

FILED

JUL - 5 2017

FRESNO COUNTY SUPERIOR COURT
By _____ DEPT. 501

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7 *rel. the California Air Resources Board*

6/27/2017 RECEIVED VIA E-FILED
FRESNO COUNTY SUPERIOR COURT
By: S. Garcia, Deputy
Exempt From Filing Fees
[Gov. Code, § 6103]

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA

9 FOR THE COUNTY OF FRESNO

10
11 **THE PEOPLE OF THE STATE OF**
12 **CALIFORNIA, EX REL. THE**
13 **CALIFORNIA AIR RESOURCES BOARD,**

14 Plaintiff,

15 v.

16 **WEST COAST DIESEL, LLC, A**
17 **CALIFORNIA LIMITED LIABILITY**
18 **COMPANY; WILLIAM A. HAMILTON,**
19 **AN INDIVIDUAL; and DOES 1**
20 **THROUGH 50, INCLUSIVE,**

21 Defendants.

CASE No. 15CECG03337

STIPULATION AND ~~[PROPOSED]~~
CONSENT JUDGMENT

Assigned: Hon. Mark W. Snauffer
Dept.: 501
Action Filed: October 22, 2015
Trial Date: August 25, 2017

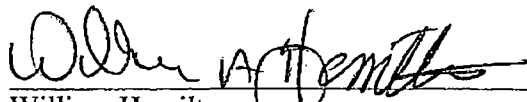
22 The People of the State of California, ex rel. the California Air Resources Board (the Air
23 Resources Board) and Defendants West Coast Diesel LLC and William Hamilton stipulate that a
24 Judgment in the terms set forth in the attached Judgment may and should be entered in this
25 matter. The parties have settled on the below terms following good faith negotiations and with
26 the desire to avoid further litigation. Counsel for Defendants acknowledges that counsel has read
27 this [Proposed] Judgment Pursuant to Stipulation and [Proposed] Judgment to William Hamilton
28 prior to the time Mr. Hamilton signed the documents. Mr. Hamilton acknowledges that he
understands the terms of this [Proposed] Judgment Pursuant to Stipulation and [Proposed]
judgment to William Hamilton prior to the time Mr. Hamilton signed the documents.

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IT IS SO STIPULATED.

For West Coast Diesel, LLC

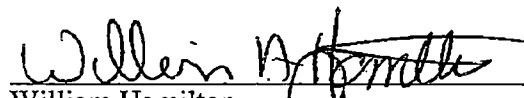
Dated: June 9, 2017



William Hamilton
Managing Member
West Coast Diesel, LLC

For William Hamilton

Dated: June 9, 2017



William Hamilton

For People of the State of California
ex rel. the California Air Resources Board

Dated: June __, 2017

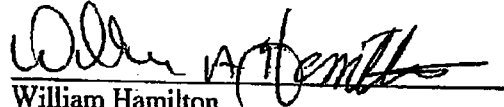
RICHARD W. COREY
Executive Officer
California Air Resources Board

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IT IS SO STIPULATED.

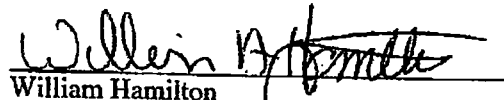
For West Coast Diesel, LLC

Dated: June 9, 2017


William Hamilton
Managing Member
West Coast Diesel, LLC

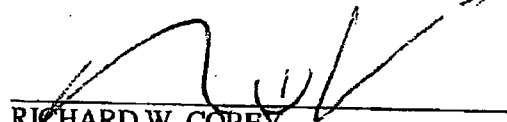
For William Hamilton

Dated: June 9, 2017


William Hamilton

For People of the State of California
ex rel. the California Air Resources Board

Dated: June 11, 2017

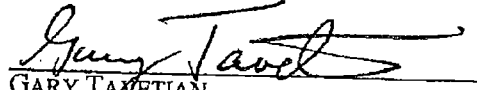

RICHARD W. COREY
Executive Officer
California Air Resources Board

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APPROVED AS TO FORM.

