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

In the Matter of the APPEAL of
TESLA, INC.

From Permit Conditions Contained in Authority to
Construct for Permit Application 30523,
Issued October 13, 2020

Re: Tesla, Inc. Fremont Facility, No. 20459

STIPULATED ORDER FOR REMAND

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

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

STIPULATED ORDER FOR REMAND – DOCKET NO. 3725
APCO and District Staff to conduct a Best Available Control Technology ("BACT") analysis and make a determination as to whether Tesla’s application complies with the BACT requirements in District Regulation 2-2-301. This Order is based on the Parties’ agreement that a remand is the most appropriate way forward at this point, and on the Hearing Board’s agreement with that course of action.

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

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

IT IS SO ORDERED.

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

NOES: None.
NON-PARTICIPATING: Q. Tan, Ph.D.

Valerie J. Armento, Esq., Chair

Date 1/12/2024

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In the Matter of the APPEAL of
TESLA, INC.

From Permit Conditions Contained in Authority to Construct for Permit Application 30523,
Issued October 13, 2020
Re: Tesla, Inc. Fremont Facility, No. 20459

STATE OF CALIFORNIA
City and County of San Francisco

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

Steve Hill, Esq.
1019 Alvarado Terr.
Walla Walla, WA 99362
stevehillesq@gmail.com

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

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

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

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

Marcy Hiratzka, Clerk of the Boards

January 12, 2021