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**BEFORE THE HEARING BOARD OF THE
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

In the Matter of

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

Petitioner,

vs.

LOS ANGELES CITY SANITATION
BUREAU, HYPERION WATER
RECLAMATION PLANT

[Facility ID No. 800214]

Respondent.

Case No. 1212-39

**[PROPOSED] FINDINGS AND
DECISION**

South Coast AQMD Rule 3002(c)(1)

Hearing Date: June 1, 2023
Time: 9:00 a.m.
Place: Hearing Board
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

FINDINGS AND DECISION OF THE HEARING BOARD

The Petition to Amend the Stipulated Order for Abatement (“Petition”) was heard on June 1, 2023, pursuant to notice in accordance with the provisions of the California Health and Safety Code section 40823 and South Coast AQMD Rule 812. The following members of the Hearing Board were present: Cynthia Verdugo-Peralta, Chair; Robert Pearman, Esq, Vice Chair; Mohan Balagopalan; and Micah Ali. Petitioner, Executive Officer of the South Coast Air Quality

1 Management District (“South Coast AQMD” or “Petitioner”), was represented by Mary Reichert,
2 Senior Deputy District Counsel, and Erika Chavez, Senior Deputy District Counsel. Respondent
3 Los Angeles City Sanitation Bureau (“Respondent” or “LA Sanitation”) was represented by Susan
4 Smith, attorney at law, Megan Morgan, attorney at law, and Majidah Cochran, attorney at law. The
5 parties have stipulated to issuance of this order. The public was given the opportunity to testify.
6 Evidence was received and the matter was submitted. The Hearing Board finds and decides as
7 follows:

8 The Hearing Board finds that GOOD CAUSE exists to issue the Stipulated Order for
9 Abatement. This finding of good cause is based on the following:

10 1. Since adoption of the Stipulated Order for Abatement on March 24, 2022, LA
11 Sanitation has performed the conditions of the March 24 Stipulated Order. LA Sanitation has
12 source tested each of the six flares in the Flare Station.

13 2. South Coast AQMD alleges in its March 3, 2023, Petition that final compliance has
14 not been achieved as defined in Condition No. 9 of the March 24, 2022, Stipulated Order, and is
15 seeking modification of that order to include additional conditions.

16 3. On November 9, 2022, LA Sanitation received initial approval to initiate Flare
17 Station replacement, which would address the compliance concerns with the flares. LA Sanitation
18 has prepared a plan and schedule for the implementation of that replacement (the “Implementation
19 Plan”).

20 4. The complete replacement of the Flare Station is a complex, multi-year project that
21 will require custom design of components and layouts from multiple manufacturers. The
22 Implementation Plan is similarly complex. LA Sanitation held multiple meetings with South Coast
23 AQMD staff to discuss the draft Implementation Plan. South Coast AQMD staff provided
24 comments on the draft Implementation Plan that LA Sanitation reviewed and incorporated. LA
25 Sanitation submitted its revised Implementation Plan on April 21, 2023.

26 5. The parties incorporated the revised Implementation Plan into proposed
27 modifications to the Stipulated Order for Abatement.

6. Respondent has agreed to stipulate to issuance of this Modified Order for Abatement pursuant to California Health & Safety Code section 42451(b). Respondent states that it can comply with the conditions set forth below. The reporting requirements and time limits set forth in the conditions below have been justified.

CONCLUSIONS

1. The parties have stipulated to issuance of this Order for Abatement pursuant to California Health & Safety Code § 42451(b).

2. The issuance of this stipulated Order for Abatement following a fully noticed hearing will not constitute a taking of property without due process of law. If the issuance of this stipulated Order for Abatement results in the closing or elimination of an otherwise lawful business, such closing would not be without a corresponding benefit in reducing air contaminants.

3. This stipulated Order for Abatement is not intended to be, nor does it act as a variance, and Respondent remains subject to all rules and regulations of the District, and with all applicable provisions of California law.

