

FILED

JUL - 1 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)
)
SHELL OIL PRODUCTS US, MARTINEZ)
REFINERY)
)
For a Variance from Regulation 2, Rule 1,)
Section 307 (Permit Conditions 12771 of)
Part 18 of the CFP permit, and 7618 of the)
WOR permit); Regulation 9, Rule 1 and)
Regulation 10 – NSPS, Subpart J)
_____)

No. 3468

**ORDER DENYING
EMERGENCY VARIANCE**

The above-entitled matter, being an Application for Variance from the provisions of Regulation 2, Rule 1, Section 307 (Permit Conditions 12771 of Part 18 of the CFP permit, and 7618 of the WOR permit); Regulation 9, Rule 1 and Regulation 10 – NSPS, Subpart J, having been called in and filed on June 9, 2004 at 6:58 p.m.; due to the District Offices being closed on June 11, 2004, the completed Application for Variance having been received on June 14, 2004 at 4:30 p.m., and having been considered by the Hearing Board:

THE HEARING BOARD STATES as the reasons for its decision and FINDS as to those matters in which findings are required:

1. Applicant filed this Application for Variance under the Emergency Variance procedures, Hearing Board Rules, Section 2.5. Pursuant to Health and Safety Code Sections 42359 and 42359.5, the Hearing Board determined that this Application properly could be ruled

1 upon without notice and hearing. Prior to making this determination, and in accordance with
2 Hearing Board Rules Section 2.5.d.2, the Hearing Board requested and received a response to this
3 Application from the Air Pollution Control Officer. That response recommended the Emergency
4 Variance be denied because the Applicant has not given the District sufficient information to
5 determine if noncompliance was the result of an unforeseeable failure beyond their reasonable
6 control.

7 2. Applicant operates an oil refinery located at 1800 Marina Vista, Martinez,
8 California 94553.

9 3. On April 29, 2004, a new unit, the flexsorb, went on line. This unit is the air
10 pollution control equipment that removes hydrogen sulfide from a gas stream produced by one of
11 the refinery's major processing units known as the flexicoker. This new unit replaced an older air
12 pollution control device. Excess emissions from the flexsorb have also caused excess emissions
13 from Sulfur Recovery Unit # 3 which removes sulfur compounds from a variety of refinery
14 sources.

15 After start-up, the flexsorb operated without excess emissions until
16 June 7, 2004. When the problem was first discovered Applicant believed that it could immediately
17 remedy the problem. However, it did not become apparent that it was not subject to immediate
18 remedy until June 9, 2004. On June 7, 2004, plant operators at Sulfur Recovery Unit # 3 first
19 noticed excess emissions of sulfur dioxide from the plant. The subsequent investigation identified
20 the flexsorb unit as the source of the problem. As a result, Applicant was unable to comply with
21 the applicable regulations.

22 Currently, the cause of the malfunction is undetermined. An investigation team
23 has been assembled and is investigating the cause of the problem with the flexsorb.

24 4. Applicant installed carbon filters to mitigate excess emissions.

25 5. Based upon the information available, the circumstances under which the
26 Application was filed does not properly constitute an "emergency"; additionally, the Applicant did


1 not seek any breakdown relief from the District and the information provided to the Hearing Board
2 is insufficient to justify granting a Variance. Therefore, this variance request is denied

3 THEREFORE, THE HEARING BOARD ORDERS:

4 A Variance from Regulation 2, Rule 1, Section 307 (Permit Conditions 12771 of
5 Part 18 of the CFP permit, and 7618 of the WOR permit); Regulation 9, Rule 1 and Regulation 10
6 – NSPS, Subpart J be and is hereby denied.

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DATED: June 16, 2004

 7-1-04
Christian Colline, P.E.