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SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

**BEFORE THE HEARING BOARD OF THE
SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT**

In the Matter of

SOUTH COAST AIR QUALITY
MANAGEMENT DISTRICT,

Petitioner,

vs.

CITY OF FONTANA,
[Facility ID No. 33088]

Respondent.

Case No. 5704-2

**FINDINGS AND DECISION FOR AN
ORDER FOR ABATEMENT
(STIPULATED)**

Rule: 1196

Hearing Date: **August 19, 2025**

Time: 9:30 am

Place: Hearing Board
South Coast Air Quality
Management District

This petition for a Stipulated Order for Abatement was heard and granted on December 21, 2022. Status hearing were heard on June 21, 2023 and June 26, 2024. A further status hearing was heard on August 19, 2025, pursuant to a notice and in accordance with the provisions of California Health and Safety Code § 40823 and South Coast AQMD Rule 812. The following members of the Hearing Board were present: Micah Ali, Chair; Robert Pearman, Vice Chair, Mohan Balagopalan, Cynthia Verdugo-Peralta, and Jerry P. Abraham, MD MPH CMQ. Petitioner, Executive Officer, represented by Kathryn Roberts, Principal Deputy District Counsel, did not appear. Respondent, City of Fontana, (hereinafter referred to as “Respondent” or “City”), represented by Piero C. Dallarda, Partner, of Best, Best & Krieger LLP, did not appear. The public was given an opportunity to testify. Evidence was received and the matter was submitted.

1 The Hearing Board finds and decides:

2 1. Petitioner is a body corporate and politic established and existing pursuant to Health
3 and Safety Code §§ 40000, *et seq.* and §§ 40400, *et seq.*, and is the sole and exclusive local agency
4 with the responsibility for comprehensive air pollution control in the South Coast Basin.

5 2. Respondent is a body corporate and politic existing pursuant to Government
6 Code §§ 34000, *et seq.*, which, *inter alia*, owns and operates heavy-duty vehicles for use and
7 provision of essential public services within the City of Fontana. Respondent's Public Works /
8 Fleet Services Department is a division within the City of Fontana which oversees the
9 procurement, maintenance, and allocation of heavy-duty vehicles to offices, departments and
10 employees of the City for provision of public services. Respondent's fleet of heavy-duty vehicles
11 includes vehicles for use in the City of Fontana, in San Bernardino County, within the jurisdiction
12 of the South Coast AQMD. Respondent's Public Works / Fleet Services is located at 16489
13 Orange Way, Fontana, California 92335.

14 3. At the initiation of this Order for Abatement, Respondent was operating 9 non-
15 compliant heavy-duty vehicles within its heavy-duty fleet.

16 4. **South Coast AQMD Rule 1196(d)(1)** requires that beginning on July 1, 2002, for
17 public fleet operators that operate 15 or more heavy-duty vehicles, all new additions to an existing
18 fleet shall be by purchase or lease of: (1) alternative-fuel heavy-duty engine or vehicles;
19 (2) dual-fuel heavy-duty vehicles; (3) dedicated gasoline heavy-duty vehicles; or (4) Technical
20 Infeasibility Certification Request-approved diesel vehicles.

21 5. Respondent is subject to Rule 1196 when adding a fleet vehicle to its existing fleet
22 or forming a new fleet because it is within the South Coast AQMD's jurisdiction, is a public entity,
23 and currently operates 47 total heavy-duty vehicles as part of its fleet, which are used to provide
24 essential public services in the City. Respondent has 9 heavy-duty vehicles currently not in
25 compliance with Rule 1196, as identified in **Attachment A**.

26 6. Since at least 2006, Respondent has purchased heavy-duty vehicles which do not
27 meet the requirements set forth in South Coast AQMD Rule 1196(d)(1). Due to an oversight by
28 Respondent's staff employed by Respondent at the time who was unaware of Rule 1196

requirements, Respondent did not obtain from South Coast AQMD a Technical Infeasibility Certification Request (“TICR”) prior or at the time of purchase of said vehicles. Respondent has attempted to obtain a TICR to come into compliance, but it is the position of the South Coast AQMD that TICRs may not be granted retroactively under Rule 1196. Respondent contends that the requested TICRs would have been granted if timely submitted.

