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'17 JUL -7 P4:20

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

In the Matter of

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

Petitioner,

CARLTON FORGE WORKS, a California
corporation,

[Facility ID No. 22911]

Respondent.

CASE NO. 6086-1

**STIPULATED [PROPOSED]
ORDER FOR ABATEMENT;
[PROPOSED] FINDINGS AND
DECISION OF THE HEARING
BOARD**

Health and Safety Code § 41700 and
District Rules 402 and 2012(e)(2)(A)

Date: July 13, 2017

Time: 9:00 a.m.

Place: 21865 Copley Drive
Diamond Bar, CA 91765

FINDINGS AND DECISION OF THE HEARING BOARD

This petition for an Order for Abatement was heard on _____, pursuant to notice and in accordance with the provisions of California Health and Safety Code Section 40823 and District Rule 812. The following members of the Hearing Board were present: Julie Prussack, Chair; Patricia Byrd, Vice-Chair; Edward Camarena; Roger L. Lerner, M.D.; and the Hon. Nate Holden. Petitioner, Executive Officer of the South Coast Air Quality Management District, (hereinafter referred to as "District" or "Petitioner"), was represented by Daphne Hsu, Senior Deputy District Counsel. Respondent Carlton Forge Works, a California corporation, (hereinafter referred to as "Carlton Forge" or "Respondent"), was represented by Thomas R. Wood, Stoel Rives LLP. The

1 public was given the opportunity to testify. The matter was submitted and evidence received. The
2 parties stipulate to the following facts:

3 **STIPULATED FACTS**

4 1. Petitioner is a body corporate and politic established and existing pursuant to Health
5 and Safety Code §§ 40000, *et seq.* and §§ 40400, *et seq.*, and is the sole and exclusive local agency
6 with the responsibility for comprehensive air pollution control in the South Coast Basin.

7 2. Respondent is a business subject to the jurisdiction of the District. Respondent
8 manufactures parts from forgeable alloys and is located at 7743 East Adams Street, Paramount, CA
9 90723, identified with District Facility ID 22911.

10 3. Respondent's principal alloy groups are carbon and alloy steels, titanium, and
11 aluminum.

12 4. **District Rule 402 and California Health and Safety Code ("H&S Code")**
13 **Section 41700** prohibit the discharge from any source whatsoever such quantities of air
14 contaminants or other material which cause injury, detriment, nuisance, or annoyance to any
15 considerable number of persons or to the public, or which endanger the comfort, repose, health or
16 safety of any such persons or the public, or which cause, or have a natural tendency to cause, injury
17 or damage to business or property.

18 5. **District Rule 1430(m)** requires the owner or operator of a metal forging facility that
19 has been notified by the District of four confirmed odor complaints in any consecutive six month
20 period to implement an odor reducing measure.

21 6. **District Rule 2012(e)(2)(A)** requires Respondent to "install, maintain and operate a
22 totalizing fuel meter and/or timer or any device or any device approved by the Executive Officer or
23 designee to be equivalent in accuracy, reliability, reproducibility, and timeliness for the NO_x
24 process unit, to measure quarterly fuel gas usage or other applicable variables as specified" in the
25 Rule.

26 **Violation of District Rule 402 and California Health and Safety Code Section 41700**

27 7. Since December 8, 2016, the District has received more than 190 odor complaints
28 alleging Respondent as the source of the odors.

1 8. On June 6, 2017, the District issued Notice to Comply E38375 to Respondent,
2 requesting it to implement an odor contingency measure pursuant to Rule 1430(m) and notify the
3 District when complete.

4 9. Since December 9, 2016, the District issued seventeen Notices of Violation (NOVs)
5 to Respondent for violations of District Rule 402 and H&S Code Section 41700. Prior to issuing
6 notices of violation, the District conducted odor surveillance and believes that Respondent was the
7 source of the complained of odors. The District has traced odors to Respondent's grinding room
8 and to an area near Gates 7 and 8.

9 10. Respondent has taken measures to minimize potential to emit odors including
10 ceasing all outdoor grinding, sealing of the grind building, reconfiguring grind operations to
11 optimize capture by fabric filtration system and installation of HEPA filtration to provide
12 secondary filtration of the grind building exhaust.

13 11. The District believes that these measures were insufficient to abate the nuisance and
14 that the odor nuisance persists. On May 25, 2017, May 31, 2017, and June 8, 2017, the District
15 issued its fifteenth, sixteenth, and seventeenth Notices of Violation to Respondent related to
16 nuisance. The District believes that Respondent's operations continue to create metallic odors
17 which constitute a nuisance under District Rule 402 and H&S Code Section 41700. Respondent
18 denies that the odor from its facility constitutes a nuisance, but has agreed to stipulate to the Order
19 for Abatement contained herein.

