

SETTLEMENT AGREEMENT

This Settlement Agreement is entered into between the California Air Resources Board (CARB), with its principal location at 1001 I Street, Sacramento, California 95814; and Pacific Line Cleanup, Inc., with its principal location at 27601 Forbes Road, Ste. 29, Laguna Niguel, California 92677 (collectively, the "Parties," or individually, "Party").

LEGAL BACKGROUND

- (1) **Purpose.** The California Health and Safety Code mandates the reduction of the emission of toxic air contaminants (TAC). CARB has determined that particulate matter (PM) from diesel-fueled engines is a TAC. (Health & Saf. Code §§ 39002, et seq., 39650-39675.) In-use on-road diesel vehicles are powered by diesel fueled engines that emit toxic PM.
- (2) **Regulation.** CARB adopted the *Regulation to Reduce Emissions of Diesel Particulate Matter, Oxides of Nitrogen and Other Criteria Pollutants, from In-Use Heavy-Duty Diesel-Fueled Vehicles* (Truck and Bus Regulation) to reduce diesel PM and criteria pollutant emissions from on-road heavy-duty diesel-fueled vehicles. (Cal. Code Regs., tit.13, § 2025.)
- (3) **Regulatory Provisions.** Any person, business, federal government agency, school district or school transportation provider, or broker, that owns, operates, leases, rents or sells vehicles in California that operate on diesel-fuel, dual-fuel, or alternative diesel-fuel, that are registered to be driven on public highways, were originally designed to be driven on public highways whether or not they are registered, yard trucks with on-road engines or yard trucks with off-road engines used for agricultural operations, both engines of two-engine sweepers, schoolbuses, and have a manufacturer's gross vehicle weight rating (GVWR) greater than 14,000 pounds with 2006 model year engines or older must comply with the Engine Model Year Compliance Schedule for diesel vehicles by January 1, 2020. (Cal. Code Regs., tit. 13, § 2025.)
- (4) **Penalty Provisions.** Failure to comply with the regulatory requirements is a violation of state law that may result in penalties up to ten thousand dollars (\$10,000) for strict liability violations, for each day in which the violation occurs. (Cal. Code Regs., tit.13, § 2025; Health & Saf. Code §§ 39674, 39675, 42400 et seq., 42402 et seq., and 42410.)

CASE BACKGROUND

- (5) **Corporate Entity.** At all relevant times, Pacific Line Cleanup, Inc. was organized under the laws of California as a corporation and conducted business in the State of California.

- (6) Allegations. This Settlement Agreement resolves Notice of Violation (NOV) 562, which was issued on August 31, 2021. CARB alleges Pacific Line Cleanup, Inc. violated the Truck and Bus Regulation by failing to meet the requirements of the Engine Model Year Schedule (Cal. Code Regs., tit. 13, § 2025(f-g)), resulting in violations as outlined in Notice of Violation 562. CARB alleges that if the allegations described in paragraphs 1 through 6 were proven, civil penalties could be imposed against Pacific Line Cleanup, Inc. for each and every vehicle involved in the violations and each day. Pacific Line Cleanup, Inc. alleges that any violation of the Truck and Bus Regulation was a result of its reliance on CARB's prior determination that it was required to comply with the Solid Waste Collection Vehicles Regulations (Cal. Code Regs., tit. 13 § 2021), not the Truck and Bus Regulation, and of its conduct in compliance the Solid Waste Collection Vehicles Regulations, as previously directed by CARB.
- (7) Acknowledgment. Pacific Line Cleanup, Inc. acknowledges the alleged facts in paragraphs 1 through 6, but denies any liability resulting from said allegations.
- (8) Consideration. In consideration of the foregoing, and of the promises and facts set forth herein, the Parties desire to settle and resolve all claims, disputes, and obligations relating to the above-listed alleged violations and voluntarily agree to resolve this matter by means of this Settlement Agreement. In order to resolve the violations described herein, Pacific Line Cleanup, Inc. has taken, or agrees to take, the actions enumerated below within the Terms and Conditions. Further, CARB accepts this Settlement Agreement in termination and full settlement of this matter.

