3	OFFICE OF THE GENERAL COUNSEL SOUTH COAST AIR QUALITY MANAGEMENT KATHRYN ROBERTS, State Bar No. 326693 Senior Deputy District Counsel 21865 Copley Drive Diamond Bar, California 91765 TEL: 909.396.3400 • FAX: 909.396.2961 E-mail:KRoberts@aqmd.gov Attorneys for Petitioner SOUTH COAST AIR QUALITY MANAGEMENT		
7 8 9	BEFORE THE HEARIN		
10	In the Matter of	CASE N	NO. 5874-2
11 12 13 14 15 16 17	SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT, Petitioner, v. LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY [Facility ID No. 43758], Respondent.	Date: Time: Place:	OSED FINDINGS AND ION FOR A MODIFIED LATED ORDER FOR EMENT August 7, 2024 9:30 a.m. Hearing Board South Coast AQMD 21865 Copley Drive Diamond Bar, CA 91765
19 20 21 22 23 24 25 26 27 28	This status/modification hearing for a Stipul on August 7, 2024 pursuant to notice and in accordant Safety Code § 40823 and SCAQMD Rule 812. The present: Micah Ali, Chair; Robert Pearman, Esq., Vi Balagopalan. Petitioner, Executive Officer of the State ("South Coast AQMD"), was represented by Kath Respondent, Los Angeles County Metropolitan represented by Ronald Stamm, Principal Deputy opportunity to testify. Evidence was received and the The Hearing Board finds and decides: Findings and Decision for Modified Order for Aba 43758	following ice Chair; County County County Che matter w	e provisions of California Health and members of the Hearing Board were Cynthia Verdugo-Peralta; and Mohan st Air Quality Management District ts, Senior Deputy District Counsel. tion Authority ("LA Metro"), was Counsel. The public was given an vas submitted.
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Rule 1196 when adding a fleet vehicle to its existing fleet and in maintenance of its heavy-duty

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- 7. Since 2003, LA Metro has purchased, and continues to maintain within its fleet, heavy-duty vehicles which do not meet the requirements set forth in South Coast AQMD Rule 1196(d)(1). At the time of adoption of the Order, LA Metro's heavy-duty fleet included at least fifty-two (52) heavy-duty vehicles which violated South Coast AQMD Rule 1196 requirements, as identified in **Attachment A**. Twenty-two (22) heavy-duty vehicles in LA Metro's heavy-duty fleet are designated for HI-RAIL usage, and are deployed into tunnels and/or below ground. HI-RAIL vehicles are subject to the fuel-type limitation in 8 CCR § 8445(i), in addition to Rule 1196, including the Technical Infeasibility Certification Request procedures.
- 8. South Coast AQMD discovered the violations noted above when LA Metro provided information on its heavy-duty fleet in 2020 in response to survey conducted by South Coast AQMD.
- 9. South Coast AQMD and LA Metro engaged in active negotiation once the Rule 1196 violations were discovered by South Coast AQMD to determine appropriate actions for Respondent to take to achieve compliance with Rule 1196 within as reasonable a period of time as possible under the circumstances. In addition, South Coast AQMD and LA Metro have explored a pilot demonstration project of an electric-powered heavy-duty vehicle for deployment to LA Metro's HI RAIL usage which cannot employ alternative-fuels such as compressed natural gas (CNG) or gasoline fuels due to safety regulations.
- 10. Each of LA Metro's heavy-duty vehicles which are non-compliant are used to provide essential public transportation services throughout Los Angeles County. As a public entity, LA Metro is constrained by the resources it can commit to replacing vehicles in its heavyduty fleet, and is subject to a publicly-adopted budget each fiscal year. The cost of replacing a non-compliant heavy-duty fleet vehicle ranges from approximately \$89,532 to \$1,753,582, depending on the model and purpose of the vehicle. In addition, many vehicles in LA Metro's heavy-duty fleet require customization and or upfitting to meet LA Metro's requirements, which increases the lead time for replacement vehicles.

