

EXHIBIT 10

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

11 **In the Matter of**

12 TORRANCE REFINING COMPANY LLC
13 [Facility ID No. 181667],

14 Petitioner,

15 v.

16 SOUTH COAST AIR QUALITY
17 MANAGEMENT DISTRICT.

18 Respondent.
19

Case No. 6060-20

**[PROPOSED] FINDINGS AND
DECISION AND ORDER GRANTING A
MODIFICATION OF SHORT
VARIANCE AND ALTERNATIVE
OPERATING CONDITION**

Hearing Date: March 14, 2024
Time: 9:00 a.m.
Place: SCAQMD
21865 Copley Drive
Diamond Bar, CA 91765

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21 The petitions for Modification of Short Variance and Alternative Operating Condition
22 (“Modification Petitions”) were heard on the Hearing Board’s Consent Calendar on March 14,
23 2024, pursuant to notice and in accordance with the provision of California Health and Safety Code
24 Section 40823 and District Rule 510. The following members of the Hearing Board were present:
25 Cynthia Verdugo-Peralta, Chair; Robert Pearman, Esq., Vice Chair; Mohan Balagopalan; Micah
26 Ali; and Dr. Jerry P. Abraham, MD, MPH, CMQ. Petitioner Torrance Refining Company
27 (“TORC”), represented by Michael S. McDonough of Pillsbury Winthrop Shaw Pittman, did not
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1 appear. Respondent South Coast Air Quality Management District (“District”), represented by
2 Mary Reichert, Senior Deputy District Counsel, did not appear. The matter was submitted for
3 consideration on the Consent Calendar. The public was given an opportunity to testify. The
4 Declaration of Craig Sakamoto was received as evidence (Petitioner’s Exhibit 9), the (Proposed)
5 Findings and Decision and Order of the Hearing Board was received as an exhibit (Petitioner’s
6 Exhibit 10), and the matter was submitted on consent. The Hearing Board finds and decides:

7 1. Petitioner, located at 3700 West 190th Street, Torrance, California 90504, is in the
8 business of petroleum refining at the Torrance Refinery (“Refinery”). Key processes at the
9 Refinery include cracking of heavy petroleum hydrocarbons in the Refinery’s fluid catalytic
10 cracking unit (“FCCU”), processing and treatment of crude oil feed in the Crude Unit, storage and
11 loading of gasoline and other finished petroleum products, and operation of numerous air pollution
12 control systems.

13 2. The equipment that is the subject of these Modification Petitions is as described in
14 the Board’s Minute Order of January 12, 2024 (Petitioner’s Exhibit 5), which is incorporated herein
15 by reference, but more specifically concerns Compressor 8K-1 (Device ID No. D525).and the
16 FCCU (Process 3, System 1 in the Permit) source testing required by District Rule 1105.1.

17 **SUMMARY**

18 Petitioner is seeking relief in the form of a change to the final date of compliance associated
19 with the Variance and AOC in this matter, currently set for March 18, 2024. On February 21, 2024,
20 this Hearing Board granted Petitioner a modification of Variance and AOC Condition 1, which
21 extended the required date of the Rule 1105.1 annual source test from February 14, 2024, to April
22 29, 2024. Petition now seeks a second corresponding modification to extend the final compliance
23 date of the Variance and AOC. Petitioner is requesting this relief because it will be beyond
24 Petitioner’s reasonable control to complete source testing, submit the test results to the District and
25 achieve final compliance by March 18, 2024, due to an unexpected breakdown of the turbine
26 powering Compressor 8K-1. The circumstances of this breakdown and Petitioner’s responsive
27 actions are more fully described in the Modification Petitions and the original Short Variance and
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1 AOC Petitions, which are incorporated herein by reference.

2 District Rule 1105.1(e)(2)(A) requires the operator of any FCCU to conduct annual
3 compliance source testing for PM10 and ammonia emissions. Under District Rule 1105.1(e)(2)(A),
4 such testing must occur between nine and 12 calendar months from the completion of the prior
5 FCCU source test. Petitioner's last Rule 1105.1 source test for the FCCU occurred on September
6 14, 2022, meaning that the next annual Rule 1105.1 FCCU source test was required to occur by
7 September 2023.

