

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

In the Matter of

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

Petitioner,

v.

LUBECO, INC.,
[Facility ID No. 41229]

Respondent.

Case No 6089-1

DECLARATION OF
STEVE ROSSI

Health & Safety Code 41700,
District Rule 402

Hearing Date: August 17, 2017

Time: 9:00 a.m.

Place: 21865 Copley Drive
Diamond Bar, CA 91765

I, STEVE ROSSI, declare and state:

- 1 I am the owner of the Lubeco, Inc. and have been the owner since 1993. In my capacity as the owner of Lubeco, Inc. I am personally familiar with all of Lubeco, Inc.'s operations and activities at its facility in Long Beach, CA.
- 2 This Declaration is submitted on behalf of Lubeco, Inc. in connection with the Petition for Order for Abatement (Petition) (Case No 6089-1) filed by Petitioner South Coast Air Quality Management District (District). The facts set forth herein are known by me to be true and correct and I could and would so testify under oath if called as a witness.
- 3 Respondant Lubeco, Inc. denies the allegations contained in the District's Petition. Respondant Lubeco, Inc. further denies that it is violating California Health and Safety Code Section 41700 or District Rule 402.
- 4 Notwithstanding Lubeco, Inc.'s denials, Lubeco, Inc.'s technical consultants and legal counsel have worked diligently with representatives of the District, including counsel, engineers, and risk modelers, to address the issue of hexavalent chromium emissions from Lubeco, Inc.'s facility.
- 5 As a result of these discussions, Lubeco, Inc., has agreed to substantial modifications to the operations and controls at its facility. For example, Lubeco, Inc. will conduct all "de-masking" activities involving chrome-sprayed parts inside a spray booth vented to air pollution control equipment.

Attached hereto, as Attachment 1, is a document titled [Proposed] Findings and Decision on Petition for Order for Abatement ([Proposed] Findings), setting out the significant modifications and controls to which Lubeco, Inc. has agreed.

- 6 Lubeco, Inc. and the District continue to discuss the open process tanks that shall be included in Attachment 1 to the [Proposed] Findings.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this Declaration was executed at Rancho Cucamonga California on August 16, 2017.

A handwritten signature in black ink that reads "Steve Rossi". The signature is written in a cursive style with a horizontal line underneath the name.

Steve Rossi

ATTACHMENT 1

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

10 **In the Matter of**

11 SOUTH COAST AIR QUALITY
12 MANAGEMENT DISTRICT,

13 Petitioner,

14 v.

15 LUBECO INC.,
16 [Facility ID No. 41229]

17 Respondent.

Case No. 6089-1

**[PROPOSED] FINDINGS AND
DECISION ON PETITION FOR ORDER
FOR ABATEMENT**

Health & Safety Code § 41700,
District Rule 402

Hearing Date: August 17, 2017
Time: 9:00 a.m.
Place: 21865 Copley Drive
Diamond Bar, CA 91765

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

21 This Petition for an Order for Abatement was heard on August 17, 2017, pursuant to notice
22 and in accordance with the provisions of California Health and Safety Code §40823 and District
23 Rule 812. The following members of the Hearing Board were present: Julie Prussack, Chair;
24 Patricia Byrd, Vice Chair; Edward Camarena; Roger L. Lerner, M.D.; and Hon. Nate Holden.
25 Petitioner South Coast Air Quality Management District, Executive Officer, (“SCAQMD”) was
26 represented by Teresa R. Barrera, Senior Deputy District Counsel and Stacey Pruitt, Senior Deputy
27 District Counsel. Respondent Lubeco Inc. (“Respondent” or “Lubeco”) was represented by
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1 Christopher Foster, Esq. of Clark Hill. The public was given the opportunity to testify. The matter
2 was submitted and evidence received.