20 **Violation of District Rule 2012(e)(2)(A)**

21 12. On March 15, 2017, the District issued a notice to comply to install, maintain, and
22 operate totalizing fuel meters on existing natural gas fuel meter bypass lines that are required to
23 have fuel meters. Respondent has not complied with the notice. On May 5, 2017, the District
24 issued a notice of violation for failure to monitor natural gas fuel lines.

25 13. Respondent failed to monitor all natural gas fuel lines to its process unit furnaces in
26 violation of District Rule 2012(e)(2)(A). On March 2, 2017, the District observed that Respondent
27 has unmetered bypass fuel lines for 39 process unit furnaces with the following device numbers:
28 D21, D27, D28, D29, D40, D39, D55, D62, D63, D66, D64, D65, D97, D99, D100, D103, D104,

1 D107, D116, D117, D118, D128, D129, D130, D142, D144, D148, D150, D152, D160, D53,
2 D109, D119, D4, D6, D17, D3, D19 & D20. The bypass valves were locked out but the District's
3 position is that this is inadequate to ensure that all natural gas fuel lines are monitored.

4 14. Respondent denies that operation of the bypass lines in a locked out mode was
5 inconsistent with Rule 2012(e)(2)(A), but nevertheless permanently removed the bypass lines. On
6 July 6, 2017, the District confirmed that Respondent is now in compliance with District Rule
7 2012(e)(2)(A). The parties have stipulated to the issuance of this Order for Abatement, pursuant to
8 Health and Safety Code Section 42451(b).

9 **CONCLUSIONS**

10 1. This Stipulated Order for Abatement is not and does not act as a variance.

11 2. The issuance of this Stipulated Order for Abatement, upon a fully noticed hearing,
12 will not constitute a taking of property without due process of law.

13 3. The issuance of this Stipulated Order for Abatement is not expected to result in the
14 closing or elimination of an otherwise lawful business, but if it does result in such closure or
15 elimination, it would not be without a corresponding benefit in reducing air contaminants.

16 **ORDER AND CONDITIONS**

17 THEREFORE, subject to and based on the aforesaid Stipulated Facts, Conclusions, and
18 additional evidence and testimony, and good cause appearing, this Board orders Respondent to
19 refrain from any operation of the facility that would result in violation of Health and Safety Code
20 § 41700 and District Rules 402 and 2012(e)(2)(A), or in the alternative, comply with the conditions
21 set forth below:

22 **District Rule 402 and California Health and Safety Code Section 41700**

23 1. Respondent shall refrain from grinding from 3:00 p.m. to 5:00 p.m. in order to
24 minimize the potential to form metallic odors during the time period wherein the District has
25 received odor complaints from a local school. This requirement shall expire upon implementation
26 of a control strategy on the grind building exhaust consistent with the odor plan in Paragraph 2
27 below.

28

1 2. Respondent shall submit a comprehensive odor plan to the District within 7 days of
2 the date of the Hearing Board decision (“Decision”). The odor plan shall assess appropriate means
3 to reduce metallic odors from Respondent’s entire operations, including forging area, and potential
4 remedies. Respondent shall notify the District at mcoleman@aqmd.gov and dhsu@aqmd.gov
5 within 7 days of the date of the Decision, which measure it will implement pursuant to Rule
6 1430(m). If Respondent chooses to implement a measure requiring a permit to construct,
7 Respondent has 30 days from the date of the Decision to submit an application for a permit or
8 permits.

9 3. Respondent shall evaluate whether grinding wheels contribute to the metallic odor
10 and, if so, assess potential alternatives to the wheels used. Respondent shall provide a written
11 evaluation and assessment to the District within 45 days of the date of the Decision.

12 4. Respondent shall evaluate the feasibility of installing additional controls on all
13 grind building baghouses to reduce metallic odors and provide the evaluation and a timeline for
14 such installation to the District within 45 days of the date of the Decision.

15 5. Within 14 days after the date of the Decision, Respondent shall provide the District,
16 for the District’s review and approval, a Scope of Work prepared by a third party consultant
17 (“Consultant”) who is qualified in conducting odor assessments. The Scope of Work for the
18 Consultant shall include, at a minimum, following the implementation of each odor control
19 measure set forth in paragraphs 3 and 4, walking the perimeter of the facility and the perimeter of
20 Abraham Lincoln Elementary School twice each operating day for one week during regular
21 operations between the hours of noon and 8:00 pm, staggered so that at least each hour has been
22 observed at least one time during the week, log any odors, and provide the logs to the District and
23 Respondent. Commencing no later than 14 days after completion of installation of each odor
24 control measure set forth in paragraphs 3 and 4, the Consultant shall implement the approved Scope
25 of Work to assess whether the controls have significantly decreased the metallic odors that were the
26 subject of complaints. Respondent and the District shall agree to the schedule of observation.
27 Respondent shall provide the District at least 7 days advance notice of the date and time that
28 Consultant will initiate the Scope of Work and shall coordinate the assessment in order for the

1 District to have the opportunity, at its own expense, to accompany the Consultant as the odor
2 assessment is performed. In addition, any written or oral communications between Respondent and
3 Consultant regarding or relating to odors at the facility shall be provided to the District.