11. LA Metro has committed to allocating the necessary funds to acquire heavy-duty vehicles that comply with Rule 1196, and the necessary funds to accelerate the turn-over schedule for the majority of its non-compliant heavy-duty vehicles. In addition, LA Metro has committed to undertaking an electric-powered heavy-duty HI RAIL vehicle demonstration project to assess the feasibility of zero-emission heavy-duty vehicles deployed in lieu of vehicles which would otherwise be required to be replaced with TICR-approved diesel powered vehicles to comply with in-tunnel safety regulations. If successful, the demonstration project will allow for consideration of electric-powered replacement vehicles for up to three additional heavy-duty HI RAIL vehicles, which would otherwise be replaced with diesel vehicles. The emission reduction achieved from replacement with the demonstration project electric-powered vehicle more than offsets the excess emissions from remaining vehicles on a non-accelerated replacement, with the potential to further increase emission reductions if the demonstration is successful and allows for additional electricpowered replacement vehicles for HI RAIL vehicles.

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July 28, 2022 Status Modification Hearing

12. Between when the Order was issued and July 28, 2022, LA Metro took several steps to fulfill the schedule outlined in the July 29, 2021 Order for Abatement ("Order"). Specifically, by July 2021, LA Metro had removed from service the vehicles in Category 6. As of December 20, 2021, replacements for Category 7 vehicles had been obtained and placed into service. LA Metro was complying with all conditions included in the TICR approvals for each of these vehicles. Moreover, in accordance with the schedule in Attachment A of the Order, LA Metro released bids on October 21, 2021 for three CNG Tow Trucks; November 15, 2021 for three CNG vault trucks; and December 28, 2021 for four CNG tractors. In all, bids were released for 10 CNG powered replacement vehicles in Category 1. For cost efficiency, LA Metro included in this bid several vehicles in Category 2. For nine of these vehicles—3 Category 1 vehicles replaced with CNG and 6 Category 2 vehicles which are to be replaced with the cleanest vehicle available, which is diesel—bids were submitted and through LA Metro's procurement process contracts executed for purchase of the replacement vehicles. These contracts specified the earliest replacement possible, which was July 2023 for the CNG and January 2024 for diesel. While the

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27 28 Order required delivery for 10 Category 1 vehicles by the end of Q4 2022, this delivery timeline was not possible for any suppliers. LA Metro inquired with multiple suppliers and learned that then-ongoing, industry-wide supply chain issues and supply shortages extended vehicle delivery timelines and the July 2023/January 2024 dates are the soonest reasonably possible to take delivery of these vehicles.

- 13. LA Metro also initiated the replacement process for other vehicles pursuant to the Order including by timely releasing bids for additional Category 2 vehicles. The initial bid release received no bids. A second bid release was prepared and released on July 15, 2022, with a bid due date of August 17, 2022.
- 14. Based on the infeasibility to secure replacement vehicles, the Parties met to discuss revised timelines for the schedule included in the Order. The Parties, through investigation and experience in procurement believed the revised deadlines to be the most expeditious replacement timeline that can be met given the ongoing supply chain issues impacting the industry.
- 15. The original estimated excess emissions associated with the use of non-compliant fleet vehicles during the pendency of the initial Order was approximately 1.961 ton of oxides of nitrogen and 0.045 ton of particulate matter. South Coast AQMD calculated revised estimates of excess emissions using the proposed modified delivery dates. The revised estimated excess emissions associated the use of non-compliant fleet vehicles during the pendency of the proposed Modified Order is approximately 3.314 tons of oxides of nitrogen and 0.067 ton of particulate matter.

