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SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

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

In the Matter of

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

Petitioner,

v.

AEROCRAFT HEAT TREATING CO., INC.
[Facility ID No. 23752];
ANAPLEX CORP.
Facility ID No. 16951]; and
DOES 1-100

Respondents.

CASE NO. 6066-1

**FINDINGS AND DECISION FOR AN
ORDER FOR ABATEMENT
(STIPULATED)**

Health & Saf. Code § 41700
District Rules 402, 1469, 201 and 203

Date: December 14, 2016
January 5, 2017
January 10, 2017

Place: 21865 Copley Drive
Diamond Bar, CA 91765

This petition for a Stipulated Order for Abatement was heard on December 14, 2016 at 1 p.m., and January 5 and 10, 2017 at 9 a.m., pursuant to notice and in accordance with the provisions of California Health & Safety Code § 40823 and District Rule 812.

The following members of the Hearing Board were present on December 14, 2016, January 5, 2017, and January 10, 2017:

Edward Camarena, Chair, Julie Prussack, Vice Chair, Roger L. Lerner, M.D., Patricia Byrd and the Honorable Nate Holden.

1 Petitioner, Executive Officer, was represented by William B. Wong, Principal Deputy
2 District Counsel for the South Coast Air Quality Management District. Respondent ANAPLEX
3 CORP. (hereinafter ANAPLEX or Respondent) was represented by William Funderburk, Ruben
4 Castellon, Hany Fangary, and Aaron Farkas, Attorneys at Law from Castellon and Funderburk,
5 LLP. Ruben Castellon and Hany Fangary only appeared on December 14, 2016 and January 5,
6 2017. Aaron Farkas only appeared on January 10, 2017.

7 The public was given the opportunity to testify, evidence was received and the matter was
8 submitted.

9 The parties stipulate to the following facts:

10 **STIPULATED FACTS**

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

15 2. Respondent, ANAPLEX, is a business located at 15547 Garfield Avenue in
16 Paramount, California. It is in the business of metal processing and finishing. As part of that
17 operation, ANAPLEX engages in activities causing emissions of hexavalent chromium.

18 3. The facility is located within the District's jurisdiction and is subject to the
19 District's regulations

20 4. **California Health & Safety Code § 41700** provides, in pertinent part, that except
21 as provided in § 41705, "no person shall discharge from any source whatsoever such quantities of
22 air contaminants or other material which cause injury, detriment, nuisance or annoyance to any
23 considerable number of persons or to the public, or which cause, or have a natural tendency to
24 cause, injury or damage to business or property."

25 5. **District Rule 402** provides as follows "A person shall not discharge from any
26 source whatsoever such quantities of air contaminants or other material which cause injury,
27 detriment, nuisance, or annoyance to any considerable number of persons or to the public, or
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1 which endanger the comfort, repose, health or safety of any such persons or the public, or which
2 cause, or have a natural tendency to cause, injury or damage to business or property. The
3 provisions of this rule shall not apply to odors emanating from agricultural operations necessary
4 for the growing of crops or the raising of fowl or animals.”

5 6. In October 2016, the District placed ambient hexavalent chromium monitors in the
6 vicinity of the ANAPLEX facility that registered values far exceeding background values for
7 Paramount. Measurements from the District’s monitors may vary according to a facility’s
8 operations and environmental conditions such as prevailing wind direction or rain on the day the
9 measurement is taken. The District believes that ANAPLEX contributes to the elevated
10 concentration of hexavalent chromium in the ambient air in Paramount.

11 7. In October 2016, the District expanded monitoring efforts in the largely industrial
12 area of the city of Paramount to identify potential sources of hexavalent chromium (“Cr 6”). More
13 specifically, the District began ambient air monitoring for Cr 6 in different parts of Paramount. The
14 monitors in close proximity to ANAPLEX registered Cr 6 emissions substantially greater than
15 typical background levels, which based on recent District’s MATES study, is about 0.06
16 nanograms/cubic meter (“ng/m³”) of Cr 6.

17 8. Measurements from the District’s monitors may vary according to a facility’s
18 operations, extant environmental conditions such as prevailing wind direction or rain on the day
19 the measurement is taken. Based upon knowledge and observations of the facility’s operations,
20 housekeeping, monitored levels of Cr 6, prevailing wind directions, screening source test results
21 and other environmental conditions, the District believes that ANAPLEX significantly contributes
22 to the high levels of ambient Cr 6 concentrations in the industrial area of Paramount. In addition,
23 the District believes that these high levels result in causing elevated ambient concentrations of
24 Cr 6 to a considerable number of surrounding residents.