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

5 1. The District has established a prima facie case that Lubeco, Inc. is violating
6 California Health and Safety Code section 41700 and District Rule 402. The District's prima facie
7 case is based on the following allegations and evidence:

- 8 a. Petitioner is a body corporate and politic established and existing pursuant to
9 Health and Safety Code §40000 *et seq.* and §40400 *et seq.*, and is the sole and
10 exclusive local agency with the responsibility for comprehensive air pollution
11 control in the South Coast Basin.
- 12 b. Respondent Lubeco is a business subject to the jurisdiction of the District. It is
13 located at 6859 Downey Avenue, Long Beach, CA 90805 (Facility ID No.
14 41229) ("Facility"), which is within the District's jurisdiction and is subject to
15 the District's regulations.
- 16 c. Lubeco is a metal finishing facility that serves the aerospace industry. Its
17 operations primarily involve surface preparation, anodizing, and coating aspects
18 of metal finishing operations. These processes utilize material that result in
19 emissions of hexavalent chromium.
- 20 d. Directly across the street from Lubeco, in the prevailing downwind direction, is
21 a residential neighborhood. Within 300 feet of the facility, in the prevailing
22 downwind direction, the District has identified approximately seven residential
23 duplexes that are home to a considerable number of persons. Additional
24 residences, including a large apartment building, as well as an elementary
25 school are located within 1000 feet of the facility.
- 26 e. On April 27, 2017, the District conducted a source test of the heated sodium
27 dichromate seal tank [Tank 14 of the anodizing line operating under Permit No.
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1 G29366] and determined that the average emissions rate of hexavalent
2 chromium from the tank was 244,000 ng/dscm in concentration units and $1.71 \times$
3 10^{-4} lb/hr in mass emission units. The District alleges that these source test
4 results indicate a significant source of hexavalent chromium within the facility,
5 which, without appropriate air pollution controls, likely contribute substantially
6 to the elevated levels measured at the monitor near the facility, as well as the
7 elevated risk levels detected in the modeling.

8 f. **California Health & Safety Code §41700** and **District Rule 402** prohibit any
9 person from discharging from any source whatsoever such quantities of air
10 contaminants that will endanger the health or safety of any considerable number
11 of persons or to the public.

12 g. The term “endanger” as used in §41700 and District Rule 402 includes the
13 creation of a significant risk of harm.

14 h. The District alleges that Lubeco is violating **California Health & Safety Code**
15 **§41700** and **District Rule 402** because its emissions of hexavalent chromium
16 into the ambient air are creating a significant risk of harm that endangers the
17 health or safety of a considerable number of persons or the public.

18 i. District Rule 1402 was adopted to reduce the health risk associated with
19 emissions of toxic air contaminants from existing sources by specifying limits
20 for maximum individual cancer risk (MICR), cancer burden, and non-cancer
21 acute and chronic hazard index (HI) applicable to total facility emissions.
22 According to District Rule 1402 (c)(19), a “significant” risk level is defined as a
23 cancer risk of 100 in a million.

24 j. District staff has estimated the cancer risk at the nearest residential receptor by
25 modeling the emissions from Lubeco, including the emissions of the sodium
26 dichromate seal tank, and is alleging that Lubeco is creating a significant risk of
27 harm to a considerable number of persons/nearby residents. The District alleges
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1 that the modeled cancer risk exceeds 100 in a million.

2 k. The District's risk calculations, which are the basis for the alleged nuisance, are
3 consistent with elevated readings of hexavalent chromium measured at Monitor
4 No. 29 located directly in front of Lubeco.

5 2. Respondent Lubeco, Inc. denies the allegations. Respondent further denies that it is
6 violating California Health & Safety Code §41700 and District Rule 402.

7 3. There are benefits to the community of issuing a prompt enforceable order in lieu of
8 a prolonged hearing that will involve litigation of complex issues and numerous potential defenses.

9 **CONCLUSIONS**

10 1. The issuance of this Order for Abatement will not constitute a taking of property
11 without due process of law.

12 2. If the issuance of this Order for Abatement results in the closing or elimination of an
13 otherwise lawful business, such closing would not be without a corresponding benefit in reducing
14 air contaminants.

15 3. This Order for Abatement is not intended to be nor does it act as a variance.

16 4. The issuance of this Order for Abatement upon a fully noticed hearing will not
17 constitute a taking of property without due process of law.

18 **ORDER**

19 THEREFORE, subject to the aforesaid statements and good cause appearing, the Hearing
20 Board hereby orders Respondent to immediately cease and desist from violating California Health
21 & Safety Code §41700 and District Rule 402, or in the alternative comply with the following
22 conditions and increments of progress:

23 1. Lubeco shall provide space and reasonable access to the District to install and
24 operate up to 4 ambient air monitors and a meteorological ("met") station on its property
25 throughout the period the Order is in effect. These monitors are intended to supplement the
26 information generated by nearby off-site ambient air monitors also operated by the District.

