



South Coast Air Quality Management District

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Office of the Executive Officer
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February 4, 2022

SELA United
c/o Honorable Elizabeth Alcantar
Mayor, City of Cudahy
Via Email: liz@elizabethalcantar.com

Re: Rendering Plant Odor Affecting Southeast Los Angeles Communities

Community Partners at SELA United:

The South Coast Air Quality Management District (South Coast AQMD) Governing Board has received your letter, dated January 25, 2022, regarding the rendering plants located in and near the City of Vernon. Governing Board Chair Ben Benoit has asked that I respond to your letter on his behalf and provide an update on this agency's efforts to address the rendering odors that are impacting residents of Southeast Los Angeles.

South Coast AQMD has an ongoing, active investigation of the rendering plants, and we employ a multi-faceted approach to address rendering odors. This approach includes: extensive field operations, such as unannounced on-site inspections, community odor surveillance, and responding to public complaints; enforcement of South Coast AQMD Rule 402 and the corresponding state law governing public nuisances; the continuing implementation of South Coast AQMD Rule 415 – *Odors from Rendering Facilities*, which requires operators to implement state-of-the-art measures to minimize and contain odors; and pursuing civil penalties, as allowed by California law, and administrative relief before the South Coast AQMD Hearing Board, when appropriate, to force violators into compliance. In addition, we regularly engage with the community on this topic through the development and implementation of Community Emissions Reduction Plans (CERPs) for the AB 617 communities of East Los Angeles/Boyle Heights/West Commerce and Southeast Los Angeles. Rule 415 is one of the most comprehensive rules in the nation addressing odors from rendering facilities, as it requires the installation of permanent total enclosures and a multitude of measures to minimize and contain odors from rendering operations.

Traditionally, most odor issues within our jurisdiction have been addressed through public nuisance law. Under South Coast AQMD Rule 402 and California Health & Safety Code §41700, when our inspectors respond to complaints, they must verify odors with “any considerable number of persons or ... the public.” This means that, for communities of this size, at least six (6) complaints must be confirmed for an odor event to constitute a public nuisance. Only upon verifying odors in person with a sufficient number of complainants and tracing those odors to a particular source may we take enforcement action. Although investigations in other contexts have led to the issuance of numerous violations for public nuisance – e.g., for Sunshine Canyon Landfill in Sylmar and the Hyperion Water Reclamation Plant in Playa Del Rey – rendering odor events in the Vernon area are uniquely challenging in light of the fleeting nature of the odors, the vast geographic area they impact, and the rendering plants’ close proximity to each other. Following numerous requests for assistance from local residents, this agency engaged in rulemaking to create an additional level of protection for communities being impacted by rendering operations.

In 2017, the South Coast AQMD Governing Board adopted Rule 415 to address odors from facilities that process animals and animal parts. Rule 415 provides an additional tool for the control of odors as each provision is enforceable. The rule requires rendering plants to implement specific measures to reduce odor impacts in nearby communities, through best management practices (BMPs) and by constructing permanent total enclosures.¹ Examples of BMPs in the rule include: the covering of all incoming trucks; the washing of containers, vehicles, and receiving areas; the regular cleaning of floor drains; the repair or repaving of any broken asphalt or concrete areas to prevent standing water; and limiting the holding time for incoming raw materials. For the enclosure requirement, all rendering facilities (unless specifically exempted) must install a permanent total enclosure for raw material receiving areas, raw material grinding and cooking operations, and wastewater treatment operations within two years of being issued a South Coast AQMD Permit to Construct. Installation of permanent total enclosures should occur by the end of 2022 and is expected to significantly decrease rendering odors.

The five rendering plants located in and near Vernon are: Baker Commodities Inc. (Baker); Coast Packing Co. (Coast); Darling Ingredients Inc. (Darling); Legacy By-Products LLC (Legacy), formerly D&D Disposal Inc. dba West Coast Rendering Co.; and Smithfield Packaged Meats Corp. (Smithfield), formerly Clougherty Packing

¹ The rule technically requires the installation of a permanent total enclosure or a “closed system,” Rule 415(d)(1)(B), but the four rendering facilities subject to the rule have opted to enclose most, if not all, of their operations.

LLC dba Farmer John.² To comply with Rule 415, four of these facilities have been issued permits to construct permanent total enclosures, and the exception (Coast) is exempt from the requirement because it does not process enough material to meet rule throughput thresholds. Darling has already completed installation of enclosures for its raw material receiving area and grinding/cooking operations, while Baker, Legacy, and Smithfield are still within the allowed timeframe to install enclosures at their facilities. Baker's deadlines to install enclosures for its main plant and backup plant are in March 2022 and April 2022, respectively; Legacy, which acquired the facility formerly owned by D&D Disposal Inc., is now under a Stipulated Order for Abatement before the South Coast AQMD Hearing Board with a deadline to have all enclosures completed by September 2022; and Smithfield is scheduled to complete its enclosures by November 2022. Baker has already used its one-time extension allowed under Rule 415(d)(1)(F) based on delays caused by the Covid-19 pandemic (the only facility to do so), and it is staff's understanding that Smithfield is scheduled to meet its current November deadline. In sum, out of the four major rendering facilities identified as historically causing odors, one facility has completed its enclosures (Darling) and two have taken corrective actions and are on pace to complete enclosures prior to their 2022 deadlines (Legacy and Smithfield) – leaving a single facility with ongoing odor issues (Baker) that is currently subject to enforcement action, as discussed below.

