

Agenda Date: August 18, 2005
Agenda Placement: Admin
Estimated Time: N/A
Continued Item: No

Board Agenda Item

TO: Air Pollution Control District Board

FROM: Terry Dressler, Air Pollution Control Officer

CONTACT: Bobbie Bratz, 961-8890

SUBJECT: Delegation to Control Officer for Acquiring Assignments from Gas Station Owners for Unpaid Advertising

RECOMMENDATION:

Authorize the Control Officer to enter into up to 33 agreements with certain gas station owners that will allow the District to pay \$300 to each owner in exchange for receiving an assignment of the right to receive payments due from PTI Media Works, Inc.

DISCUSSION:

In April 2004 the District entered into a contract with PTI Media Works, Inc., to run the “pump topper” advertising component of the District’s Don’t Top off Campaign to educate the public on the importance of not topping off gas tanks when fueling motor vehicles. As part of the District-PTI Media Agreement, PTI Media entered into individual agreements with gas station operators to place public service announcements on top of gas pumps in exchange for \$300 in advertising costs. PTI Media never paid the gas stations the money due to the gas stations.

District staff have tried for nearly a year to get PTI Media to pay our local gas station owners. After discussing several options with County Counsel, our recommendation is to pay the gas station owners directly and request that the owners assign all interests in payment from PTI Media to the APCD allowing us to pursue any legal remedies against PTI Media for unpaid advertising. Today we are requesting Board approval to allow the Control Officer to accept the assignment and sign agreements with the gas station owners.

ATTACHMENT: Sample Assignment Letter and Agreement



**Santa Barbara County
Air Pollution Control District**

DATE
XXX
XXX
XXX
XXX

RE: Payment for Don't Top Off Advertising

Dear _____:

In April, 2004 pursuant to an Agreement you signed with PTI Media, your gasoline service station located at _____ became a location for a pump topper public service announcement featuring the Air Pollution Control District's Don't Top Off Campaign message. Thank you very much for participating in this program. We appreciate your willingness to educate the public and your employees about topping off.

To set up this program, the APCD contracted with PTI Media, a company specializing in "pump topper" advertising. Our agreement with PTI Media specified it would obtain the necessary corporate and individual station approvals and advertising agreements in advance of any contact by PTI field staff or the APCD. The APCD paid PTI Media for the advertising space like any other vendor. The terms of our contract with PTI called for the pump toppers to be displayed for four months, starting April 1, 2004.

Our contract with PTI Media also specified it would pay \$300 to each participating station owner and/or manager for the advertising space. Based on District correspondence and other communications with you, the District has determined that even though you participated in the program, you have not been paid by PTI Media, as required by the both District-PTI Media contract and your agreement with PTI Media.

The District has determined that since you participated in good faith in this program that helps keep Santa Barbara's air clean, it is important that you receive the payment due to you. Therefore, the District proposes to pay you directly the money you are owed by PTI Media. In order to make this happen, you will need to sign the attached Assignment Agreement. By signing the Assignment Agreement, you will assign all rights to the District that you have to receive the \$300 owed to you by PTI Media. When we receive this signed agreement, the agreement will be signed by the Control Officer and then the District will issue payment and mail it to you at the address you indicate on the Agreement.

Thank you for your patience during this long process. Please feel free to contact me at 961-8838 or via email at GillilandF@sbcapcd.org. Please also let me know if you would like Don't Top Off posters and stickers for use at your stations. I look forward to continuing to work with you.

Sincerely,

Frances Gilliland
Air Quality Specialist

**Assignment of Payment from PTI Media Works, Inc.
to the Santa Barbara County Air Pollution Control District**

This agreement is between the Santa Barbara County Air Pollution Control District (DISTRICT) and _____ (ASSIGNOR).

Whereas, DISTRICT entered into a contract with PTI Media and paid funds to PTI Media to run the "pump topper" advertising component of the District's Don't Top off Campaign in order to educate the public on the importance of not topping off gas tanks when fueling motor vehicles.

Whereas, as part of the DISTRICT-PTI Media Agreement, PTI Media entered into individual agreements with gas station operators to place public service announcements on top of gas pumps that urged the public to not top off their gas tanks when refueling in order to reduce air pollution.

Whereas, PTI Media entered into an agreement with ASSIGNOR to pay ASSIGNOR \$300 (three hundred dollars) in exchange for ASSIGNOR displaying a sign featuring the public service announcement that encouraged people to not top off their gas tanks.

Whereas, ASSIGNOR did display the sign featuring the public service announcement; however, notwithstanding such performance, PTI Media never paid ASSIGNOR the money due.

Whereas, the District wishes to pay ASSIGNOR the money ASSIGNOR is due but never received under the agreement between ASSIGNOR and PTI Media and in exchange ASSIGNOR will assign to District all rights ASSIGNOR has under ASSIGNOR'S agreement with PTI Media.

Now, therefore, it is hereby agreed as follows:

1. In consideration for funds received under this Assignment Agreement, ASSIGNOR assigns to DISTRICT and DISTRICT'S successors and assigns, all rights ASSIGNOR has under the Agreement between ASSIGNOR and PTI Media, dated _____, including the right to receive payment of \$300.00 from PTI Media, for displaying pump topper advertising from approximately April 5, 2004 to August 5, 2004.

2. Once ASSIGNOR has signed and returned this document to the DISTRICT and it has been signed by the Control Officer, the District shall pay \$300.00 to ASSIGNOR .

3. ASSIGNOR agrees to cooperate in good faith with the District in any of its efforts necessary to pursue any legal remedies against PTI Media related to PTI Media's agreement with ASSIGNOR.

IN WITNESS WHEREOF, the parties have executed this Agreement, which shall be, effective on the date executed by the District.

SANTA BARBARA COUNTY
AIR POLLUTION CONTROL DISTRICT

By: _____

Control Officer,

Date: _____

ATTEST:
CLERK OF THE BOARD

By: _____
Deputy

ASSIGNOR

Date: _____

ASSIGNOR Mailing Address:

ASSIGNOR Phone Number:
