

## BAY AREA AIR QUALITY MANAGEMENT DISTRICT

### Memorandum

To: Chairperson Karen Mitchoff and Members  
of the Administration Committee

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

Date: April 4, 2022

Re: Hearing Board Quarterly Report: January – March 2022

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### RECOMMENDED ACTION

None; receive and file.

### DISCUSSION

This report covers the first calendar quarter (January – March) of 2021.

- Held one hearing;
- Processed one order; and
- Collected a total of \$0 in Hearing Board filing fees.

**Location:** Solano County; City of Benicia

**Docket:** 3731 – APCO vs. Valero Refining Company - California – Accusation and (Proposed) Stipulated Conditional Order for Abatement (confidential version with trade secrets & public version without trade secrets were both submitted)

**Regulation(s):** Regulation 8, Rule 2 (Organic Compounds, Miscellaneous Operations)

**Synopsis:** Respondent operates the Valero Benicia Refinery. The facility's two hydrogen plants are process units which were part of original construction of the refinery. Each process unit was designed to vent excess hydrogen to atmosphere through process vent ST-302. The Accusation and Stipulation requested that the Hearing Board enter a Conditional Order for Abatement against the Respondent that would require the Respondent, prior to termination of the Conditional Order of Abatement, to cease venting of regulated air contaminants through the Refinery's process vent ST-302 in a manner exceeding standards set forth in Air District Regulation 8-2. Because a capital project to abate emissions from ST-302 (“the Vent Project”) will require time to design, engineer, permit, and construct, the Parties requested entry of the Conditional Order for Abatement to establish the requirements and schedule for the Vent Project and to provide conditions to minimize emissions from ST-302 during normal operations pending completion of the Vent Project. The Respondent’s Vent Project may install piping to direct flow of process gases that contain pollutants subject to Regulation 8-2 to an existing flare, the North South flare, or may be a different control or abatement fix, in accordance with the requirements set forth in detail in the Stipulation.

The Parties agreed to address the allegations identified in a Notice of Violation issued by the Air District (NOV A58465) and to provide the relief sought. The Parties expect to enter into a separate Enforcement Penalty Agreement to address penalties for NOV A58465. The Parties recognized the Air District's reservation of rights to enforce penalties or another abatement action for any violations by Valero, either through the Parties' separate Enforcement Penalty agreement or otherwise. The Parties agreed that the Respondent owns and operates the facility as specified in the Stipulation. The Respondent also agreed that notwithstanding interim measures taken since issuance of the Notice of Violation (NOV A58465) to minimize emissions of regulated pollutants from process vent ST-302, such emissions are continuing intermittently, and at times may exceed 15 lbs./day and contain more than 300 parts per million ("ppm") total carbon on a dry basis, which the Air District alleges is in violation of Regulation 8, Rule 2, Section 301.

Subject to a temporary permit authorization issued by the Air District in 2019, Valero undertook an interim project to minimize emissions of pollutants from ST-302 by installing internal piping to maintain streams containing pollutants regulated under Reg. 8-2 in a lower-pressure area of the hydrogen grid. Although Valero believes this measure has been very effective in substantially minimizing atmospheric emissions of regulated pollutants, the Parties stipulated that a more complex capital project would be needed for compliance of ST-302 with Regulation 8-2-301. This will require time to design, engineer, permit, construct, and start up. As such, the Parties agreed that the Respondent will complete a capital project to abate potential excess non-methane hydrocarbon emissions from ST-302 in the manner and on the schedule to this stipulation, which provides for completion of this Vent Project as soon as feasible but no later than the soonest scheduled refinery-wide maintenance outage ("Turnaround") at the Refinery. The Parties further agreed that meanwhile, Valero shall continue implementing interim measures to minimize emissions, and shall report progress to the Air District. The Parties agreed to enter the Stipulated Conditional Order of Abatement to provide for implementation of a capital project and other actions necessary to bring the Valero Benicia Refinery into compliance with current Air District rules and regulations, and to provide interim measures for minimizing non-compliant atmospheric emissions in the meantime.