27 2. Lubeco shall not operate any process or piece of equipment identified in Attachment
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1 [subject to further negotiation between Lubeco and the District.] if the air monitoring results
2 measured at the Lubeco downwind ambient air monitor(s) exceed 1.0 ng/m³ of hexavalent
3 chromium, based on an average of the most recent 3 samples. If a valid sample is not collected on
4 any monitoring day, the most recent previous valid samples available shall be used to determine the
5 average. Prior to averaging, the level at the downwind ambient air monitor shall reflect a subtraction
6 for a. or b.:

7 a. Any result obtained from an upwind ambient air monitor. The upwind and
8 downwind ambient air monitors, including those on-site and off-site, shall be
9 determined solely by the District based on the met data generated for a particular
10 sampling day or, if that data is not available, based on the met data generated by
11 the next nearest met station.

12 b. Sub-regional background levels of Cr VI as determined by either:

- 13 • The value from the lowest monitor in the Paramount area on that sampling
14 day; or
- 15 • The average level found from the nearest MATES-IV site (Compton)
16 (0.11ng/m³) if a sub-regional background cannot be determined from the
17 monitors in the Paramount area (due to meteorological conditions, data from
18 other monitors, or the influence of Paramount sources)

19 The concentration to be subtracted shall be mutually agreed to by Lubeco and the District.

20 3. Prior to averaging, the level at the Lubeco downwind monitor may reflect a
21 subtraction for known or suspected contributions from other known sources. Consideration of other
22 sources may include analysis of meteorological data from the days each sample was collected.
23 Specific sources should be identified as contributors before subtracting any potential contribution.
24 Emissions from unidentified or unverified 'other sources' cannot be considered as contributors to a
25 source-specific monitor.

26 4. Notwithstanding the foregoing, the District may authorize Lubeco to operate some or
27 all of the processes or pieces identified in Attachment 1 upon (i) a showing by Lubeco, to the
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1 satisfaction of the District, that the cause or causes of the exceedance have been identified and
2 remediated, or (ii) if the Lubeco downwind monitoring results are determined by the District to not
3 have been caused by Lubeco. For example, the District may subtract for, or decide to not impose
4 curtailment, based on consideration of other pertinent information including, but not limited to
5 specific operational data from the facility on the days included in the average, modeling analysis
6 from the facility, monitoring data from the facility, etc. Lubeco may submit operational data that
7 shows that key Cr VI emitting devices/processes were not operational on a specific day and there
8 are no other contributing factors such as housekeeping activities or maintenance activities.

9 5. In addition, the District may, by written notification, remove specific processes or
10 pieces of equipment from the list of equipment required to be shut down under this condition if
11 emissions from the equipment are tested under conditions representing normal and expected
12 operation and it is shown to the satisfaction of the District that the processes or pieces of equipment
13 do not or would not materially contribute to an exceedance of the 1.0 ng/ m³ hexavalent chromium
14 action level at the Lubeco monitor.

15 6. If the District determines that the most recent 3-sample average, as calculated above,
16 has exceeded 1.0 ng/m³, then the District shall send written notice by 1:00 p.m. to Lubeco via email
17 (Lubecoinc@gmail.com) of the monitoring results and the need to curtail operations pursuant to
18 Paragraph 2. On the same day that the curtailment notice is provided, the District shall initiate a
19 telephone call (Tel. No. 562-602-1791) at 3:00 p.m. with Steve Rossi, President of Lubeco or any
20 other responsible corporate official available at the time of the telephone call to advise Lubeco of
21 the monitoring results and the need to curtail operations. Lubeco shall have until 4:30 p.m. of the
22 day when the curtailment notice is received to wrap up operations.

23 7. Lubeco may resume operation of any processes and equipment shut down as the
24 result of a hexavalent chromium action level exceedance when it receives notice from the District
25 that the most recent 3-sample average, as calculated above, measured at the Lubeco monitor is less
26 than or equal to 1.0 ng/m³. The District shall notify Lubeco of all air monitoring results immediately
27 upon the District's receiving the results from its laboratory.