TERMS AND CONDITIONS

In consideration of CARB not filing a legal action against Pacific Line Cleanup, Inc. for the alleged violations referred to above in the Legal Background and Case Background, and Pacific Line Cleanup, Inc.'s agreement to complete all terms and conditions set forth below, CARB and Pacific Line Cleanup, Inc. agree as follows:

- (9) Compliance Plan. Pacific Line Cleanup, Inc. shall submit documentation as specified in Paragraph 9 (c) to CARB by January 1 of 2022, 2023, and 2024, indicating that three vehicles listed in Attachment 1 have been removed from the fleet per year until all nine vehicles have been removed from Pacific Line Cleanup, Inc.'s fleet.
 - (a) For the purposes of this agreement, "removed from the fleet" means taking at least one of the following actions:
 - i. Transferring title to the vehicle to a new owner.

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- ii. Removing the vehicle from the State of California.
 - iii. Scrapping the vehicle.
 - iv. Filing a certificate of non-operation with the California DMV and operating the vehicle only for the limited purpose of demonstrating the functionality of the vehicle to potential buyers, transporting the vehicle to an auction house or to a potential buyer, moving the vehicle short distances for maintenance, or transporting the vehicle out of State to a storage or other similar facility while awaiting sale.
- (b) Pacific Line Cleanup, Inc. can meet the Compliance Plan requirement by submitting documentation demonstrating an order for a replacement vehicle and submitting (9) (a) (i-iv) when the vehicle in Attachment 1 is removed.
- (c) The following types of documentation shall suffice for purposes of demonstrating that the vehicles in Attachment 1 were removed from the fleet in accordance with this Paragraph:

"Removed from fleet" option	Documentation
Transferring title to the vehicle	Copy of CA DMV Release of Liability and/or auction house consignment form
Removing the vehicle from California	Completed registration transfer form or registration document from the new state
Scrapping the vehicle	DMV "junk" certificate
Non-operation	DMV non-op certificate

- (10) Performance in Lieu of Penalty Payment. CARB will accept completion of the Compliance Plan in lieu of civil penalties for the alleged violations referred to in Paragraph 6.
- (11) Suspended Penalties. If Pacific Line Cleanup, Inc. fails to comply with each and every requirement set out in this Settlement Agreement within three years of its execution, the Parties agree that Pacific Line Cleanup, Inc. shall pay the suspended portion of this penalty thirty-three thousand dollars (\$33,000.00) to CARB for deposit into the Air Pollution Control Fund for the purpose of carrying out its functions and duties, within sixty (60) calendar days of the notice by CARB to Pacific Line Cleanup, Inc. of the Settlement Agreement violation.
- (12) Civil Penalty and Mitigation Payment Method. If applicable, Pacific Line Cleanup, Inc. shall pay any suspended civil penalty or mitigation by check, credit card, wire transfer, or portal, payable to CARB, using instructions provided separately by CARB in a Payment Transmittal Form. Pacific Line Cleanup, Inc. is responsible for all payment processing fees. Payments shall be accompanied by the Payment Transmittal Form to ensure proper application. CARB shall deposit the civil penalty and mitigation amount into the Air Pollution Control Fund for the purpose of

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carrying out CARB's duties and functions to ensure the integrity of its air pollution control programs. Should payment instructions change, CARB will provide notice to Pacific Line Cleanup, Inc. in accordance with Paragraph 14 (Notices).

