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12 CITY OF SAN BERNARDINO MUNICIPAL  
13 WATER DEPARTMENT

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

16 In the Matter of

17 SOUTH COAST AIR QUALITY  
18 MANAGEMENT DISTRICT,

19 Petitioner,

20 v.

21 CITY OF SAN BERNARDINO  
22 MUNICIPAL WATER DEPARTMENT  
23 (Facility No. 11301)

24 Respondent.

CASE NO. 6124-2

**DECLARATION OF JENNIFER L.  
SHEPARDSON**

District Rule 1196

Date: August 13, 2024

Time: 9:30 a.m.

Place: 21865 Copley Drive  
Diamond Bar, CA 91765

25 I, Jennifer L. Shepardson, declare:

26 1. I am the Director of Environmental and Regulatory Compliance for the City of  
27 San Bernardino Municipal Water Department (Department). The following matters are within  
28 my personal knowledge and if called as a witness, I can competently testify thereto.

29 2. I have worked for the Department for approximately 14 years. From July 2010 to  
30 January 2012, I worked as the Department's Environmental Supervisor, before being promoted to  
31 the Regulatory and Compliance Manager in January 2012. In March 2013, I entered my current  
32 position.

1           3.        The Department is a semi-autonomous department of the City of San Bernardino  
2 (City). The Department operates the City’s Water Reclamation Plant, providing the essential  
3 public services of wastewater collection, wastewater treatment, and potable water treatment and  
4 distribution for the City and other nearby service areas within San Bernardino County.

5           4.        The Department owns and operates multiple heavy-duty vehicles to provide these  
6 essential public services.

7   A.       BACKGROUND

8       OCTOBER 2019 FINDINGS AND DECISION FOR THE ORDER OF ABATEMENT –  
9       STIPULATED

10          5.        On October 3, 2019, the Department appeared before the Hearing Board of the  
11 South Coast Air Quality Management District (Hearing Board) as Respondent in a hearing to  
12 consider an Order of Abatement – Stipulated regarding its self-reported non-compliance with  
13 South Coast Air Quality Management District (South Coast AQMD) Rule 1196. At the time of  
14 the hearing, the Department owned and operated 15 vehicles noncompliant with Rule 1196. After  
15 finding good cause, the Hearing Board issued its Findings and Decision for the Order of  
16 Abatement – Stipulated (Initial Order) on October 17, 2019, which included 10 conditions.  
17 Appended to the Initial Order as “Attachment A” was a schedule identifying the 12 vehicles the  
18 Department shall replace during the pendency of the Initial Order, as well as the projected makes,  
19 models, model years, and fuel types of the replacement vehicles (Replacement Schedule). The  
20 Replacement Schedule also lists the three vehicles exempt from Rule 1196, under Rule 1196  
21 subdivision (f)(8)(a), that the Department will retain in its fleet.

22       MAY 2020 STATUS HEARING

23          6.        On May 5, 2020, the Hearing Board heard on its Consent Calendar the  
24 Department’s annual status hearing, under Condition 5 of the Initial Order. The Hearing Board  
25 received testimony from the Department providing an update on the progress of compliance with  
26 the conditions in the Initial Order. Neither the Department nor the South Coast AQMD sought  
27 modifications to the Initial Order, and neither party appeared. At the time of the 2020 status  
28

1 hearing, the Department had replaced six of the 12 noncompliant non-exempt vehicles in  
2 accordance, and in compliance, with the Replacement Schedule.

3 7. On May 19, 2020, the Hearing Board issued a Minute Order scheduling the  
4 Department to appear for a second status hearing on May 5, 2021.

5 JULY 2020 MODIFICATION TO INITIAL ORDER

6 8. On July 7, 2020, the Department filed a Petition for Modification of the Order  
7 (Modification) with South Coast AQMD staff and counsel's assent. The Modification sought to  
8 change the model year of four (4) replacement vehicles in the Replacement Schedule. On July  
9 23, 2020, the Hearing Board heard on its Consent Calendar the Modification. The Hearing Board  
10 received testimony explaining the basis and projected impacts of the Modification, and neither  
11 party appeared. At the time of the hearing, the Department owned and operated six (6) vehicles  
12 not compliant with, and not exempt from, Rule 1196.

13 9. After finding good cause, the Hearing Board granted the Modification. The  
14 Hearing Board issued its Findings and Decision for the Modified Order of Abatement –  
15 Stipulated (Modified Order) on August 4, 2020, reflecting the changed model years in the  
16 Replacement Schedule for the four (4) replacement vehicles.

