

1
2
3
4 **BEFORE THE HEARING BOARD OF THE**
5 **BAY AREA AIR QUALITY MANAGEMENT DISTRICT**
6 **STATE OF CALIFORNIA**

7 AIR POLLUTION CONTROL OFFICER of the)
8 BAY AREA AIR QUALITY MANAGEMENT)
9 DISTRICT)

10 Complainant,)

11 vs.)

12 TESLA MOTORS, INC.)

13 Respondent.)

DOCKET NO. **3751**

ACCUSATION OF VIOLATION OF
REGULATION 2, RULE 1, SECTION 307
AND REGULATION 2, RULE 6,
SECTION 307

FILED

MAY 02 2024

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

14
15 **I. INTRODUCTION**

16 1. Respondent Tesla Motors, Inc. (Respondent or Tesla), operates two paint shops at its
17 electric vehicle manufacturing facility in Fremont. These paint shops emit Precursor Organic Compounds
18 (POCs) and Toxic Air Contaminants (TACs). To protect air quality and public health, Tesla is required to
19 control emissions of these air pollutants using an abatement system that captures and collects the
20 pollutants and then abates them, primarily through incineration using a device called a thermal oxidizer.

21 2. Tesla has been violating, and continues to violate, the requirements in its permit and Air
22 District regulations to abate emissions from its paint shops. Tesla has emitted harmful POCs and Toxic
23 Air Contaminants directly into the atmosphere unabated, for which it received 112 Notices of Violation
24 from the Air District since 2019, each of which included one or more days of violation. Each such
25 violation emits illegal air pollution in varying amounts. These violations are recurring, and they
26 negatively affect public health and the environment.

27 3. Tesla's recurring violations result from a variety of causes: In some cases, Tesla's thermal
28

1 oxidizer or related components of the abatement system malfunction, and emissions are vented directly to
2 the atmosphere without proper abatement. In other cases, the abatement equipment is functioning, but
3 Tesla either bypasses the abatement equipment and vents the emissions to the atmosphere without proper
4 abatement or shuts the abatement equipment down and vents the emissions to the atmosphere without
5 proper abatement when other components of the production lines in the paint shops malfunction. These
6 violations occur due to repeated malfunction of the same equipment, or due to actions of Tesla staff or its
7 contractors. Whatever the cause, Tesla needs to take steps immediately to stop these frequent and
8 recurring violations.

9 4. Therefore, pursuant to Health & Safety Code sections 42450 et seq., the Air Pollution
10 Control Officer (APCO) respectfully requests that the Hearing Board issue a Conditional Order for
11 Abatement ordering Tesla to stop operating the North and South Paint Shops unless it develops and
12 implements a plan to address these recurring, intermittent and ongoing violations. The APCO respectfully
13 requests that the Hearing Board do so by first issuing an initial order requiring Tesla to (i) hire an
14 independent third-party engineering firm or firms to conduct an objective study to determine the causes of
15 these recurring problems and make recommendations on the actions Tesla needs to take to stop them; and
16 then (ii) return to the Hearing Board with a proposed plan to implement the recommendations from that
17 study to remediate these problems within a specific timeframe. The APCO requests that the Hearing
18 Board then hold a further hearing on Tesla's proposed plan and issue an order requiring Tesla to
19 implement the plan and bring an end to these ongoing violations.

20 5. This proposed order is necessary and proper because, even after extensive discussion
21 between the Parties, Tesla's efforts alone have not been enough to stem the violations and resulting
22 unabated emissions. An objective outside party will have additional skills and resources to properly
23 evaluate the problems and recommend the necessary changes, and then Tesla will have an opportunity to
24 develop a plan to incorporate those objective recommendations within a reasonable timeframe and
25 consistent with Tesla's knowledge of its business.

1 **II. PARTIES**

2 Complainant: Air Pollution Control Officer

3 6. The Air District is organized under Health and Safety Code sections 40200 et seq. and
4 operates under Health and Safety Code sections 40000 et seq., 40200 et seq., 40700 et seq., and 42300 et
5 seq. The Air District is a governmental agency charged with the primary responsibility for controlling air
6 pollution from nonvehicular sources in all or portions of the nine Bay Area counties, including all of
7 Alameda County, where Tesla’s facility is located. (Health & Saf. Code, §§ 40000, 40200.) To carry out
8 its legal mandate, the Air District is authorized to adopt and enforce rules and regulations to achieve State
9 and federal ambient air quality standards and reduce criteria pollutants, and to enforce all applicable
10 provisions of State and federal law. (Health & Saf. Code, § 40001, subds. (a) & (b).)

11 7. The APCO is appointed by the Air District’s Board of Directors, (Health & Saf. Code, §
12 40750), to “observe and enforce” all District regulations, permit conditions, variances, and enumerated
13 provisions of the Health and Safety Code. (Health & Saf. Code, § 40752.) The APCO may impose
14 conditions in any permit that are “reasonably necessary to ensure compliance with federal or California
15 law or District regulations.” (Dist. Reg. 2, rule 1, § 403.) The APCO is also authorized to seek an order
16 for abatement from the District’s Hearing Board to stop a person from violating “any order, rule, or
17 regulation prohibiting or limiting the discharge of air contaminants into the air.” (Health & Saf. Code
18 § 42451(a); Hearing Board Rules, Bay Area Air Quality Management District Hearing Board, § 4.1 (June
19 2, 2011).)

20 Respondent: Tesla

21 8. Respondent owns and operates an electric vehicle manufacturing and assembly facility at
22 45500 Fremont Boulevard, Fremont, California (Facility). Respondent’s Facility is a major facility,
23 meaning it “has the potential to emit 100 tons per year or more of any regulated air pollutant.” (Dist. Reg.
24 2, rule 6, § 212.1.) At that Facility, Tesla operates two paint shops of relevance—the North Paint Shop
25 and the South Paint Shop (collectively, the Paint Shops)—in which Tesla paints electric vehicles that it
26 produces for sale.

27 9. Respondent has owned and operated the North and South Paint Shops, which are and have
28

1 been subject to permits issued by the Air District and other applicable Air District requirements, at all
2 times relevant to this accusation.

3 **III. JURISDICTION**

4 10. The Hearing Board may, on its own motion or upon the motion of the APCO, and after
5 notice and a hearing, issue an order for abatement against a business when the Hearing Board finds that
6 the business is in violation of an Air District rule or regulation prohibiting or limiting the discharge of air
7 contaminants into the air. (Health & Saf. Code, §§ 40808, 42451, subd. (a); *see also* Dist. Hearing Bd.
8 Rules, § 4.1.) The Hearing Board may issue an abatement order without finding that the business is in
9 violation of an Air District rule or regulation prohibiting or limiting the discharge of air contaminants into
10 the air where the APCO and accused business have both stipulated to the order. (Health & Saf. Code, §
11 42451, subd. (b).)

12 11. An abatement order must “be framed in the manner of a writ of injunction requiring the
13 respondent to refrain from a particular act.” (Health & Saf. Code, § 42452.) The order may also “be
14 conditional and require a respondent to refrain from a particular act unless certain conditions are met.”
15 (*Ibid.*) In the case of a conditional abatement order, the Hearing Board may impose in the order any
16 conditions on the respondent that the Hearing Board deems proper and necessary. (Dist. Hearing Bd.
17 Rules, § 4.13.)

18 12. Respondent is and was at all relevant times a Texas corporation owning and operating the
19 Facility, including the North and South Paint Shops, located in Fremont, California, which is within the
20 boundaries subject to the Hearing Board’s jurisdiction. Respondent has committed recurring and ongoing
21 violations of an Air District rule or regulation prohibiting or limiting the discharge of air contaminants
22 into the air. Therefore, the Hearing Board has jurisdiction to issue an abatement order directed to Tesla
23 with respect to the violations.

24 **IV. TESLA’S RECURRING AIR POLLUTION EMISSIONS VIOLATIONS**

25 13. At the Paint Shops, Respondent’s operations include spray-coating car bodies and other car
26 parts in spray booths, and then sending the coated items into curing ovens so that the applied coatings can
27 cure and dry. A graphical representation of the North Paint Shop’s operational flow is attached hereto as
28

1 Exhibit A1. A graphical representation of the South Paint Shop’s operational flow is attached hereto as
2 Exhibit A2.

3 14. The coating operations in the Paint Shops are made up of various sources of air pollutants
4 (ovens, booths, et cetera) that generate multiple different types of air pollution, including precursor
5 organic compounds (POC) and toxic air contaminants (TAC). In order to control emissions of these
6 pollutants into the atmosphere from each source, Tesla’s permit conditions require Tesla (i) to conduct the
7 Paint Shops’ spraying, coating, and curing operations in an enclosed system that captures and collects a
8 specific amount of the emissions caused by those activities, and then (ii) to route the captured emissions
9 from each source to abatement systems assigned to destroy a specific amount of the emissions from each
10 source in order to stop them all from being sent to the atmosphere. Each source is required to be abated by
11 a specific abatement system or device, and the Air District assigns each source and each abatement device
12 a number to make this clear. Tesla must further ensure the abatement equipment is on and operating at
13 temperatures high enough to efficiently ignite or destroy pollutants from the Paint Shops’ operations.
14 These requirements are imposed to protect public health and the environment, and to comply with federal
15 and State law. The permit language setting out the abatement requirements for the Paint Shops is attached
16 hereto as Exhibit B.

17 15. Tesla has violated these permit conditions and has emitted harmful air pollutants directly
18 into the atmosphere unabated, for which the Air District has issued Tesla over 112 notices of violation¹
19 since 2019, as shown in Exhibit C. Each such violation of the applicable permit requirements is a
20 violation of Air District Regulation 2, Rule 1, Section 307 (“Failure to Meet Permit Conditions”) and
21 Regulation 2, Rule 6, Section 307 (“Non-Compliance, Major Facility Review”); the specific regulatory
22 language is attached hereto as Exhibit D. The amount of improperly abated emissions from each event
23 may vary, based on the specific circumstances, including the number of vehicles being produced, the
24 amount of emissions still unabated at the time of the event, and the length of the bypass event. For
25 example, Tesla reported that one bypass event released 61.1 pounds of POCs in just two minutes, and
26 another released 94.1 pounds of POCs.²

27 ¹ Each NOV includes one or more violations by Tesla.

28 ² The Air District views Tesla’s emissions calculation methodology as overly conservative, so these numbers could be much

1 16. These permit violations occur in several different manners, with the following three being
2 the most common and most recurrent:

3 a) The abatement equipment suffers a mechanical or other failure that causes the abatement
4 equipment to shut down. When this happens, abatement stops as soon as the abatement equipment shuts
5 down, and Tesla releases the remaining harmful air pollutants from the Paint Shops' operations that are
6 still in the system at that point directly to the atmosphere without proper abatement. This same abatement
7 equipment often suffers failure over and over, such as thermal oxidizer A-30183.

8 b) A mechanical or other failure occurs in a component of the production line, often one that
9 fails over and over, such as an air flow switch, or a process upset or malfunction occurs, such as vehicles
10 crashing into one another when they are not properly overseen by Tesla staff. When this happens, Tesla
11 has programmed its operations to automatically shut down the whole process, including the abatement
12 system, and purge emissions created by the Paint Shops' operations and still in the system directly to the
13 atmosphere without the proper abatement, even if the abatement equipment is still working properly. In
14 these situations, the abatement equipment is still able to function and could still be used to abate the
15 emissions, but Tesla's system design shuts down the entire process and illegally vents all the emissions
16 produced by Tesla's operations and still in the system up to that point directly to the atmosphere.

17 c) One of the thermal oxidizers' operating temperatures drops below 1400 degrees
18 Fahrenheit, which is the required minimum operating temperature of thermal oxidizers under Tesla's
19 permit. When this happens, Tesla has designed its operations to automatically shut down the thermal
20 oxidizer altogether and purge all unabated emissions produced by Tesla's operations up to that point and
21 that are still in the system directly to the atmosphere without the proper abatement. In many of these
22 cases, Tesla could keep the thermal oxidizer online and abating emissions while the temperature comes
23 back above 1400°F, which would provide some abatement, instead of shutting it down completely and
24 emitting large amounts of illegal, improperly abated air pollution.