**Status:** Accusation filed by Complainant (Air District) on January 24, 2022; Notice of Hearing (for March 15, 2022) filed/issued on January 25, 2022; Notice of Defense filed by Respondent on February 7 2022; Separate Statement (pursuant to Section 12 of the proposed Stipulated Order of Abatement) filed by Complainant on February 17, 2022; Separate Statement (pursuant to Section 12 of the proposed Stipulated Order of Abatement) filed by Respondent on March 10, 2022; Complainant submitted Exhibits C-1 through C-3, and Respondent submitted Exhibits R-A through R-D, to the Clerk on March 14, 2022; hearing held on March 15, 2022; Stipulated Conditional Order for Abatement filed/issued on March 15, 2022 (see language below).

This was a well-publicized hearing and approximately 35 members of the public attended, including KPIX news and 8 speakers who addressed the Hearing Board.

***THE HEARING BOARD ORDERED:***

- 1. That the Air Pollution Control Officer's and Respondent's Request for this Stipulated Conditional Order for Abatement shall be and hereby is GRANTED as follows: Respondent Valero and its agents, employees, successors and assigns are hereby ordered to cease operation of the Benicia Refinery's process vent ST-302, unless: As soon as feasible but no later than by the end of Valero's soonest refinery-wide Turnaround, or such later date as the Hearing Board may approve upon a showing of good cause, Valero shall design, receive a*

*District authority to construct, construct, receive a District permit to operate, and operate a capital project ("the Vent Project") to control or abate atmospheric emissions from the Hydrogen System at the Valero Benicia Refinery through the Refinery's process vent ST-302 to a level not exceeding standards set forth in District Regulation 8-2 and in satisfaction of all the requirements set forth in detail in this Stipulated Order of Abatement and its Appendices 1 and 2.*

2. *That the Stipulated Order for Abatement shall become effective immediately.*
3. *That the Hearing Board shall retain jurisdiction over this matter until Respondent comes into compliance with the requirements of Regulation 8, Rule 2, Section 30 l in accordance with the requirements set forth in Paragraph I of this Stipulated Order for Abatement, during which period the parties may apply to alter or terminate this Order in accordance with the Rules of the Hearing Board.*
4. *For such other and further relief that this Board deems just and proper.*

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**Location:** Contra Costa County; City of Richmond

**Docket:** 3732 – APCO vs. Chemtrade West US, LLC – Accusation and Stipulated Conditional Order for Abatement

**Regulation(s):** Regulation 1, Rule 522 (General Provisions, Continuous Emission Monitoring and Recordkeeping Procedures)

**Synopsis:** Respondent operates the Chemtrade sulfuric acid manufacturing plant, a source of sulfur dioxide (“SO<sub>2</sub>”) emissions which are monitored, in part, by a Continuous Emissions Monitoring System (“CEMS”) on its Sulfuric Acid Manufacturing Plant (“S-1”). Air District staff determined the S-1 CEMS is improperly configured and cannot comply with applicable monitoring requirements without replacement and reconfiguration. The Stipulated Order requests the Hearing Board enter a Conditional Order for Abatement against Respondent requiring Respondent to refrain from operating its Plant after the deadlines unless Respondent has completed all Compliance Actions by their deadlines. All Compliance Actions refer specifically to the CEMS unit installed at S-1.

**Status:** Accusation filed by Complainant on February 24, 2022; Notice of Defense filed by Respondent on March 10, 2022; Notice of Hearing (for April 5, 2022) filed/issued on March 15, 2022; Notice of Continued Hearing (for April 12, 2022) filed/issued on March 17, 2022.

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Respectfully submitted,

*/s/ Valerie J. Armento*

Valerie J. Armento, Esq.  
Chair, Hearing Board

Prepared by: Marcy Hiratzka  
Reviewed by: Vanessa Johnson