Since the adoption of Rule 415, South Coast AQMD enforcement staff has conducted more than 30 in-person inspections at the rendering plants. Inspectors have also responded to hundreds of complaints and performed at least weekly surveillance operations near those facilities and in the surrounding areas to evaluate odor impacts. As a result of these extensive field activities, the agency has issued approximately 10 Notices to Comply (NCs) and nine (9) Notices of Violation (NOVs) under Rule 415.³ NCs are issued for minor violations (similar to fix-it tickets) and to obtain documents, while NOVs are issued for more serious violations, such as public nuisance. Facilities that receive NOVs are subject to civil penalties, and the settlement negotiation process is used both to require companies to implement mitigative measures that reduce emissions and to impose financial penalties to deter future violations. The California Health & Safety Code identifies factors that must be considered in

² All five of the rendering plants are located within a two-mile radius from each other. Darling is technically located in the City of Los Angeles, while the other facilities are in the City of Vernon.

³ For Rule 415 violations, two NOVs were issued to D&D Disposal Inc. (since acquired by Legacy), and six NOVs were issued to Baker. Additionally, an NOV for public nuisance under Rule 402 and the California Health & Safety Code was issued to Smithfield in January 2020, though the underlying odor event was based on an equipment breakdown and appears to have been an isolated incident.

determining penalties, such as the frequency of past violations and actions taken by a company to mitigate the violation. *See* Cal. Health & Safety Code §42403(b). A challenge faced by all air districts, however, is that our civil penalty authority under state law is generally limited to \$10,000 per day per violation.⁴ A higher penalty limit for strict liability violations such as those at issue here would allow us to expedite the resolution of NOVs, by requiring facilities to immediately address violations and by forcefully preventing repeated noncompliance. In the absence of a settlement, South Coast AQMD may file a lawsuit in superior court, though this rarely occurs. More frequently, if a facility is uncooperative or remains in violation for a period of time, we will seek an Order for Abatement from the South Coast AQMD Hearing Board. An abatement order requires the facility to cease operating in violation of air quality rules, and will include a schedule of steps to be taken to come into compliance. If the facility violates the Order for Abatement, South Coast AQMD may seek an injunction in court to force the facility to comply with the order.

In particular, Baker has been the subject of extensive scrutiny recently by our enforcement team. Last year the facility replaced the cooker in its main plant and for a time relied exclusively on the cooker in its backup plant, which resulted in multiple odor events. South Coast AQMD inspectors responded to numerous complaints during that time and visited the site repeatedly. Following our investigations of each odor incident, we issued NOVs in June 2021, October 2021, and January 2022 – all for the facility’s failure to process raw materials within the required four-hour period, in violation of Rule 415(e)(5). These violations have been referred to our Legal Department for settlement negotiations, and we are presently evaluating more stringent enforcement action – including the potential filing of an Order for Abatement before the South Coast AQMD Hearing Board – if odors from the facility continue to affect surrounding communities. The fact that Baker is scheduled to complete the installation of enclosures by April 2022 will neither deter nor delay future enforcement action.

The rendering plants, and ongoing issues at Baker specifically, are a top priority for this agency; and we are coordinating with the Los Angeles County Department of Public Health and the City of Vernon regarding this effort. Anyone being affected by

⁴ Although the Health & Safety Code provides for higher penalties under some circumstances – e.g., knowing or intentional violations – it is extremely difficult to obtain sufficient evidence to prove the mental state (i.e., the *mens rea*) required to reach those elevated penalty thresholds. Air districts do not have the investigative authority, such as the ability to issue administrative subpoenas or criminal liability when violators attempt to deceive investigators, nor the staffing levels necessary to prove up those kinds of cases on a consistent basis. Changing the existing civil penalty system to empower air districts would require action by the California Legislature.

rendering odors or any other air quality issue may submit a complaint by using the South Coast AQMD complaint hotline at 1-800-CUT-SMOG (1-800-288-7664) or the [Online Complaint System](http://www.aqmd.gov) on our website (www.aqmd.gov). We understand that community members have raised concerns about sharing their identities when filing complaints. South Coast AQMD goes to great lengths, however, to guard the confidentiality of complainant personal information. We have litigated this issue in the past to prevent companies from obtaining names, addresses, and/or telephone numbers of those who have submitted complaints, and we have denied requests from other government agencies seeking to obtain this information. Members of the public are able to file complaints anonymously; and, although we will not be able to contact them for additional information or use those complaints to support public nuisance violations, we will nevertheless investigate each matter to the best of our ability. South Coast AQMD attempts to respond to every complaint that we receive, and we remain committed to doing everything within our power to protect the residents of Southeast Los Angeles.

Please feel free to contact me if you have any additional questions or if I can provide any further information on this important topic.

Sincerely,



Wayne Natri
Executive Officer

WN/TM:drw

cc: South Coast AQMD Governing Board