- (13) Documents. Pacific Line Cleanup, Inc. shall promptly email or mail the signed and dated Settlement Agreement, with copy of proof of payment of the penalty, mitigation, and/or SEP (if applicable), a copy of the Payment Transmittal Form(s) (if applicable), and the signed and dated Compliance Plan (if applicable) to the address or email in Paragraph 14 (Notices).
- (14) Notices. Unless otherwise specified in this Settlement Agreement, whenever notifications, submissions, or communications are required by this Settlement Agreement, they shall be submitted in writing to the address or email below:

As to CARB:

California Air Resources Board
Enforcement Division / Settlement Agreements
Diesel Programs Enforcement Branch / Statewide Truck and Bus
Enforcement Section
P.O. Box 2815
Sacramento, California 95812-2815
Settlement_Agreement@arb.ca.gov

As to Pacific Line Cleanup, Inc.:

Pacific Line Cleanup, Inc.
27601 Forbes Road, Ste 29
Laguna Niguel, California, 92677
paclincln@aol.com

As to Pacific Line Cleanup, Inc.'s Legal Representation:

Pollak, Vida & Barer
11500 W. Olympic Blvd., Ste. 400
Los Angeles, California 90064
daniel@pollakvida.com

Any Party may, by written notice to the other Parties, change its designated notice recipient or notice address provided above. Notices submitted pursuant to this section shall be deemed submitted upon emailing or mailing.

- (15) Recovery of Costs. If the Attorney General files a civil action to enforce this Settlement Agreement, Pacific Line Cleanup, Inc. shall pay all costs of investigating and prosecuting the action, including expert fees, reasonable attorneys' fees, and costs.

- (16) Repeat Violations. Pacific Line Cleanup, Inc. agrees to comply with all regulatory requirements and acknowledges that repeat violations could result in increased penalties in the future.
- (17) Entirety. This Settlement Agreement constitutes the entire agreement and understanding between the Parties concerning the Case Background, and supersedes and replaces any and all prior negotiations and agreements of any kind, whether written or oral, between the Parties concerning the Case Background hereof. This Settlement Agreement consists of 9 pages and 35 paragraphs.
- (18) Binding Effect. This Settlement Agreement binds Pacific Line Cleanup, Inc., and any principals, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations and CARB and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Settlement Agreement.
- (19) Effective Date. The effective date shall be the date upon which this Settlement Agreement is fully executed.
- (20) Modification and Termination. No agreement to modify, amend, extend, supersede, terminate, or discharge this Settlement Agreement, or any portion thereof, is valid or enforceable unless it is in writing and signed by all Parties to this Settlement Agreement.
- (21) Severability. Each provision of this Settlement Agreement is severable, and in the event that any provision of this Settlement Agreement is held to be illegal, invalid or unenforceable in any jurisdiction, the remainder of this Settlement Agreement remains in full force and effect.
- (22) Choice of Law. This Settlement Agreement shall be interpreted and enforced in accordance with the laws of the State of California, without regard to California's choice-of-law rules.
- (23) Non-Discharge. It is further agreed that the penalties described in this Settlement Agreement are non-dischargeable under United States Code, title 11, section 523(a)(7), which provides an exception from discharge for any debt to the extent such debt is for a fine, penalty, or forfeiture payable to and for the benefit of a governmental unit.
- (24) Not Tax Deductible. For purposes of this Settlement Agreement, Pacific Line Cleanup, Inc. shall not deduct any monies spent to comply with any provision of this Settlement Agreement in calculating and submitting its federal, state, or local income tax.