July 27, 2023 Status Modification Hearing

16. Since the Stipulated Modified Order for Abatement ("Modified Order") was issued, LA Metro has continued to take the necessary steps to fulfill the modified schedule as required. Specifically, LA Metro released bids for a total of 14 Category 1 (CNG replacement) vehicles and 8 Category 2 (cleanest available) vehicles required for bid release between Q4 2021 and Q2 2023. Although some of LA Metro's bid releases did not receive responses, in those instances LA Metro released additional bids in an effort to ensure a suitable OA-compliant replacement vehicle was available for purchase.

- 17. For vehicles in Category 1, all bids were released timely and ten (10) are on track for delivery within the time specified by the Order. However, due to supply chain delays across the industry, four (4) vehicles (Unit Nos. 21-1114; 21-1121; 21-1122; 21-1126) are now expected to be delivered by Q3 2024. The Parties jointly propose to modify the Attachment A to reflect this timeline.
- 18. For vehicles in Category 2, six (6) vehicles had bids released timely and are on track for delivery within the time specified by the Order. An additional two (2) vehicles did not have bids released timely due to inadvertent error by Respondent. As a result of the late bid release, delivery is not expected within the timeline originally specified in the Order. The Parties jointly propose to modify Attachment A to reflect the best estimate of when these vehicles (Unit Nos. 14-0033; and 14-0032) are expected.
- 19. For the vehicle in Category 3 (EV pilot replacement), Respondent initially contracted with a vehicle manufacturer to serve as project manager to oversee the development and build of an EV HI-RAIL vehicle. However, the manufacturer recently left the project, and thus Respondent has been unable to complete the purchase and delivery of an EV to begin the pilot study as required by the Modified Order. Respondent is working to prepare a new RFI to be released in Q3 2023 to secure a new project manager to go forward with the pilot study. As a result, the Parties jointly propose to modify Attachment A to reflect the best estimate of when this vehicle (Unit No. 14-0038) could be replaced. Additionally, the Parties jointly propose to move the bid release dates of all Category 4 vehicles, because the type of replacement for these vehicles is dependent on the results of the EV pilot study pursuant to the Modified Order.
- 20. LA Metro is in compliance with all other conditions of the Modified Order, including submitting all notifications and the annual report to the South Coast AQMD as required by Conditions 3 and 4.
- 21. To better allow additional oversight of the continued compliance of the Modified Order, the Parties also jointly propose to modify Condition 4 to require status reports on a quarterly basis rather than an annual basis. The Parties also agreed to submit reporting to an expanded staff list at the South Coast AQMD.

August 7, 2024 Status Modification Hearing

- 22. Since the Stipulated Modified Order for Abatement ("Modified Order") was issued, LA Metro has continued to take the necessary steps to fulfill the modified schedule as required. Specifically, LA Metro placed in service 3 new CNG tow trucks and removed from service 3 non-compliant tow trucks (Unit Nos. 21-1093; 21-1099; and 21-1102); received delivery of 6 clean diesel tow trucks in the 4th Quarter of FY24 and 1st Quarter of FY25; placed in service 4 CNG tractors and removed from service 2 non-compliant tractors in 2023 (Unit Nos. 21-1112; and 21-1113) and removed 2 non-compliant tractors (Unit Nos. 21-1124; and 21-1125) in the 4th Quarter of FY24; and placed in service 2 CNG dump trucks and removed from service 2 noncompliant dump trucks (Unit Nos. 21-1114; and 21-1122) in the 4th Quarter of FY24.
- 23. For the vehicle in Category 3 (EV pilot replacement), LA Metro collaborated with RWC Group, a local vendor, to develop a vehicle which would meet the specification for rail use, including a narrow rail curvature that made other commercially available vehicles unsuitable for LA Metro's use. LA Metro and RWC Group completed the development of the vehicle specifications that could work on Metro rail curvature on July 2, 2024. LA Metro anticipates issuing a solicitation for procurement of the Category 3 vehicle by the end of Quarter 2 of Fiscal Year 2025 (end of December, Calendar Year 2024). Due to build lead time, the Parties jointly propose to modify the bid release date and delivery date deadlines in Attachment A for the Category 3 vehicle to Quarter 2 Fiscal year 2025 and Quarter 4 Fiscal Year 2026, respectively, as well as the Category 4 deadlines (which are dependent upon the completion of the Category 3 feasibility study) to Bid Release in Quarter 1, Fiscal Year 2027 and Delivery in Quarter 3 Fiscal Year 2028. Finally, to ensure full compliance, the Parties propose to modify Condition 9 to extend the Hearing Board's jurisdiction over this matter to 6 months past the final replaced vehicle's delivery date or December 31, 2028.
- 24. In addition, LA Metro altered the replacement engine type for two Category 1 (CNG) vehicles, LA Metro Code 21-1121 and 21-1126. Instead of CNG replacements, both vehicles were replaced with gasoline-powered vehicles because CNG bucket trucks with a