8 As reflected in the Declaration of Craig Sakamoto, Petitioner originally sought a Variance
9 and AOC in this matter because an unexpected shutdown of CO Boiler 2F-3 (Device ID No. C164)
10 at the Refinery following state-mandated maintenance prevented Petitioner from timely conducting
11 the annual source test of the FCCU in September 2023. The Hearing Board granted this relief by
12 issuing an initial emergency variance (effective December 19, 2023) and a later short variance
13 (effective January 11, 2024), resetting the FCCU source testing deadline to February 14, 2024 and
14 extending the final compliance date of the variance to March 18, 2024. On February 21, 2024, the
15 Hearing Board granted further relief by issuing an order modifying Condition 1 of the Variance and
16 AOC to extend the FCCU source test deadline to the week of April 29, 2024. A copy of this most
17 recent minute order reflecting the modification has been submitted as Petitioner's Exhibit 8.

18 As the Declaration further reflects, beginning on January 13, 2024, the Compressor 8K-1
19 (Device ID No. D525) turbine started demonstrating unexplained operational issues. Compressor
20 8K-1 is one of two compressors that support operation of the FCCU and must be operating at
21 normal performance levels to allow the FCCU to maintain adequate FCCU feed rates (84 kbd) to
22 run the Rule 1105.1 source test. Without Compressor 8K-1 available at full capacity, Petitioner is
23 only able to maintain roughly 68-70 kbd feed rate in the FCCU, which is below the minimum
24 FCCU feed rate for the source test (84 kpd). Petitioner further explained that it immediately began
25 troubleshooting the Compressor 8K-1 issues, but was unsuccessful in returning the Compressor
26 turbine to operation, requiring Petitioner on January 31, 2024 to send the turbine offsite for repairs.

27 The repair vendor advised Petitioner at that time that the repair and return of the turbine
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1 would take at least until March 1, 2024, and Petitioner further estimated that reinstallation of the
2 repaired turbine into Compressor 8K-1 would take an additional six to seven days once the turbine
3 is received back from the vendor’s repair shop.. As a result, Petitioner consulted with its FCCU
4 source test vendor to reschedule the Rule 1105.1 FCCU source test, and was told that the first
5 available window to reschedule the test would be the week of April 29, 2024. For this reason,
6 Petitioner determined that it could not meet the February 14, 2024, source test deadline in
7 Condition 1 of the original Variance and AOC conditions and anticipated that final compliance
8 would not be achievable by March 18, 2024, given the need to both run the source test and send the
9 results to a lab for processing.

10 Petitioner has since inquired about other source testing companies potentially able to do the
11 work and found a company able to do the testing during the first week of April 2024. While even
12 this timeframe would be beyond the final compliance deadline of March 18, 2024 in the current
13 Variance and AOC, Petitioner has reported that final compliance – including submittal of the
14 source test report to the District – is now anticipated by April 29, 2024 rather than the original
15 estimated completion date of June 30, 2024. Accordingly, Petitioner has amended its Modification
16 request to seek an extension of final compliance only to April 29, 2024.

17 Condition 1 of the Short Variance and AOC currently requires Petitioner to “conduct the
18 required Rule 1105.1 annual source test no later than February 14, 2024.” In addition, the Variance
19 and AOC themselves have a final compliance date of March 18, 2024. Because Petitioner’s
20 original source test vendor cannot conduct the rescheduled source test until the week of April 29,
21 2024, and because the alternate vendor Petitioner has found cannot conduct the work until the first
22 week of April 2024, Petitioner now anticipates that (a) it will need an extension of the current
23 February 14 source test deadline in Condition 1 to June 30, 2024 to accommodate the rescheduled
24 testing, and (b) it will need to seek a modification of the final compliance date of the Variance and
25 AOC to June 30, 2024. Petitioner here seeks only the relief described in (b); this Hearing Board
26 granted the relief requested in (a) in the February 21, 2024 hearing in this matter.

27 Petitioner intends to achieve compliance with the requested amended timeframes by
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1 working with the repair vendor and turbine manufacturer to provide all information necessary to
2 repair the turbine as soon as possible, to expedite the return and reinstallation of the repaired
3 turbine, and to ensure that all equipment and processes are ready for the Rule 1105.1 source test set
4 for the first week of April 2024. Once the source test is completed, Petitioner has committed to
5 work with the source testing vendor and lab to ensure source test results are processed and returned
6 as quickly as possible, so that they can be transmitted to the District as quickly as possible.
7 Petitioner anticipates that the results will be submitted to the District, and that it will return to final
8 compliance in this matter, on or before April 29, 2024.

