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9 **BEFORE THE HEARING BOARD OF THE**
10 **SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**
11

12 **In the Matter of**

13 SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

14 Petitioner,

15 v.

16 LUBECO INC.,
17 [Facility ID# 41229]

18 Respondent.
19

Case No. 6089-1

**PETITION FOR AN ORDER FOR
ABATEMENT**

Health & Safety Code § 41700,
District Rule 402

Hearing Date: August 23, 2017
Time: 9:00 a.m.
Place: 21865 Copley Drive
Diamond Bar, CA 91765

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21 SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT (hereinafter referred to as
22 “District” or “Petitioner”) petitions the District Hearing Board for an Order for Abatement directed
23 to Respondent LUBECO INC. (“LUBECO”) with regard to its operation of a metal finishing
24 facility, which is a source of hexavalent chromium emissions. The District alleges as follows:

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

28 2. Respondent LUBECO is a business subject to the jurisdiction of the District. It is

1 located at 6859 Downey Avenue, Long Beach, CA 90805. Its Facility ID No. is 41229. The
2 District is informed and believes that LUBECO employs approximately 55 workers at this facility.
3 The District is further informed and believes that the facility operates Monday through Friday
4 between 7:30 a.m. – midnight, and, as needed, on Saturdays, approximately 7:30 a.m. – 12:30 p.m.
5 The District is further informed and believes that the facility is open to members of the public,
6 including clients and service representatives.

7 3. LUBECO is a metal finishing facility that serves the aerospace industry. Its
8 operations primarily involve surface preparation, anodizing, and coating aspects of metal finishing
9 operations. These processes utilize products that result in emissions of hexavalent chromium.

10 4. Directly across the street from LUBECO, in the prevailing downwind direction, is a
11 residential neighborhood. Within 300 feet of the facility, in the prevailing downwind direction, the
12 District has identified approximately seven residential duplexes that are home to a considerable
13 number of persons. Additional residences, including a large apartment building and an elementary
14 school are located within 1000 feet of the facility.

15 5. LUBECO operates the following equipment which utilizes and emits hexavalent
16 chromium. This equipment includes:

- 17 a. Tanks # 33, 35, 36, 37, 39 and 41 of its Passivation Line [Permit G29360, A/N
18 497234];
- 19 b. Tanks # 14, 16, 23, 24 and 25 of its Anodizing Line [Permit G29366, A/N
20 497235];
- 21 c. Spray Booth #1 [Permit G06512, A/N 497227];
- 22 d. Spray Booth #2 [Permit G06513, A/N 497228]; and
- 23 e. Spray Booth #3 [Permit G06514, A/N 497229].

24 6. The District is informed and believes that operations at LUBECO causing emissions
25 of hexavalent chromium include, but may not be limited to:

- 26 a. Heating and/or sparging and/or rectifying of any tank containing hexavalent
27 chromium (including chromic acid anodizing and dichromate seal tanks);
- 28 b. Spraying of coatings containing hexavalent chromium in booths using filters

1 rated for a control efficiency of less than 99.9%;

- 2 c. Demasking of parts coated with hexavalent chromium-containing coatings
3 without use of down draft tables;
- 4 d. Handling of waste material from the spray coating operations; and
- 5 e. Ventilation of uncontrolled process emissions in a building open to atmosphere,
6 typically with three large doors open to the outside, two of which are on the
7 West and East sides of the building such that they allow prevailing winds to
8 pass through the building, as well as through a powered roof vent exhausting to
9 the atmosphere.

10 7. With respect to the Anodizing Line [Permit G29366, A/N 497235] identified in
11 Paragraph 5, above, on April 27, 2017, the District conducted a source test of the heated sodium
12 dichromate seal tank [Tank 14] and determined that the average emissions rate of hexavalent
13 chromium from the tank was 244,000 ng/dscm in concentration units and 1.71×10^{-4} lb/hr in mass
14 emission units. These source test results indicate a significant source of hexavalent chromium
15 within the facility, which, without appropriate air pollution controls, likely contribute to the
16 elevated levels measured at the monitor near the facility. Staff also has determined that the
17 emissions from the tank are substantially contributing to elevated risk levels detected in the
18 modeling of emissions from LUBECO.

19 8. The District does not, at present, have any source-specific rules requiring air
20 pollution controls for heated sodium dichromate seal tanks.

21 9. Hexavalent chromium has been identified by EPA and OEHHA as a known human
22 carcinogen by inhalation. (See <http://oehha.ca.gov/chemicals/chromium-hexavalent>;
23 https://cfpub.epa.gov/ncea/iris2/chemicallanding.cfm?substance_nmbr=144).

24 10. Commencing on May 13, 2017, the District began collecting ambient air samples
25 from an ambient air sampler installed on a telephone pole directly in front of LUBECO's facility.
26 This monitoring site is known as Site #29. Samples have been generally collected over a 24-hour
27 period every third day.

28 11. Since commencing sampling of the air in front of LUBECO's facility, the ambient

1 air sampler at Site #29 has measured excessive amounts of hexavalent chromium in the ambient
2 air. The overall average concentration of hexavalent chromium is 1.07 ng/m³ between May 13,
3 2017 and July 12, 2017. This average is approximately 18 times normal ambient air background
4 levels in the South Coast Basin. The basin's average, measured during the MATES IV study, was
5 0.06 ng/m³.

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

9 13. The term "endanger" as used in §41700 and District Rule 402 includes the creation
10 of a significant risk of harm. *See Ethyl Corp. v. EPA*, 541 F.2d 1 (D.C. Cir. 1976).

11 14. The District is informed and believes and upon that basis alleges that LUBECO is
12 violating **California Health & Safety Code §41700 and District Rule 402** because its emissions
13 of hexavalent chromium into the ambient air are creating a significant risk of harm that endangers
14 the health or safety of a considerable number of persons or the public.

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

20 16. District staff has modeled emissions from LUBECO, including the emissions of the
21 sodium dichromate seal tank, and has determined that LUBECO is creating a cancer risk for
22 nearby residents that exceeds 100 in a million. These nearby residents constitute a considerable
23 number of persons. Staff believes that a substantial portion of the risk created by LUBECO
24 derives from operation of the sodium dichromate seal tank.

25 17. The District by this petition, seeks an Order for Abatement to require Respondent to
26 cease violating Health & Safety Code §41700 and District Rule 402.

27 18. It is not unreasonable to require Respondent to comply with state law and District
28 Rules.

1 19. The issuance of an Order for Abatement upon a fully noticed hearing would not
2 constitute a taking of property without due process of law.

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

4 21. If the prayed for Order for Abatement results in the closing or elimination of an
5 otherwise lawful business, such closing or elimination would not be without a corresponding
6 benefit in reducing air contaminants.

7 22. Respondent LUBECO has indicated a willingness to stipulate to an Order for
8 Abatement pursuant to California Health & Safety Code §42451. The parties are in discussions to
9 consider stipulated terms and conditions.


10 WHEREFORE, the District prays for the following:

11 1. That this Hearing Board issue an Order for Abatement requiring Respondent to
12 cease and desist from all operations resulting in emissions of hexavalent chromium, or in the
13 alternative, to comply with conditions and increments of progress that the Board deems
14 appropriate.

15 2. For such other and further relief that this Board deems just and proper.

16 DATE: July 21, 2017

SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
OFFICE OF THE GENERAL COUNSEL
Teresa R. Barrera, Senior Deputy District Counsel

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19 By: 
20 Teresa R. Barrera
21 Attorney for Petitioner