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Findings and Decision for Modified Order for Abatement (Stipulated) – LA Metro (Facility ID #

- 1. Respondent shall comply with the heavy-duty vehicle replacement schedule outlined in **Attachment A** as follows:
 - a. "Bid Release Date" means that the Respondent shall, pursuant to its internal bid process, publicly release the bid for a replacement vehicle and begin accepting bids for such replacement by the end of the calendar month listed;
 - b. "Delivery Date" means that Respondent shall complete the applicable
 procurement process, including any aftermarket up-fitting, to ensure delivery of
 the replacement vehicle by the end of the calendar month listed;
 - c. Vehicles in Category 1 shall be replaced with compressed natural gas ("CNG") heavy-duty vehicles within the designated Bid Release Date and Delivery Date times listed in Attachment A;
 - d. Vehicles in Category 2 shall be replaced following an investigation into available vehicle engine and chassis configurations to determine the feasible fuel types for replacement. Where no gasoline or alternative fuel powered vehicle is available, Respondent shall replace the vehicles in Category 2 with the cleanest diesel engine available for the particular usage. Respondent shall include a summary of its research and determination of the cleanest diesel vehicle available in the next report prepared pursuant to Condition 4, and shall replace the vehicles according to the Bid Release Date and Delivery Date specified in Attachment A;
 - e. Vehicle in Category 3, shall be replaced with an electric-powered zero emission vehicle. Respondent shall consult with South Coast AQMD Fleet Rules staff (Planning and Rules Manager, Eugene Kang, attn: ekang@aqmd.gov) prior to finalizing and publicly releasing the bid for the procurement of the electric-powered vehicle. Respondent shall meet the Bid Release Date and Delivery Date times as listed in Attachment A. Following the Delivery Date, Respondent shall carry out the demonstration project consistent with Condition 2;

- f. Vehicles in Category 4 shall be replaced according to the designated Bid Release Date and Delivery Date times listed in Attachment A provided that the Bid Release Date is later than the date Respondent finalizes the report determining the feasibility of electric-powered vehicles in the HI RAIL application. If Respondent in the finalized report issued pursuant to Condition 2 has determined that electric vehicles are feasible, such vehicles shall be included in Respondent's bid process. If Respondent in the finalized report issued pursuant to Condition 2 determines that electric-powered vehicles are not feasible, Respondent shall follow the investigation and procurement process listed in Condition 1(d) for Category 2 vehicles for determining the cleanest diesel available;
- g. Vehicles in Category 5 shall not be subject to an accelerated replacement schedule, and shall be replaced as Respondent determines. Respondent shall comply with Rule 1196, including the TICR process as applicable, in the replacement of vehicles in this category;
- h. Vehicles in Category 6 shall be removed from service without replacement as of the date of this Order;
- i. Vehicles in Category 7 have undergone the procurement process for Rule 1196 compliant vehicles, including the TICR approval process, during the pendency of this Abatement Order proceeding. Respondent shall comply with all conditions included in the TICR approval for each vehicle in this category;
- j. For all vehicle categories, Respondent shall, within 30 days of the Delivery Date of a replacement vehicle, remove the non-compliant vehicle from its Fleet, and thereafter cease to use the non-compliant vehicle as part of its heavy-duty fleet.
- 2. Following the procurement and delivery of the Category 3 vehicle replacement with an electric-powered vehicle, Respondent shall evaluate the replacement electric-powered vehicle

