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 Respondent Lubeco, Inc. denies the allegations contained in the District’s Petition. Respondent 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.

Steve Rossi
ATTACHMENT 1
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

[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

FINDINGS AND DECISION OF THE HEARING BOARD

This Petition for an Order for Abatement was heard on August 17, 2017, pursuant to notice and in accordance with the provisions of California Health and Safety Code §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 Hon. Nate Holden.
Petitioner South Coast Air Quality Management District, Executive Officer, ("SCAQMD") was represented by Teresa R. Barrera, Senior Deputy District Counsel and Stacey Pruitt, Senior Deputy District Counsel. Respondent Lubeco Inc. ("Respondent" or "Lubeco") was represented by
Christopher Foster, Esq. of Clark Hill. The public was given the opportunity to testify. The matter was submitted and evidence received.

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

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

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

   b. Respondent Lubeco is a business subject to the jurisdiction of the District. It is located at 6859 Downey Avenue, Long Beach, CA 90805 (Facility ID No. 41229) (“Facility”), which is within the District's jurisdiction and is subject to the District's regulations.

   c. Lubeco is a metal finishing facility that serves the aerospace industry. Its operations primarily involve surface preparation, anodizing, and coating aspects of metal finishing operations. These processes utilize material that result in emissions of hexavalent chromium.

   d. Directly across the street from Lubeco, in the prevailing downwind direction, is a residential neighborhood. Within 300 feet of the facility, in the prevailing downwind direction, the District has identified approximately seven residential duplexes that are home to a considerable number of persons. Additional residences, including a large apartment building, as well as an elementary school are located within 1000 feet of the facility.

   e. On April 27, 2017, the District conducted a source test of the heated sodium dichromate seal tank [Tank 14 of the anodizing line operating under Permit No.
G29366] and determined that the average emissions rate of hexavalent chromium from the tank was 244,000 ng/dscm in concentration units and $1.71 \times 10^4$ lb/hr in mass emission units. The District alleges that these source test results indicate a significant source of hexavalent chromium within the facility, which, without appropriate air pollution controls, likely contribute substantially to the elevated levels measured at the monitor near the facility, as well as the elevated risk levels detected in the modeling.

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

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

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

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

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

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

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

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

CONCLUSIONS

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

2. If the issuance of this 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 Order for Abatement is not intended to be nor does it act as a variance.

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

ORDER

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

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

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

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

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

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

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

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

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

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

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

7. Lubeco may resume operation of any processes and equipment shut down as the
result of a hexavalent chromium action level exceedance when it receives notice from the District
that the most recent 3-sample average, as calculated above, measured at the Lubeco monitor is less
than or equal to 1.0 ng/m³. The District shall notify Lubeco of all air monitoring results immediately
upon the District’s receiving the results from its laboratory.
8. Lubeco may, at its discretion, maintain and operate ambient hexavalent chromium monitor(s) consistent with a District approved Sampling and Analysis Plan. The District will review Lubeco’s Sampling and Analysis Plan within 7 District working days of submittal and either approve, conditionally approve, or reject the Plan. Prior to the District’s decision on Lubeco’s Sampling and Analysis Plan, Lubeco will operate consistent with its proposed Plan. Lubeco may present evidence to the District consisting of data from ambient monitors operated consistent with the Sampling and Analysis Plan, Lubeco’s meteorological station, and other credible sources justifying the reduction of any particular day’s monitoring result to better reflect Lubeco’s contribution to ambient concentrations in the community. The District shall consider Lubeco’s evidence but is not required to use that evidence in concluding whether the 1.0 ng/m$^3$ action level has been exceeded and its determination may be appealed.

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

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

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

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

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

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

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

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

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

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

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

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

FOR THE BOARD: ________________________________

DATE SIGNED: ________________________________
ATTACHMENT 1

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