

**BAY AREA AIR QUALITY MANAGEMENT DISTRICT**

## Memorandum

To: Chairperson Rod Sinks and Members  
of the Executive Committee

From: Chairperson Valerie J. Armento, Esq., and  
Members of the Hearing Board

Date: July 23, 2020

Re: Hearing Board Quarterly Report: April 2020 – June 2020

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**RECOMMENDED ACTION**

None; receive and file.

**DISCUSSION**

This report covers the second calendar quarter (April - June) of 2020.

- Held no hearings;
- Processed no orders; and
- Collected a total of \$14,577.12 in excess emissions fees.

Below is a detail of Hearing Board activity during the same period:

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**Location:** Contra Costa County; Crockett

**Docket:** 3716 – Shore Terminals LLC – Request for Emergency Variance

**Regulation(s):** Regulation 2, Rule 6, Section 307 (Permits, Major Facility Review, Non-Compliance); and Permit Condition #6185, parts 1, 14, 20, and 22.

**Synopsis:** Applicant operates Selby Terminal, a transportation and storage facility for receiving, storing, and shipping liquid petroleum and biofuel products. On October 15, 2019, a fire unexpectedly occurred at the facility and caused the collapse of two tanks and the loss of vapor controls for several other tanks. The tanks stored liquid petroleum and ethanol products. Because of the fire, the tanks' lines to the facility's Vapor Recovery Units were inoperable. Applicant sought variance relief from the Air District's Permit's requirements that the tanks continuously vent to the Vapor Recovery Units. The Applicant maintains that there were no prior indications of issues that would lead to this type of incident.

**Status:** Application filed on October 16, 2019; Air District Compliance & Enforcement Division and Hearing Board responses submitted to the Clerk on October 18, 2019, both recommending that the emergency variance be granted; Order Granting Emergency Variance filed on October 25,

2019; on December 13, 2019, applicant submitted revised excess emissions calculations, and the Clerk asked the Air District's Engineering Division to corroborate the applicant's calculations and generate an invoice, if necessary; on April 4, 2020, Air District Engineering Division produced excess emissions fee invoice, which Clerk sent to applicant; on April 28, 2020, applicant sent payment for excess emissions fee.

**Requested Period of Variance:** October 15, 2019 to November 14, 2019.

**Estimated Excess Emissions:** Unknown at the time the application was submitted; Applicant submitted the following calculations on December 13, 2019:

VOC: 1,558 lbs (total for entire variance period)

Benzene: 0.4 lbs

Ethyl Benzene: 2 lbs

Toluene: 10 lbs

Xylenes (mixed): 3 lbs

**Variance-related fees collected this quarter:** \$9,347.50 (excess emissions fee).

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**Location:** Contra Costa County; Crockett

**Docket:** 3719 – Shore Terminals LLC – *Request for Interim and Short-Term Variances*

**Regulation(s):** Regulation 2, Rule 6, Section 307 (Permits, Major Facility Review, Non-Compliance); Regulation 8, Rule 5, Section 306 (Organic Compounds, Storage of Organic Liquids, Requirements for Approved Emission Control Systems); and Permit Condition #6185, parts 1, 14, 20, and 22.

**Synopsis:** Applicant operates Selby Terminal, a transportation and storage facility for receiving, storing, and shipping liquid petroleum and biofuel products. On October 15, 2019, a fire unexpectedly occurred at the facility and caused the collapse of two tanks and the loss of vapor controls for several other tanks. The tanks store liquid petroleum and ethanol products. Because of the fire, the tanks' lines to the facility's Vapor Recovery Units were inoperable. Applicant maintained that there were no prior indications of issues that would lead to this type of incident. Applicant sought, and was granted, emergency variance relief from the Air District's Permit's requirements that the tanks continuously vent to the Vapor Recovery Units (Docket N0. 3716) from October 16, 2019 to November 14, 2019. On November 8, 2019, Applicant called Clerk of the Hearing Board to indicate the Applicant's intent to apply for an interim/short-term variance application, as the Applicant felt they needed to seek relief **beyond** the time period requested (and granted) in their emergency variance application several weeks prior.

**Status:** Application filed on November 14, 2019; interim variance and short-term variance hearings both originally scheduled for December 3, 2019; on November 26, 2019, Applicant requested to change both hearing dates to December 10, 2019 (which the Hearing Board approved); at the hearing held on December 10, 2019, both parties agreed to accept consideration of *solely* a Short-Term Variance, as they differed on the legal interpretation of the interim variance, and the Hearing Board proceeded to review the request for a short-term variance; Order Granting

Short-Term Variance filed on December 30, 2019; on January 29, 2020, applicant submitted excess emissions calculations, and the Clerk asked the Air District's Engineering Division to corroborate the applicant's calculations and generate an invoice, if necessary; on April 4, 2020, Air District Engineering Division produced excess emissions fee invoice, which Clerk sent to applicant; on April 28, 2020, applicant sent payment for excess emissions fee.

**Requested Period of Variance:** (Originally) November 14, 2019 to February 12, 2020; (Amended Request at the December 10, 2019 hearing) November 14, 2019 to November 23, 2019.

**Estimated Excess Emissions:** 0.021 lb. of VOC (gasoline and ethanol) for each of the three tanks after mitigation.

**Variance-related fees collected this quarter:** \$9.38 (excess emission fee).

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**Location:** Napa County; Yountville

**Docket:** 3721 – Veterans Home of California – Request for Emergency Variance

**Regulation(s):** Regulation 2, Rule 1, Sections 301 and 302 (Permits, General Requirements, Authority to Construct, and Permit to Operate).