- (25) Rules of Construction. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Settlement Agreement.
- (26) Non-Waiver. The failure to enforce any provision of this Settlement Agreement shall not be construed as a waiver of any such provision, nor prevent such Party thereafter from enforcing such provision or any other provision of this Settlement Agreement. The rights and remedies granted all Parties herein are cumulative and the election of one right or remedy by a Party shall not constitute a waiver of such Party's right to assert all other legal remedies available under this Settlement Agreement or otherwise provided by law.
- (27) Intent to be Bound. The Parties represent that: They have participated fully in the review and drafting of this Settlement Agreement; understand and accept all terms; enter into this Settlement Agreement freely and voluntarily; have had an opportunity to consult with legal counsel; are fully informed of the terms and effect of this Settlement Agreement; have agreed to this Settlement Agreement after independent investigation and agree it was not arrived at through fraud, duress, or undue influence; and knowingly and voluntarily intend to be legally bound by this Settlement Agreement.
- (28) Venue. The Superior Court of California, located in the County of Sacramento, shall hear any dispute between the Parties arising from this Settlement Agreement.
- (29) Counterparts and Electronic Signatures. This Settlement Agreement may be executed in counterparts. Electronic, facsimile or photocopied signatures shall be considered as valid signatures.
- (30) Release. In consideration of the full completion of civil penalty, and/or completion of the compliance plan, and all other undertakings above, CARB hereby releases Pacific Line Cleanup, Inc. and its principals, officers, receivers, trustees, successors and assignees, subsidiary and parent corporations, from any claims CARB may have based on the circumstances described in all paragraphs contained in the Case Background above.
- (31) Authority. The undersigned represents that he or she has full authority to enter into this Settlement Agreement.

PENALTY BASIS

- (32) Per Unit Penalty. The per unit or per vehicle penalty in this case is a maximum of ten thousand dollars (\$10,000) per day under Health and Safety Code section 39674, for violations of the Truck and Bus Regulation. (Cal. Code Regs., tit.13, § 2025.) The penalty of thirty-three thousand dollars (\$33,000) over an unspecified

number of days of violation is for 6 noncompliant vehicles with a 1994-1995, 2000-2004, and 2005-2006 model year engine(s) and a GVWR of greater than 14,000 pounds. The per unit penalty in this case is approximately three thousand dollars (\$3,000) per noncompliant unit per year.

- (33) Emissions. The provisions cited above do prohibit emissions above a specified level. Without information on engine usage and emission rates, it is not practicable to quantify the excess emissions. However, since CARB has alleged that the vehicle(s) did not meet the regulatory requirements, all of the emissions from it were excess and illegal.
- (34) Aggravating and Mitigating Factors. The penalties in this matter were determined in consideration of all relevant circumstances, including statutory factors as described by CARB's Enforcement Policy. CARB considered whether the violator came into compliance quickly and cooperated with the investigation; the extent of harm to public health, safety and welfare; nature and persistence of the violation, including the magnitude of the excess emissions; compliance history; preventative efforts taken; innovative nature and the magnitude of the effort required to comply, and the accuracy, reproducibility, and repeatability of the available test methods; efforts to attain, or provide for, compliance prior to violation; action taken to mitigate the violation; financial burden to the violator; and voluntary disclosure. The penalties are set at levels sufficient to deter violations, to remove any economic benefit or unfair advantage from noncompliance, to obtain swift compliance, and the potential costs, risks, and uncertainty associated with litigation. Penalties in future cases might be smaller or larger depending on the unique circumstances of the case.
- (35) Confidential Business Information. CARB based this penalty in part on confidential business information provided by Pacific Line Cleanup, Inc. and confidential settlement communications, neither of which are retained by CARB in the ordinary course of business.

ACKNOWLEDGED AND ACCEPTED BY:

California Air Resources Board

Signature: /S/

Name: Ellen M. Peter

Title: Chief Counsel

Date: February 2, 2022

Pacific Line Cleanup, Inc.

Signature: /S/

Name: Raul Rios

Title: President

Date: December 16, 2021

Attachment 1

Unit	Make	Engine Model Year	License Plate	VIN
5	INTL	1995	7C31056	1HTSDAAN7TH280487
6	INTL	1995	5G26746	1HTSCABM2TH268658
3	FORD	2003	7E72204	3FRNF65294V588529
19	FORD	2005	8H27718	3FRNF65E76V295175
21	FORD	2006	8W81205	3FRNF65EX7V397491
9	FORD	2007	7C31085	1FDYL90A8NVA26682
1	FORD	2005	7S42430	3FRNF65N34V676633
2	FORD	2004	22142D2	3FRNF65N54V665343
34	INTL	2007	42019J1	1HSHXSBR48J642286