17 MAY 2021 STATUS HEARING

18 10. On May 5, 2021, the Hearing Board heard on its Consent Calendar the  
19 Department's annual status hearing, under Condition 5 of the Modified Order. The Hearing  
20 Board received testimony from the Department providing an update on the progress of  
21 compliance with the conditions in the Modified Order. Neither the Department nor the South  
22 Coast AQMD sought modifications to the Modified Order, and neither party appeared. At the  
23 time of the May 2021 status hearing, the Department had replaced 10 of the 12 noncompliant  
24 vehicles in accordance with the Replacement Schedule.

25 11. On May 20, 2021, the Hearing Board issued a Minute Order scheduling the  
26 Department to appear for a status hearing on May 5, 2022.

1 MAY 2022 STATUS HEARING AND ADMINISTRATIVE REVISIONS TO MODIFIED  
2 ORDER

3 12. On May 5, 2022, the Hearing Board heard on its Consent Calendar the  
4 Department's annual status hearing, under Condition 5 of the Modified Order. The Hearing  
5 Board received testimony from the Department providing an update on the progress of  
6 compliance with the conditions in the Modified Order. Neither the Department nor the South  
7 Coast AQMD sought substantive modifications to the Modified Order, and neither party  
8 appeared. The parties, however, stipulated to two administrative revisions to the Modified Order  
9 to update: (a) the name and contact information of the South Coast AQMD Planning and Rules  
10 Manager, who receives notices and progress reports from the Department under Conditions 2, 4,  
11 and 6 of the Modified Order; and (b) to set the date for the next annual status hearing.

12 13. At the time of the 2022 status hearing, the Department had replaced 11 of the  
13 12 noncompliant vehicles in accordance with the Replacement Schedule.

14 14. After finding good cause, the Hearing Board issued its Findings and Decision for  
15 the Revised Modified Order for Abatement – Stipulated (Revised Modified Order) on May 11,  
16 2022, reflecting the stipulated administrative revision and setting a status hearing for May 4,  
17 2023.

18 MAY 2023 STATUS HEARING AND MODIFICATION TO REVISED MODIFIED ORDER

19 15. On May 4, 2023, the Hearing Board heard on its Consent Calendar the  
20 Department's annual status hearing, under Condition 5 of the Revised Modified Order. The  
21 Hearing Board received testimony from the Department providing an update on the progress of  
22 compliance with the conditions of the Revised Modified Order, including the Department's  
23 purchase of the final replacement vehicle under the Replacement Schedule, achieving early  
24 compliance with Condition 1. The Department and the South Coast AQMD stipulated to four  
25 minor modifications to the Revised Modified Order, including deeming the Department's  
26 compliance with Condition 4 complete and extending the jurisdiction of the Hearing Board by  
27 one year (i.e., to December 15, 2024) under Condition 9, among others. (Declaration of Jennifer  
28 L. Shepardson (Shepardson Decl.), May 2, 2023, ¶¶ 26, 32.) Neither party appeared.

1           16.     After finding good cause, the Hearing Board issued its Findings and Decision for a  
2           second Revised Modified Order for Abatement – Stipulated (Second Revised Modified Order) on  
3           May 11, 2023, reflecting the requested modifications and setting a status hearing for July 18,  
4           2024.

5           17.     The Second Revised Modified Order is the operative order as of the date of this  
6           status hearing.

7   **B.     CURRENT COMPLIANCE STATUS**

8           18.     All that remains for the Department to achieve final compliance with the Second  
9           Revised Modified Order is to place into service the replacement vehicle for Unit No. 591, receive  
10          delivery of the replacement vehicle for Unit No. 186, decommission and dispose of Unit Nos. 591  
11          and 186, and provide the requisite notices to the South Coast AQMD and the Clerk of the Hearing  
12          Board. The Department provides the Hearing Board the following compliance status on a  
13          condition-by-condition basis.

14          CONDITION 1 – COMPLETE

15          19.     Condition 1 of the Second Revised Modified Order mandates compliance with the  
16          Replacement Schedule. Compliance with the Replacement Schedule is based on the Department  
17          purchasing replacement vehicles by the close of the first quarter of the following fiscal year in  
18          which the noncompliant vehicles are slated for replacement. The Department's final compliance  
19          with the Replacement Schedule and Condition 1 was, therefore, required by September 30, 2023.