9 **FINDINGS OF FACT**

10 Following are the facts and conclusions supporting the findings set forth in Health and
11 Safety Code Section 42352 necessary to grant the Short Variance modification as well as the
12 findings set forth in District Rule 518.2 for Alternative Operating Conditions. The Executive
13 Officer did not oppose the granting of the Short Variance and AOC modification.

14 **a. The petitioner for a variance and alternative operating condition is, or will be,**
15 **in violation of Section 41701 or of any rule, regulation or order of the District or any federally**
16 **enforceable permit terms and conditions that are based on Section 41701 or of any applicable**
17 **rule or regulation of the District.**

18 1. Pursuant to the Short Variance and AOC, the deadline for final compliance is
19 currently set for March 18, 2024.

20 2. As the original Short Variance and AOC Petitions reflect, because of a sudden
21 shutdown of Compressor 4K-1 in Air Products' No. 1 Hydrogen Plant on August 30, 2023,
22 Petitioner was unable to meet the original September 2023 deadline for the annual source testing.
23 As the Modification Petitions reflect, because of the unexpected breakdown of the Compressor 8K-
24 1 turbine, Petitioner was unable to meet the extended February 14, 2024 source testing deadline set
25 by Condition 1 of the original Short Variance and AOC, and is unable to meet the existing final
26 compliance date of March 18, 2024.

27 3. Despite an original estimate of June 30, 2024 for final compliance, Petitioner was
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1 able to find and engage an alternative source testing vendor to perform the Rule 1105.1 source test
2 during the first week of April 2024 and submit results to the District no later than April 29, 2024,
3 but even this date is beyond the current final compliance deadline of March 18, 2024.

4 4. Thus, Petitioner is and will continue to be in violation of the District Rules and
5 Permit Conditions reflected in the original and Modification Petitions until it can achieve final
6 compliance as described above.

7 **b(1). Non-compliance with District Rule(s) is due to conditions beyond the reasonable**
8 **control of the petitioner.**

9 1. As discussed in the Modification Petitions, the breakdown of the Compressor 8K-1
10 turbine was sudden and unanticipated, and Petitioner did not reasonably expect operational issues
11 given the equipment's regular maintenance schedule.

12 2. Despite extensive troubleshooting efforts, Petitioner was not able to complete an on-
13 site repair and return Compressor 8K-1 to operation in time to meet the February 14, 2024 deadline
14 in Condition 1 of the Variance and AOC. As the Modification Petitions reflect, Petitioner has been
15 forced to send the Compressor turbine offsite for repair, and its repair vendor estimated it could not
16 repair and return the turbine sooner than March 1, 2024. This required Petitioner to reschedule its
17 planned February source test. While Petitioner's original source test vendor advised that the first
18 available date for rescheduling would be the week of April 29, 2024 – which Petitioner noted would
19 delay final compliance in this matter to June 30, 2024 – Petitioner was able to find and engage an
20 alternate source testing vendor to perform the test earlier – *i.e.*, during the first week of April 2024.
21 Petitioner has reported that this will now enable it to achieve final compliance no later than April
22 29, 2024. Nevertheless, it will still be beyond the reasonable control of Petitioner to meet the
23 current final compliance deadline of March 18, 2024.

24 **b(2). Requiring compliance would result in either (1) an arbitrary or unreasonable**
25 **taking of property, or (2) the practical closing and elimination of a lawful business.**

26 1. Denial of the Modification Petitions would cause significant harm to Petitioner with
27 no corresponding benefit to the environment. Denial of the requested extension of time to
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1 accommodate the delays caused by the unexpected breakdown of the Compressor 8K-1 turbine
2 would prevent Petitioner from conducting the FCCU source test required by Rule 1105.1. The
3 FCCU is the key unit responsible for production of refined petroleum products from the Refinery,
4 and preventing a source test extension eventually would force Petitioner to shut down the FCCU,
5 and with it, multiple process units that depend on the operation of the FCCU.

6 2. If these units are allowed to restart, it is likely that there would be excess emissions
7 and flaring, causing additional noncompliance with the Title V Permit and District Rules. If the
8 FCCU and these associated units are never allowed to restart, Petitioner eventually would be forced
9 to shut down the Refinery, causing the loss of business and goodwill, loss of jobs, breach of the
10 Refinery's contracts, and upsets to the local and regional petroleum supply market.