7. Each of the City's Rule 1196 non-compliant vehicles is necessary to operate and maintain the City's public services. These vehicles are utilized to provide essential services, materials and equipment throughout the City. Vehicles are regularly used to minimize the loss of life and/or property, as well as keeping the roadways and flood control systems working as designed for safety.

8. As a public entity, Respondent is constrained by the resources it can commit to replacing its fleet vehicles to achieve compliance with Rule 1196. Indeed, Respondent has been identified as serving economically disadvantaged communities. The cost of replacing a non-compliant fleet vehicle ranges from \$230,000 to \$610,000 per vehicle, depending upon model and purpose of use. Respondent contends that this cost of replacement constitutes a very important portion of its annual budget, but Respondent desires to come into compliance and avoid the unnecessary cost of a dispute or litigation with South Coast AQMD.

9. Respondent has committed to allocating the necessary funds to acquire vehicles that comply with Rule 1196 requirements in accordance with the heavy-duty vehicle schedule in Attachment A.

10. Prior to entering into the Stipulated Order, a true and accurate copy of which is attached hereto, the City and South Coast AQMD negotiated for several months to determine the necessary and appropriate actions the City will take to come into full compliance with South Coast AQMD Rule 1196, while avoiding or minimizing any adverse impacts to the provision of public services.

August 19, 2025 Status Update

11. Since the issuance of the Order for Abatement (“Order”) in December 2022, the City has taken all necessary steps to comply with the conditions of the Order. Specifically: :

- Unit #1604 was placed out of service and was sent to auction on August 29, 2023.
- The City took possession of Unit # 12230, a 2022 CNG truck which replaced Unit # 1130. Unit # 1130 was sent to Auction on August 11, 2023.
- A replacement for Unit # 1131 arrived ahead of schedule and Unit #1131 was in turn sent to auction on April 16, 2025 and thus removed from the City's fleet.
- The City also placed orders for replacement of Units # 1776, # 8673 and # 8251. Those replacements arrived and units # 8673 and # 8251 were traded in. Unit # 1776 was sent to auction on May 30, 2024. Therefore, these three units are no longer part of the City's fleet.
- Unit #131120 was scheduled for replacement 2025/2026, its replacement was ordered ahead of schedule and that unit was sent to auction on April 16, 2025.

12. Accordingly, none of the non-compliant units subject to the Stipulated Order are now part of the City's fleet.

13. Based on the completion of all required replacements and vehicle removals in Attachment 1 of the Order, Respondent has completed all substantive requirements of the Order and has returned its heavy-duty Fleet to compliance with South Coast AQMD Rule 1196.

14. The Parties request the Hearing Board to advance the expiration date of the Order (Condition 8) to August 19, 2025 (the date of the hearing), ending the Order for Abatement based on Respondent's return to compliance.

15. Attached hereto is the declaration of Eric Ninemire, Fleet Supervisor, Department of Public Works for the City of Fontana attesting to the City's compliance. Mr. Ninemire Declaration attaches a chart showing full compliance with the order with all the details for the units that were disposed of and their replacements.

16. The estimated excess emissions associated with the use of non-compliant fleet vehicles during the pendency of this Order is approximately 1.521 ton of oxides of nitrogen, 0.534

1 ton of reactive organic gases, and 0.513 ton of particulate matter. However, in light of the City's
2 early compliance, which in some cases has reduced the time of use of some of the non-compliant
3 vehicles by one year or more, it is likely that that the estimated excess emissions are considerably
4 less than the original estimate.

5 **CONCLUSIONS**

6 1. The parties have stipulated to the issuance of this Order for Abatement pursuant to
7 Health and Safety Code Section 42451(b).

8 2. This Order for Abatement (Stipulated) is not intended to be, nor will it act as, a
9 variance. Nothing herein, however, shall be deemed or construed to limit the authority of the South
10 Coast AQMD to issue Notices of Violation, to seek civil penalties or injunctive relief, or to other
11 administrative or legal relief for violation of South Coast AQMD rules. The Findings of Fact are
12 based on evidence presented by Petitioner and Respondent as of the date hereof.

