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7  
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 United States of America

9  
 10 IN THE UNITED STATES DISTRICT COURT  
 FOR THE EASTERN DISTRICT OF CALIFORNIA

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 12  
 13 \_\_\_\_\_ )  
 UNITED STATES OF AMERICA, )  
 14 )  
 )  
 15 Plaintiff, )  
 )  
 16 v. )  
 )  
 17 GRINDSTONE INDIAN RANCHERIA )  
 18 OF WINTUN-WAILAKI INDIANS OF )  
 CALIFORNIA, )  
 19 )  
 20 Defendant. )  
 21 \_\_\_\_\_ )

Civil No. 2:24-cv-01044-KJM-CKD

22  
 23 Consent Decree  
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**TABLE OF CONTENTS**

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**I. JURISDICTION AND PARTIES BOUND** .....2  
**II. OBJECTIVES** .....5  
**III. DEFINITIONS** .....5  
**IV. CIVIL PENALTY** .....6  
**V. INJUNCTIVE RELIEF** .....7  
**VI. REPORTING REQUIREMENTS** .....15  
**VII. STIPULATED PENALTIES** .....17  
**VIII. FORCE MAJEURE** .....20  
**IX. DISPUTE RESOLUTION** .....22  
**X. INFORMATION COLLECTION AND RETENTION** .....24  
**XI. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS** .....26  
**XII. COSTS** .....28  
**XIII. NOTICES** .....28  
**XIV. EFFECTIVE DATE** .....29  
**XV. RETENTION OF JURISDICTION** .....29  
**XVI. MODIFICATION** .....29  
**XVII. TERMINATION** .....30  
**XVIII. PUBLIC PARTICIPATION** .....31  
**XIX. SIGNATORIES/SERVICE** .....31  
**XX. INTEGRATION** .....32  
**XXI. FINAL JUDGMENT** .....32  
**XXII. HEADINGS** .....322

1           WHEREAS, Plaintiff United States of America, on behalf of the United States  
2 Environmental Protection Agency (“EPA”), filed a Complaint concurrently with this Consent  
3 Decree alleging that the Grindstone Indian Rancheria of Wintun-Wailaki Indians of California  
4 (“Tribe” or “Defendant”) violated administrative orders issued under Sections 1414(g) and 1431  
5 of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. §§ 300g-3(g) and 300i, and the SDWA’s  
6 National Primary Drinking Water Regulations (“NPDWRs”) at 40 C.F.R. Part 141, at the  
7 Grindstone Indian Rancheria Public Water System (“System”), which the Tribe owns and  
8 operates, and which serves approximately 150 people and has 58 active service connections  
9 within the exterior boundaries of the Grindstone Indian Rancheria;  
10

11           WHEREAS, the United States alleges that Defendant failed to comply with the  
12 requirements of an Administrative Order on Consent the Tribe and EPA entered into on  
13 December 15, 2017, and an Emergency Administrative Order EPA issued to the Tribe on June  
14 21, 2019, both of which required Defendant to, *inter alia*, adequately treat and disinfect the  
15 drinking water it provides to its customers on the Grindstone Indian Rancheria, as specified in  
16 the Complaint;  
17

18           WHEREAS, the United States alleges that Defendant has a history of  
19 noncompliance with the SDWA and its NPDWRs at its System extending back to at least 2012 to  
20 the present, during which time EPA has provided compliance assistance to Defendant on  
21 numerous occasions to ensure the System’s provision of safe drinking water to its customers;  
22

23           WHEREAS, EPA has worked with Defendant, and will continue to work with  
24 Defendant as appropriate, under United States Department of Justice’s, (“DOJ’s”) and EPA’s  
25 policies concerning consultation and coordination with tribal governments and enforcement  
26 against tribal facilities, and will continue to provide appropriate compliance assistance to  
27  
28

1 Defendant to ensure compliance with the SDWA and its NPDWRs and applicable federal law;

2 WHEREAS, this Consent Decree does not constitute an admission of any facts or  
3 liability by the Defendant;

4 WHEREAS, the Defendant agrees that performance of the injunctive relief and  
5 compliance reporting and record keeping set forth in this Consent Decree is in the best interest of  
6 Defendant and its customers;