1 8. Lubeco may, at its discretion, maintain and operate ambient hexavalent chromium
2 monitor(s) consistent with a District approved Sampling and Analysis Plan. The District will review
3 Lubeco's Sampling and Analysis Plan within 7 District working days of submittal and either
4 approve, conditionally approve, or reject the Plan. Prior to the District's decision on Lubeco's
5 Sampling and Analysis Plan, Lubeco will operate consistent with its proposed Plan. Lubeco may
6 present evidence to the District consisting of data from ambient monitors operated consistent with
7 the Sampling and Analysis Plan, Lubeco's meteorological station, and other credible sources
8 justifying the reduction of any particular day's monitoring result to better reflect Lubeco's
9 contribution to ambient concentrations in the community. The District shall consider Lubeco's
10 evidence but is not required to use that evidence in concluding whether the 1.0 ng/m³ action level
11 has been exceeded and its determination may be appealed.

12 9. Lubeco shall immediately disconnect and cease operating Tank Nos. 23, 24, and 35.
13 The contents of these tanks shall be accumulated and removed from the premises within 90 days in
14 accordance with applicable hazardous waste controls laws. Lubeco shall file a permit application
15 to remove these tanks from its permit in conjunction with the applications associated with the
16 implementation of the District approved risk reduction plan.

17 10. Lubeco shall cover with plastic and shall turn off the tank heaters for any tank
18 containing hexavalent chromium not attached to an air pollution control device when not in use.

19 11. Within 30 days, Lubeco shall install plastic strip curtains along the western edge of
20 the canopy associated with the overhead door on the west side of the building. In addition, within
21 90 days, Lubeco shall install an industrial curtain along portions of the southern and eastern end of
22 the open process tank area consistent with the diagram and specifications set forth in Attachment 2.

23 12. Starting immediately, Lubeco shall conduct all de-masking operations involving
24 chrome-sprayed parts inside a spray booth vented to air pollution control equipment. All materials
25 from de-masking that are laden with chrome-sprayed materials must be placed in a bag or container
26 with a lid prior to removing them from the spray booth.

27 13. Starting immediately, Lubeco shall store all paint trays used during the painting of
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1 parts with chromated coatings in an enclosed container when not in use.

2 14. Starting immediately, Lubeco shall conduct general maintenance using a vacuum
3 device that is vented to High Efficiency Particle Arrestor (HEPA) filters. The HEPA filters used
4 shall be individually tested by DOP or IEST-RP-CC007 with 0.3 micron particles and certified to
5 have an efficiency of not less than 99.97%. Lubeco shall cease using brooms to sweep the premises.

6 15. Starting immediately, Lubeco shall conduct and document weekly inspections of the
7 roof. The inspections are intended to identify staining or material accumulations. If staining or
8 material accumulations are noted, Lubeco shall immediately clean the areas with a vacuum device
9 that is vented to High Efficiency Particle Arrestor (HEPA) filters. The HEPA filters used shall be
10 individually tested by DOP or IEST-RP-CC007 with 0.3 micron particles and certified to have an
11 efficiency of not less than 99.97%.

12 16. Within 15 days, Lubeco shall prepare and file a housekeeping and maintenance plan
13 and implementation schedule with the District. SCAQMD will either approve, partially approve,
14 conditionally approve, or reject the plan. Lubeco shall not clean the roof or do housekeeping other
15 than its current housekeeping, until the plan or plan elements are approved. Lubeco shall comply
16 with the approved elements of the plan. If the plan is rejected by SCAQMD, the parties will return
17 to the Hearing Board at the next earliest available hearing date after any appropriate notice if
18 applicable. This condition is intended to supplement the requirements of District Rules 1469 and
19 1469.1. Lubeco is not relieved from its obligation to comply with those rules.

20 17. Within 45 days, Lubeco shall submit a plan to the District (Attn: Laki Tisopulos)
21 identifying all feasible measures by which it can reduce its emissions of hexavalent chromium.
22 Within 30 days of District approval of that plan, Lubeco shall submit any required permit
23 applications on an expedited basis. Lubeco shall complete installation of all upgrades as soon as
24 possible and in no event later than 150 days after issuance of the permits.

25 18. The Hearing Board may modify this Order for Abatement without the stipulation of
26 the parties upon a showing a good cause therefore, and upon making the findings requirement by
27 Health and Safety Code Section 42451(c) and District Rule 806(a). Any modification of the Order
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1 shall be made only at a public hearing held upon 10 days published notice and appropriate written
2 notice to Respondent.

3 19. Unless terminated earlier, the Hearing Board shall retain jurisdiction over this matter
4 until _____ at which time this Order for Abatement, if it has not been properly extended,
5 shall expire.