25 17. Tesla's pattern of repeated and recurring violations will continue unless Respondent takes
26 steps to investigate how to stop the violations and implements a plan for doing so in a timely manner.

27 _____
28 higher.

1 22. Respondent’s failure to abate all emissions from the operation of its Paint Shops thus
2 negatively impacts the environment and public health.

3 **VI. CONCLUSION AND REQUEST FOR CONDITIONAL ORDER FOR ABATEMENT**

4 23. Thus, the Air District alleges that Tesla is committing recurring and ongoing violations of
5 Air District Regulations 2-1-307 and 2-6-307 by violating its permit conditions by failing to properly
6 operate its abatement equipment and abate all the emissions associated with the operations of the Paint
7 Shops, and instead emitting POCs and toxic air contaminants into the atmosphere without the proper
8 abatement.

9 24. Therefore, Petitioner seeks a Conditional Order for Abatement.

10 25. It is not unreasonable to require Respondent to comply with Air District rules and its
11 permit.

12 26. The issuance of the requested Conditional Order for Abatement is not expected to result in
13 the closing or elimination of an otherwise lawful endeavor, but if it does result in such closure or
14 elimination, it would not be without a corresponding benefit in reducing air contaminants.

15 27. The requested Conditional Order for Abatement is not intended to be, nor will it act as, a
16 variance.

17 28. The issuance of the requested Conditional Order for Abatement, upon a fully noticed
18 hearing, will not constitute a taking of property without due process of law.

19 29. The requested conditions are proper and necessary.

20 WHEREFORE, the APCO respectfully requests the following:

21 i) That the Hearing Board issue a Conditional Order for Abatement directing Respondent to
22 cease operation of the North Paint Shop and the South Paint Shop unless Respondent takes the following
23 specific steps to address its ongoing and recurring violations of its permit requirements to abate emissions
24 from the North Paint Shop and South Paint Shop:

25 a. Hire an independent third-party engineering firm or firms to conduct a study to
26 determine the causes of Respondent’s recurring violations and make recommendations for how to
27 eliminate or minimize such violations, and
28

PETITIONER-EXHIBIT A1

CBI
REMOVED

PETITIONER-EXHIBIT A2

CBI
REMOVED

PETITIONER-EXHIBIT B

North Paint Shop – Permit Condition 26027

C. Conditions for

S-4005 E-Coat System

S-4006 Oven #1 (E-Coat); Maximum Hourly Firing Rate: 15.19 MMBTU/hour

S-4011 Oven #6 (E-Coat); Maximum Hourly Firing Rate: 15.19 MMBTU/hour

4. The owner/operator shall ensure POC emissions from the Ovens #1 and #6 (S-4006 and S-4011) are abated at all times of operation by the properly installed and properly maintained regenerative thermal oxidizers A-3008 (abating S-4006) and A-1008 (abating S-4011).

(Basis: Regulation 2-1-403)

5. The mass emission calculations for the Ovens #1 and #6 (S-4006 and S-4011) are based on an overall efficiency of the emission control system of 80.75% (oven capture efficiency of 85% x regenerative thermal oxidizer destruction efficiency of 95% by wt.)

(Basis: Cumulative Increase, Regulation 2-1-403)

E. Conditions for

S-3008 Spray Booth #1 (Primer)

S-3009 Oven #2 (Primer); Maximum Hourly Firing Rate: 15.09 MMBTU/hour

S-1008 Spray Booth #4 (Primer)

S-1009 Oven #7 (Primer); Maximum Hourly Firing Rate: 15.09 MMBTU/hour

4. The owner/operator shall ensure POC emissions from the Spray Booths #1 and #4 (S-3008 and S-1008) and the Ovens #2 and #7 (S-3009 and S-1009) are abated at all times of operation by the properly installed and properly maintained regenerative thermal oxidizers A-3008 (abating S-3008 & S-3009) and A-1008 (abating S-1008 & S-1009).

(Basis: Regulation 2-1-403)

5. The mass emission calculations for the Spray Booths #1 and #4 (S-3008 and S-1008) and the Ovens #2 and #7 (S-3009 and S-1009) are based on an overall efficiency of the emission control system of 66.5% (booth & oven capture efficiency of 70% x regenerative thermal oxidizer destruction efficiency of 95% by wt.) The calculations also assume emissions from the sealant operations that are unabated are emitted in the Primer Ovens.

(Basis: Cumulative Increase, Regulation 2-1-403)

F. Conditions for

S-3014 Spray Booth #2 (Basecoat)

S-3015 Oven #4 (Basecoat); Maximum Hourly Firing Rate: 2.95 MMBTU/hour

S-1014 Spray Booth #5 (Basecoat)

S-3017 Oven #9 (Basecoat); Maximum Hourly Firing Rate: 2.95 MMBTU/hour

4. The owner/operator shall ensure POC emissions from the Basecoat Booths and Basecoat Ovens are abated at all times of operation by the properly installed and properly maintained regenerative thermal oxidizers A-3008 (abating S-3014 & S-3015) and A-1008 (abating S-1014 & S-3017).

(Basis: Regulation 2-1-403)

5. The mass emission calculations for the Spray Booths #2 and #5 (S-3014 and S-1014) and Ovens #4 and #9 (S-3015 and S-3017) are based on an overall efficiency of the emission control system

of 66.5% (booth & oven capture efficiency of 70% x regenerative thermal oxidizer destruction efficiency of 95% by wt.).

(Basis: Cumulative Increase, Regulation 2-1-403)

G. Conditions for

S-3016 Spray Booth #3 (Clearcoat)

S-4010 Oven #5 (Clearcoat); Maximum Hourly Firing Rate: 16.9 MMBTU/hour

S-4014 Spray Booth #6 (Clearcoat)

S-1015 Oven #10 (Clearcoat); Maximum Hourly Firing Rate: 16.9 MMBTU/hour

4. The owner/operator shall ensure POC emissions from the Spray Booths #3 and #6 (S-3016 and 4014) and Ovens #5 and #10 (S-4010 and S-1015) are abated at all times of operation by the properly installed and properly maintained regenerative thermal oxidizers A-1008 (abating S-3016 & S-4010) and A-3008 (abating 4014 & S-1015).

(Basis: Regulation 2-1-403)

5. The mass emission calculations for the Spray Booths #3 and #6 (S-3016 and 4014) and Ovens #5 and #10 (S-4010 and S-1015) Ovens are based on an overall efficiency of the emission control system of 66.5% (booth & oven capture efficiency of 70% x regenerative thermal oxidizer destruction efficiency of 95% by wt.).

(Basis: Cumulative Increase, Regulation 2-1-403)

South Paint Shop – Permit Condition 27161

15. *The owner/operator of A-30192, A-1007, A-30180, A-30181, A-30182, and A-30183 shall ensure that the POC/NPOC emissions from S-1002, S-1007, S-4036, S-4037, S-4038, S-4039, and S-4041 are abated at all times of operation by the properly installed, properly operated, and properly maintained Thermal Oxidizers A-1002, A-1007, A-30180, A-30181, A-30182, and A-30183, respectively.*

(Basis: Cumulative Increase, Regulation 2-1-403)

PETITIONER-EXHIBIT C

NOV #	Issue Date
A57016	1/16/2019
A55799	1/30/2020
A55802	5/9/2019
A59578	1/30/2020
A59579	1/30/2020
A59580	1/30/2020
A59586	2/7/2020
A58769	6/16/2020
A58770	8/31/2020
A58771	10/5/2020
A58777	2/25/2021
A60205	4/13/2021
A60213	7/28/2021
A60215	9/14/2021
A60216	10/7/2021
A60217	10/12/2021
A60223	12/7/2021
A60224	12/21/2021
A61154	2/24/2022
A61155	4/25/2022
A61156	4/25/2022
A61157	4/28/2022
A61158	4/28/2022
A61159	4/28/2022
A61160	5/12/2022
A61161	6/1/2022
A61162	6/1/2022
A61163	6/16/2022
A61164	6/16/2022
A61165	6/16/2022
A61166	6/27/2022
A61167	7/12/2022
A61168	7/12/2022
A61169	7/12/2022
A61170	7/12/2022
A61174	9/12/2022
A61175	9/12/2022
A61177	9/22/2022
A61604	5/2/2022
A61753	10/11/2022
A61754	10/17/2022
A61756	11/14/2022

NOV #	Issue Date
A61758	12/7/2022
A61759	12/14/2022
A61763	2/8/2023
A61769	4/3/2023
A61770	4/3/2023
A61771	4/3/2023
A61774	4/26/2023
A61775	4/26/2023
A61777	5/16/2023
A62128	5/23/2023
A62129	6/12/2023
A62132	6/22/2023
A62133	6/22/2023
A62134	7/13/2023
A62135	7/13/2023
A62138	7/19/2023
A62139	7/19/2023
A62140	7/19/2023
A62141	7/19/2023
A62142	7/19/2023
A62143	7/19/2023
A62145	8/4/2023
A62146	8/4/2023
A62147	8/4/2023
A62148	8/4/2023
A62150	8/21/2023
A62151	8/21/2023
A62152	8/21/2023
A62828	8/21/2023
A62829	8/21/2023
A62830	8/21/2023
A62841	9/21/2023
A62842	9/21/2023
A62843	9/21/2023
A62845	9/29/2023
A62846	9/29/2023
A62847	9/29/2023
A62848	9/29/2023
A62849	9/29/2023
A62850	9/29/2023
A62851	10/17/2023
A62852	10/17/2023

NOV #	Issue Date
A63012	11/22/2023
A63013	11/22/2023
A63014	11/22/2023
A63015	11/22/2023
A63016	11/22/2023
A63017	11/22/2023
A63018	11/29/2023
A63019	11/29/2023
A63020	11/29/2023
A63025	12/18/2023
A63027	12/28/2023
A63028	12/28/2023
A63029	12/28/2023
A63030	12/28/2023
A63031	12/28/2023
A63032	12/28/2023
A63033	1/3/2024
A63041	3/7/2024
A63042	3/7/2024
A63043	3/7/2024
A63044	3/7/2024
A63045	3/14/2024
A63053	4/11/2024
A63054	4/11/2024
A63055	4/11/2024
A63056	4/17/2024
A63057	4/17/2024
A63058	4/17/2024

PETITIONER-EXHIBIT D

2-1-307 Failure to Meet Permit Conditions: A person shall not operate any article, machine, equipment or other contrivance, for which an authority to construct or permit to operate has been issued, in violation of any permit condition imposed pursuant to Section 2-1- 403.