11 **c. The closing or taking would be without a corresponding benefit in reducing air**
12 **contaminants.**

13 1. Because the requested Modification will result in no excess emissions, denying the
14 Petitions would not produce any benefit in reducing air contaminants, and could produce excess
15 emissions if the FCCU and supporting units are forced offline and are restarted at a later date.

16 **d. The applicant for the variance and alternative operating condition has given**
17 **consideration to curtailing operations of the source in lieu of obtaining a variance.**

18 1. Petitioner considered curtailment in lieu of seeking a modification of this Variance
19 and AOC, but curtailment of operations will not allow Petitioner to meet its February 14, 2024
20 FCCU source testing deadline, or avoid the need for this Variance Modification. While Petitioner
21 could fully shut down the FCCU until a source test is completed, as discussed above, shutdown and
22 eventual restart of the FCCU and the multiple units that depend on it is likely to result in excess
23 emissions that can be avoided by granting this Modification Petitions.

24 **e. During the period the variance and alternative operating condition are in effect,**
25 **the applicant will reduce excess emissions to the maximum extent feasible.**

26 1. No excess emissions are expected as a result of the requested modification. Petitioner
27 continues to operate its permitted emissions controls and ensure no exceedance of permit limits in
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1 the Permit or in District Rules.

2 **f. During the period the variance and alternative operating condition are in effect,**
3 **the applicant will monitor or otherwise quantify emission levels from the source, if requested**
4 **to do so by the district, and report these emission levels to the district pursuant to a schedule**
5 **established by the district.**

6 1. Petitioner will continue to monitor emissions as required by its Permit and the
7 existing Short Variance and AOC conditions during the proposed modified Variance and AOC
8 period. Records of these inspections shall be made available to the District upon request.

9 **g. The alternative operating condition will not result in noncompliance with the**
10 **requirement of any NSPS or NESHAP or other standard promulgated by the U.S. EPA under**
11 **sections 111 or 112 of the Clean Air Act, or any District Rule that substitutes for such**
12 **requirement promulgated by the U.S. EPA under Title IV or VI of the Clean Air Act, or any**
13 **requirement contained in a permit issued by the U.S. EPA or the requirement to apply for or**
14 **obtain an operating permit under Rule 3002 -Requirements for an authority to construct.**

15 1. The requested modification will not cause Petitioner to be in violation of any NSPS
16 or NESHAP or other standard promulgated under Section 111 or 112 or Title IV or VI of the Clean
17 Air Act for the equipment.

18 **h. Any emissions [calculated pursuant to subparagraph (h)(3)(B) of Rule 518.2]**
19 **resulting from the alternative operating condition will not, in conjunction with emissions**
20 **[calculated pursuant to subparagraph (h)(3)(B) of Rule 518.2] resulting from all other**
21 **alternative operating conditions established by the Hearing Board and in effect at the time,**
22 **exceed the amount of alternative operating condition credits held in the Alternative Operating**
23 **Condition Credit Bank.**

24 1. The AOC bank has not been established and there are no credits in the bank.
25 Petitioner does not anticipate any excess emissions as a result of the requested modification.

26 **i. Operation under the alternative operating conditions will not result in the**
27 **source discharging such quantities of air contaminants or other material which cause injury,**
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1 **detriment, nuisance, or annoyance to any considerable number of persons or to the public, or**
2 **which endanger the comfort, repose, health, or safety of any such persons or to the public, or**
3 **which cause, or have a natural tendency to cause, injury or damage to business or property.**

4 1. Because no excess emissions are expected as a result of granting the modification,
5 Petitioner does not anticipate that granting the modification will cause any injury, detriment,
6 nuisance, or annoyance to any persons or the public. Petitioner’s work is intended to allow the
7 source testing of the FCCU as required by District Rule 1105.1. No opacity or odorous substances
8 are anticipated to be released in any quantity sufficient to be detectable to the public.

9 **j. The excess emissions resulting from operations pursuant to the alternative**
10 **operating condition would not, by themselves, cause an exceedance of a National Ambient Air**
11 **Quality Standard.**

12 1. Petitioner expects no excess emissions as a result of the requested modification, and
13 therefore does not expect to cause an exceedance of any NAAQS as a result of the modification.

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16 **CONCLUSION AND ORDER**

17 THEREFORE, good cause appearing, the Hearing Board orders as follows:

18 A. The final compliance date for the Variance and AOC in this matter shall be modified
19 to April 29, 2024.

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21 FOR THE BOARD: _____

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25 DATE SIGNED: _____