20          20.     As detailed in my declaration dated May 2, 2023, the Department achieved early  
21          compliance with Condition 1 – on September 1, 2022 – when it purchased the replacement  
22          vehicle for Unit 186, which was the last noncompliant and non-exempt vehicle in the  
23          Department's fleet. (Shepardson Decl., May 2, 2023, ¶ 14.) Thus, the Department's obligations  
24          under Condition 1 remain complete. The Department spent approximately \$1.9 million to both  
25          replace the 12 noncompliant and non-exempt vehicles listed in the Replacement Schedule and  
26          achieve early compliance with Condition 1.

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CONDITION 2 – ONGOING AND EXPECTED

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2           21.     Condition 2 requires the Department to notify Vicki White, South Coast AQMD  
3 Planning and Rules Manager, by email within 10 days of the Department’s: (i) purchase of a  
4 compliant vehicle replacing a noncompliant vehicle; (ii) delivery of a compliant vehicle replacing  
5 a noncompliant vehicle; (iii) decommissioning (i.e., removing from service) a noncompliant  
6 vehicle and commissioning (i.e., placing in service) a compliant vehicle; and (iv) final disposition  
7 of a noncompliant vehicle removed from service. The Department is complying with  
8 Condition 2.

9           22.     The Department received delivery of the replacement vehicle for Unit No. 591 on  
10 July 23, 2024. The Department assigned the replacement vehicle for Unit No. 591 with unit  
11 number “170” (Unit No. 170). Unit No. 170 is a compressed natural gas (CNG) fueled  
12 Freightliner M2, with a certified gross vehicle weight rating (GVWR) of up to 26,000 pounds and  
13 outfitted with a personnel lift. Accordingly, it is equipped with a “bucket” to lift Department  
14 personnel vertically, to a maximum working height of 65 feet and one (1) inch, among other  
15 specific components, such as sub-frame mounted A-frame outriggers and auxiliary outriggers in  
16 the rear to stabilize the vehicle when under aerial load. The manufacturer – Freightliner –  
17 delivered the chassis for Unit No. 170 to the dealer on or around March 21, 2023. Since that date,  
18 the Department understands that the dealer has been sourcing, awaiting delivery of, and installing  
19 the various components necessary for Unit No. 170 to serve the Department. The dealer  
20 completed installing these components on July 16, 2024, then delivered Unit No. 170 to  
21 Freightliner to perform an inspection of the chassis. Freightliner requested to inspect the chassis  
22 because of the duration between it delivering the chassis to the dealer, and the dealer fully  
23 outfitting Unit No. 170. Freightliner performed the chassis inspection on July 19, 2024, prior to  
24 the Department receiving delivery of Unit No. 170 four days later.

25           23.     The Department provided South Coast AQMD Planning and Rules Manager notice  
26 that it received delivery of Unit No. 170, replacing vehicle Unit No. 591, on July 24, 2024,  
27  
28

1 achieving compliance with Condition 2(ii).<sup>1</sup> In that notice, the Department informed South Coast  
2 AQMD that it is in the process of commissioning Unit No. 170 and provided photographs of the  
3 vehicle for reference. Included herewith as Attachment 1 are photos of Unit No. 170.

4 24. The Department will provide South Coast AQMD with the requisite notice when  
5 Unit No. 170 is placed into service, and when Unit No. 591 is decommissioned and then disposed  
6 of, in compliance with Condition 2 (iii)-(iv).

7 25. The Department expects to receive delivery of the replacement vehicle for  
8 Unit No. 186 soon, likely by August 16, 2024. Similar to the replacement vehicle for Unit  
9 No. 591, the Department purchased the replacement vehicle for Unit No. 186 almost two years  
10 ago and understands that Freightliner delivered the chassis to the dealer nearly one year ago.  
11 Since receiving delivery of the chassis, the dealer has been sourcing, awaiting delivery of, and  
12 installing the various components necessary for this replacement vehicle to be ready for service in  
13 the Department's fleet. Unit No. 186 is a crane truck with a certified GVWR of 33,000 pounds  
14 and will be equipped with side cabinets, outriggers, stabilizers, and a telescopic crane with a  
15 maximum tip height of 80.8 feet and maximum lifting capacity of up to 34,000 pounds. The  
16 Department understands that the dealer is expected to complete outfitting the replacement vehicle  
17 for Unit No. 186 on or around August 9, 2024. Freightliner will then inspect the fully outfitted  
18 vehicle at its facility, prior to delivering it to the Department. The Department understands that  
19 Freightliner expects to deliver the replacement vehicle for Unit No. 186 on or around August 16,  
20 2024. The Department will provide notice to the South Coast AQMD Planning and Rules  
21 Manager when it receives delivery of the replacement vehicle, places it into service, and  
22 decommissions and disposes of Unit No. 186, achieving compliance with Condition 2 (iii) - (iv)  
23 and final compliance with Condition 2.