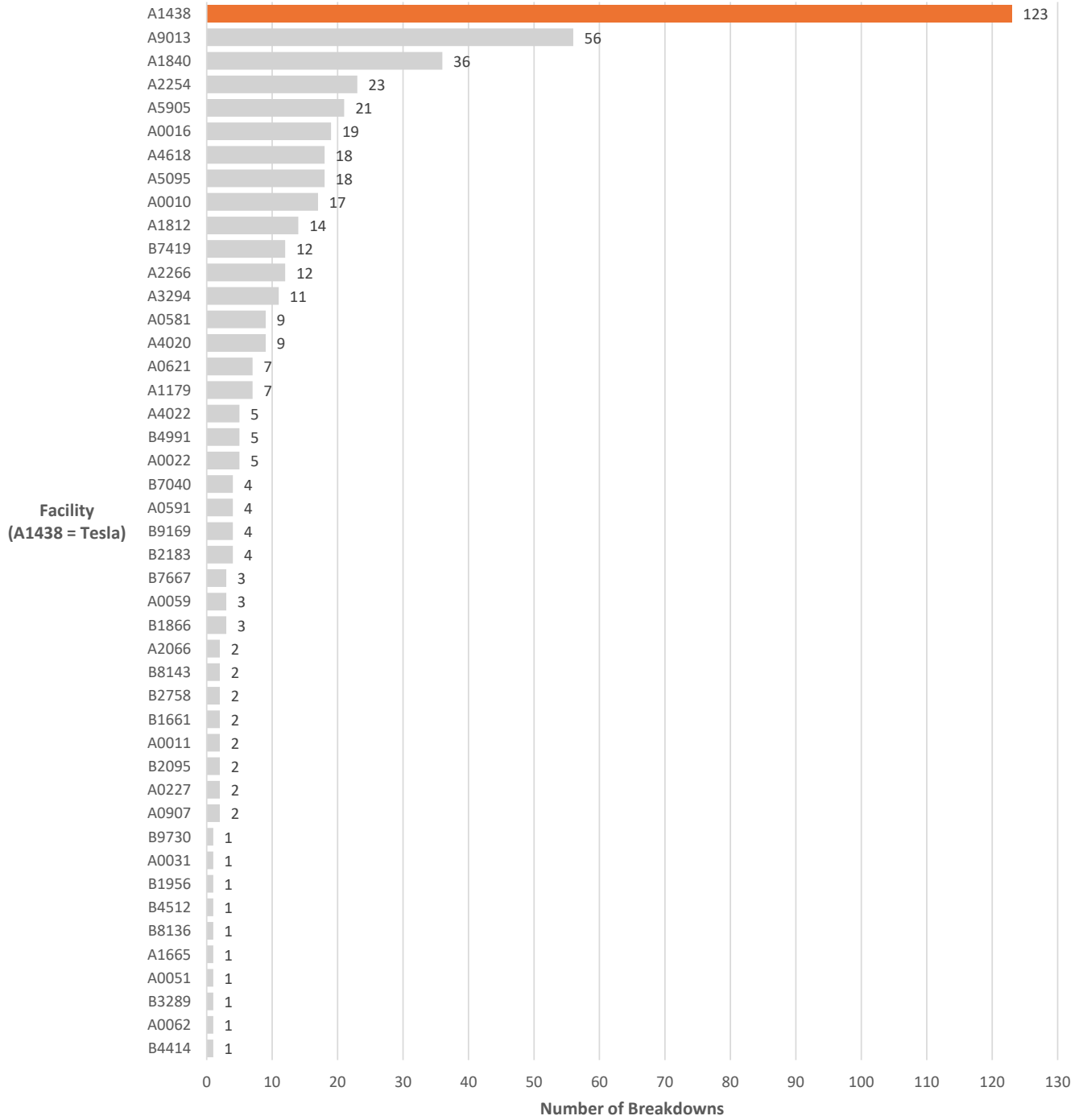
(Adopted 3/17/82; Amended 7/17/91)

2-6-307 Non-compliance, Major Facility Review: Any facility subject to the requirements of this regulation that is not in compliance with any federally enforceable permit condition, any federally enforceable applicable requirement set forth in its major facility review permit, or the requirement to apply for a major facility review permit is in violation of the Clean Air Act and shall be subject to enforcement action, permit termination, permit revocation and reissuance, and/or denial of a permit renewal. Moreover, a facility subject to major facility review which has not submitted a timely and complete permit application by the deadlines set forth in Section 2-6-404 shall not operate.

(Amended 2/1/95, 10/20/99)

PETITIONER-EXHIBIT E

Breakdowns Filed by Title V Facilities (January 1, 2019 to April 10, 2024)



1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE HEARING BOARD OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA**

AIR POLLUTION CONTROL OFFICER of the BAY
AREA AIR QUALITY MANAGEMENT DISTRICT

Complainant,

vs.

TESLA MOTORS, INC.

Respondent.

) DOCKET NO. 3751

) PROOF OF SERVICE



I, Magnolia Vinluan-Chan, declare as follows:

I am over the age of 18, not a party to this action and am employed in the City and County of San Francisco at 375 Beale Street, San Francisco, CA 94105.

I served the following documents to the addressees listed below at the addresses specified:

- **ACCUSATION AND REQUEST FOR ORDER FOR ABATEMENT**
- **STATEMENT TO RESPONDENT**
- **NOTICE OF DEFENSE FORM**
- **COPIES OF CALIFORNIA GOVERNMENT CODE SECTIONS 11507.5, 11507.6, AND 11507.7**

By placing the document(s) listed above in a sealed envelope to be sent by Registered Mail, with postage thereon fully prepaid, in the United States mail at San Francisco, California addressed to the person(s) at the address(es) set forth below.

By causing personal delivery of the above documents at the address(es) set forth below.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

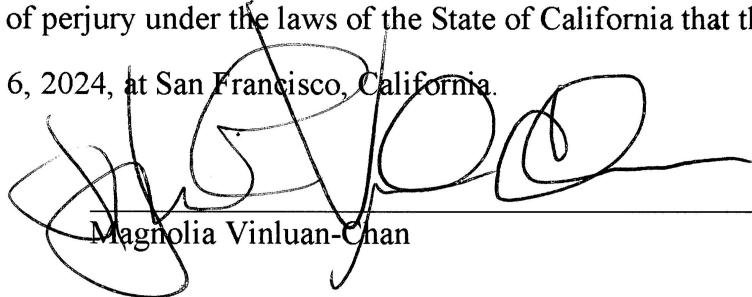
On May 6, 2024, I served the above-listed documents to the addressees at the addresses listed below:

Yamini Narasimhan
Director, EHS
Tesla, Inc.
45500 Fremont Blvd.
Fremont, CA 94538-6326

Tesla Motors, Inc. (aka Tesla, Inc.)
1 Tesla Road
Austin, TX 78725

I am readily familiar with the Bay Area Air Quality Management District's practice of collection and processing of the mail. Under that practice, the mail would be deposited with the U.S. Postal Service on that same day with postage thereon fully prepaid in the ordinary course of business.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on May 6, 2024, at San Francisco, California.



Magnolia Vinluan-Chan

1 Board finds and decides that good cause exists to issue the Stipulated Order for Abatement (“Stipulated
2 Order” or “Order”). This finding of good cause is based on the following:

3 1. The Air District is a body corporate and politic established and existing pursuant to Health
4 & Saf. Code sections 40000 et seq., 40200 et seq., 40700 et seq., and 42300 et seq., and is charged with
5 the primary responsibility for controlling air pollution from nonvehicular sources, including the sources at
6 issue in this proceeding, in all or portions of the nine Bay Area counties, including all of Alameda
7 County, where Tesla’s North and South Paint Shops are located. (Health & Saf. Code, §§ 40000, 40200.)
8 Complainant is authorized by law to adopt and enforce rules and regulations related to air quality in all
9 nine of the Bay Area Counties, including Alameda County. (Health & Saf. Code, §§ 40001, subds. (a) &
10 (b).) Complainant APCO is appointed by the Air District’s Board of Directors, (Health & Saf. Code, §
11 40750), to “observe and enforce” all District regulations, permit conditions, variances, and enumerated
12 provisions of the Health and Safety Code. (Health & Saf. Code, § 40752.) The APCO may impose
13 conditions in any permit that are “reasonably necessary to ensure compliance with federal or California
14 law or District regulations.” (Dist. Reg. 2, rule 1, § 403.) The APCO is also authorized to seek an order
15 for abatement from the District’s Hearing Board to stop a person from violating “any order, rule, or
16 regulation prohibiting or limiting the discharge of air contaminants into the air.” (Health & Saf. Code §
17 42451(a); Hearing Board Rules § 4.1 (June 2, 2011).)

18 2. Respondent is owns and operates an electric vehicle manufacturing and assembly facility at
19 45500 Fremont Boulevard, Fremont, California (“Facility”), at which it operates the North Paint Shop and
20 the South Paint Shop (collectively, “the Paint Shops”), where Tesla paints electric vehicles that it
21 produces for sale. The Paint Shops are located and operate within the Air District’s jurisdiction, and Tesla
22 is required to obtain a permit(s) for the Paint Shops from the Air District, and to operate the Paint Shops
23 in accordance with the permit(s) issued by the Air District. The Paint Shops emit Precursor Organic
24 Compounds (“POCs”) and Toxic Air Contaminants (“TACs”). To protect air quality and public health,
25 Tesla’s permits require it to control emissions of these air pollutants using an abatement system that
26 captures and collects the pollutants and then abates them, primarily through incineration using a device
27 called a thermal oxidizer.

28

1 of work submitted by Tesla under Paragraph 2.a and (i) strike from Tesla's list of proposed firms any firm
2 that does not meet the requirements of Paragraph 2.a.i. and (ii) provide any proposed revisions to the
3 proposed scope of work necessary to ensure that the requirements of this Order are fulfilled. If the APCO
4 strikes any firm proposed by Tesla or provides any revisions to the proposed scope of work, the APCO
5 shall provide Tesla with an explanation as to the basis of such decision for the purpose of assisting Tesla
6 in selecting another firm or to make revisions to the scope of work, but this decision is not appealable.
7 The APCO may require Tesla to furnish additional names of firms should the APCO determine that two
8 or more of the originally proposed firms are not suitable, in which case Tesla shall have 15 calendar days
9 from the date on which the APCO notifies Tesla that two or more of the originally proposed firms are not
10 suitable to provide an additional two or more engineering firm names that meet the requirements of this
11 Order. If there is any disagreement between Tesla and the APCO regarding the scope of work, they shall
12 meet and confer about the revisions provided by the APCO. In the event an agreement cannot be reached
13 between Tesla and the APCO regarding the scope of work, the disagreement shall be presented to the
14 Hearing Board for resolution.

15 c. Within seven (7) calendar days of receiving the APCO's approval of the firms and
16 scope of work under Paragraph 2.b, Tesla shall send the approved firm(s) selected the scope of work
17 produced by the process in Paragraph 2.b.ii, which shall include requiring the firm(s) to:

18 i. Meet with Air District staff and Tesla before the firm(s) begins its study
19 regarding implementing this Order and its scope of work, and then, every two weeks thereafter, give the
20 APCO an update on its work under this Order; and

21 ii. Give the APCO, upon request, a copy of any information it obtained, from
22 Tesla or otherwise. If any such information is trade secret or otherwise confidential under California law,
23 Tesla and the APCO shall follow the Air District rules and, where appropriate, any other applicable
24 California laws for handling such information.

25 d. Within twenty (20) calendar days of sending the firm(s) the scope of work under
26 Paragraph 2.c., Tesla shall attempt to hire one or two of the approved firms, as necessary to fulfill the
27 requirements of this Order. In the event Tesla is unable to hire any of the firms approved by the APCO
28

1 under Paragraph 2.b due to scheduling unavailability, Tesla shall provide the APCO three more additional
2 engineering firm names that meet the requirements of this Order, in accordance with Paragraph 2.a.i, and
3 the APCO shall review them in accordance with Paragraph 2b. Tesla must hire a firm with expertise in
4 evaluating equipment like that at Tesla's North and South Paint Shops, and the same or no more than one
5 different firm with expertise in evaluating reliability and preventive maintenance programs, particularly
6 automotive vehicle production facility preventive maintenance.

7 3. Engineering Firm Access and Independence: Tesla shall do the following with respect to
8 the engineering firm(s) it hires under this Order:

9 a. Include Air District staff in all written communications it has with the selected
10 firm(s);

11 b. Permit the firm(s) to talk freely and confidentially with Air District staff at any
12 time, with or without Tesla present or knowing about the conversation or its contents; and

13 c. Give the firm(s) all access to equipment, control systems, employees, documents,
14 and anything else that the firm(s) determines it reasonably needs to carry out its responsibilities and
15 ensure compliance with this Order. If any such information is trade secret or otherwise confidential under
16 California law, Tesla and the APCO shall follow the Air District rules and, where appropriate, any other
17 applicable California laws for handling such information.

