

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



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

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

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.

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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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Valerie J. Armento, Esq., Chair

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28
Date 1/12/2021

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

Docket No. 3725

CERTIFICATE OF SERVICE

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

SS.

I, Marcy Hiratzka, do hereby certify under penalty of perjury as follows:

Yesenia Villaseñor, Esq.,
Tesla Associate General Counsel
901 Page Avenue
Fremont, CA 94538
[**villasenor@tesla.com**](mailto:villasenor@tesla.com)

Alexander Crockett, Esq., Assistant Counsel
Bay Area Air Quality Management District
375 Beale Street, Suite 600
San Francisco, CA 94105
[**acrockett@baaqmd.gov**](mailto:acrockett@baaqmd.gov)



1/12/21

January 12, 2021