Dated: June 2, 2017

XAVIER BECERRA
Attorney General of California


GARY TAVEL
Supervising Deputy Attorney General
*Attorneys for the People of the State of
California ex rel. the California Air
Resources Board*

Dated: June __, 2017

LAW OFFICE OF BRENDA LINDER

BRENDA LINDER
*Attorney for West Coast Diesel LLC and
William Hamilton*

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APPROVED AS TO FORM.

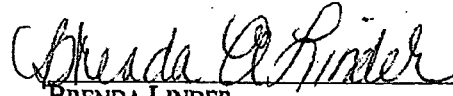
Dated: June __, 2017

XAVIER BECERRA
Attorney General of California

GARY TAVETIAN
Supervising Deputy Attorney General
*Attorneys for the People of the State of
California ex rel. the California Air
Resources Board*

Dated: June 9, 2017

LAW OFFICE OF BRENDA LINDER


BRENDA LINDER
*Attorney for West Coast Diesel LLC and
William Hamilton*

1 **JUDGMENT**

2 Plaintiff, the People of the State of California *ex rel.* the California Air Resources Board
3 (Air Resources Board), and Defendants West Coast Diesel LLC and William Hamilton
4 (collectively, Defendants), having stipulated to entry of this judgment (Judgment), and good
5 cause appearing for approval of the stipulation:

6 **IT IS HEREBY ORDERED** that Judgment is awarded in favor of the Air Resources
7 Board as set forth below.

8 **1. PERMANENT INJUNCTION**

9 Defendants, and their agents, servants, employees, representatives, and all persons acting in
10 concert or participating with them (including through any entity which Defendants ever control in
11 whole or in part), are permanently enjoined from and ordered:

12 (i) Not to install, repair, maintain, retrofit, sell, offer for sale, or advertise any device,
13 apparatus, or mechanism intended for use with, or as a part of, a required motor vehicle pollution
14 control device or system that alters or modifies the original design or performance of the motor
15 vehicle pollution control device or system, including diesel particulate filters. (See Cal. Code
16 Regs., tit. 13, §§ 2220-2250 and California Vehicle Code 27156.)

17 (ii) Not to make any updates or enter reports for any person or entity in the California Air
18 Resources Board's Truck Regulation Upload, Compliance, and Reporting System (TRUCRS) or
19 any successor Air Resources Board reporting system.

20 (iii) Not to prevent inspectors from the Air Resources Board from inspecting the premises
21 of Defendant West Coast Diesel, LLC or to audit any of their business records including but not
22 limited to invoices, or to conduct a physical inspection of West Coast Diesel, LLC to determine
23 whether West Coast Diesel, LLC or William Hamilton has taken any of the actions prohibited
24 pursuant to Section 1, subdivision (i) above.

25 (iv) Nothing in this Consent Judgment is meant to limit the Air Resources Board's right
26 and authority to inspect, audit, or perform any functions under the statutes and regulations
27 administered by the Air Resources Board.

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2. PENALTIES

Based on Defendants' limited ability to pay, Defendants, jointly and severally, shall pay a total of \$7,000 seven thousand dollars in penalties and an additional \$200,000 in suspended penalties pursuant to Health and Safety Code sections 39674, 43008.6 and 43016 as follows:

(i) Defendants shall pay to the "California Air Pollution Control Fund" the sum of two thousand dollars and zero cents (\$2,000.00) within thirty days of the entry of this stipulated judgment.

(ii) Defendants shall also pay to the "Air Pollution Control Fund" the sum of \$5,000.00 payable at the rate of \$138.89 per month over a period of not more than three years. There is no penalty for paying more than the monthly rate, or for paying off the amount before the three-year period expires. The first payment shall be due on the 5th day of the month following payment of the \$2,000 set forth above in Section 2, subpart (i), and successive payments are due by the 5th day of each month thereafter.