18 4. Report and Recommendations for Addressing Unabated VOC Emissions: Within ninety
19 (90) calendar days of being hired, the firm(s) shall provide one report to both Tesla and the APCO that (i)
20 is not edited or changed in any way by Tesla, (ii) is signed under penalty of perjury by a licensed
21 electrical Professional Engineer, and a licensed mechanical Professional Engineer; and (iii) includes, at a
22 minimum, all of the following:

23 a. A description of the firm and its qualifications to fulfill Paragraph 1 of this Order;

24 b. A summary of how such reviews are generally conducted;

25 c. A description of the requirements of this Order;

1 d. A summary of all the steps the firm took, the information it reviewed, and a
2 description of the information and access requested from Tesla and, if Tesla denied any of the firm's
3 requests for information and/or access, a summary of the information requested and Tesla's response;

4 e. A summary of Tesla's maintenance and reliability plan and its adequacy, as well as
5 any recommendations to improve it or bring it up to automotive vehicle industry standards;

6 f. Identification and a brief explanation of any unavoidable emergency and/or safety
7 hazards that would result in any emission of unabated VOCs from its North and/or South Paint Shops in
8 violation of Tesla's permit conditions and other regulatory requirements, or a statement that none exist, as
9 applicable;

10 g. An evaluation and recommendations on ways to eliminate the shutdown and/or
11 bypassing of the North Paint Shop and South Paint Shop abatement systems while there are any emissions
12 in the North Paint Shop and South Paint Shop production lines, except in situations where doing so is
13 absolutely unavoidable for emergency and/or safety reasons. This analysis shall include, for example, and
14 without limitation, ways for Tesla to keep the bypass vents closed and the abatement systems operating
15 when there is a production line upset in the North Paint Shop or South Paint Shop, until all controlled
16 emissions have been exhausted through the abatement system;

17 h. With respect to situations where shutting down and/or bypassing the North Paint
18 Shop or South Paint Shop abatement systems is absolutely unavoidable for reasons of emergency and/or
19 serious risk to the health and physical safety of persons, the engineering firm(s) shall evaluate and make
20 recommendations on how to minimize the recurrence of the root causes and contributing factors that have
21 given rise to such situations, to the maximum extent feasible. This analysis shall include, for example and
22 without limitation, evaluation of and recommendations regarding (i) improved preventative maintenance
23 of the North Paint Shop and South Paint Shop's thermal oxidizers and other components of the abatement
24 systems, (ii) improved operator training, (iii) replacement of or upgrades to the thermal oxidizers and
25 related components of the abatement systems, (iv) changes to the control logic and/or design of the
26 operations of the North Paint Shop and South Paint Shop, and (v) any other area that could potentially

1 reduce the recurrence of situations necessitating the shutdown and/or bypassing of the abatement system;
2 and

3 i. For each recommendation provided in the Report, an estimate of the minimum time
4 needed to implement the recommendation.

5 5. APCO Review of Engineering Report: Within forty-five (45) calendar days of receiving
6 the firm(s)'s report under Paragraph 4, the APCO may identify any concerns with the report by notifying
7 Tesla and the firm(s). If there is any disagreement between Tesla and the APCO, they shall meet and
8 confer about the firm(s)'s report, and the APCO shall inform Tesla and the firm(s) of any changes to its
9 list of concerns. In the event an agreement cannot be reached between Tesla and the APCO regarding the
10 list of concerns, they shall provide the firm(s) with the APCO's final list of concerns and Tesla's
11 response, if any. Within thirty (30) calendar days of receiving the APCO's final list of concerns and
12 Tesla's response, the firm(s) shall go back and address the issues identified by the APCO and issue a
13 revised report consistent with Paragraph 4 that addresses the APCO's concerns and Tesla's response, with
14 consideration and notation of Tesla's response, if consistent with this Order and the firm's professional
15 responsibilities.

16 6. Submission of and Hearing On Proposed Plan to Address Unabated VOC Emissions:

17 a. Within sixty (60) calendar days of the firm(s) issuing a report or revised report,
18 under Paragraphs 4 or 5, as applicable, Tesla shall file with the Hearing Board and serve on the APCO a
19 proposed plan and timeline, not to exceed six months, for implementing all of the firm's
20 recommendations, or, if there are any recommendations that Tesla contends it cannot feasibly implement
21 or will require more than six months to implement, a response, with supporting documentation from an
22 outside entity such as a vendor, demonstrating why it cannot feasibly implement those recommendations
23 or why it will need more than six months to implement those recommendations. Tesla shall not claim it
24 cannot feasibly implement a recommendation based solely on cost or production effects, and any claim of
25 infeasibility must also be based on technical infeasibility. Tesla shall attach to its filing an unaltered
26 version of the firm(s)'s report under Paragraph 4 or 5, as applicable. Tesla's filing required under this
27
28

1 Paragraph 6.a. shall be signed, under penalty of perjury, by a Tesla Vice President-level executive with
2 responsibility for, and control over, the filing.

3 b. Within sixty (60) calendar days after service of Tesla's proposed plan and timeline,
4 the APCO shall file its response, if any, with the Hearing Board.

5 c. Within fifteen (15) calendar days after the APCO files its response (or within 15
6 calendar days after the deadline for the response, if the APCO does not file a response), the Hearing
7 Board shall hold a hearing to determine an appropriate further order to require Tesla to implement the
8 proposed plan and timeline for implementing all of the firm's recommendations.

9 7. Extensions of Time: Tesla or the APCO may request, and the Hearing Board may grant,
10 reasonable extensions of time for any deadline established in this Order upon a showing of good cause or
11 if the other party does not object. Any such extension shall be subject to the APCOs written consent,
12 which consent shall not be unreasonably withheld. Any such extension shall be issued after a hearing in
13 the form of a further Order, unless Tesla and the APCO stipulate to the extension, in which case a hearing
14 need not be held, but a further Order will still be issued.

15 8. Reporting of Bypasses and Temperature Excursions: Immediately upon the effective date
16 of this Order, Tesla shall report to the APCO each and every bypass valve opening and thermal oxidizer
17 temperature excursion (where the thermal oxidizer falls below 1400 degrees Fahrenheit for any period of
18 time) at the North and South Paint Shop, whether Tesla believes the event is a deviation or not, within 10
19 calendar days of the bypass event or any thermal oxidizer temperature excursion occurring; in each such
20 report, Tesla shall include all information required by Standard Condition F of Tesla's Title V permit, as
21 well as emissions and supporting calculation(s). This reporting shall be in addition to Tesla's reporting of
22 bypass valve opening and thermal oxidizer temperature excursions that Tesla identifies and reports as
23 deviations in accordance with Standard Condition F of Tesla's Title V permit. Failing to report a
24 deviation in connection with Tesla's Title V obligations may result in enforcement action.

25 9. Notices: Where any notice, submission, or communication is required by or related to this
26 Order, it shall be submitted in writing via email to the representative of record in the Hearing Board
27 proceeding which gave rise to this Order. Any Party may change its designated notice recipient or notice
28

1 method provided above in accordance with Hearing Board rules. Notices submitted pursuant to this
2 section shall be deemed received upon emailing.

3 The Hearing Board shall retain jurisdiction over this matter and this Order shall remain in effect
4 until the Hearing Board has entered a further order in accordance with Paragraph 6.c, above.

5
6 SO STIPULATED:

7
8 Dated: June 25, 2024

By: *Alexandra Kamel*
ALEXANDER G. CROCKETT, ESQ.
General Counsel
ALEXANDRA KAMEL, ESQ.
Senior Assistant Counsel
Counsel for
PHILIP M. FINE
Executive Officer/APCO
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

9
10
11
12
13
14
15
16 Dated: June 25, 2024

By: *Rick Rothman*
RICK ROTHMAN, ESQ.
DAVID K. BROWN, ESQ.
Counsel for
TESLA MOTORS, INC.

17
18
19
20 SO ORDERED:

21
22 Dated: *6/26/2024*

By: *Valerie J. Arriente*
Valerie J. Arriente, Esq.
Hearing Board Chair
Bay Area Air Quality Management District

**BEFORE THE HEARING BOARD OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA**

FILED
MAY 16 2025
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

In the Matter of the)
AIR POLLUTION CONTROL OFFICER of the)
BAY AREA AIR QUALITY MANAGEMENT)
DISTRICT)
Complainant,)
vs.)
TESLA MOTORS, INC.)
Respondent.)
Re: Tesla Motors, Facility No. A1438)
_____)

Docket No. 3751
JOINT PETITION FOR MODIFICATION OF
STIPULATED ORDER OF CONDITIONAL
ABATEMENT
Hearing Date: May 27, 2025
Time: 9:30AM
Place: 375 Beale St, San Francisco, CA 94105

Complainant Air Pollution Control Officer (“APCO” or “Complainant”) of the Bay Area Air Quality Management District (the “Air District”) and Respondent Tesla Motors, Inc. (“Tesla” or “Respondent”) (collectively, the “Parties,” and individually, “Party”) hereby jointly petition the Hearing Board to modify Paragraph 4 of its June 26, 2024, Order for Abatement directed to Respondent to change “ninety (90) calendar days” to “one hundred and eighty (180) calendar days,” as allowed by Hearing Board Rule 10.13(b). The Parties also jointly request that this be placed on the consent calendar.

DISCUSSION

On June 26, 2024, the Hearing Board issued a Stipulated Order for Abatement directed to Tesla that requires Tesla to, among other things, hire an engineering firm that must produce a report within 90 days of being hired. (Findings and Decision for a Stipulated Abatement Order, ¶ 4.) After the Hearing Board issued the Order, the Parties began working to implement the Order. Tesla timely submitted the names of three to five engineering firms and a draft scope of work (SOW), in accordance with Paragraph 2.a. of the Order, to the Air District. Since then, the Parties have been meeting and conferring on the scope of work, pursuant to Paragraph 2.b. of the Order. The Parties believe they have now reached agreement on the Scope of Work and the engineering firm soon will begin work on its required report.

1 During the above-described SOW meet and confer process, Tesla has been engaging with the
2 engineering firms whose names Tesla submitted to the Air District under Paragraph 2.a. of the Order.
3 These engineering firms have asked for additional time to complete a report. The Parties believe that
4 allowing additional time would be in the best interests of the public and both the Parties because it will
5 allow for the hired firm to complete a report that is consistent with and more assured to meet all the
6 requirements of the Hearing Board's June 26 Order.

7 The Hearing Board has the authority to modify its Order under Hearing Board rule 10.13(b),
8 which provides that:

9 The Respondent or APCO may file an application to modify the conditions of an order of
10 abatement, including the final compliance date. The Hearing Board may consider the
11 application at a regular hearing or on the Consent Calendar with 10 days public notice.

12 Therefore, the Parties respectfully request that, after public notice and a hearing, the Hearing Board
13 increase the amount of time for the selected engineering firm to complete the required report from 90 days
14 to 180 days by issuing an order as an addendum to the June 26 Order that states that the language in
15 Paragraph 4 of the Order saying "Within ninety (90) calendar days of being hired, the firm(s) shall" with
16 language saying "Within one hundred and eighty (180) calendar days of being hired, the firm(s) shall."

17 Dated: May 15, 2025

ALEXANDER G. CROCKETT, ESQ.
General Counsel
ALEXANDRA KAMEL, ESQ.
Senior Assistant Counsel
Attorneys for
Dr. Phillip M. Fine
Executive Officer/APCO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT

22
23 By: *Alexandra Kamel*
Alexandra Kamel, Esq.

24 Dated: May 15, 2025

RICK R. ROTHMAN, ESQ.
DAVID K. BROWN, ESQ.
Attorneys for TESLA MOTORS, INC.

26
27 By: *Rick Rothman*
Rick R. Rothman, Esq.