ORDER

THEREFORE, based on the foregoing and good cause appearing, the Hearing Board hereby orders Respondent to immediately cease and desist from violating Rule 3002(c)(1), or in the alternative, comply with the following conditions:

Previously Ordered Conditions

1. Prior to April 16, 2022, Respondent shall complete the source test for Flare 2 and the re-test of Flare 3, pursuant to the permit conditions of Permit R-D39256, A/N 227143. Respondent shall request and pay for expedited processing of the source testing results from all source tests performed since March 1, 2022, if available, and shall submit the final test results for each flare's source test as soon as it becomes available, but no later than 30 days after the respective source test's completion to South Coast AQMD by email (attention Michal Haynes, mhaynes@aqmd.gov; Ray Ronquillo, reronquillo1@aqmd.gov; Erika Chavez, echavez@aqmd.gov; Mary Reichert, mreichert@aqmd.gov). Other than for total hydrocarbon (THC), LA Sanitation shall conduct the

1 source tests in accordance with a previously approved protocol, approved by South Coast AQMD in
2 or about November 2021, including but not limited to the recalibration of the fuel flow meters. For
3 THC testing, Respondent shall proceed pursuant to industry standard and shall utilize South Coast
4 AQMD methods 25.1 and 25.3 for a minimum sample time of 15 minutes simultaneously at the inlet
5 and the outlet, respectively. The source test shall also determine the destruction removal efficiency
6 (DRE) of for THC, and the mass and concentration (in ppmvd @ 3% O₂) emissions for carbon
7 monoxide (CO) and nitrogen oxide (NO_x) (and compute the lbs NO_x/MMBTU).

8 2. Respondent shall complete the repairs and maintenance recommended by the John
9 Zink Report(s) for Flare 6 by no later than April 16, 2022.

10 3. Respondent shall submit a weekly progress report on the status of all testing, repairs,
11 and maintenance work, to any flare in the Flare Station, to South Coast AQMD by email (attention:
12 Michal Haynes, mhaynes@aqmd.gov; Ray Ronquillo, rronquillo1@aqmd.gov; Erika Chavez,
13 echavez@aqmd.gov; Mary Reichert, mreichert@aqmd.gov) and to the Hearing Board (attention:
14 Clerk of the Board), every Monday of each week, by 11:59 pm. At a minimum, the report shall
15 provide the status of the procurement and execution of any contract(s), as well as a detailed
16 description of any work completed, challenges encountered, unexpected additional repair work
17 performed, delays in parts/components delivery (if any), and estimated completion of each phase of
18 the work.

19 4. In the event that any flare is found to be non-compliant based on South Coast
20 AQMD's evaluation of the source testing performed since March 1, 2022, Respondent shall:

- 21 a. Within 30 days of South Coast AQMD's communication that any flare is
22 noncompliant based upon source tests performed since March 1, 2022, contract
23 or subcontract an appropriate vendor, contractor, or consultant to provide a
24 technical evaluation and comprehensive report of the Flare Station
25 ("Comprehensive Evaluation and Report"). The Comprehensive Evaluation and
26 Report shall encompass all Flares Nos. 1-6, and shall include: (a) an assessment
27 of the conditions of the flares and their components as of the date of the
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1 evaluation(s); (b) an evaluation of the cleaning and repairs performed on the flares
2 pursuant to the John Zink Reports and whether such cleaning and repairs had any
3 impacts on flare performance; and (c) identification of further recommendations
4 for additional repair, maintenance work, and/or replacement of the flares, if any,
5 as well as estimated timelines for completion thereof. Respondent shall include
6 in its weekly progress report (Condition 3, *infra*) the status of the Comprehensive
7 Evaluation and Report and/or related vendor, contractor, or consultant retention.

8 b. No later than 60 days after South Coast AQMD's communication to Respondent
9 regarding the first non-compliant flare, Respondent shall provide a copy of the
10 Comprehensive Evaluation and Report to South Coast AQMD by email
11 (attention: Michal Haynes, mhaynes@aqmd.gov; Ray Ronquillo,
12 rronquillo1@aqmd.gov; Erika Chavez, echavez@aqmd.gov; Mary Reichert,
13 mreichert@aqmd.gov).