6 20. This Order for Abatement does not act as a variance, and Respondent is subject to all
7 rules and regulations of the District, and with all applicable provisions of California law. Nothing
8 herein shall be deemed or construed to limit authority of the District to issue Notices of Violation,
9 or to seek civil penalties, or injunctive relief, or to seek further orders for abatement, or other
10 administrative or legal relief.

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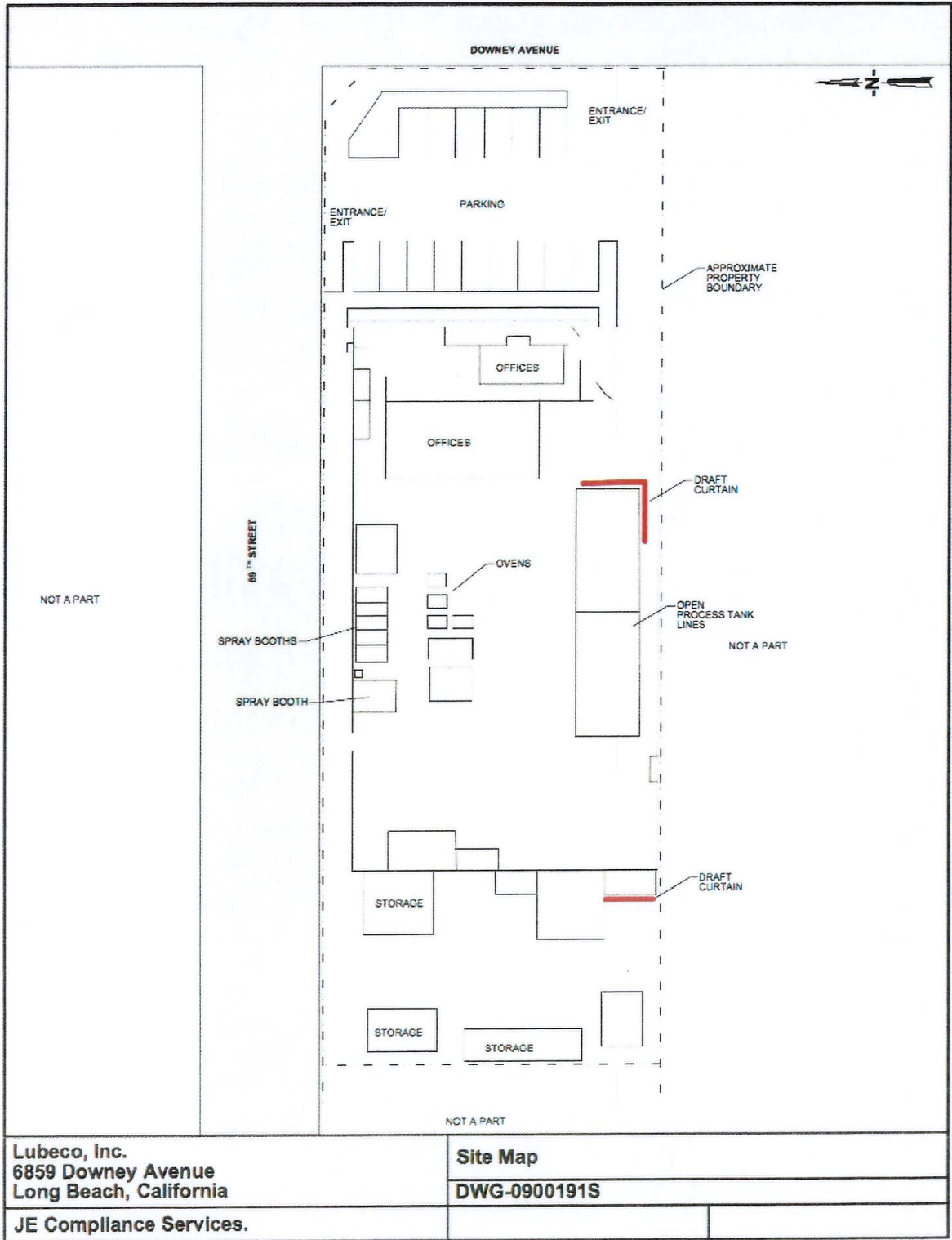
FOR THE BOARD: _____
DATE SIGNED: _____

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ATTACHMENT 1

[Subject to ongoing discussions between Lubeco and the District.]

ATTACHMENT 2



Lubeco, Inc. 6859 Downey Avenue Long Beach, California	Site Map	
	DWG-0900191S	
JE Compliance Services.		