BAY AREA AIR DISTRICT
Memorandum

To: Chairperson Lynda Hopkins and Members of the Finance and Administration Committee

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

Date: November 19, 2025

Re: Hearing Board Quarterly Report: July – September 2025

RECOMMENDED ACTION

No action requested.

DISCUSSION

This report covers the third calendar quarter (July – September) of 2025.

- Held three hearings;
- Processed two orders: and
- Collected a total of $2,657.00 in Hearing Board filing fees

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

Docket: 3760 – Air Pollution Control Officer (APCO) vs. Olam West Coast, Inc. – Accusation of Violation of Permit Conditions #26683 & #26684 and Request for Conditional Order for Abatement

Location: Santa Clara County; City of Gilroy

Regulation(s): Permit Conditions #26683 & #26684

Synopsis: Respondent operates an agricultural processing facility (hereinafter "Facility") and operates six food dryers (S-3, S-4, S-7, S-8, S-9, and S-10) at the Facility on a seasonal basis from approximately April until November each year. The food dryers emit air pollutants, including nitrogen oxides (NOx) and carbon monoxide (CO), that the Air District regulates to protect air quality and public health.

From the APCO:

The Air District authorized Respondent to install and start operating the food dryers in 2018 and imposed permit conditions limiting emissions from the food dryers to 22.8 tons per year of NOx and 53.5 tons per year of CO through rate-based concentration limitations and a facility-wide NOx emission limitation. After Respondent began operating the food

dryers, emissions testing, indicated that the estimates on which these permit conditions were based were significantly inaccurate. The testing indicated that the food dryers could not meet the specified permit limits, and that they actually have the potential to emit up to 56.7 tons per year of NOx and 182.6 tons per year of CO. Respondent initially disputed the appropriate test methodology, which has significantly delayed resolution of this issue. As such, Respondent has operated and is continuing to operate its food dryers in violation of its NOx and CO permit conditions. Respondent has now agreed to use the correct source test methodology and has committed to seeking and obtaining revised permit conditions that will ensure that it operates in compliance with all applicable air quality regulations. The APCO believes that increased NOx and CO limits may be allowable, although it will need to evaluate Respondent's request for an increase in detail before approving any revised emissions limits.

The APCO seeks an Order to ensure that the Respondent will follow through on its commitment to obtain a revised permit as expeditiously as possible to bring the food dryers into compliance.

Fees collected this Quarter: N/A

Status: Accusation filed by Complainant on April 30, 2025; pre-hearing conference held on May 28, 2025; Notice of Hearing (July 15, 2025) filed and issued June 2, 2025; held hearing on July 15, 2025; Stipulated Conditional Order for Abatement filed and issued on July 21, 2025.

THE HEARING BOARD ORDERED:

1. *Respondent and its agents, employees, successors and assigns shall cease operating the food dryers in violation of the emission limits for NOx and CO contained in the current Authority to Construct unless Respondent complies with all of the following tem1s and conditions until Respondent obtains a Permit to Operate with revised conditions or one (1) year after the Effective Date, whichever is sooner:*
    a. *The owner/operator of S-3, S-4, S-7, S-8, S-9, and S-10 shall operate these sources on Public Utilities Commission-regulated natural gas fuel exclusively.*
    b. *The owner/operator shall not use more than 7,610,000 therms of natural gas at S-3, S-4, S-7, S-8. S-9, and S-10 combined in any consecutive twelve-month period.*
    c. *The owner/operator shall not operate S-3, S-4, S-7, S-8, S-9, and S-10 unless the emissions from these sources do not exceed the following emission rates:*
        i. *NOx = 0.149 lbs/MMBtu (one million British thermal units)*
        ii. *CO = 0.480 lbs/MMBtu*
    d. *The owner/operator shall comply with all applicable testing, sampling port location and safe access requirements as specified in Volume IV of the Air District's Manual of Procedures. The owner/operator shall notify the Air District's Source Test Section. In writing, of the source test protocols, sampling port locations, layout, access and projected test dates at least thirty (30) days prior to testing. The owner/operator shall use the following test methods for each pollutant:*

i. NOx: Environmental Protection Agency (EPA) Method 7E or equivalent approved by the APCO for the Bay Area Air District in writing;

ii. CO: EPA Method 10 or equivalent approved by the APCO for the Bay Area Air District in writing; and

iii. Stack Gas Flow: EPA Method 2F or equivalent or alternative method approved by the APCO for the Bay Area Air District in writing.

e. Within one hundred and twenty (120) days of starting operation in 2025, the owner/operator shall conduct an Air District approved source test of S-3, S-4, S-7, S-8, S-9, and S-10 consistent with Part 4 above to verify that it complies with the emission rates in Part 3 of this condition. All source test methods used shall be subject to the prior approval of the Source Test Section of the Air District Technical Division. The owner/operator shall notify the Manager of the Air District's Source Test Section at least seven (7) days prior to the tests, to provide the Air District staff the option of observing the testing. Within sixty (60) days of test completion, a comprehensive report of the test results shall be submitted to the manager of the Air District's Source Test Section for review and disposition.

f. To determine compliance with the above parts, the owner/operator shall maintain the following records:

i. Monthly natural gas usages;

ii. Records to demonstrate that the sources fire Public Utilities Commission-regulated natural gas exclusively; and

iii. Source test reports

g. These records shall be kept for at least two (2) years and shall be made available to the Air District upon request.