14 c. No later than 90 days after the completion of the Comprehensive Evaluation and
15 Report, Respondent shall submit a proposed plan implementing the
16 recommendations of the Comprehensive Evaluation and Report
17 ("Implementation Plan") to South Coast AQMD by email (attention: Michal
18 Haynes, mhaynes@aqmd.gov; Ray Ronquillo, rronquillo1@aqmd.gov; Erika
19 Chavez, echavez@aqmd.gov; Mary Reichert, mreichert@aqmd.gov). The
20 Implementation Plan shall include the steps required to bring all of Respondent's
21 flares into compliance, including but not limited to timelines for submitting
22 applications for all required approvals from the South Coast AQMD and any other
23 regulatory entity, timelines for completing all necessary steps for Respondent to
24 execute contracts and purchase orders to complete the required work, and a
25 manufacturing and installation schedule, as applicable.

26 d. On the same date that the Respondent submits its Implementation Plan to South
27 Coast AQMD, Respondent shall submit the Comprehensive Evaluation and
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Report, Implementation Plan, and a status report to the Hearing Board (attention: Clerk of the Board).

5. Respondent shall take the following actions ahead of the Digester Gas Utilization Project (DGUP) shutdown scheduled for April 16, 2022: (a) investigate the availability of a thermal oxidizer or other appropriate digester gas control system to use in replacement of non-compliant flare(s) and procure if there is availability; and (b) investigate obtaining a various locations permit with expedited processing for a thermal oxidizer or other appropriate digester gas control system. If there is no availability to utilize a thermal oxidizer, or other appropriate digester gas control system in replacement of non-compliant flare(s), Respondent shall prioritize operation of its compliant flares.

6. Notwithstanding the deadlines for the deliverables stipulated in Conditions 1, 2, 4 and 5, Respondent shall expedite and pay for expediting costs for the delivery of all goods, supplies, parts, components, technical consultation services and source testing services required for the execution of the requirements in this Order for Abatement.

7. Respondent shall pay its annual fees such as annual permit renewal fees, including any late fees, for the facility (ID# 800214), expeditiously, but by no later than April 16, 2022.

New Conditions (as of June 1, 2023)

8. Respondent shall replace the existing flare station (Permit No. R-D39256) and install new flare(s) in compliance with all applicable South Coast AQMD Rules and Regulations including Rule 1118.1 according to the following schedule:

- a. Issue consultant and/or contractor notice to proceed (NTP) for the new flare(s) and any associated gas clean up system within 12 months after issuance of this Order for Abatement;
- b. Complete the preliminary design of the new flare(s) and any associated gas clean up system within 18 months after issuance of the NTP (item 8.a above);
- c. Submit a complete permit application for the new construction of each flare and any associated gas clean up system with an expedited permit processing request

1 within 20 months of completing the preliminary design of the new flares (item
2 8.b above);

3 d. Complete initial startup and operation of the new flare(s) and any associated gas
4 clean up system within 60 months following the issuance of the Permit(s) to
5 Construct; and

6 e. Complete the initial source test(s) of the new flare(s) and any associated gas
7 clean up system pursuant to the permit conditions imposed on the Permit(s) to
8 Construct.

9 9. Notwithstanding the deadlines for the deliverables stipulated in Condition No. 8,
10 Respondent shall, to the extent available, expedite and pay for expediting costs for all tasks set
11 forth in Condition No. 8, including but not limited to the bid solicitation, evaluation, procurement,
12 delivery of all goods, supplies, parts, and components, and source testing services required for the
13 execution of the requirements in this Order for Abatement.

14 10. Within 30 days of receiving written notice from South Coast AQMD indicating the
15 initial source test(s) of the new flare(s) have passed, Respondent shall cease all operation of the
16 existing flare station (Permit No. R-D39256), permanently block all flow between the old flares
17 and the digester gas system using a blind flange, and file a Form 200-C to inactivate the old flares
18 permit.

19 11. Respondent shall develop and implement a comprehensive monthly maintenance
20 schedule and procedure for investigating and reporting the condition of the new flare(s) and any
21 associated gas clean up system and shall make repairs as needed. By no later than 90 days from the
22 completion of the initial startup and operation of the new flare(s) and any associated gas clean up
23 system, Respondent shall submit the monthly maintenance schedule and procedure to South Coast
24 AQMD by email (attention: Michal Haynes, mhaynes@aqmd.gov; Garrett Kakishita,
25 gkakishita@aqmd.gov; Nathaniel Dickel, ndickel@aqmd.gov; Angela Shibata,
26 ashibata@aqmd.gov; Erika Chavez, echavez@aqmd.gov; Mary Reichert, mreichert@aqmd.gov,
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1 and the Clerk of the Board, clerkofboard@aqmd.gov).