25 9. On November 29, 2016, Petitioner filed a Petition for Order for Abatement alleging
26 that ANAPLEX was operating in violation of Health & Safety Code § 41700 and District Rule 402
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1 due to Cr 6 emissions emitted from its operations causing a potential risk of cancer to members of
2 the public.

3 10. ANAPLEX alleges it has taken and continues to implement significant actions to
4 identify potential sources of hexavalent chromium emissions and to rectify the alleged violations,
5 including, but not limited to:

- 6 a. Discontinue the spray paint application of primers that contain chromate
7 compounds.
- 8 b. Use filter media that provide vendor guarantees of 98.6% particulate
9 removal efficiency on all four spray booths.
- 10 c. Inspect and calibrate all gauges associated with both spray booths and
11 plating operations.
- 12 d. Train maintenance and production staff on procedures to minimize fugitive
13 dust/emissions associated with spray booth, plating, parts handling, and
14 maintenance operations.
- 15 e. Close access doors at facility that face Garfield Avenue, and open only
16 when ingress/egress is required.
- 17 f. Re-train operators to assure that air sparging is eliminated when plating and
18 associated tanks are not in operation.
- 19 g. Discontinue air sparging on Tanks 33 (Deoxidizer Tank) and Tank 36
20 (Sulfuric Acid Anodize Tank).
- 21 h. Shut down and remove Tank 42 (Pickling Tank).
- 22 i. Shut down Tank 26 (Hard Anodize Tank) until Permit to Construct has
23 been obtained from the SCAQMD.
- 24 j. Maintain surface tension of Tank 19 (Chromic Tank) below 25
25 dynes/centimeter as measured by a stalagmometer of wetting agent Hunter
26 HCA-8.4. Measure the surface tension in Tank 19 daily for the first 20 days
27 when Hunter HCA-8.4 is used, and do so on a weekly basis.
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- k. Re-train maintenance and production staff to assure that all heated tanks, anodizing tanks, and metal plating tanks are covered when not in use.
- l. Document daily housekeeping to be supervised by Anaplex staff that have completed AQMD Rule 1469 training.
- m. Provide daily wash-down and mop up activities in areas that may create chrome-containing dust.
- n. Evaluate alternatives to sparging (pumps, etc.) for agitation for those tanks that are heated contain chromate.
- o. Evaluate lower operating temperatures for all heated tanks that contain chromate.
- p. Evaluate and install poly balls for those tanks that contain chromate.
- q. Stop air sparging in Sodium Dichromate Seal Tank; disconnect all mechanical connections. Bring temperature down below boiling point. Add Polyballs to tank. Tank stays covered when not in use (breaks, lunch, at end of day). Install automated meter to better control temperature.
- r. Chem-film Tanks: remove air and install circulating pump. Air to be removed 12/16/16.
- s. Continue to pump secondary containment daily.
- t. Remove air and install circulating pump to Tri Etch Tank.
- u. Wet mop open floor near all work areas daily.
- v. Look into new cover for chromic tank.
- w. Cover Chromic Drag Out tank when not in use.
- x. Use air in Chromic Tank only when processing parts. Operator must turn air off when tank is not in operations. Replace temperature control valve and install automatic temperature control valve in 30 days.
- y. Remove air to Tanks 32 and 50 in plating.

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z. Train operators regarding all matters above pertaining to tanks that contain chrome.

The District does not comment on the efficacy and propriety of these measures.

11. By complying with the conditions set forth in this Order, ANAPLEX will avoid violating Health & Safety Code § 41700 or District Rule 402. Therefore, operations in accordance with the terms of this Stipulated Order for Abatement will not result in a violation of § 41700 or District Rule 402.

CONCLUSIONS

12. ANAPLEX is proceeding pursuant to Health & Safety Code § 42451(b) under which the Hearing Board may issue an Order for Abatement upon the stipulation of the air pollution control officer and the person accused of violating Section 41700 or a district rule, without making a finding of violation. By stipulating to this Order, ANAPLEX neither admits nor denies the stipulated facts nor does ANAPLEX admit that there are or were any violations of state law or District regulations at its facility.

13. The issuance of this Stipulated Order for Abatement on terms acceptable to ANAPLEX will not constitute the arbitrary or unreasonable taking of property or the practical closing and elimination of a lawful business. This Stipulated Order for Abatement is not intended to and shall not have the effect of allowing a variance from the District Rules or state law.

