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

FILED
JAN 12 2021
HEARING BOARD
BAY AREA AIR QUALITY
MANAGEMENT DISTRICT

11 In the Matter of the APPEAL of)
12 TESLA, INC.) Docket No. 3725
13 From Permit Conditions Contained in Authority to) STIPULATED ORDER FOR
14 Construct for Permit Application 30523,) REMAND
15 Issued October 13, 2020)
16 Re: Tesla, Inc. Fremont Facility, No. 20459)
17 _____)

18 This matter concerns an Appeal filed by Tesla, Inc. (“Tesla”) of an Authority to Construct issued
19 by Respondent the Air Pollution Control Officer (“APCO”) of the Bay Area Air Quality Management
20 District (“District”) on October 13, 2020. The Authority to Construct was issued by the APCO in
21 response to Tesla’s application to install two new aluminum melting furnaces, which was
22 administratively designated Application No. 30523. Specifically, Tesla appeals the emission limitations
23 set forth in Part 4 of Condition 27327 specified in the Authority to Construct for Application 30523.

24 The Parties submitted a Stipulation And Request For Entry Of Stipulated Order For Remand,
25 filed on January 11, 2021, which requested that this Board enter this Order remanding the matter to
26 the APCO for further consideration. The Parties are in agreement that instead of litigating their dispute
27 at this point, the best way forward is for this Board to remand the matter for the APCO to undertake
28 further analysis and render a revised decision on Application 30523.

The Hearing Board held a hearing on January 12, 2021, at which Tesla was represented by
Steve Hill, Esq., and the APCO was represented by Assistant Counsel, Alexander G. Crockett, Esq.
The hearing was duly noticed in accordance with applicable legal requirements and members of the
public were afforded an opportunity to comment. Given the current pandemic situation, the hearing
was conducted virtually.

At the hearing on January 12, 2021, the Hearing Board entered this Stipulated Order for
Remand (“Order”) providing for the Authority to Construct to be remanded to the APCO for the

1 APCO and District Staff to conduct a Best Available Control Technology (“BACT”) analysis and
2 make a determination as to whether Tesla’s application complies with the BACT requirements in
3 District Regulation 2-2-301. This Order is based on the Parties’ agreement that a remand is the most
4 appropriate way forward at this point, and on the Hearing Board’s agreement with that course of
5 action.

6 NOW THEREFORE, based upon the foregoing, and for good cause appearing, the Hearing
7 Board hereby Orders: (i) that this matter shall be and hereby is remanded to the APCO for further
8 consideration, and (ii) that the APCO shall evaluate Application 30523 for compliance with the BACT
9 requirements in District Regulation 2-2-301, and based on that evaluation make a decision on whether
10 to grant or deny Application 30523, with a written explanation as to the results of the evaluation and
11 the reasons for the grant or denial of the application. The APCO will complete its review and share a
12 draft of its final determination with Tesla no later than January 29, 2021; and will finalize its
13 determination and either grant or deny the application within 10 working days thereafter.

14 The Hearing Board retains jurisdiction of this matter to hear any further appeal by Tesla of the
15 APCO’s BACT analysis and/or BACT permit conditions included as part of the APCO’s decision to
16 grant or deny Application No. 30523.

17 IT IS SO ORDERED.

18
19 Moved by: Peter Chiu, M.D., P.E.

20 Seconded by: Barbara Toole O’Neil, QEP

21 AYES: Valerie J. Armento, Esq.; Danny Cullenward, Esq.; Peter Chiu, M.D., P.E.;
22 Catherine Fortney, P.E.; and Barbara Toole O’Neil, QEP.

23 NOES: None.

24 NON-PARTICIPATING: Q. Tan, Ph.D.

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26 
Valerie J. Armento, Esq., Chair

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Date 1/12/2021

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6 TESLA, INC.) Docket No. 3725
7 From Permit Conditions Contained in Authority to)
8 Construct for Permit Application 30523,)
9 Issued October 13, 2020)
10 Re: Tesla, Inc. Fremont Facility, No. 20459)
11 _____)

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

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 eighteen years and not a party to
16 the above entitled action; that I served a true copy of the attached Stipulated Order for Remand on:

17 **Steve Hill, Esq.**
18 **1019 Alvarado Terr.**
19 **Walla Walla, WA 99362**
stevehillesq@gmail.com

Yesenia Villaseñor, Esq.,
Tesla Associate General Counsel
901 Page Avenue
Fremont, CA 94538
villasenor@tesla.com

20 via e-mail, on January 12, 2021, and by depositing same in the U.S. certified mail on January
21 13, 2021, and;

22 **Alexander Crockett, Esq., Assistant Counsel**
23 **Bay Area Air Quality Management District**
24 **375 Beale Street, Suite 600**
San Francisco, CA 94105
acrockett@baaqmd.gov

25 via e-mail, on January 12, 2021 and by depositing same in Beale Street inbox on January 13, 2021.

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27 _____
28 Marcy Hiratzka, Clerk of the Boards

January 13, 2021