**BEFORE THE HEARING BOARD OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA**



In the Matter of the)	
AIR POLLUTION CONTROL OFFICER of the BAY AREA AIR QUALITY MANAGEMENT DISTRICT	)	Docket No. 3751
Complainant,	)	DECLARATION OF HARI BHARADWAJ IN SUPPORT OF JOINT PETITION FOR MODIFICATION OF STIPULATED ORDER OF CONDITIONAL ABATEMENT
vs.	)	Hearing Date: May 27, 2025
TESLA MOTORS, INC.	)	Time: 9:30AM
Respondent.	)	Place: 375 Beale St, San Francisco, CA 94105
Re: Tesla Motors, Facility No. A1438)	

I, Hari Krishna Bharadwaj, declare:

1. I am an Environmental Affairs Manager with defendant Tesla, Inc. (“Tesla”). I have personal knowledge of the following facts and, if called upon to testify as a witness, could and would testify competently to these facts. I submit this Declaration in Support of the Joint Petition for Modification of Stipulated Order of Conditional Abatement.
2. On June 26, 2024, the Hearing Board issued a Stipulated Order for Abatement directed to Tesla that requires Tesla to, among other things, hire an engineering firm that must produce a report within 90 days of being hired. (Findings and Decision for a Stipulated Abatement Order, ¶
3. In order to implement the requirements of the Order, Tesla and representatives of the District have engaged in several meet and confer discussions. Tesla timely submitted the names of three engineering firms and a draft scope of work to the District as required by Paragraph 2.a of the Order and has been working with those engineering firms to confirm the time needed to complete the report required by Paragraph 4 of the Order.
4. I have been in touch with the engineering firms submitted to the District and they informed

me that they will need more time for the preparation of the report required by Paragraph 4 of the order. One firm proposed a timeline of 150 days and another has proposed a timeline of 160 days for report preparation. Based on these discussions and discussions with District staff, it would appear that 180 days should be sufficient time for the preparation of the report.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed this 12th day of May, 2025 at Fremont, California.

Dated: May 12, 2025

B. Hari Krishna

Hari Krishna Bharadwaj

FILED
JUN 26 2024
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE HEARING BOARD OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA**

AIR POLLUTION CONTROL OFFICER of the BAY AREA AIR QUALITY MANAGEMENT DISTRICT	)	DOCKET NO. 3751
	)	FINDINGS AND DECISION FOR A STIPULATED ABATEMENT ORDER
Complainant,)	
vs.	)	BAY AREA AIR QUALITY MANAGEMENT DISTRICT REGULATIONS ("REGS") 2-1-307 AND 2-6-307
TESLA MOTORS, INC.)	
Respondent.	)	Hearing Date: June 25, 2024 Time: 9:30 AM Place: 375 Beale St, San Francisco, CA 94105

FINDINGS AND DECISION OF THE HEARING BOARD

In accordance with Health and Safety (Health & Saf.) Code sections 42450 and 42451, a hearing on the Accusation and Motion to Enter a Stipulated Conditional Order for Abatement was heard on June 25, 2024, pursuant to notice and in accordance with the applicable provisions of Health and Saf. Code sections 40800 et seq. The following members of the Bay Area Air Quality Management District Hearing Board ("Hearing Board") were present: Valerie Armento, Chair; Barbara Toole O'Neil, Vice Chair; Amelia Timbers, Rajiv Dabir, and Dr. Peter Y. Chiu. Complainant Air Pollution Control Officer ("APCO") of the Bay Area Air Quality Management District ("Air District" or "Complainant") was represented by Alexandra Kamel, Senior Assistant Counsel. Respondent Tesla Motors, Inc. ("Tesla") was represented by Rick Rothman.

At the aforementioned hearing, the public was given an opportunity to testify, testimony was received and the matter was submitted. The parties have stipulated to issuance of this Order. The Hearing

1 Board finds and decides that good cause exists to issue the Stipulated Order for Abatement (“Stipulated
2 Order” or “Order”). This finding of good cause is based on the following:

3 1. The Air District is a body corporate and politic established and existing pursuant to Health
4 & Saf. Code sections 40000 et seq., 40200 et seq., 40700 et seq., and 42300 et seq., and is charged with
5 the primary responsibility for controlling air pollution from nonvehicular sources, including the sources at
6 issue in this proceeding, in all or portions of the nine Bay Area counties, including all of Alameda
7 County, where Tesla’s North and South Paint Shops are located. (Health & Saf. Code, §§ 40000, 40200.)
8 Complainant is authorized by law to adopt and enforce rules and regulations related to air quality in all
9 nine of the Bay Area Counties, including Alameda County. (Health & Saf. Code, §§ 40001, subds. (a) &
10 (b).) Complainant APCO is appointed by the Air District’s Board of Directors, (Health & Saf. Code, §
11 40750), to “observe and enforce” all District regulations, permit conditions, variances, and enumerated
12 provisions of the Health and Safety Code. (Health & Saf. Code, § 40752.) The APCO may impose
13 conditions in any permit that are “reasonably necessary to ensure compliance with federal or California
14 law or District regulations.” (Dist. Reg. 2, rule 1, § 403.) The APCO is also authorized to seek an order
15 for abatement from the District’s Hearing Board to stop a person from violating “any order, rule, or
16 regulation prohibiting or limiting the discharge of air contaminants into the air.” (Health & Saf. Code §
17 42451(a); Hearing Board Rules § 4.1 (June 2, 2011).)

18 2. Respondent is owns and operates an electric vehicle manufacturing and assembly facility at
19 45500 Fremont Boulevard, Fremont, California (“Facility”), at which it operates the North Paint Shop and
20 the South Paint Shop (collectively, “the Paint Shops”), where Tesla paints electric vehicles that it
21 produces for sale. The Paint Shops are located and operate within the Air District’s jurisdiction, and Tesla
22 is required to obtain a permit(s) for the Paint Shops from the Air District, and to operate the Paint Shops
23 in accordance with the permit(s) issued by the Air District. The Paint Shops emit Precursor Organic
24 Compounds (“POCs”) and Toxic Air Contaminants (“TACs”). To protect air quality and public health,
25 Tesla’s permits require it to control emissions of these air pollutants using an abatement system that
26 captures and collects the pollutants and then abates them, primarily through incineration using a device
27 called a thermal oxidizer.

28

1 of work submitted by Tesla under Paragraph 2.a and (i) strike from Tesla's list of proposed firms any firm
2 that does not meet the requirements of Paragraph 2.a.i. and (ii) provide any proposed revisions to the
3 proposed scope of work necessary to ensure that the requirements of this Order are fulfilled. If the APCO
4 strikes any firm proposed by Tesla or provides any revisions to the proposed scope of work, the APCO
5 shall provide Tesla with an explanation as to the basis of such decision for the purpose of assisting Tesla
6 in selecting another firm or to make revisions to the scope of work, but this decision is not appealable.
7 The APCO may require Tesla to furnish additional names of firms should the APCO determine that two
8 or more of the originally proposed firms are not suitable, in which case Tesla shall have 15 calendar days
9 from the date on which the APCO notifies Tesla that two or more of the originally proposed firms are not
10 suitable to provide an additional two or more engineering firm names that meet the requirements of this
11 Order. If there is any disagreement between Tesla and the APCO regarding the scope of work, they shall
12 meet and confer about the revisions provided by the APCO. In the event an agreement cannot be reached
13 between Tesla and the APCO regarding the scope of work, the disagreement shall be presented to the
14 Hearing Board for resolution.

15 c. Within seven (7) calendar days of receiving the APCO's approval of the firms and
16 scope of work under Paragraph 2.b, Tesla shall send the approved firm(s) selected the scope of work
17 produced by the process in Paragraph 2.b.ii, which shall include requiring the firm(s) to:

18 i. Meet with Air District staff and Tesla before the firm(s) begins its study
19 regarding implementing this Order and its scope of work, and then, every two weeks thereafter, give the
20 APCO an update on its work under this Order; and

21 ii. Give the APCO, upon request, a copy of any information it obtained, from
22 Tesla or otherwise. If any such information is trade secret or otherwise confidential under California law,
23 Tesla and the APCO shall follow the Air District rules and, where appropriate, any other applicable
24 California laws for handling such information.

25 d. Within twenty (20) calendar days of sending the firm(s) the scope of work under
26 Paragraph 2.c., Tesla shall attempt to hire one or two of the approved firms, as necessary to fulfill the
27 requirements of this Order. In the event Tesla is unable to hire any of the firms approved by the APCO
28

1 under Paragraph 2.b due to scheduling unavailability, Tesla shall provide the APCO three more additional
2 engineering firm names that meet the requirements of this Order, in accordance with Paragraph 2.a.i, and
3 the APCO shall review them in accordance with Paragraph 2b. Tesla must hire a firm with expertise in
4 evaluating equipment like that at Tesla's North and South Paint Shops, and the same or no more than one
5 different firm with expertise in evaluating reliability and preventive maintenance programs, particularly
6 automotive vehicle production facility preventive maintenance.

7 3. Engineering Firm Access and Independence: Tesla shall do the following with respect to
8 the engineering firm(s) it hires under this Order:

9 a. Include Air District staff in all written communications it has with the selected
10 firm(s);

11 b. Permit the firm(s) to talk freely and confidentially with Air District staff at any
12 time, with or without Tesla present or knowing about the conversation or its contents; and

13 c. Give the firm(s) all access to equipment, control systems, employees, documents,
14 and anything else that the firm(s) determines it reasonably needs to carry out its responsibilities and
15 ensure compliance with this Order. If any such information is trade secret or otherwise confidential under
16 California law, Tesla and the APCO shall follow the Air District rules and, where appropriate, any other
17 applicable California laws for handling such information.

18 4. Report and Recommendations for Addressing Unabated VOC Emissions: Within ninety
19 (90) calendar days of being hired, the firm(s) shall provide one report to both Tesla and the APCO that (i)
20 is not edited or changed in any way by Tesla, (ii) is signed under penalty of perjury by a licensed
21 electrical Professional Engineer, and a licensed mechanical Professional Engineer; and (iii) includes, at a
22 minimum, all of the following:

23 a. A description of the firm and its qualifications to fulfill Paragraph 1 of this Order;

24 b. A summary of how such reviews are generally conducted;

25 c. A description of the requirements of this Order;

1 d. A summary of all the steps the firm took, the information it reviewed, and a
2 description of the information and access requested from Tesla and, if Tesla denied any of the firm's
3 requests for information and/or access, a summary of the information requested and Tesla's response;

4 e. A summary of Tesla's maintenance and reliability plan and its adequacy, as well as
5 any recommendations to improve it or bring it up to automotive vehicle industry standards;

6 f. Identification and a brief explanation of any unavoidable emergency and/or safety
7 hazards that would result in any emission of unabated VOCs from its North and/or South Paint Shops in
8 violation of Tesla's permit conditions and other regulatory requirements, or a statement that none exist, as
9 applicable;

10 g. An evaluation and recommendations on ways to eliminate the shutdown and/or
11 bypassing of the North Paint Shop and South Paint Shop abatement systems while there are any emissions
12 in the North Paint Shop and South Paint Shop production lines, except in situations where doing so is
13 absolutely unavoidable for emergency and/or safety reasons. This analysis shall include, for example, and
14 without limitation, ways for Tesla to keep the bypass vents closed and the abatement systems operating
15 when there is a production line upset in the North Paint Shop or South Paint Shop, until all controlled
16 emissions have been exhausted through the abatement system;

17 h. With respect to situations where shutting down and/or bypassing the North Paint
18 Shop or South Paint Shop abatement systems is absolutely unavoidable for reasons of emergency and/or
19 serious risk to the health and physical safety of persons, the engineering firm(s) shall evaluate and make
20 recommendations on how to minimize the recurrence of the root causes and contributing factors that have
21 given rise to such situations, to the maximum extent feasible. This analysis shall include, for example and
22 without limitation, evaluation of and recommendations regarding (i) improved preventative maintenance
23 of the North Paint Shop and South Paint Shop's thermal oxidizers and other components of the abatement
24 systems, (ii) improved operator training, (iii) replacement of or upgrades to the thermal oxidizers and
25 related components of the abatement systems, (iv) changes to the control logic and/or design of the
26 operations of the North Paint Shop and South Paint Shop, and (v) any other area that could potentially

1 reduce the recurrence of situations necessitating the shutdown and/or bypassing of the abatement system;
2 and

3 i. For each recommendation provided in the Report, an estimate of the minimum time
4 needed to implement the recommendation.