14. The implementation of the conditions set forth in the Order is likely to result in operations by Respondent that are compliant with District Rule 402 and Health & Safety Code § 41700.

ORDER

THEREFORE, subject to the above Findings and Conclusions and good cause appearing, the Hearing Board hereby orders Respondent ANAPLEX to immediately cease and desist from the alleged violations of District Rule 402 and Health & Safety Code § 41700, and to either

1 immediately cease and desist from operating any process or equipment capable of generating Cr 6
2 emissions or, in the alternative, comply with the following conditions and increments of progress:

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5 **CONDITIONS AND INCREMENTS OF PROGRESS**

6 1. ANAPLEX shall not operate any process or piece of equipment capable of
7 generating Cr 6 emissions if the average of the air monitoring results measured at any District
8 monitor most representative of ANAPLEX's emissions (the "ANAPLEX Monitor") exceeds 1.0
9 ng/m³ of Cr 6 for the most recent 3 samples. If a valid sample is not collected on any monitoring
10 day, the most recent previous valid samples available shall be used to determine the average. In
11 the first 7 days that this Order for Abatement is in effect, ANAPLEX shall not operate any
12 process or piece of equipment capable of generating Cr 6 emissions if a single sample equals or
13 exceeds 3.3 ng/m³. Notwithstanding the foregoing, the District may authorize ANAPLEX to
14 operate all or some of the processes or pieces of equipment (i) upon a showing by ANAPLEX, to
15 the satisfaction of the District, that the cause or causes of the exceedance have been identified and
16 remediated, or (ii) if the offsite monitoring results are determined by the District to not have been
17 caused by ANAPLEX. In addition, the District may, by written notification, remove specific
18 processes or pieces of equipment from the list of equipment required to be shut down under this
19 condition if emissions from the equipment are tested under conditions representing normal and
20 expected operation and it is shown to the satisfaction of the District that the processes or pieces of
21 equipment do not or would not materially contribute to an exceedance of the 1.0 ng/m³ Cr 6
22 action level at the ANAPLEX monitor.

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

7 3. If the District determines that the most recent 3-sample average, as calculated
8 above, has exceeded the 1.0 ng/m³ action level, then the District shall send written notice by
9 12:00 p.m. to ANAPLEX via email to the person or persons designated by ANAPLEX to receive
10 curtailment notices. On the same day that the curtailment notice is provided, the District shall
11 initiate a telephone call at 2:00 p.m. with the person or persons designated by ANAPLEX.
12 ANAPLEX shall have until 4:30 p.m. of the day when the curtailment notice is received to wrap
13 up operations.

14 4. ANAPLEX may resume operation of any processes and equipment shut down as
15 the result of a Cr 6 action level exceedance when it receives notice from the District that the most
16 recent 3-sample average, as calculated above, measured at the ANAPLEX monitor is less than or
17 equal to 1.0 ng/m³.

18 5. ANAPLEX shall provide access to District staff to conduct sampling, monitoring
19 and testing during all normal facility operating hours.

20 6. ANAPLEX will maintain documentation of measures taken in Paragraph 10 and
21 make it available to the District upon request.

22 7. The parties shall return to the Hearing Board on March 22, 2017 with additional
23 conditions as may be necessary to reduce chromium emissions from ANAPLEX'S facility, and
24 with monitoring results to date.

25 8. No later than January 17, 2017, ANAPLEX will prepare and file a roof cleaning
26 and housekeeping and maintenance plan with an implementation schedule. SCAQMD will either
27 approve, partially approve, conditionally approve, or reject the plan. ANAPLEX shall not clean
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the roof or do housekeeping until the plan or plan elements are approved. ANAPLEX 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.

9. ANAPLEX shall file all necessary permit applications by the end of the day on January 20, 2017 or cease to operate the improperly permitted equipment.

10. The Hearing Board shall retain jurisdiction over this matter until December 31, 2018, or until 3 months after Respondent has fully complied with Rule 1402 Risk Reduction measures, whichever occurs later, unless this Order is amended or modified.

11. The Hearing Board may modify this Order for Abatement without the stipulation of the parties upon a showing of good cause therefore, and upon making the findings required by Health & Safety Code § 42451(a) 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 the Respondent.

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

BOARD MEMBER: Patricia Byrd
Patricia Byrd

DATED: January 18, 2017