2. *That by no later than one (I) year after the Effective Date, Respondent and its agents, employees, successors and assigns shall cease and desist from operating its food dryers in violation of its permit conditions 26683 and 26684, and of Regulation 2-1-307, or obtain a Permit to Operate with revised permit conditions.*
3. *That by no later than one (I) year from the Effective Date, Respondent and its agents, employees, successors and assigns shall submit to the Hearing Board either (a) a copy of a current and valid Air District Permit to Operate the Facility under revised permit conditions that will ensure compliance with all applicable air quality regulations, or (b) written affirmation executed by Respondent that it has ceased operating six food dryers in violation of the current Authority to Construct pursuant to Air District Regulation 2, Rule 1. Respondents shall serve a copy of the submission required by this Paragraph 3 on the APCO.*
4. *That this Hearing Board shall retain jurisdiction over the order for abatement for two (2) years from July 15, 2025, i.e., the date of the public hearing in this matter, during which period the parties may apply to modify or terminate this Order in accordance with the Rules of the Hearing Board.*

Docket: 3762 – Argent Materials, Inc. – Petition for Appeal of Denial of Permit Application No. 30122 (issued April 9, 2025)

Location: Alameda County; City of Oakland

Synopsis: Argent Materials, Inc. appealed the denial of for a concrete and asphalt recycling facility located at 8501 San Leandro Street, Oakland, California 94621 ("8501 Site").

The District asserted two grounds as its basis for denial:

(1) Argent improperly divided a "project" into two permit applications in violation of Regulation 1-104; and
(2) The Health Risk Assessment for Permit Application No. 30122 exceeded the 1.0 chronic Hazard Index value, prohibiting approval of the application under Regulations 2-5-302 and 5-2-216.

Argent disputed both of the Air District's two grounds for denial.

Fees collected this Quarter: $0.

Status: Petition for Appeal for Denial of Permit Application No. 30122 filed by Petitioner on May 8, 2025; Notice of Hearing (June 24, 2025) filed and issued on May 20, 2025; on June 11, 2025, Petitioner requested to continue the Hearing until July 15, 2025 (Hearing Board Chair agreed); Notice of Continued Hearing (July 15, 2025) filed and issued on June 12, 2025; on June 11, 2025, Respondent requested to continue the Hearing until August 5, 2025 (Hearing Board Chair agreed); Notice of Continued Hearing (August 5, 2025) filed and issued on July 15, 2025; Respondent's Answer to Appellant's Petition for Appeal filed on July 29, 2025; Reply Brief of Appellant in Response to Respondent's Answer to Petition for Appeal filed on August 1, 2025; hearing held on August 5, 2025; Respondent's Response to Appellant's Reply Brief filed on August 5, 2025; Settlement Agreement filed on August 5, 2025; Order for Dismissal filed on August 6, 2025.

THE HEARING BOARD ORDERED:

Prior to commencement of the hearing, the Parties submitted a joint request to withdraw the appeal. The Hearing Board met, and the Parties discussed on the record the parameters of a settlement they reached. The Hearing Board accepted the withdrawal. FOR GOOD CAUSE, in accordance with Section 15.8 of the Hearing Board Rules, the HEARING BOARD ORDERS that the Application be and is hereby dismissed and all future hearings for Docket No. 3762 are canceled.

Docket: 3763 – City of Santa Clara doing business as "Silicon Valley Power" – Request for Emergency Variance

Location: Santa Clara County; City of Santa Clara

Regulation(s): Air District Permit Conditions #13-16, #18, #20-33, #45, #52 (per the Application.)

Synopsis: The City of Santa Clara owns and operates a municipal utility, which includes a Bulk-Electric System-connected generation resource. On August 20, 2025, it experienced a catastrophic failure of one of its combustion turbine turbines, S1. This was the first instance where both permitted combustion turbines, S1 and S3 (Combustion Gas Turbine #1 and Combustion Gas Turbine #2) were in disrepair contemporaneously. While the Temporary Combustion Gas Turbine S6 was operating in place of S3 (which has been at a repair facility in Canada since November 2024), an additional permitted backup turbine was not available. After holding various discussions and meetings with consultants and Air District during the week of September 15, it was decided to pursue an Emergency Variance in relation to the failure of S1.

Operating with just one turbine/generator would put the utility in a precarious situation if S3 were to fail while S 1 is out of service; it would be unable to mitigate system overloads and might be required to shed load. In such a scenario, several data centers would resort to backup diesel generation, resulting in a greater negative impact on air emissions.

Requested Period of Variance: September 23, 2025 to October 23, 2025

Estimated Excess Emissions: (Provided by Petitioner): None.

Fees collected this quarter: $2,657.00 (Hearing Board filing fee)

Status: Application for Emergency Variance filed by Petitioner on September 23, 2025; application sent to Air District Compliance & Enforcement staff for review on September 23, 2025; on September 25, 2025, Senior Counsel for Silicon Valley Power sent the Clerk an email stating:

Following this submission, I received an email from Greg Dhawan-Muren (Counsel for the APCO) indicating that BAAQMD does not have jurisdiction over the subject matter of SVP's emergency variance, as it falls under the jurisdiction of the California Energy Commission (CEC). SVP has since submitted an inquiry to the CEC to confirm this determination. I asked Mr. Dhawan-Muren whether the emergency variance application could be stayed pending direction from the CEC. He advised me to submit this request to you and indicated that he would not oppose a stay. Accordingly, SVP respectfully requests that the Hearing Board stay consideration of the emergency variance application until we receive direction from the CEC.

On September 25, 2025, Counsel for the APCO sent the Clerk an email stating:

I can confirm we don't oppose a pause on this application. We can still submit a response to the application today if the Hearing Board would like one, but we would prefer that the response also be on hold pending SVP's correspondence with the CEC because we believe it is very likely that SVP will choose to voluntarily withdraw its application after talking with the CEC.

Respectfully submitted,

/S/ Valerie J. Armento
Valerie J. Armento, Esq.
Chair, Hearing Board

Prepared by: Marcy Hiratzka
Reviewed by: Vanessa Johnson