24 26. Thus, the Department expects to complete its compliance with Condition 2 soon.  
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27 <sup>1</sup> The Department provided this notice to Brian Choe and Eugene Kang. Upon submitting a report to South Coast  
28 AQMD in July 2024, the Department was advised that Vickie White is no longer with South Coast AQMD and that  
Mr. Kang should be included on notices required by the Second Revised Modified Order in her stead.

1 CONDITION 3 – COMPLETE

2 27. Condition 3 requires the Department to reasonably and in good faith research the  
3 availability of alternative-fueled vehicles in lieu of the compliant gasoline-fueled vehicles  
4 identified in the Replacement Schedule.

5 28. The Department achieved final compliance with Condition 3 in 2020. Prior to  
6 purchasing each gasoline-fueled replacement vehicle, the Department researched the availability  
7 of, and attempted to demonstrate, similarly sized alternative-fueled vehicles. As detailed in my  
8 July 21, 2020 declaration, there were no California Air Resources Board-compliant  
9 alternative-fueled engines available in the necessary chassis configuration to substitute the  
10 remaining planned gasoline-fueled replacement vehicles. (See Shepardson Decl., July 21, 2020,  
11 ¶ 20.) It was also unlikely that such vehicles would become available prior to the Department  
12 having to purchase them in compliance with the then-operative order. (*Ibid.*) Accordingly, and  
13 as detailed in my April 22, 2021 declaration, the Department purchased the final four gasoline-  
14 fueled replacement vehicles in fiscal year 2020/2021 when it submitted purchase orders for them  
15 on July 23, 2020. (See Shepardson Decl., Apr. 22, 2021, ¶¶ 13-17.)

16 29. The two replacement vehicles purchased after fiscal year 2020/2021  
17 (i.e., replacement vehicles for Unit No. 951 and 186) are the final two replacement vehicles in the  
18 Replacement Schedule. Both are alternative-fueled – specifically, compressed CNG-fueled.

19 30. Thus, the Department achieved final compliance with Condition 3 prior to July 23,  
20 2020 when it submitted purchase orders for the final four gasoline-fueled replacement vehicles.

21 CONDITION 4 – COMPLETE

22 31. Condition 4 requires the Department, commencing on January 15, 2020, to submit  
23 via email written quarterly status reports to the South Coast AQMD Planning and Rules Manager.  
24 Such quarterly reports shall present evidence of the Department’s ongoing compliance and  
25 summarize the Department’s efforts and direct communications to research and demonstrate the  
26 suitability of alternative fueled-compliant vehicles meeting the Department’s requirements, as  
27 well as its efforts to bid on such vehicles, to the extent that bidding is appropriate.  
28



1           32.     Based on the Department’s compliance statuses as of April 2023 and the nature and  
2 scope of the information provided in the written quarterly status reports required under Condition  
3 4, the Hearing Board deemed the Department’s compliance with Condition 4 complete in the  
4 Second Modified Revised Order. (See Second Modified Revised Order, May 11, 2023, p. 12  
5 [“The Department is not obligated to submit quarterly status reports after the date of this Second  
6 Revised Modified Order for the reasons set forth above herein.”].)

7           33.     Thus, the Department has no further compliance obligation associated with  
8 Condition 4.

9           CONDITION 5 – ONGOING AND EXPECTED

10          34.     Condition 5 requires the Department to return to the Hearing Board for a status  
11 hearing on July 18, 2024, with additional status hearings scheduled thereafter at intervals  
12 determined to be necessary by the Hearing Board until final compliance is achieved. On July 10,  
13 2024 the Department learned from its counsel, Alyson Ackerman, that the July 18, 2024 status  
14 hearing could not proceed as scheduled and was rescheduled to August 13, 2024. The  
15 Department understands that Ms. Ackerman submits a declaration herewith explaining the reason  
16 for the rescheduled status hearing.

17          35.     This Declaration supports the Stipulation to Place Matter Status Hearing on the  
18 Hearing Board’s Consent Calendar for August 13, 2024. After this hearing, the Department will  
19 achieve compliance with Condition 5, unless the Hearing Board schedules another status hearing  
20 prior to December 15, 2024.