2 12. Until the replacement flare(s) have been installed and begun normal operation, the
3 Respondent shall comply with the following requirements for the existing flares:

- 4 a. Existing flares shall be properly operated and maintained to prevent release of
5 raw digester gas into the atmosphere.
- 6 b. Respondent shall demonstrate compliance with emission limits of the existing
7 flares under Permit No. R-D39256 by conducting annual source tests until the
8 replacement flare(s) have been installed and begun normal operation. For the
9 purposes of this condition, normal operation is defined as all period of
10 operations, excluding malfunctions, periods of maintenance, and start-up and
11 shutdown phases. The source tests for each flare shall be conducted no later than
12 14 months from each flare's previous source test. The initial source tests
13 pursuant to this provision shall be conducted no later than 14 months from the
14 date this Order is issued. Testing shall be conducted according to a source test
15 protocol approved by South Coast AQMD under the following conditions:
 - 16 i. Testing shall be conducted by an approved contractor under the South
17 Coast AQMD Laboratory Approval Program (LAP) and in compliance
18 with South Coast AQMD Rule 304 (No Conflict of Interest).
 - 19 ii. The LAP contractor shall not conduct any pre-tests for compliance.
 - 20 iii. Sampling facilities shall comply with South Coast AQMD "Guidelines
21 for Construction of Sampling and Testing Facilities" pursuant to Rule
22 217.
 - 23 iv. At least one week prior to the scheduled source test, South Coast AQMD
24 shall be notified in writing (attention: Sourcetesting@aqmd.gov;
25 Nathaniel Dickel, ndickel@aqmd.gov; and Angela Shibata,
26 ashibata@aqmd.gov) of the scheduled source test date. If a scheduled
27 source test is delayed, Respondent shall notify the South Coast AQMD

1 in writing within 24 hours from the time that Respondent knew of the
2 delay. Respondent shall provide at least 7 days prior notice of the
3 rescheduled date of the source test or arrange a rescheduled date with the
4 South Coast AQMD by mutual agreement.

- 5 v. Source test report(s) shall be submitted to the South Coast AQMD
6 Waste Management Permitting Unit and sourcetesting@aqmd.gov
7 within 60 days after completion of the source test, unless otherwise
8 approved in writing by the South Coast AQMD. Source testing
9 conducted in 2023 may be conducted for the compounds described in the
10 source test protocol approved on November 17, 2021. All subsequent
11 testing and source test reports shall include, but not be limited to, unless
12 otherwise approved in writing by South Coast AQMD, a test of the inlet
13 to the flare and the flare exhaust for:

- 14 1. Methane
- 15 2. Total Non-Methane Organic Compounds (TNMOC)
- 16 3. Speciated organics
- 17 4. NO_x, as NO₂ (exhaust only)
- 18 5. CO (exhaust only)
- 19 6. Total Particulates (PM₁₀) (exhaust only)
- 20 7. Oxygen and Carbon Dioxide
- 21 8. Moisture Content
- 22 9. Temperature (exhaust only)
- 23 10. Flowrate of inlet digester gas and equipment exhaust gas
- 24 11. Total Sulfur Compounds as Hydrogen Sulfide and speciated

sulfur compounds (inlet only)

12. Btu Value (HHV) (inlet only)

13. Nitrogen (exhaust only)

14. Methane and TNMOC destruction efficiency

- c. In the event that any of the existing flares are found to be non-compliant based on the South Coast AQMD's evaluation of the source testing performed annually, Respondent shall conduct any repairs and/or maintenance to comply with the Permit No. R-D39256 requirements. This condition does not provide variance from any applicable rule requirements such as applying for and obtaining required permit approvals (such as for physical modifications or other changes that require permit approvals), as applicable. Respondent shall schedule and conduct a source re-test within 60 days of the completion of any repair work. A source test report shall be submitted according to condition no. 12.b above.
- d. Respondent shall prioritize the use of flares achieving compliant source test emission results and shall use flares with non-compliant source test emissions in a back-up, as needed, capacity.