1	as a demonstration of the suitability of electric vehicles for use in Respondent's HI RAIL					
2	deployment, for a period of not less than 6 months (the "Demonstration Period"). Respondent					
3	shall, within 60 days of the conclusion of the Demonstration Period, provide to the South Coast					
4	AQMD (attn: Eugene Kang, attn: ekang@aqmd.gov ; Brian Choe, bchoe@aqmd.gov) a report					
5	detailing the results of the Demonstration Period, and including a proposed determination of the					
6	feasibility of whether electric-powered heavy-duty vehicles can be used in Respondent's HI RAIL					
7	application.					
8	a. Respondent's proposed determination shall be subject to review and approval					
9	by South Coast AQMD. Respondent shall finalize its report, including					
10	feasibility determination upon approval of South Coast AQMD.					
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12	3. Within 10 days of any one of the following events, Respondent shall submit notice					
13	by email to South Coast AQMD Planning and Rules Manager, Eugene Kang, attn:					
14	ekang@aqmd.gov):					
15	a. Purchase of a compliant vehicle replacing a non-compliant fleet vehicle; and					
16	b. Delivery of a compliant vehicle replacing a non-compliant fleet vehicle.					
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18	4. Respondent shall submit progress reports on a quarterly basis, beginning January					
19	31, 2024 reporting on the immediately preceding quarter (e.g. Q4 2023) via email to South Coast					
20	AQMD (attn: Eugene Kang, ekang@aqmd.gov; Brian Choe, bchoe@aqmd.gov; Kathryn Roberts,					
21	kroberts@aqmd.gov). Thereafter, Respondent shall prepare and submit subsequent quarterly					
22	reports not later than the end of the calendar month that begins the next quarter. Each written					
23	report shall present evidence of ongoing compliance with this Order, including summarizing					
24	actions and dates relating to purchase and/or delivery of compliant heavy-duty vehicles, and					
25	liquidation, decommissioning and/or retirement of noncompliant heavy-duty vehicles.					
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Findings and Decision for Modified Order for Abatement (Stipulated) – LA Metro (Facility ID #

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12	August 6, 2024	Kachyn Cokerts
13	I	Kathryn Roberts,
14		Senior Deputy District Counsel Attorney for South Coast Air Quality Management District
15 16	1	vianagement District
17	SO STIPULATED:	
18	SO STIL CENTED.	
19	August 6 2024	Ronald Stamm
20		Ronald Stamm Principal Deputy County Counsel
21		Attorney for Los Angeles County Metropolitan Fransportation Authority
22		
23	Attachment – Attachment A: Vehicle Replace	ement Schedule
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	Findings and Decision for Modified Order f	or Abatement (Stipulated) – LA Metro (Facility ID # 43758)