(iii) If Defendants fail to make a timely payment as described in Section 2, subpart (i) or (ii), then the Air Resources Board or its counsel shall give notice by certified mail that Defendants shall have ten (10) calendar days from the date of such notice to cure and make the payment ("Cure Period"). There will be no further notices required. Notice shall be addressed as follows:

Brenda Linder
Attorney at Law
5150 N. Sixth Street, Suite 116
Fresno, California 93710

William Hamilton
2037 W. Bullard Avenue #240
Fresno, California 93706

West Coast Diesel
2037 W. Bullard Avenue #240
Fresno, California, 93706

1 If Defendants fail to pay the full amount within the Cure Period, then they shall be deemed
2 to be in default and the Air Resources Board may make an ex parte motion before the Court to
3 enter judgment for \$7000, less any amount paid by or on behalf of Defendants. Defendants shall
4 provide timely, written notification to the State Board whenever Defendants' foregoing contact
5 information changes. Defendants' notification of changes to their contact information shall be
6 provided as follows:

7 Kathryn Harker
8 Office of Legal Affairs
9 California Air Resources Board
10 1001 I Street
11 Sacramento, California 95814

12 Gary Tavetian
13 Supervising Deputy Attorney General
14 300 South Spring Street, Suite 1700
15 Los Angeles, California 90013

16 Barbara Spiegel
17 Deputy Attorney General
18 455 Golden Gate Avenue, Suite 11000
19 San Francisco, CA 92109

20 If Defendants fail to provide the Air Resources Board with such notification, then any
21 notice by the Air Resources Board to Defendants at the foregoing address shall constitute
22 sufficient notice.

23 (iv) If the Air Resources Board establishes, by motion regularly noticed in this court, that
24 Defendants failed to comply with the injunction stated in Section 1 above, the Air Resources
25 Board and Defendants agree that the court shall impose a penalty of two hundred thousand dollars
26 (\$200,000.00) payable to the Air Pollution Control Fund within 30 days of the motion being
27 granted by the court.

28 (v) All payments, shall be made by cashiers check made payable to "Air Pollution Control
Fund" or by credit card sent along with a completed Stipulated Judgment Payment Transmittal
Forms, to the attention of:

California Air Resources Board
Accounting Office
P.O. Box 1436
Sacramento, California 95812-1436

A copy of the Stipulated Judgment Payment Transmittal Form is attached hereto as Attachment A.

3. DISMISSAL OF RELATED FEDERAL COURT ACTION

Pursuant to an agreement among the parties, Defendant William Hamilton is ordered to dismiss with prejudice the case entitled *William A. Hamilton v. California Air Resources Board, Tajinder Gill, Barry Ho, and Kirk Oliver*, filed in the United States District Court for the Eastern District of California, Civil Action No. 1:15-CV-01942-AWI-SKO within ten days of entry of this Consent Judgment.

4. COMPUTATION OF TIME

If the last day for the performance of any act provided or required by this Judgment falls on a weekend or holiday, then that period is extended to the next business day. "Holiday" means all holidays specified in Code of Civil Procedure section 135, and to the extent provided in Code of Civil Procedure section 12b, all days that by terms of section 12b are required to be considered as holidays.

5. COSTS AND ATTORNEY'S FEES

Except as provided by this Judgment, each party shall bear its own costs and attorney's fees.

IT IS SO ORDERED ADJUDGED AND DECREED.

Dated: July 5, 2017.

By: 
Judge of the Superior Court

DECLARATION OF SERVICE BY ODYSSEY E-FILE

Case Name: **Air Resources Board v. West Coast Diesel**

Case No.: **15CECG03337**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter.

On June 23, 2017, by electronic transmission via Odyssey E-filing, I served the following document described as:

STIPULATION AND (PROPOSED) CONSENT JUDGMENT

On the interested parties in this action who are registered for e-filing in the within action

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on June 23, 2017, at San Francisco, California.

Michelle CoSeng
Declarant


Signature