21          36.     Because delivery of the replacement vehicle for Unit No. 186 is expected within  
22 the next few days, the Department does not believe that another status hearing before the Hearing  
23 Board is necessary. However, the Department recalls discussions amongst Hearing Board  
24 members during its 2023 status and modification hearing regarding a desire for an in-person  
25 hearing upon the Department achieving final compliance with the Second Modified Revised  
26 Order. To the extent that the Hearing Board members’ desires remain, the Department will  
27 appear for an in-person status hearing presenting its final compliance to the Hearing Board. To  
28 the extent that the Hearing Board members prefer the Department to return to the Hearing Board

1 for an in-person hearing regarding its final compliance, the Department proposes Tuesday,  
2 October 22, 2024 as a possible hearing date. The Department understands that the South Coast  
3 AQMD agrees with this possible hearing date.

4 CONDITION 6 –EXPECTED

5 37. Condition 6 of the Second Revised Modified Order requires the Department to  
6 notify the South Coast AQMD Planning and Rules Manager when it achieves final compliance.  
7 That notice must provide the vehicle identification numbers for each compliant vehicle and the  
8 dates of their purchase.

9 38. As explained hereinabove, the Department’s achievement of final compliance with  
10 the Second Revised Modified Order is imminent. All that remains is for the Department to  
11 achieve that status is to place Unit No. 170 into service (replacement vehicle for Unit No. 591),  
12 receive delivery of the replacement vehicle for Unit No. 186, place it into service, and  
13 decommission and dispose of Unit Nos. 591 and 186. The Department anticipates accomplishing  
14 these final milestones soon. Once complete, the Department will provide notice to the South  
15 Coast AQMD Planning and Rules Manager of its final compliance, as well as the specific vehicle  
16 information as required under Condition 6.

17 CONDITION 7 – NO DEPARTMENT OBLIGATION

18 39. Condition 7 of the Second Revised Modified Order allows the Hearing Board to  
19 modify the Second Revised Modified Order without the stipulation of the parties upon a showing  
20 of good cause and upon making the findings required by California Health and Safety Code  
21 section 42451, subdivision (a) and South Coast AQMD Rule 806, subdivision (a).

22 40. This Condition does not create a compliance obligation for the Department, and  
23 the Department understands the Hearing Board’s authority to modify the Second Revised  
24 Modified Order.

25 CONDITION 8 – NO DEPARTMENT OBLIGATION

26 41. Condition 8 specifies that the Second Revised Modified Order is not intended to  
27 be, nor will it act as, a variance, and that the Department is subject to all rules and regulations of  
28 the South Coast AQMD and all applicable provisions of California law. Condition 8 also states

1 that nothing in the Second Revised Modified Order shall be deemed or construed to limit the  
2 authority of the South Coast AQMD to issue Notices of Violation, seek civil penalties or  
3 injunctive relief, or other administrative or legal relief for violation of South Coast AQMD rules.

4 42. This Condition does not create an express compliance obligation for the  
5 Department. However, the Department understands the limitations of the Second Revised  
6 Modified Order as well as the South Coast AQMD's authority to enforce its rules and seek  
7 appropriate legal and administrative relief.

8 CONDITION 9 – EXPECTED

9 43. Condition 9 of the Second Revised Modified Order specifies the date on which the  
10 Hearing Board's jurisdiction over this matter concludes: December 15, 2024. Condition 9  
11 further states that if compliance is not achieved prior to that date, the Second Revised Modified  
12 Order shall expire if not properly extended.

13 44. The Department anticipates achieving compliance with the Second Revised  
14 Modified Order in the near term and prior to December 15, 2024.

15 45. Thus, the Department expects to achieve timely compliance with Condition 9.

16 CONDITION 10 – EXPECTED

17 46. Condition 10 of the Second Revised Modified Order requires the Department to  
18 notify the Clerk of the Hearing Board in writing when it achieves final compliance.

19 47. As explained herein, the Department's achievement of final compliance with the  
20 Second Revised Modified Order is imminent. The Department anticipates accomplishing the  
21 final compliance milestones soon and not later than December 15, 2024. The Department will  
22 provide notice to the Clerk of the Hearing Board of its final compliance under Condition 10.

23 I declare, under penalty of perjury under the laws of the State of California, that the  
24 foregoing is true and correct. Executed on August 6, 2024 in San Bernardino, California.

25 

26 Jennifer L. Shepardson  
27 Director of Environmental and Regulatory Compliance  
28 City of San Bernardino Municipal Water Department

# **ATTACHMENT 1**



ATTACHMENT 1 TO DECLARATION OF JENNIFER L. SHEPARDSON SUPPORTING  
AUGUST 13, 2024 STATUS HEARING



ATTACHMENT 1 TO DECLARATION OF JENNIFER L. SHEPARDSON SUPPORTING  
AUGUST 13, 2024 STATUS HEARING