5 5. APCO Review of Engineering Report: Within forty-five (45) calendar days of receiving
6 the firm(s)'s report under Paragraph 4, the APCO may identify any concerns with the report by notifying
7 Tesla and the firm(s). If there is any disagreement between Tesla and the APCO, they shall meet and
8 confer about the firm(s)'s report, and the APCO shall inform Tesla and the firm(s) of any changes to its
9 list of concerns. In the event an agreement cannot be reached between Tesla and the APCO regarding the
10 list of concerns, they shall provide the firm(s) with the APCO's final list of concerns and Tesla's
11 response, if any. Within thirty (30) calendar days of receiving the APCO's final list of concerns and
12 Tesla's response, the firm(s) shall go back and address the issues identified by the APCO and issue a
13 revised report consistent with Paragraph 4 that addresses the APCO's concerns and Tesla's response, with
14 consideration and notation of Tesla's response, if consistent with this Order and the firm's professional
15 responsibilities.

16 6. Submission of and Hearing On Proposed Plan to Address Unabated VOC Emissions:

17 a. Within sixty (60) calendar days of the firm(s) issuing a report or revised report,
18 under Paragraphs 4 or 5, as applicable, Tesla shall file with the Hearing Board and serve on the APCO a
19 proposed plan and timeline, not to exceed six months, for implementing all of the firm's
20 recommendations, or, if there are any recommendations that Tesla contends it cannot feasibly implement
21 or will require more than six months to implement, a response, with supporting documentation from an
22 outside entity such as a vendor, demonstrating why it cannot feasibly implement those recommendations
23 or why it will need more than six months to implement those recommendations. Tesla shall not claim it
24 cannot feasibly implement a recommendation based solely on cost or production effects, and any claim of
25 infeasibility must also be based on technical infeasibility. Tesla shall attach to its filing an unaltered
26 version of the firm(s)'s report under Paragraph 4 or 5, as applicable. Tesla's filing required under this
27
28

1 Paragraph 6.a. shall be signed, under penalty of perjury, by a Tesla Vice President-level executive with
2 responsibility for, and control over, the filing.

3 b. Within sixty (60) calendar days after service of Tesla's proposed plan and timeline,
4 the APCO shall file its response, if any, with the Hearing Board.

5 c. Within fifteen (15) calendar days after the APCO files its response (or within 15
6 calendar days after the deadline for the response, if the APCO does not file a response), the Hearing
7 Board shall hold a hearing to determine an appropriate further order to require Tesla to implement the
8 proposed plan and timeline for implementing all of the firm's recommendations.

9 7. Extensions of Time: Tesla or the APCO may request, and the Hearing Board may grant,
10 reasonable extensions of time for any deadline established in this Order upon a showing of good cause or
11 if the other party does not object. Any such extension shall be subject to the APCOs written consent,
12 which consent shall not be unreasonably withheld. Any such extension shall be issued after a hearing in
13 the form of a further Order, unless Tesla and the APCO stipulate to the extension, in which case a hearing
14 need not be held, but a further Order will still be issued.

15 8. Reporting of Bypasses and Temperature Excursions: Immediately upon the effective date
16 of this Order, Tesla shall report to the APCO each and every bypass valve opening and thermal oxidizer
17 temperature excursion (where the thermal oxidizer falls below 1400 degrees Fahrenheit for any period of
18 time) at the North and South Paint Shop, whether Tesla believes the event is a deviation or not, within 10
19 calendar days of the bypass event or any thermal oxidizer temperature excursion occurring; in each such
20 report, Tesla shall include all information required by Standard Condition F of Tesla's Title V permit, as
21 well as emissions and supporting calculation(s). This reporting shall be in addition to Tesla's reporting of
22 bypass valve opening and thermal oxidizer temperature excursions that Tesla identifies and reports as
23 deviations in accordance with Standard Condition F of Tesla's Title V permit. Failing to report a
24 deviation in connection with Tesla's Title V obligations may result in enforcement action.

25 9. Notices: Where any notice, submission, or communication is required by or related to this
26 Order, it shall be submitted in writing via email to the representative of record in the Hearing Board
27 proceeding which gave rise to this Order. Any Party may change its designated notice recipient or notice
28

1 method provided above in accordance with Hearing Board rules. Notices submitted pursuant to this
2 section shall be deemed received upon emailing.

3 The Hearing Board shall retain jurisdiction over this matter and this Order shall remain in effect
4 until the Hearing Board has entered a further order in accordance with Paragraph 6.c, above.

5
6 SO STIPULATED:

7
8 Dated: June 25, 2024

By: *Alexandra Kamel*
ALEXANDER G. CROCKETT, ESQ.
General Counsel
ALEXANDRA KAMEL, ESQ.
Senior Assistant Counsel
Counsel for
PHILIP M. FINE
Executive Officer/APCO
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

9
10
11
12
13
14
15
16 Dated: June 25, 2024

By: *Rick Rothman*
RICK ROTHMAN, ESQ.
DAVID K. BROWN, ESQ.
Counsel for
TESLA MOTORS, INC.

17
18
19
20 SO ORDERED:

21
22 Dated: *6/26/2024*

By: *Valerie J. Arriente*
Valerie J. Arriente, Esq.
Hearing Board Chair
Bay Area Air Quality Management District

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the Matter of the) Docket No.: 3751
AIR POLLUTION CONTROL OFFICER of)
the BAY AREA AIR QUALITY)
MANAGEMENT DISTRICT)
Complainant,) MODIFICATION OF STIPULATED ORDER
OF CONDITIONAL ABATEMENT FILED
6/26/24
Vs.)
TESLA MOTORS, INC.)
Respondent.)

FILED
MAY 28 2025
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Pursuant to a Joint Petition for Modification of Stipulated Order of Conditional Abatement filed May 16, 2025, both Parties requested pursuant to Hearing Board Rule 10.13(b) that Paragraph 4 of the 2024 Order be revised to increase the time within which the independent engineering firm must produce its report from 90 days to 180 days. The Hearing Board held a brief hearing on May 27, 2025, with both Parties present.

THE HEARING BOARD ORDERS:

The introductory language of condition 4 of the June 26, 2024 Order is revised to read as follows:

4. Report and Recommendations for Addressing Unabated VOC Emissions: Within one hundred eighty (180) calendar days of being hired, the firm(s) shall provide one report to both Tesla and the APCO that (i) is not edited or changed in any way by Tesla, (ii) is signed under penalty of perjury by a licensed electrical Professional Engineer, and a licensed mechanical Professional Engineer; and (iii) includes, at a minimum, all of the following: [requirements a. through i. unchanged]

DATED: May 28, 2025

By: 
VALERIE J. ARMENTO, ESQ.
Hearing Board Chair
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the Matter of the

AIR POLLUTION CONTROL OFFICER of
the BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Complainant,

vs.

TESLA MOTORS, INC.

Respondent.

Docket No.: 3751

CERTIFICATE OF SERVICE

FILED

MAY 28 2025

HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

STATE OF CALIFORNIA

City and County of San Francisco

ss.

I, Marcy Hiratzka, do hereby certify under penalty of perjury as follows:
That I am a citizen of the United States, over the age of 18 years and not a party to the above-entitled action; that I served a true copy of the attached **Modification of Stipulated Order of Conditional Abatement Filed June 26, 2024** on:

Rick Rothman, Esq.
Morgan, Lewis & Bockius LLP
300 South Grand Ave., 22nd Floor
Los Angeles, CA 90071-3132
Rick.rothman@morganlewis.com

David K. Brown, Esq.
Morgan, Lewis & Bockius LLP
300 South Grand Ave., 22nd Floor
Los Angeles, CA 90071-3132
David.brown@morganlewis.com

via email and US Certified Mail on May 28, 2025, and on:

Alexandra Kamel, Esq., Sr. Assistant Counsel
Bay Area Air Quality Management District
375 Beale Street, 6th Floor
San Francisco, California 94105
akamel@baaqmd.gov

via email on May 28, 2025

DATED: May 28, 2025



Marcy Hiratzka
Clerk of the Boards

FILED
JUN 26 2024
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**BEFORE THE HEARING BOARD OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA**

AIR POLLUTION CONTROL OFFICER of the BAY AREA AIR QUALITY MANAGEMENT DISTRICT	)	DOCKET NO. 3751
	)	FINDINGS AND DECISION FOR A STIPULATED ABATEMENT ORDER
Complainant,)	
vs.	)	BAY AREA AIR QUALITY MANAGEMENT DISTRICT REGULATIONS ("REGS") 2-1-307 AND 2-6-307
TESLA MOTORS, INC.	)	Hearing Date: June 25, 2024 Time: 9:30 AM Place: 375 Beale St, San Francisco, CA 94105
Respondent.)	

FINDINGS AND DECISION OF THE HEARING BOARD

In accordance with Health and Safety (Health & Saf.) Code sections 42450 and 42451, a hearing on the Accusation and Motion to Enter a Stipulated Conditional Order for Abatement was heard on June 25, 2024, pursuant to notice and in accordance with the applicable provisions of Health and Saf. Code sections 40800 et seq. The following members of the Bay Area Air Quality Management District Hearing Board ("Hearing Board") were present: Valerie Armento, Chair; Barbara Toole O'Neil, Vice Chair; Amelia Timbers, Rajiv Dabir, and Dr. Peter Y. Chiu. Complainant Air Pollution Control Officer ("APCO") of the Bay Area Air Quality Management District ("Air District" or "Complainant") was represented by Alexandra Kamel, Senior Assistant Counsel. Respondent Tesla Motors, Inc. ("Tesla") was represented by Rick Rothman.

At the aforementioned hearing, the public was given an opportunity to testify, testimony was received and the matter was submitted. The parties have stipulated to issuance of this Order. The Hearing

1 Board finds and decides that good cause exists to issue the Stipulated Order for Abatement (“Stipulated
2 Order” or “Order”). This finding of good cause is based on the following:

3 1. The Air District is a body corporate and politic established and existing pursuant to Health
4 & Saf. Code sections 40000 et seq., 40200 et seq., 40700 et seq., and 42300 et seq., and is charged with
5 the primary responsibility for controlling air pollution from nonvehicular sources, including the sources at
6 issue in this proceeding, in all or portions of the nine Bay Area counties, including all of Alameda
7 County, where Tesla’s North and South Paint Shops are located. (Health & Saf. Code, §§ 40000, 40200.)
8 Complainant is authorized by law to adopt and enforce rules and regulations related to air quality in all
9 nine of the Bay Area Counties, including Alameda County. (Health & Saf. Code, §§ 40001, subds. (a) &
10 (b).) Complainant APCO is appointed by the Air District’s Board of Directors, (Health & Saf. Code, §
11 40750), to “observe and enforce” all District regulations, permit conditions, variances, and enumerated
12 provisions of the Health and Safety Code. (Health & Saf. Code, § 40752.) The APCO may impose
13 conditions in any permit that are “reasonably necessary to ensure compliance with federal or California
14 law or District regulations.” (Dist. Reg. 2, rule 1, § 403.) The APCO is also authorized to seek an order
15 for abatement from the District’s Hearing Board to stop a person from violating “any order, rule, or
16 regulation prohibiting or limiting the discharge of air contaminants into the air.” (Health & Saf. Code §
17 42451(a); Hearing Board Rules § 4.1 (June 2, 2011).)

