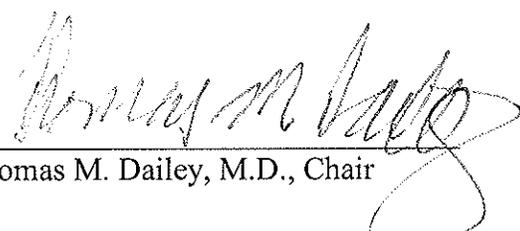
16 4. That the Hearing Board shall retain jurisdiction over this matter until Respondents come
17 into compliance with the ISD installation requirements of Regulation 8, Rule 7, Section 302.1.

18
19 Moved by: Terry A. Trumbull, Esq.

20 Seconded by: Christian Colline, P.E.

21 AYES: Christian Colline, PE., Rolf Lindenhayn, Esq., Julio Magalhães, Ph.D., Terry
22 A. Trumbull, Esq., and Thomas M. Dailey, M.D.

23 NOES: None

24
25 
26 _____
27 Thomas M. Dailey, M.D., Chair

25 11-1-11
26 _____
27 Date