4 6. The Parties shall return to the Board for a status hearing on October __, 2017, or as
5 soon thereafter as this matter may be heard. At the status hearing, Respondent shall report on the
6 comprehensive odor plan, the progress of implementation of any odor reducing measures, the
7 evaluations pursuant to conditions 4 and 5 of this Order, and the Parties (separately, if no
8 agreement can be reached) may propose modifications to this Order.

9 7. The Hearing Board may modify this Order for Abatement without the stipulation of
10 the parties upon a showing of good cause therefore, and upon making the findings required by
11 Health and Safety Code Section 42451(a) and District Rule 806(a). Such modification of the Order
12 shall be made only at a public hearing held upon 10 days published notice and appropriate written
13 notice to the Respondent and the District.

14 8. This Order for Abatement (Stipulated) is not intended to be, nor will it act as, a
15 variance. Respondent is subject to all rules and regulations of the District and to all applicable
16 provisions of California law. Nothing herein shall be deemed or construed to limit the authority of
17 the District to issue Notices of Violation, to seek civil penalties or injunctive relief, or to other
18 administrative or legal relief.

19 9. The Hearing Board shall retain jurisdiction over this matter until December 31, 2018
20 or compliance with the terms of this Order is achieved, whichever occurs first.

21 Good cause appearing, it is so ordered.

22
23 For the Board: _____

24
25 Date Signed: _____

26
27
28

1 **PROOF OF SERVICE**

2 I am employed in the County of Los Angeles, State of California. I am over the age of 18
3 and not a party to the within action. My business address is 21865 Copley Drive, Diamond Bar,
4 CA 91765.

5 On July 7, 2017, I served the within document(s) described as **STIPULATED
6 [PROPOSED] ORDER FOR ABATEMENT; [PROPOSED] FINDINGS AND DECISION
7 OF THE HEARING BOARD** on the interested parties in this action as stated below:

8 Tom Wood
9 Stoel Rives
10 760 SW Ninth Ave., Suite 3000
11 Portland, OR 97205
12 tom.wood@stoel.com

13 (BY MAIL) By placing a true copy of the foregoing document(s) in a sealed envelope
14 addressed as set forth above. I placed each such envelope for collection and mailing following
15 ordinary business practices. I am readily familiar with this District's practice for collection and
16 processing of correspondence for mailing. Under that practice, the correspondence would be
17 deposited with the United States Postal Service, with postage thereon fully prepaid at Diamond
18 Bar, California, in the ordinary course of business. I am aware that on motion of the party served,
19 service is presumed invalid if postal cancellation date or postage meter date is more than one day
20 after date of deposit for mailing in affidavit.

21 (BY FAX) By transmitting a true copy of the foregoing document(s) via facsimile
22 transmission from this District's sending facsimile machine, whose telephone number is (909) 396-
23 2961, to each interested party at the facsimile machine telephone number(s) set forth on the
24 attached mailing list. Said transmission(s) were completed on the aforesaid date at the time stated
25 on the transmission record issued by the District's sending facsimile machine. Each such
26 transmission was reported as complete and without error and a transmission report was properly
27 issued by the District's sending facsimile machine for each interested party served. A true copy of
28 each transmission report is attached to the office copy of this proof of service and will be provided
upon request.

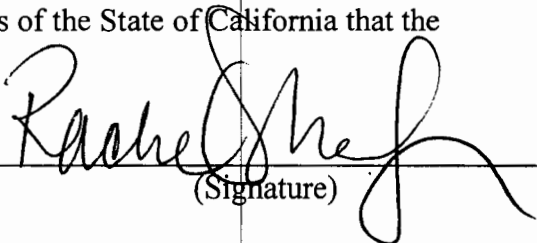
(BY PERSONAL SERVICE) I caused to be delivered a true copy of the foregoing
document(s) in a sealed envelope by hand to the offices of the above addressee(s).

(BY E-MAIL) By transmitting a true .pdf copy of the foregoing document(s) by e-mail
transmission from rmendoza@aqmd.gov to each interested party at the e-mail address(es) set forth
above. Said transmission was completed on the aforesaid date at the time stated on declarant's e-
mail transmission record.

Executed on July 7, 2017, at Diamond Bar, California.

I declare under penalty of perjury under the laws of the State of California that the
foregoing is true and correct.

Rachel Mendoza
(Type or print name)


(Signature)