18 2. Respondent is owns and operates an electric vehicle manufacturing and assembly facility at
19 45500 Fremont Boulevard, Fremont, California (“Facility”), at which it operates the North Paint Shop and
20 the South Paint Shop (collectively, “the Paint Shops”), where Tesla paints electric vehicles that it
21 produces for sale. The Paint Shops are located and operate within the Air District’s jurisdiction, and Tesla
22 is required to obtain a permit(s) for the Paint Shops from the Air District, and to operate the Paint Shops
23 in accordance with the permit(s) issued by the Air District. The Paint Shops emit Precursor Organic
24 Compounds (“POCs”) and Toxic Air Contaminants (“TACs”). To protect air quality and public health,
25 Tesla’s permits require it to control emissions of these air pollutants using an abatement system that
26 captures and collects the pollutants and then abates them, primarily through incineration using a device
27 called a thermal oxidizer.

28

1 11. This Stipulated Order is not intended to be, nor does it act as, a variance, and Respondent
2 remains subject to all rules and regulations of the Air District, Air District permits, and with all other
3 applicable provisions of federal and California law. Further, nothing herein shall be deemed or construed
4 to limit the authority of the Air District to issue Notices of Violation; seek civil penalties, criminal
5 penalties, or injunctive relief; or to seek further orders for abatement or other legal relief, as allowed by
6 law.

7 ORDER

8 THEREFORE, based on the foregoing and good cause appearing, the Hearing Board hereby
9 orders Tesla to comply with all of the following conditions, or in the alternative, cease any operation of
10 the North and South Paint Shops in violation of Regs. 2-1-307 and 2-6-307:

11 1. Engineering Evaluation and Recommendations for Addressing Unabated VOC Emissions:
12 Tesla shall hire and pay one or more engineering firms, in accordance with this Order, to evaluate and
13 make recommendations on potential options for Tesla to eliminate the emission of unabated VOC
14 emissions from its North and South Paint Shops, as detailed in the scope of work developed under
15 ~~Paragraph 2.a.ii. of this Order, in violation of Tesla's permit conditions and other regulatory requirements.~~

16 2. Selection of Engineering Firm(s) and Development of Scope of Work: To comply with
17 Paragraph 1 of this Order, Tesla shall do the following:

18 a. Within thirty (30) calendar days of the Hearing Board issuing this order, Tesla shall
19 submit to the APCO for approval the following items, in writing:

20 i. The names of three to five engineering firms that each have expertise in
21 either evaluating equipment like that at Tesla's North and South Paint Shops, or in evaluating reliability
22 and preventive maintenance programs, particularly vehicle production facility preventive maintenance,
23 with summaries of applicable past projects and the kind of expertise provided by each of the firms; and

24 ii. A written scope of work consistent with this Order that Tesla proposes to
25 provide to the selected engineering firm(s).

26 b. Within sixty (60) calendar days of receiving the scope of work from Tesla under
27 Paragraph 2.a.ii. of this Order, the APCO shall review the proposed engineering firms and proposed scope
28

1 of work submitted by Tesla under Paragraph 2.a and (i) strike from Tesla's list of proposed firms any firm
2 that does not meet the requirements of Paragraph 2.a.i. and (ii) provide any proposed revisions to the
3 proposed scope of work necessary to ensure that the requirements of this Order are fulfilled. If the APCO
4 strikes any firm proposed by Tesla or provides any revisions to the proposed scope of work, the APCO
5 shall provide Tesla with an explanation as to the basis of such decision for the purpose of assisting Tesla
6 in selecting another firm or to make revisions to the scope of work, but this decision is not appealable.
7 The APCO may require Tesla to furnish additional names of firms should the APCO determine that two
8 or more of the originally proposed firms are not suitable, in which case Tesla shall have 15 calendar days
9 from the date on which the APCO notifies Tesla that two or more of the originally proposed firms are not
10 suitable to provide an additional two or more engineering firm names that meet the requirements of this
11 Order. If there is any disagreement between Tesla and the APCO regarding the scope of work, they shall
12 meet and confer about the revisions provided by the APCO. In the event an agreement cannot be reached
13 between Tesla and the APCO regarding the scope of work, the disagreement shall be presented to the
14 Hearing Board for resolution.

15 c. Within seven (7) calendar days of receiving the APCO's approval of the firms and
16 scope of work under Paragraph 2.b, Tesla shall send the approved firm(s) selected the scope of work
17 produced by the process in Paragraph 2.b.ii, which shall include requiring the firm(s) to:

18 i. Meet with Air District staff and Tesla before the firm(s) begins its study
19 regarding implementing this Order and its scope of work, and then, every two weeks thereafter, give the
20 APCO an update on its work under this Order; and

21 ii. Give the APCO, upon request, a copy of any information it obtained, from
22 Tesla or otherwise. If any such information is trade secret or otherwise confidential under California law,
23 Tesla and the APCO shall follow the Air District rules and, where appropriate, any other applicable
24 California laws for handling such information.

25 d. Within twenty (20) calendar days of sending the firm(s) the scope of work under
26 Paragraph 2.c., Tesla shall attempt to hire one or two of the approved firms, as necessary to fulfill the
27 requirements of this Order. In the event Tesla is unable to hire any of the firms approved by the APCO
28

1 under Paragraph 2.b due to scheduling unavailability, Tesla shall provide the APCO three more additional
2 engineering firm names that meet the requirements of this Order, in accordance with Paragraph 2.a.i, and
3 the APCO shall review them in accordance with Paragraph 2b. Tesla must hire a firm with expertise in
4 evaluating equipment like that at Tesla's North and South Paint Shops, and the same or no more than one
5 different firm with expertise in evaluating reliability and preventive maintenance programs, particularly
6 automotive vehicle production facility preventive maintenance.

7 3. Engineering Firm Access and Independence: Tesla shall do the following with respect to
8 the engineering firm(s) it hires under this Order:

9 a. Include Air District staff in all written communications it has with the selected
10 firm(s);

11 b. Permit the firm(s) to talk freely and confidentially with Air District staff at any
12 time, with or without Tesla present or knowing about the conversation or its contents; and

13 c. Give the firm(s) all access to equipment, control systems, employees, documents,
14 and anything else that the firm(s) determines it reasonably needs to carry out its responsibilities and
15 ensure compliance with this Order. If any such information is trade secret or otherwise confidential under
16 California law, Tesla and the APCO shall follow the Air District rules and, where appropriate, any other
17 applicable California laws for handling such information.

18 4. Report and Recommendations for Addressing Unabated VOC Emissions: Within ninety
19 (90) calendar days of being hired, the firm(s) shall provide one report to both Tesla and the APCO that (i)
20 is not edited or changed in any way by Tesla, (ii) is signed under penalty of perjury by a licensed
21 electrical Professional Engineer, and a licensed mechanical Professional Engineer; and (iii) includes, at a
22 minimum, all of the following:

23 a. A description of the firm and its qualifications to fulfill Paragraph 1 of this Order;

24 b. A summary of how such reviews are generally conducted;

25 c. A description of the requirements of this Order;

1 d. A summary of all the steps the firm took, the information it reviewed, and a
2 description of the information and access requested from Tesla and, if Tesla denied any of the firm's
3 requests for information and/or access, a summary of the information requested and Tesla's response;

4 e. A summary of Tesla's maintenance and reliability plan and its adequacy, as well as
5 any recommendations to improve it or bring it up to automotive vehicle industry standards;

6 f. Identification and a brief explanation of any unavoidable emergency and/or safety
7 hazards that would result in any emission of unabated VOCs from its North and/or South Paint Shops in
8 violation of Tesla's permit conditions and other regulatory requirements, or a statement that none exist, as
9 applicable;

10 g. An evaluation and recommendations on ways to eliminate the shutdown and/or
11 bypassing of the North Paint Shop and South Paint Shop abatement systems while there are any emissions
12 in the North Paint Shop and South Paint Shop production lines, except in situations where doing so is
13 absolutely unavoidable for emergency and/or safety reasons. This analysis shall include, for example, and
14 without limitation, ways for Tesla to keep the bypass vents closed and the abatement systems operating
15 when there is a production line upset in the North Paint Shop or South Paint Shop, until all controlled
16 emissions have been exhausted through the abatement system;

17 h. With respect to situations where shutting down and/or bypassing the North Paint
18 Shop or South Paint Shop abatement systems is absolutely unavoidable for reasons of emergency and/or
19 serious risk to the health and physical safety of persons, the engineering firm(s) shall evaluate and make
20 recommendations on how to minimize the recurrence of the root causes and contributing factors that have
21 given rise to such situations, to the maximum extent feasible. This analysis shall include, for example and
22 without limitation, evaluation of and recommendations regarding (i) improved preventative maintenance
23 of the North Paint Shop and South Paint Shop's thermal oxidizers and other components of the abatement
24 systems, (ii) improved operator training, (iii) replacement of or upgrades to the thermal oxidizers and
25 related components of the abatement systems, (iv) changes to the control logic and/or design of the
26 operations of the North Paint Shop and South Paint Shop, and (v) any other area that could potentially

1 reduce the recurrence of situations necessitating the shutdown and/or bypassing of the abatement system;
2 and

3 i. For each recommendation provided in the Report, an estimate of the minimum time
4 needed to implement the recommendation.

5 5. APCO Review of Engineering Report: Within forty-five (45) calendar days of receiving
6 the firm(s)'s report under Paragraph 4, the APCO may identify any concerns with the report by notifying
7 Tesla and the firm(s). If there is any disagreement between Tesla and the APCO, they shall meet and
8 confer about the firm(s)'s report, and the APCO shall inform Tesla and the firm(s) of any changes to its
9 list of concerns. In the event an agreement cannot be reached between Tesla and the APCO regarding the
10 list of concerns, they shall provide the firm(s) with the APCO's final list of concerns and Tesla's
11 response, if any. Within thirty (30) calendar days of receiving the APCO's final list of concerns and
12 Tesla's response, the firm(s) shall go back and address the issues identified by the APCO and issue a
13 revised report consistent with Paragraph 4 that addresses the APCO's concerns and Tesla's response, with
14 consideration and notation of Tesla's response, if consistent with this Order and the firm's professional
15 responsibilities.

16 6. Submission of and Hearing On Proposed Plan to Address Unabated VOC Emissions:

17 a. Within sixty (60) calendar days of the firm(s) issuing a report or revised report,
18 under Paragraphs 4 or 5, as applicable, Tesla shall file with the Hearing Board and serve on the APCO a
19 proposed plan and timeline, not to exceed six months, for implementing all of the firm's
20 recommendations, or, if there are any recommendations that Tesla contends it cannot feasibly implement
21 or will require more than six months to implement, a response, with supporting documentation from an
22 outside entity such as a vendor, demonstrating why it cannot feasibly implement those recommendations
23 or why it will need more than six months to implement those recommendations. Tesla shall not claim it
24 cannot feasibly implement a recommendation based solely on cost or production effects, and any claim of
25 infeasibility must also be based on technical infeasibility. Tesla shall attach to its filing an unaltered
26 version of the firm(s)'s report under Paragraph 4 or 5, as applicable. Tesla's filing required under this
27
28

1 Paragraph 6.a. shall be signed, under penalty of perjury, by a Tesla Vice President-level executive with
2 responsibility for, and control over, the filing.

3 b. Within sixty (60) calendar days after service of Tesla's proposed plan and timeline,
4 the APCO shall file its response, if any, with the Hearing Board.

5 c. Within fifteen (15) calendar days after the APCO files its response (or within 15
6 calendar days after the deadline for the response, if the APCO does not file a response), the Hearing
7 Board shall hold a hearing to determine an appropriate further order to require Tesla to implement the
8 proposed plan and timeline for implementing all of the firm's recommendations.

9 7. Extensions of Time: Tesla or the APCO may request, and the Hearing Board may grant,
10 reasonable extensions of time for any deadline established in this Order upon a showing of good cause or
11 if the other party does not object. Any such extension shall be subject to the APCOs written consent,
12 which consent shall not be unreasonably withheld. Any such extension shall be issued after a hearing in
13 the form of a further Order, unless Tesla and the APCO stipulate to the extension, in which case a hearing
14 need not be held, but a further Order will still be issued.