7 WHEREAS, the Defendant has received, and anticipates receiving funding for  
8 water system operation and maintenance, for example funding Defendant received under the  
9 American Rescue Plan Act of 2021 that Defendant has set aside in a separate account dedicated  
10 for use at its water system, and anticipated funding from the U.S. Department of Housing and  
11 Urban Development's Indian Housing Authority for water system operation and maintenance  
12 associated with low-income housing at the Rancheria served by Defendant's water system; and

13 WHEREAS, the parties recognize, and the Court by entering this Consent Decree  
14 finds, that this Consent Decree has been negotiated by the Parties in good faith and will avoid  
15 litigation between the parties and that this Consent Decree is fair, reasonable, and in the public  
16 interest.

17 THEREFORE, WITH THE CONSENT OF THE PARTIES, IT IS ADJUDGED,  
18 ORDERED, AND DECREED as follows:

19  
20  
21 **I. JURISDICTION AND PARTIES BOUND**

22 1. This Court has jurisdiction over the subject matter of this action under Sections  
23 1414 and 1431 of the SDWA, 42 U.S.C. §§ 300g-3 and 300i, and over the Parties under  
24 28 U.S.C. §§ 1331, 1345, and 1355.

25  
26 2. Venue is proper in the Eastern District of California under Sections 1414(b) and  
27  
28

1 1431(b) of the SDWA, 42 U.S.C. §§ 300g-3(b) and 300i(b), as well as 28 U.S.C. §§ 1391(b) and  
2 1395(a), because the violations alleged in the Complaint occurred in this district, the Defendant  
3 conducts business in this district, and the Defendant is located in this district. For purposes of  
4 this Decree, or any action to enforce this Decree, Defendant consents to the Court's jurisdiction  
5 over this Decree and any such action and over Defendant and consents to venue in this judicial  
6 district.  
7

8         3. For purposes of this Consent Decree, Defendant agrees that the Complaint states  
9 claims upon which relief may be granted under Sections 1414(g) and 1431 of the SDWA, 42  
10 U.S.C. §§ 300g-3(g) and 300i, and the SDWA's NPDWRs at 40 C.F.R. Part 141.  
11

12         4. Defendant is a federally recognized Indian tribe governed by the Grindstone  
13 Tribal Council ("Council").

14         5. Defendant owns and operates the System on the Grindstone Indian Rancheria to  
15 provide drinking water for approximately 150 consumers. The System supplies water sourced  
16 from Stony Creek, a surface water, through approximately 58 active service connections within  
17 the exterior boundaries of the Grindstone Indian Rancheria.  
18

19         6. This Consent Decree shall apply to and be binding upon the United States and  
20 Defendant and any successor tribal leaders, administrations, tribal administrators, utility  
21 managers, directors, and operators, utility commissions and boards, Councils and/or individual  
22 chairpersons acting on behalf of Defendant's assigns, and any other entities or persons otherwise  
23 bound by law.  
24

25         7. Defendant shall provide a copy of this Consent Decree to all officers, directors,  
26 employees, agents, and administrators whose duties might reasonably include compliance with  
27 any provision of this Decree, as well as to any person or entity retained to perform work required  
28

1 under this Consent Decree. Defendant shall condition any such contract upon performance of the  
2 work in conformity with the terms of this Consent Decree.

3 8. In any action to enforce this Consent Decree, Defendant shall not raise as a  
4 defense the failure by any of its officers, directors, employees, agents, administrators, or  
5 contractors to take any actions necessary to comply with the provisions of this Consent Decree.  
6

7 9. No transfer of ownership or operation of the System, whether in compliance with  
8 the procedures of this Paragraph or otherwise, shall relieve Defendant of its obligation to ensure  
9 that the terms of the Decree are implemented. At least thirty (30) Days prior to such transfer,  
10 Defendant shall provide a copy of this Consent Decree to the proposed transferee and shall  
11 simultaneously provide written notice of the prospective transfer, together with a copy of the  
12 proposed written agreement, to EPA and DOJ in accordance with Section XIII (Notices). Any  
13 attempt to transfer ownership or operation of the System without complying with this Paragraph  
14 constitutes a violation of this Decree  
15