13. Respondent shall submit a monthly progress report on the implementation of the conditions of this Order to South Coast AQMD by email (attention: Michal Haynes, mhaynes@aqmd.gov; Garrett Kakishita, gkakishita@aqmd.gov; Nathaniel Dickel, ndickel@aqmd.gov; Angela Shibata, ashibata@aqmd.gov; Erika Chavez, echavez@aqmd.gov; Mary Reichert, mreichert@aqmd.gov, and the Clerk of the Board, clerkofboard@aqmd.gov), by 11:59 p.m. on the 7th of each month. The first monthly progress report shall be due by July 7, 2023. Starting in July 2024, the progress report submittals shall change submittal frequency from monthly to semi-annual such that the last half of the calendar year (July through December) semi-annual progress report shall be submitted by 11:59 p.m. on the subsequent January 15, and semi-annual progress reports for the first half of the calendar year (January through June) shall be

submitted by 11:59 p.m. on the subsequent July 15.

During the semi-annual reporting frequency, Respondent shall submit a notice of completion within 15 days of completion of the item for each of the scheduled items in Condition no. 8 to South Coast AQMD by email (attention: Michal Haynes, mhaynes@aqmd.gov; Garrett Kakishita, gkakishita@aqmd.gov; Nathaniel Dickel, ndickel@aqmd.gov; Angela Shibata, ashibata@aqmd.gov; Erika Chavez, echavez@aqmd.gov; Mary Reichert, mreichert@aqmd.gov, and the Clerk of the Board, clerkofboard@aqmd.gov).

At minimum, the progress report shall provide the following information for the period at issue:

- a. Detailed description of the work completed and estimated completion of each phase of the remaining work as required to carry out the conditions of this Order.
- b. Description of progress of installation of the new flare(s) and any associated gas clean up system, including but not limited to the delivery of materials needed for installation, testing for functionality of the new flare(s) and any associated gas clean up system, description of any delays to the installation and operation schedule and operation status of the new flare(s) and any associated gas clean up system.
- c. Monthly record(s) of the quantity of gas combusted by each existing flare (in scf).
- d. Monthly record(s) of temperature measured at each existing flare stack.
- e. Monthly record(s) of the heat input to each existing flare (in million BTU per hour).
- f. Monthly BTU content readings of the gas at the inlet to each existing flare (in BTU/scf).

14. The Hearing Board shall retain jurisdiction over this matter until and including 30 days after Respondent has achieved final compliance. Final Compliance is defined as South Coast

1 AQMD's confirmation that the new flare(s) have been installed, are operational, and comply with
2 all applicable South Coast AQMD Rules, pursuant to source test results for the new flares submitted
3 by LA Sanitation to South Coast AQMD.

4 15. The Hearing Board may modify the Order for Abatement upon making the findings
5 required by Health and Safety Code Section 42451(a) and South Coast AQMD Rule 806(a). Any
6 modification of the Order shall be made only at a public hearing held upon 10 days published notice
7 and appropriate written notice to Respondent.


8 16. Nothing herein shall be deemed or construed to limit the authority of South Coast
9 AQMD to issue Notices of Violation, or to seek civil penalties, criminal penalties, or injunctive
10 relief, or to seek further orders for abatement, or other administrative or legal relief.

11 17. Nothing herein shall be deemed or construed as an admission by Respondent.

12 18. Respondent shall notify the Clerk of the Hearing Board in writing when final
13 compliance is achieved, as defined in Condition 14.

14 **SO STIPULATED:**

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16 6/1/23



Mary Reichert, Esq.
Sr. Deputy District Counsel
Erika Chavez, Esq.
Sr. Deputy District Counsel
Attorneys for Petitioner South Coast AQMD

21 **SO STIPULATED:**

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23 6/1/23

/s/ Susan Smith

24 Susan Smith, Esq.
25 Megan Morgan, Esq.
26 Majidah Cochran, Esq.
27 Beveridge & Diamond P.C.
28 *Attorneys for Respondent*

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FOR THE BOARD: _____
Robert Pearman, Esq.

DATED: _____