

FILED

FEB 17 2004

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

MARY ROMAIDIS
CLERK
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the matter of the Application of)
)
VALERO REFINING COMPANY –)
CALIFORNIA)
)
For a Variance from Regulation 2, Rule 6,)
Section 307; Regulation 2, Rule 1, Section)
307; Manual of Procedures, Vol. II, Part 3,)
§ 4.11; and Standard Condition 1.B.2 of the)
Benicia Asphalt Plant’s Major Facility)
Review Permit (Insofar as the Foregoing are)
Applicable to Specified Conditions of the)
Benicia Asphalt Plant’s Major Facility)
Review Permit))
_____)

No. 3445

ORDER DENYING INTERVENTION
AND REQUEST FOR FEE WAIVER

Our Children’s Earth (“OCE”) filed an Application for Intervention and Formal Request for Fee Waiver on December 22, 2003 in the above-entitled matter. OCE certified under penalty of perjury that payment of the required filing fee in connection with this matter would cause an unreasonable hardship.

Having considered this Application for Intervention and the Request for Fee Waiver on January 29, 2004, the Hearing Board finds that OCE does not meet the criteria for intervention set forth in Hearing Board Rule §2.3; and based on the lack of adequate financial information provided to the Hearing Board, OCE does not meet the criteria for waiver of the filing fee as set forth in District Regulation 3, Schedule A.

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1 THEREFORE, THE HEARING BOARD ORDERS THAT:

2 OCE's Application for Intervention and Formal Request for Fee Waiver are denied and that
3 OCE may not participate in this action as a party for all purposes.

4 **In the Matter of the denial of the Application for Intervention:**

5 Moved by: Terry A. Trumbull, Esq.

6 Seconded by: Allan R. Saxe, Esq.

7 AYES: Christian Colline, P.E., Julio Magalhães, Ph.D., Allan R. Saxe, Esq.,
8 Terry A. Trumbull, Esq., Thomas M. Dailey, M.D.

9 NOES: None


10 **In the Matter of the denial of the Request for Fee Waiver:**


11 Moved by: Christian Colline, P.E.

12 Seconded by: Terry A. Trumbull, Esq.

13 AYES: Christian Colline, P.E., Allan R. Saxe, Esq., Terry A. Trumbull,
14 Thomas M. Dailey, M.D.

15 NOES: Julio Magalhães, Ph.D.

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Thomas M. Dailey, M.D., Chair

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Date