16 10. Defendant shall provide a copy of this Consent Decree to all officers, employees,  
17 and agents whose duties might reasonably include compliance with any provision of this Decree,  
18 as well as to any contractor retained to perform work required under this Consent Decree.  
19 Defendant shall condition any such contract upon performance of the work in conformity with  
20 the terms of this Consent Decree.  
21

22 11. In any action to enforce this Consent Decree, Defendant shall not raise as a  
23 defense the failure by any of its officers, directors, employees, agents, or contractors to take any  
24 actions necessary to comply with the provisions of this Consent Decree.  
25

26 **II. OBJECTIVES**

27 12. It is the objective of the Parties in entering this Consent Decree to ensure that  
28

1 Defendant achieves and maintains continuous, sustainable, and long-term compliance with the  
2 SDWA and its NPDWRs. All obligations under this Consent Decree shall be interpreted in a  
3 manner consistent with this goal.

4  
5 13. The Consent Decree and the requirements set forth herein shall supersede the  
6 Administrative Order on Consent that EPA issued on December 15, 2017, and the Emergency  
7 Administrative Order that EPA issued on June 21, 2019.

8  
9 **III. DEFINITIONS**

10 14. Terms used in this Consent Decree that are defined in the SDWA or in its  
11 NPDWRs have the meanings assigned to them in the SDWA or such regulations, unless  
12 otherwise provided in this Consent Decree. Whenever the terms set forth below are used in this  
13 Consent Decree, the following definitions apply:

14 "Complaint" means the complaint filed by the United States in this action;

15 "Consent Decree" or "Decree" means this Decree;

16 "Council" shall mean the Tribe's elected leadership;

17 "Day" means a calendar day unless expressly stated to be a business day. In computing  
18 any period of time for a deadline under this Consent Decree, where the last day would fall on a  
19 Saturday, Sunday, or federal holiday, the period runs until the close of business of the next  
20 business day;  
21  
22

23 "Defendant" or "Tribe" means the federally recognized Grindstone Indian Rancheria,  
24 owner and operator of the Grindstone Indian Rancheria Public Water System;

25 "DOJ" means the United States Department of Justice and any of its successor  
26 departments or agencies;

27 "Emergency Order" means the Emergency Administrative Order EPA issued on June 21,  
28

1 2019;

2 “EPA” means the United States Environmental Protection Agency and any of its  
3 successor departments or agencies;

4 “Effective Date” means the definition provided in Section XIV;

5 “Force Majeure” shall have the meaning as defined in Section VIII;

6 “NPDWR” means the National Primary Drinking Water Regulations at 40 C.F.R. Part  
7 141;

8 “Paragraph” means a portion of this Decree identified by an Arabic numeral;

9 “Parties” means the United States and Defendant;

10 “SDWA” shall mean the federal Public Health Service Act (also known as the “Safe  
11 Drinking Water Act”), 42 U.S.C. § 300f *et seq.*, and its implementing regulations;

12 “Section” means a portion of this Decree identified by a Roman numeral;

13 “System” means Defendant’s Grindstone Indian Rancheria Public Water System located  
14 in Glenn County, California; and

15 “United States” means the United States of America, acting on behalf of EPA.  
16

17  
18  
19  
20 **IV. CIVIL PENALTY**

21 15. Defendant shall pay to the United States a civil penalty of \$8,963 within thirty  
22 (30) days of the entry of this Consent Decree.

23 16. Defendants shall pay the civil penalty due to the United States by certified or  
24 cashier’s check in the amount due, payable to the “U.S. Department of Justice,” referencing the  
25 CDCS number (which will be provided once the settlement is entered by the court) and DOJ  
26 Case No. 90-5-1-1-12322. The payment shall be made in accordance with instructions provided  
27  
28



1 to Defendant by the Financial Litigation Unit of the Office of the United States Attorney for the  
2 Eastern District of California. At the time of payment, Defendants shall also send a copy of the  
3 check together with a transmittal letter to those persons identified in Section XIII (Notices) of  
4 this Consent Decree. That transmittal letter shall state that the payment is for the civil penalty  
5 owed under the Consent Decree in *United States v. Grindstone Indian Rancheria of Wintun-*  
6 *Wailaki Indians of California* and shall reference the CDCS number of this case and DOJ Case  
7 No. 90-5-1-1-12322.  
8

9  
10 **V. INJUNCTIVE RELIEF**

11 17. Defendant shall comply with the SDWA, 42 U.S.C. § 300f *et seq.*, and the  
12 NPDWRs at 40 C.F.R. Part 141.