13 **ORDER**

14 THEREFORE, subject to and based on the aforesaid Findings of Fact, Conclusions, and
15 additional evidence and testimony, and good cause appearing, this Board orders Respondent to
16 refrain from any operation of heavy-duty vehicles except as in compliance with South Coast
17 AQMD Rule 1196, or in the alternative comply with the conditions as set forth below:

18 1. Respondent shall comply with the heavy-duty vehicle schedule outlined in
19 Attachment A to the Order as follows:

- 20 a. Vehicles in Category 1 shall be replaced with a Rule 1196 compliant compressed
21 natural gas (CNG) vehicle within the designated time listed on Attachment A,
22 within the fiscal year listed for each vehicle;
- 23 b. Vehicles in Category 2 shall be purchased for replacement with the cleanest Rule
24 1196-compliant vehicle available following a review of alternative-fuel technology
25 conducted not more than 6 months prior to initiating the procurement process.
26 Respondent may seek the advice of South Coast AQMD Fleet Rule staff in
27 assessing potentially available alternative-fuel technologies available for purchase;

1 c. Vehicles in Category 3 shall be removed from the fleet without replacement.

2 Respondent shall ensure that vehicles in this category are removed from service on
3 or before December 31, 2025.

4 2. Respondent shall submit progress reports on an annual basis, beginning January 31,
5 2023 reporting on the immediately preceding calendar year, via email to South Coast AQMD
6 Program Supervisor, Brian Choe (bchoe@aqmd.gov). The written report shall present evidence of
7 ongoing compliance with this Order, including summarizing actions and dates relating to purchase
8 and/or delivery of compliant heavy-duty vehicles, and liquidation, decommissioning and/or
9 retirement of noncompliant heavy-duty vehicles. Further, the written report shall summarize the
10 review undertaken prior to purchase of vehicles in Category 2 including a summary of any
11 conclusions reached.

12 3. Within 10 days of any one of the following events, Respondent shall submit notice
13 by email to South Coast AQMD Program Supervisor, Brian Choe (bchoe@aqmd.gov):

14 a. Purchase of a compliant vehicle replacing a non-compliant fleet vehicle; and

15 b. Delivery of a compliant vehicle replacing a non-compliant fleet vehicle.

16 4. Respondent shall appear at a status hearing before the Hearing Board on **June 26,**
17 **2024**, with additional status hearings being scheduled thereafter at intervals determined to be
18 necessary by the Hearing Board until final compliance is achieved.

19 5. Respondent shall notify South Coast AQMD Program Supervisor, Brian Choe
20 (bchoe@aqmd.gov), when final compliance is achieved, including the Vehicle Identification
21 Numbers for each compliant vehicle acquired and the dates of purchase.

22 6. The Hearing Board may modify this Order for Abatement without the stipulation of
23 the parties upon a showing of good cause therefore, and upon making the findings required under
24 Health and Safety Code Section 42451(a) and South Coast AQMD Rule 806(a). Such modification
25 of the Order shall be made only at a public hearing held upon 10 days published notice and
26 appropriate written notice to the Respondent and the South Coast AQMD.

27 7. This Order for Abatement (Stipulated) is not intended to be, nor will it act as, a
28 variance. Respondent is subject to all rules and regulations of the South Coast AQMD and to all

1 applicable provisions of California law. Nothing herein, however, shall be deemed or construed to
2 limit the authority of the South Coast AQMD to issue Notices of Violation, to seek civil penalties or
3 injunctive relief, or to other administrative or legal relief for violation of South Coast AQMD rules.

4 8. The Hearing Board shall retain jurisdiction over this matter until August 19, 2025.

5 9. Respondent shall notify the Clerk of the Hearing Board in writing when final
6 compliance is achieved.

7 10. By entering into this Stipulated Order for Abatement, Respondent does not admit
8 any liability and does not waive any of any defenses available in equity or law should any dispute
9 or litigation arise as a result of the facts set forth herein.

10 Good cause appearing, it is so ordered.

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FOR THE BOARD:

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DATE SIGNED:

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