

1 OFFICE OF THE GENERAL COUNSEL
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
2 MARY REICHERT, SBN 264280
Senior Deputy District Counsel
3 Email: mreichert@aqmd.gov
ERIKA CHAVEZ, SB 265247
4 Senior Deputy District Counsel
Email: echavez@aqmd.gov
5 21865 Copley Drive
Diamond Bar, California 91765-0940
6 TEL: 909.396.3400 • FAX: 909.396.2961

7 Attorneys for Petitioner
South Coast Air Quality Management District
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10 **BEFORE THE HEARING BOARD OF THE**
11 **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

12 **In the Matter of**

13 SOUTH COAST AIR QUALITY
14 MANAGEMENT DISTRICT,

15 Petitioner,

16 vs.

17 LOS ANGELES CITY SANITATION
18 BUREAU, HYPERION WATER
RECLAMATION PLANT

19 [Facility ID No. 800214]

20 Respondent.
21

Case No. 1212-39

**FINDINGS AND DECISION
[PROPOSED]**

South Coast AQMD Rule 3002(c)(1)

Hearing Date: March 9, 2022
Time: 9:00 a.m.
Place: Hearing Board
South Coast Air Quality
Management District
21865 Copley Drive
Diamond Bar, CA 91765

22 **FINDINGS AND DECISION OF THE HEARING BOARD**

23 This Petition for An Order for Abatement was heard on March 9, 2022, pursuant to notice
24 and accordance with the provisions of the California Health and Safety Code section 40823 and
25 South Coast AQMD Rule 812. The following members of the Hearing Board were present:
26 Cynthia Verdugo-Peralta, Chair; Mohan Balogopalan, Vice-Chair; Allen Bernstein, DPM; Micah
27 Ali; and Robert Pearman. Petitioner, Executive Officer of the South Coast Air Quality
28 Management District ("South Coast AQMD" or "Petitioner"), was represented by Mary Reichert,

1 Senior Deputy District Counsel, and Erika Chavez, Senior Deputy District Counsel. Respondent
2 Los Angeles City Sanitation Bureau (“Respondent or LA Sanitation”) was represented by Adena
3 Hopenstand, Deputy City Attorney, City of Los Angeles. The parties have stipulated to issuance of
4 this order. The public was given the opportunity to testify. Evidence was received and the matter
5 was submitted. The Hearing Board finds and decides as follows: The Hearing Board finds that
6 GOOD CAUSE exists to issue the Stipulated Order for Abatement. This finding of good cause is
7 based on the following:

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. South Coast AQMD has established a prima facie case that LA Sanitation is
11 violating South Coast AQMD Rule 3002(c)(1). South Coast AQMD’s prima facie case is based on
12 the following allegations and evidence set forth in Paragraphs 2 through 9, below.

13 2. Petitioner is a body corporate and politic established and existing pursuant to Health
14 and Safety Code §40000, et seq. and §40400, et seq., and is the sole and exclusive local agency
15 with the responsibility for comprehensive air pollution control in the South Coast Air Basin.

16 3. Respondent LA Sanitation operates the Hyperion Water Reclamation Plant
17 (“Hyperion”), a facility subject to the jurisdiction of the South Coast AQMD. Hyperion is located
18 in southwest Los Angeles at 12000 Vista Del Mar, Playa Del Rey, CA 90293. Its Facility ID
19 Number is 800214.

20 4. Hyperion is a wastewater treatment facility. As part of its operations, the facility
21 operates a digester flare station consisting of six flares.

22 5. South Coast AQMD has issued Permit to Operate No. D39256, A/N 227143 for the
23 flare station. Permit Condition No. 15 of that permit requires that the operator determine
24 compliance with the NOx emission rates by conducting a source test at least once every five years.
25 Permit Condition No. 16 of that permit states that the equipment is subject to emission limits for
26 NOx of 0.06 lb/MMBTU, pursuant to BACT, South Coast AQMD Rule 1303(a)(1).

27 6. South Coast AQMD Rule 3002(c)(1) requires Title V facilities to comply with the
28 conditions of their permits.

1 7. LA Sanitation source tested Flares 1 through 4 during September 20-23, 2021.
2 Flare 6 was source tested on December 28, 2021. South Coast AQMD's evaluation of the source
3 tests revealed that LA Sanitation did not successfully demonstrate compliance for Flares 3 and 4
4 for the BACT limit for NOx.

5 8. LA Sanitation has not source tested Flare 5 since 2015.

6 9. South Coast AQMD alleges that LA Sanitation is currently in violation of Permit
7 Conditions Nos. 15 and 16 and South Coast AQMD Rule 3002(c)(1) because the source tests
8 conducted in September 2021 did not successfully demonstrate compliance for Flares 3 and 4 for
9 the BACT limit for NOx set forth in Permit to Operate No. D39256. Additionally, Flare 5 has not
10 been source tested to demonstrate compliance with its NOx limits set forth in Permit to Operate
11 No. D39256. On October 8, 2021, the South Coast AQMD issued Notice of Violation P63324.

12 10. In February 2022, Respondent engaged vendor John Zink Hamworthy Combustion,
13 a combustion specialist, to evaluate its Flare Station and provide an assessment.