15 8. Reporting of Bypasses and Temperature Excursions: Immediately upon the effective date
16 of this Order, Tesla shall report to the APCO each and every bypass valve opening and thermal oxidizer
17 temperature excursion (where the thermal oxidizer falls below 1400 degrees Fahrenheit for any period of
18 time) at the North and South Paint Shop, whether Tesla believes the event is a deviation or not, within 10
19 calendar days of the bypass event or any thermal oxidizer temperature excursion occurring; in each such
20 report, Tesla shall include all information required by Standard Condition F of Tesla's Title V permit, as
21 well as emissions and supporting calculation(s). This reporting shall be in addition to Tesla's reporting of
22 bypass valve opening and thermal oxidizer temperature excursions that Tesla identifies and reports as
23 deviations in accordance with Standard Condition F of Tesla's Title V permit. Failing to report a
24 deviation in connection with Tesla's Title V obligations may result in enforcement action.

25 9. Notices: Where any notice, submission, or communication is required by or related to this
26 Order, it shall be submitted in writing via email to the representative of record in the Hearing Board
27 proceeding which gave rise to this Order. Any Party may change its designated notice recipient or notice
28

1 method provided above in accordance with Hearing Board rules. Notices submitted pursuant to this
2 section shall be deemed received upon emailing.

3 The Hearing Board shall retain jurisdiction over this matter and this Order shall remain in effect
4 until the Hearing Board has entered a further order in accordance with Paragraph 6.c, above.

5
6 SO STIPULATED:

7
8 Dated: June 25, 2024

9 By: *Alexandra Kamel*
10 ALEXANDER G. CROCKETT, ESQ.
11 General Counsel
12 ALEXANDRA KAMEL, ESQ.
13 Senior Assistant Counsel
14 Counsel for
15 PHILIP M. FINE
16 Executive Officer/APCO
17 BAY AREA AIR QUALITY
18 MANAGEMENT DISTRICT

19
20 Dated: June 25, 2024

21 By: *Rick Rothman*
22 RICK ROTHMAN, ESQ.
23 DAVID K. BROWN, ESQ.
24 Counsel for
25 TESLA MOTORS, INC.

26 SO ORDERED:

27 Dated: *6/26/2024*

28 By: *Valerie J. Arriente*
Valerie J. Arriente, Esq.
Hearing Board Chair
Bay Area Air Quality Management District

1 **BEFORE THE HEARING BOARD OF THE**
2 **BAY AREA AIR QUALITY MANAGEMENT DISTRICT**
3 **STATE OF CALIFORNIA**



5 In the Matter of the)
6 AIR POLLUTION CONTROL OFFICER of the)
7 BAY AREA AIR QUALITY MANAGEMENT)
8 DISTRICT)
9 Complainant,)
10 vs.)
11 TESLA MOTORS, INC.)
12 Respondent.)
13 Re: Tesla Motors, Facility No. A1438)

Docket No. 3751
JOINT PETITION FOR MODIFICATION OF
MODIFIED ORDER OF CONDITIONAL
ABATEMENT
Hearing Date: June 30, 2026
Time: 9:30 a.m.
Place: 375 Beale St, San Francisco, CA 94105

14 Complainant Air Pollution Control Officer (“APCO” or “Complainant”) of the Bay Area Air
15 Quality Management District (the “Air District”) and Respondent Tesla Motors, Inc. (“Tesla” or
16 “Respondent”) (collectively, the “Parties,” and individually, “Party”) hereby jointly petition the Hearing
17 Board to modify Paragraph 5 of its May 28, 2025, Modified Order for Abatement directed to Respondent
18 to extend the time for the engineering firm to provide its final report, as allowed by Hearing Board Rule
19 10.13(b). The Parties also jointly request that this petition be placed on the consent calendar.

20 **DISCUSSION**

21 On June 26, 2024, the Hearing Board issued a Stipulated Order for Abatement directed to Tesla
22 (“June 26 Order”) that requires Tesla to, among other things, hire an engineering firm that must produce a
23 report within 90 days of being hired. (Findings and Decision for a Stipulated Abatement Order, ¶ 4.) After
24 the Hearing Board issued the June 26 Order, the Parties began working to implement it. On May 28,
25 2025, the Hearing Board modified the June 26 Order (“Modified Order”) to extend the time for the
26 engineering firm to provide the required report from 90 to 180 days. After the Hearing Board issued the
27 Modified Order, on December 21, 2026, the engineering firm provided a report to the APCO and Tesla
28 under Paragraph 4 of the Order. The APCO timely notified Tesla and the firm of its concerns with the

1 report, and the APCO and Tesla have been meeting and conferring for several months since then.

2 On May 11, the APCO provided the engineering firm its final comments on the report, and Tesla
3 provided the firm its responses on May 12. The engineering firm has 30 days from the date on which it
4 received both the APCO's final comments and Tesla's responses to issue a revised report. The
5 engineering firm has been working on revising the report, as required under Paragraph 5, but needs more
6 time.

7 The Parties believe that allowing additional time would be in the best interests of the public and
8 both the Parties because it will allow for a more thorough and complete report that adequately addresses
9 final comments so it can more assuredly meet all the requirements of the Hearing Board's June 26 Order
10 and Modified Order. The Parties have reviewed the rest of the deadlines and believe that no further
11 extensions will be needed under the Order.

12 The Hearing Board has the authority to modify its Order under Hearing Board rule 10.13(b),
13 which provides that:

14 The Respondent or APCO may file an application to modify the conditions of an order of
15 abatement, including the final compliance date. The Hearing Board may consider the
16 application at a regular hearing or on the Consent Calendar with 10 days public notice.

17 Therefore, the Parties respectfully request that, after public notice and a hearing, the Hearing Board
18 increase the amount of time for the engineering firm to complete the required revised report from 30 days
19 to 90 days by issuing an order as an addendum to the Modified Order that states that the language in
20 Paragraph 5 of the Order saying "Within thirty (30) calendar days of receiving the APCO's final list of
21 concerns and Tesla's response," with language saying "Within ninety (90) calendar days of receiving the
22 APCO's final list of concerns and Tesla's response."

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Dated: June 12, 2026

ALEXANDER G. CROCKETT, ESQ.
General Counsel
ALEXANDRA KAMEL, ESQ.
Senior Assistant Counsel
Attorneys for
Dr. Phillip M. Fine
Executive Officer/APCO
BAY AREA AIR QUALITY MANAGEMENT DISTRICT

By: *Alexandra Kamel*
Alexandra Kamel, Esq.

Dated: June 9, 2026

RICK R. ROTHMAN, ESQ.
DAVID K. BROWN, ESQ.
Attorneys for TESLA MOTORS, INC.

By: *Rick Rothman*
Rick R. Rothman, Esq.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

BEFORE THE HEARING BOARD
OF THE
BAY AREA AIR QUALITY MANAGEMENT DISTRICT
STATE OF CALIFORNIA

In the Matter of the

AIR POLLUTION CONTROL OFFICER of
the BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

Complainant,

Vs.

TESLA MOTORS, INC.

Respondent.

) Docket No.: 3751

) NOTICE OF HEARING



TO: Air Pollution Control Officer of the Bay Area Air Quality Management District

AND

TESLA MOTORS, INC.

YOU ARE HEREBY NOTIFIED that a hearing will be held before the Hearing Board of the Bay Area Air Quality Management District (“District”) at **375 Beale Street, 1st Floor Board Room, San Francisco, California, 94105, at the hour of 9:30 A.M.**

TUESDAY, JUNE 30, 2026

to consider the joint petition for modification of Paragraph 5 of its May 28, 2025 Modified Order for Abatement, upon the issues raised in the Accusation of Violation of Air District Regulations 2-1-307 and 2-6-307 and Request for Conditional Order for Abatement, filed on May 2, 2024. **This matter will be heard on the Hearing Board agenda’s Consent Calendar. The Hearing Board members are required to attend in person.** but the parties and members of the public may participate in/observe the hearing through the live webcast of the hearing, or via phone (669) 900-6833. Interested members of the public will be allowed an opportunity to testify on this matter. The file may be reviewed by contacting the Clerk of the Boards, Marcy Hiratzka, at 415.749.5073, or mhiratzka@baaqmd.gov. The above hearing date and time may be changed without further published notice. Those participating by phone who would like to make a comment can use the “raise hand” feature by dialing “*9”. To receive the full Zoom experience, please make sure your application is up to date.

1 **Individuals representing the parties will receive special links to the hearing at a later date, if**
2 **they wish to participate via Zoom.**

3 You may be, but need not be, represented by counsel. You may present any relevant evidence
4 and will be given full opportunity to cross-examine all testifying witnesses. You are entitled to the
5 issuance of subpoenas to compel the attendance of witnesses and the production of books, documents,
6 and other things by applying to the Clerk of the Boards.

7 The proceedings of the hearing will be electronically recorded, copies of which will be made
8 available to the parties upon request and payment of records duplication fees. Should either party
9 desire the services of a court reporter, with the cost to be borne by the requesting party, please contact
10 the Clerk of the Boards as soon as possible and, in any event, no later than forty-eight (48) hours prior
11 to the date of the hearings.

12 **If either party determines that a continuance of the hearing is necessary, a written**
13 **request, including specific reasons for the request, should be made to the Clerk of the Boards**
14 **at least seventy-two (72) hours prior to the hearing dates, pursuant to Hearing Board Rules**
15 **§6.16.**

16 The hearing will be conducted in accordance with the Hearing Board Rules to the extent
17 feasible, available via the District website at [http://www.baaqmd.gov/about-the-air-district/hearing-](http://www.baaqmd.gov/about-the-air-district/hearing-board/rulesforms)
18 [board/rulesforms](http://www.baaqmd.gov/about-the-air-district/hearing-board/rulesforms), or by contacting the Clerk of the Boards at 415.749.5073.

19
20 DATED: June 17, 2026

21 
22 _____
23 Marcy Hiratzka
24 Clerk of the Boards

25 Facility Location:
26 45500 Fremont Boulevard, Fremont, California, 94538 (Alameda County)
27
28

1 BEFORE THE HEARING BOARD
2 OF THE
3 BAY AREA AIR QUALITY MANAGEMENT DISTRICT
4 STATE OF CALIFORNIA

4 In the Matter of the)
5 AIR POLLUTION CONTROL OFFICER of)
6 the BAY AREA AIR QUALITY)
7 MANAGEMENT DISTRICT)
8 Complainant,
9 vs.
10 TESLA MOTORS, INC.
11 Respondent.

Docket No.: 3751
CERTIFICATE OF SERVICE



12 STATE OF CALIFORNIA)
13 City and County of San Francisco) ss.

14 I, Marcy Hiratzka, do hereby certify under penalty of perjury as follows:
15 That I am a citizen of the United States, over the age of 18 years and not a party to the above-
entitled action; that I served a true copy of the attached **Notice of Hearing** on:

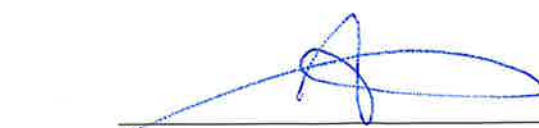
16 Rick Rothman, Esq. 17 Morgan, Lewis & Bockius LLP 18 300 South Grand Ave., 22nd Floor 19 Los Angeles, CA 90071-3132 Rick.rothman@morganlewis.com	David K. Brown, Esq. Morgan, Lewis & Bockius LLP 300 South Grand Ave., 22nd Floor Los Angeles, CA 90071-3132 David.brown@morganlewis.com
---	---

20 via email and US Certified Mail on June 17, 2026, and on:

21 Alexandra Kamel, Esq., Sr. Assistant Counsel
22 Bay Area Air Quality Management District
23 375 Beale Street, 6th Floor
24 San Francisco, California 94105
akamel@baaqmd.gov

25 via email on June 17, 2026

26 DATED: June 17, 2026

27 
28 Marcy Hiratzka
Clerk of the Boards