Attachment A - Vehicle Replacement Schedule

LA Metro Code	Mfg. Model Yr.	Replacement Fuel Type	Est. Replacement Cost	Vehicle Category	Bid Release Date	Delivery Date
21-1099	2003	CNG	\$323,000	1	Q1/22	Received
21-1102	2003	CNG	\$323,000	1	Q1/22	Received
21-1093	2003	CNG	\$323,000	1	Q1/22	Received
21-1113	2007	CNG	\$139,618	1	Q3/22	Received
21-1125	2016	CNG	\$119,555	1	Q3/22	Received
21-1127	2018	CNG	\$258,738	1	Q3/22	Q2/FY25
21-1124	2016	CNG	\$119,555	1	Q1/22	Received
21-1112	2007	CNG	\$139,618	1	Q1/22	Received
21-1129	2019	CNG	\$258,738	1	Q3/22	Q2/FY25
21-1128	2019	CNG	\$258,738	1	Q1/22	Q2/FY25
14-0038	2006	EV	\$161,302	3	Q2/FY25	Q4/FY26
21-1114	2009	CNG	\$89,532	1	Q1/23	Received
21-1121	2012	CNG	\$105,311	1	Q1/23	Received
21-1122	2015	CNG	\$101,735	1	Q1/23	Received
21-1126	2016	CNG	\$114,561	1	Q1/23	Received
21-1095	2003	Cleanest Vehicle Available	\$323,000	2	Q1/FY23	Received
21-1105	2003	Cleanest Vehicle Available	\$323,000	2	Q1/FY23	Received
14-0033	2006	Cleanest Vehicle Available	\$262,248	2	Q1/FY25	Q4/FY26
14-0032	2006	Cleanest Vehicle Available	\$262,248	2	Q1/FY25	Q4/FY26
21-1100	2003	Cleanest Vehicle Available	\$323,000	2	Q1/FY23	Received
21-1096	2003	Cleanest Vehicle Available	\$323,000	2	Q1/FY23	Received
21-1101	2003	Cleanest Vehicle Available	\$323,000	2	Q1/FY23	Received
21-1092	2003	Cleanest Vehicle Available	\$323,000	2	Q1/FY23	Received

Attachment A - Vehicle Replacement Schedule

placement Fuel Type	Est. Replacement Cost	Vehicle Category	Bid Release Date	Delivery Date
nest Vehicle Available	\$161,302	4	Q2/FY27	Q4/FY28
nest Vehicle Available	\$161,302	4	Q2/FY27	Q4/FY28
nest Vehicle Available	\$161,302	4	Q2/FY27	Q4/FY28
nest Vehicle Available	\$247,038	2	Q2/FY25	Q4/FY26
nest Vehicle Available	\$192,248	2	Q2/FY25	Q4/FY26
nest Vehicle Available	\$186,215	2	Q2/FY25	Q4/FY26
nest Vehicle Available	\$181,055	2	Q2/FY25	Q4/FY26
nest Vehicle Available	\$157,824	2	Q1/FY25	Q4/FY26
nest Vehicle Available	\$157,824	2	Q1/FY25	Q4/FY26
nest Vehicle Available	\$110,018	2	Q2/FY25	Q4/FY26
CNG	\$993,861	1	Q3/FY25	Q4/FY26
nest Vehicle Available	\$1,753,582	2	Q1/FY26	Q3/FY27
nest Vehicle Available	\$1,020,013	2	Q1/FY26	Q3/FY27
N/A	\$786,608	5	N/A	N/A
N/A	\$779,578	5	N/A	N/A
N/A	\$207,985	5	N/A	N/A
N/A	\$145,008	5	N/A	N/A
N/A	\$1,423,427	5	N/A	N/A
N/A	\$1,270,114	5	N/A	N/A
N/A	\$953,034	5	N/A	N/A
N/A	\$1,348,494	5	N/A	N/A
N/A	N/A	6	N/A	N/A N/A
	N/A N/A			

Attachment A - Vehicle Replacement Schedule

LA Metro Code	Mfg. Model Yr.	Replacement Fuel Type	Est. Replacement Cost	Vehicle Category	Bid Release Date	Delivery Date
21-1110	2006	N/A	N/A	6	N/A	N/A
21-1111	2006	N/A	N/A	6	N/A	N/A
21-1098	2003	Clean Diesel	\$323,000	7	N/A	N/A
21-1094	2003	Clean Diesel	\$323,000	7	November 2020	July 2021
21-1097	2003	Clean Diesel	\$323,000	7	November 2020	July 2021
21-1103	2003	Clean Diesel	\$323,000	7	November 2020	July 2021