



Air Pollution Control District  
San Luis Obispo County

**Hearing Board: Orders of Abatement**  
**South Central Coast Basin Control Council**  
**October 5, 2023**

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## HEARING BOARD

*Quasi-Judicial board that hears*

- ▶ *requests from regulated community for variance from rules,*
- ▶ *permit disputes*
- ▶ *requests for Order of Abatement from the APCO or themselves*
  
- ▶ **Membership requirements are stipulated by State law. Five members:**
  - ▶ **1 attorney** admitted to practice law in California
  - ▶ **1 registered professional engineer**
  - ▶ **1 member of medical profession**
  - ▶ **2 public members**
  - ▶ Counties with population of <750,000 may appoint any person if qualified individual cannot be appointed
  
- ▶ **Term of 3 years, with appointment made by entire APCD Board, not individual members. Five member alternates are also appointed, which must have same qualification as the member and same term.**
- ▶ **SLO: Members are volunteers**

## *HEARING BOARD*

- Conflict of Interest
- Public notice and open meetings
- Testimony under oath
- Subpoena power
- SLO:
  - Meets infrequently
  - No separate staff or clerk
  - Assigned Attorney for FOD issues



# Orders of Abatement

- ▶ Order from District to stop an action
  - ▶ Constructing or operating w/o a permit
  - ▶ Violating nuisance, visible emissions, or any rule limiting the discharge of contaminants into the air
- ▶ Enforcement tool
  - ▶ NTC → NOV → Abatement Order
  - ▶ Recurring compliance issues; recalcitrant violators
  - ▶ Not a variance
  - ▶ Higher Penalties
  - ▶ Enforceable through Superior Court, restraining order

# Orders of Abatement

- ▶ (“Regular”) Order of Abatement
  - ▶ Contested action
  - ▶ Required findings (H&SC § 42450)
    - ▶ Person is constructing or operating an article, machine, equipment, or other contrivance without a permit, or is in violation of H&SC §§ 41700 [nuisance] or 41701 [visible emissions] or an order, rule, or regulation prohibiting the or limiting the discharge of air contaminants into the air.
- ▶ Stipulated Order of Abatement
  - ▶ District and source come to agreement on terms and conditions
  - ▶ No required findings
  - ▶ Hearing Board approves SOA, includes a written explanation of action

# In practice...

- ▶ District petitions Hearing Board.
- ▶ District prepares draft Order of Abatement or in case of Stipulation jointly drafted
- ▶ Hearing is noticed (10 days)
- ▶ “Trial” is held
  - ▶ District, source, and public all provide testimony
  - ▶ Board can ask questions
- ▶ Board signs order (or not)

FILED

October 18, 2022

Hearing Board  
San Luis Obispo County Air  
Pollution Control District

BEFORE THE HEARING BOARD OF THE SAN LUIS OBISPO COUNTY  
AIR POLLUTION CONTROL DISTRICT  
STATE OF CALIFORNIA

**In the Matter of**

SAN LUIS OBISPO COUNTY AIR  
POLLUTION CONTROL DISTRICT,

Petitioner,

v.

CALIFORNIA DEPARTMENT OF PARKS  
AND RECREATION OFF-HIGHWAY  
MOTOR VEHICLE RECREATION  
DIVISION,

Respondent.

Case No. 17-01

**ORDER TO MODIFY EXISTING  
STIPULATED ORDER OF  
ABATEMENT**

Hearing Date: October 14, 2022  
Time: 9:00 am  
Location: REMOTE VIRTUAL public  
hearing via Zoom Webinar teleconference at  
<https://us02web.zoom.us/j/81331654308>  
and broadcast via YouTube Livestream at  
<https://youtu.be/Pd9dhAWrUag>.

**RECITALS**

**WHEREAS**, on September 10, 2017, the San Luis Obispo County Air Pollution Control District (hereinafter referred to as "Petitioner," the "District" or "APCD") filed with this Hearing Board a Petition for Abatement Order ("Petition"), Case No. 17-01, pursuant to California Health and Safety Code Section 42451, against respondents California Department of Parks and Recreation Off-Highway Motor Vehicle Recreation Division (hereinafter referred to as "Respondent," "State Parks" or "OHMVR") with regard to alleged nuisances defined pursuant

**STIPULATED ORDER OF ABATEMENT (Case No. 17-01)**

EVENT

## OS101 - Air District Hearing Board Training

Last Updated 08/25/2023 Duration 8 hours

Details

The California Air Resources Board (CARB) invites you to participate in its Air District Hearing Board Training. Through the training, CARB staff will discuss the Health and Safety Code requirements pertaining to air district hearing board actions and proceedings for granting variances from district requirements, hearing permit disputes, and issuing abatement orders, and describe the role of each

NOV OS101 - Sacramento (11/01/23)  
1 Wed, Nov 1, 2023, 9:00 AM - 4:00 PM  
Register by Wed, Nov 1, 2023, 9:00 AM  
ARB Depot Park Facility - Training Room 111  
English (US)

View Details  
12 seats available

OS101 - Webinar (11/01/23)  
Wed, Nov 1, 2023, 9:00 AM - 4:00 PM  
Register by Wed, Nov 1, 2023, 9:00 AM  
Virtual Classroom  
English (US)

View Details  
30 seats available

# Questions?