**Synopsis:** Applicant is the largest veterans' home in the United States, offering residential, recreational, and therapeutic accommodations for 800 veterans. A stationary steam boiler for local heating has been maintained, according to the manufacturer's recommendations over the life of the installation (~30 years). On January 30, 2020, an inspection found irreparable internal damage. Applicant planned to permanently replace the boiler. This project required the installation of a portable, temporary boiler to operate during the interim of the construction phase. The temporary boiler needed to be online before the old boilers were decommissioned. To go without heat would have caused a detriment to the facility's mission to care for the veterans' health. As a result of installing and operating the temporary boiler, the facility could not maintain building heat and complete the existing boiler replacement project without operating in violation of Air District Regulation 2-1.

**Status:** Application filed on February 5, 2020; Air District Compliance & Enforcement Division's and Hearing Board's responses, both recommending the emergency variance be granted, filed on February 11 and 13, 2020, respectively; Order Granting Emergency Variance filed on February 13, 2020; on April 3, 2020, Air District Engineering Division produced excess emissions fee invoice, which Clerk sent to applicant; on June 3, 2020, applicant sent payment for excess emissions fee.

**Requested Period of Variance:** February 6, 2020 to March 6, 2020.

**Estimated Excess Emissions:** Applicant did not anticipate any excess emissions, but the Air District calculated a total of 674.40 lbs of Criteria Air Pollutants (NO<sub>x</sub>, CO, POC, PM, SO<sub>2</sub>) and 1.51 lbs of Toxic Air Contaminants (benzene and formaldehyde).

**Variance-related fees collected this quarter:** \$3,976.00 (excess emissions fee).

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**Location:** Santa Clara County; Cupertino

**Docket:** 3722 – Lehigh Southwest Cement Company – Request for Emergency Variance

**Regulation(s):** Regulation 2, Rule 1, Section 302.3 (Permits, General Requirements, Permit to Operate, Temporary Operation).

**Synopsis:** Applicant operates a Portland Cement manufacturing facility. On January 30, 2020, a belt conveyor at the facility was taken out of service, due to unexpected structural damage, which halted the facility's cement production capability. Per phone conversations between Lehigh and the Air District, Lehigh submitted an emergency variance application for relief from Rule 2-1-302.3 while a compliance agreement was drafted to cover operations for three months *and* a Permit to Operate application was processed for temporary conveyor system (Permit to Operate application submitted February 6, 2020).

**Status:** Application filed on February 7, 2020; Air District Compliance & Enforcement Division's and Hearing Board's responses, both recommending the emergency variance be granted, filed on February 19 and 24 respectively; Order Granting Emergency Variance filed on February 25, 2020; Temporary Permit to Operate for the temporary conveyor system issued on April 13, 2020.

**Requested Period of Variance:** February 12, 2020 to March 13, 2020.

**Estimated Excess Emissions:** None; emissions occurring from the variance were estimated and accounted for as part of Application 30343.

**Variance-related fees collected this quarter:** None; fees for emissions occurring from the variance were collected as part of Application 30343 as well as part of a penalty collected for a Notice of Violation.

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**Location:** Alameda County; Dublin

**Docket:** 3723 – Carl Zeiss Meditec, Inc. – Request for Emergency Variance

**Regulation(s):** Regulation 2, Rule 1, Section 307 (Permits, General Requirements, Failure to Meet Permit Conditions); Permit Condition #22820 (limits non-emergency use of an emergency backup generator to 20 hours per year)

**Synopsis:** Applicant develops, designs, manufactures, distributes, and services ophthalmic medical devices. Applicant facility lost power on June 20, 2019, when an electrical busway failed. At that time, a temporary repair was made to restore power to the facility with the intention to make a permanent replacement at a later date. The installation of the new busway was scheduled to take place on February 29, 2020, and was expected to take approximately 30 hours to complete. The project required severing the electrical connection to the facility from PG&E for installation of the new busway. The facility houses computer servers that operate their worldwide network, and to go without power would have caused a detriment to the ongoing operations of the corporation. As a result of installing the new busway, the facility could not operate their computer

servers without operating their emergency backup generator in violation of Air District Regulation 2, Rule 1, Section 307 (Failure to Meet Permit Condition) as permit condition #22820 limits non-emergency use of the generator to 20 hours per year.

**Status:** Application filed on March 2, 2020; Air District Compliance & Enforcement Division’s and Hearing Board’s responses, both recommending the emergency variance be granted, filed on March 9 and 10, 2020, respectively; Order Granting Emergency Variance filed on March 11, 2020; on April 9, 2020, Air District Engineering Division produced excess emissions fee invoice, which Clerk sent to applicant; on April 13, 2020, applicant sent payment for excess emissions fee.

**Requested Period of Variance:** February 29, 2020 to March 1, 2020.

**Estimated Excess Emissions:** (see below)

**SUMMARY OF TOTAL EXCESS EMISSIONS:**

Pollutant	Estimated Emission Variance (total lbs)
Arsenic (all)	3.28767E-06
Benzene	0.003846575
Beryllium (all) Pollutant	2.19178E-06
Cadmium	8.21918E-06
Chromium (hexavalent)	0
Diesel Engine Exhaust articulate	0.036962192
Formaldehyde	0.000318356
Lead All) pollutant	7.12329E-06
Manganese	1.09589E-05
Mercury (all) pollutant	2.19178E-06
Nickel pollutant	0.001353425
Particulate	0.04
Organics	0.18
NOx	2.7
CO	0.58
CO2	116.8789041
CH4	0.004383562
N2O	0.00109589
<b>Total</b>	<b>120.4268981</b>

**Variance-related fees collected this quarter:** \$1,244.24 (excess emissions fee).

Respectfully submitted,

Valerie J. Armento, Esq.  
Chair, Hearing Board

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