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

18 **CONCLUSIONS**

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

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

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

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ORDER

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

5 1. LA Sanitation shall conduct a source test, pursuant to the permit conditions of
6 Permit R-D39256, A/N 227143, of Flare No. 5 no later than 10 calendar days from the hearing
7 date of this Order for Abatement. LA Sanitation shall conduct the source test in accordance with
8 a South Coast AQMD approved protocol, including but not limited to the recalibration of the fuel
9 flow meter. For hydrocarbon (THC) testing, Respondent shall utilize AQMD methods 25.1 and
10 25.3 for a minimum sample time of 15 minutes simultaneously at the inlet and the outlet,
11 respectively. The source test shall also determine the destruction removal efficiency (DRE) of
12 Flare No. 5 for total hydrocarbons (THC), and the mass and concentration (in ppmvd @ 3% O₂)
13 emissions for carbon monoxide (CO) and nitrogen oxide (NO_x).

14 2. Prior to April 17, 2022, LA Sanitation shall conduct source tests (re-tests),
15 pursuant to the permit conditions of Permit R-D39256, A/N 227143, on Flares Nos. 1-4, and 6.
16 LA Sanitation shall conduct the source tests in accordance with a previously approved protocol,
17 including but not limited to the recalibration of the fuel flow meters. For hydrocarbon (THC)
18 testing, Respondent shall utilize AQMD methods 25.1 and 25.3 for a minimum sample time of 15
19 minutes simultaneously at the inlet and the outlet, respectively. The source test shall also
20 determine the destruction removal efficiency (DRE) of all Flares Nos. 1-4, and 6 for total
21 hydrocarbons (THC), and the mass and concentration (in ppmvd @ 3% O₂) emissions for carbon
22 monoxide (CO) and nitrogen oxide (NO_x).

23 3. LA Sanitation shall submit copies of repairs, maintenance records and the
24 maintenance manuals on all Flares Nos. 1 – 6, for the past five (5) years, to South Coast AQMD
25 by email (attention: Michal Haynes, mhaynes@aqmd.gov; Ray Ronquillo,
26 rronquillo1@aqmd.gov; Erika Chavez, echavez@aqmd.gov; Mary Reichert,
27 mreichert@aqmd.gov), no later than March 18, 2022.

28 4. LA Sanitation shall ensure John Zink Company performs an evaluation of Flare

1 No. 6 no later than March 14, 2022.

2 5. LA Sanitation shall complete the recommended repairs and maintenance of the
3 flares, pursuant to the John Zink reports, no later than 20 calendar days after the commencement
4 of repairs and maintenance work, but prior to the April 17, 2022 scheduled shutdown of the
5 Digester Gas Utilization Project (DGUP) system.

6 6. LA Sanitation shall submit a weekly progress report on the status of the status of
7 the repairs and maintenance work to South Coast AQMD by email (attention: Michal Haynes,
8 mhaynes@aqmd.gov; Ray Ronquillo, rronquillo1@aqmd.gov; Erika Chavez,
9 echavez@aqmd.gov; Mary Reichert, mreichert@aqmd.gov), every Monday of each week, by
10 12:00 midnight, until the completion of work. At a minimum, the report shall provide the status
11 of the procurement and execution of the contract(s) and a detailed description of the work
12 completed, challenges encountered, unexpected additional repair work performed, delays in
13 parts/components delivery (if any), and estimated completion of each phase of the work.

14 7. In the event that any flare is found to be non-compliant based on an AQMD
15 source testing evaluation related to source testing required in Conditions 1 and 2, LA Sanitation
16 shall engage an appropriate vendor, contractor or consultant to provide a technical evaluation and
17 comprehensive report of the flare station within 30 days. The technical evaluation and report
18 shall encompass all Flares Nos. 1- 6 and shall address the conditions of the flares and their
19 components as of the date of the evaluation(s), evaluate the cleaning and repairs performed on
20 the flares and any associated impacts on flare performance, and identify further recommendations
21 or estimated timelines, as appropriate, for additional repair and/or maintenance work on the
22 flares, if any. LA Sanitation shall include in its weekly progress report (condition 8, infra) the
23 status of the anticipated report and/or related retention. LA Sanitation shall provide a copy of the
24 report to South Coast AQMD by email (attention: Michal Haynes, mhaynes@aqmd.gov; Ray
25 Ronquillo, rronquillo1@aqmd.gov; Erika Chavez, echavez@aqmd.gov; Mary Reichert,
26 mreichert@aqmd.gov).

27 8. Notwithstanding the deadlines for the deliverables stipulated in Conditions 1, 2, 5
28 and 7, LA Sanitation shall expedite and pay for expediting costs for the delivery of all goods,

1 supplies, parts, components, technical consultation services and source testing services required
2 for the execution of the requirements in this Order for Abatement.

3 9. The Hearing Board shall retain jurisdiction over this matter for until 30 days after
4 Respondent has achieved final compliance, whichever comes first. Final Compliance is defined
5 as submittal of compliant sources test results to South Coast AQMD.

6 10. The Hearing Board may modify the Order for Abatement upon making the
7 findings required by Health and Safety Code Section 42451(a) and South Coast AQMD Rule
8 806(a). Any modification of the Order shall be made only at a public hearing held upon 10 days
9 published notice and appropriate written notice to Respondent.

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

13 12. Respondent shall notify the Clerk of the Hearing Board in writing when final
14 compliance is achieved.

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16 **FOR THE BOARD:** _____

17 **DATE SIGNED:** _____

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22 **SO STIPULATED:**

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24 DATE: March 9, 2022

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
OFFICE OF THE GENERAL COUNSEL

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By:  _____
Mary Reichert, Senior Deputy District Counsel
Erika Chavez, Senior Deputy District Counsel
Attorneys for Petitioner

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DATE: March 9, 2022

LA CITY SANITATION BUREAU, HYPERION WATER RECLAMATION PLANT

By: Adena Hopenstand
Adena Hopenstand
Deputy City Attorney
City of Los Angeles
Attorney for Respondent