13 18. Defendant shall meet all compliance obligations set forth in this Section.

14 19. Boil Water Notice: Within one (1) Day of the Effective Date of this Consent  
15 Decree, Defendant shall submit a draft Boil Water Notice to EPA for its approval in accordance  
16 with Paragraph 32 below. Upon making any necessary changes EPA requires and EPA's  
17 approval of the Boil Water Notice, Defendant shall issue the Boil Water Notice to all customer  
18 homes and display the Boil Water Notice in conspicuous locations within one (1) Day of the  
19 Effective Date of this Consent Decree. Defendant shall issue the Boil Water Notice on a monthly  
20 basis until EPA provides written notification that the Defendant may discontinue doing so.  
21

22 20. Surface Water Treatment: Upon the Effective Date of this Consent Decree,  
23 Defendant shall achieve and demonstrate compliance with the Surface Water Treatment rule  
24 requirements at 40 CFR §§ 141.70-76, including use of a National Sanitation Foundation  
25 ("NSF") International-approved chlorine disinfectant for treatment at the System's water tank(s)  
26 and distribution lines.  
27  
28

1           21.    Alternative Water Requirements: Upon the Effective Date of this Decree,  
2 Defendant shall make available to the System's consumers at least one gallon of drinking water  
3 per person per day from an alternative source that meets all applicable SDWA requirements at 40  
4 C.F.R. Part 141 until such time that EPA determines that Defendant is in full compliance with  
5 the SDWA's water quality requirements.  
6

7           22.    Alternative Water Supply Notice Requirements: Within two (2) Days of the  
8 Effective Date of this Decree, Defendant shall submit an alternative water supply public notice  
9 document for EPA's review and approval in accordance with Paragraph 32 that provides the  
10 following information: 1) the location(s) where the alternative water supply is available for pick  
11 up for all persons the System serves, 2) the days and hours when alternative water is available for  
12 pickup, and 3) contact information for the Tribal Administrator.  
13

14           23.    Public Notice: As soon as possible, but no later than fourteen (14) Days after the  
15 Effective Date of this Decree, Defendant shall distribute another public notice, (in addition to the  
16 boil water notice under Paragraph 19 and the alternative water supply public notice required  
17 under Paragraph 22), that provides information about this Consent Decree, and corrective actions  
18 Defendant is taking. Defendant must submit the notice to EPA for approval within seven (7)  
19 Days of the Effective Date of this Decree to the contacts listed in Section XIII (Notices).  
20 Defendant must carry out the public notice and other notice requirements of 40 C.F.R. Part 141,  
21 Subpart Q, including provisions of notice by mail or other direct delivery to each service  
22 connection served by the System, and submit a copy of the public notice with certification to  
23 EPA within ten (10) Days of its distribution.  
24  
25

26           24.    Operator Training and Certification: By the Effective Date of this Consent  
27 Decree, Defendant must retain at least two full time drinking-water operators, at least one of  
28

1 whom is a certified drinking-water operator as follows:

- 2 a. Defendant shall, in accordance with 40 C.F.R. Part 141, Subpart H, ensure  
3 operation of the System at all times by at least one certified drinking-water  
4 operator at least a Grade T1/D1 level in accordance with the Drinking  
5 Water Operator Certification Program that the California State Water  
6 Resources Control Board administers.  
7  
8 b. Defendant shall ensure the certified System water operator(s) attend all  
9 continuing education courses and training required for operator  
10 certifications and renewal of such certifications.  
11

12 25. Consumer Confidence Report Requirements: Defendant shall deliver annual  
13 consumer confidence reports to its customers in compliance with 40 C.F.R. § 141.155.

14 Defendant shall also provide copies to the EPA along with a certification of distribution in  
15 accordance with 40 C.F.R. § 141.155  
16

17 26. Reporting Requirements: Beginning the week following the Effective Date of this  
18 Consent Decree, Defendant shall electronically submit to EPA a weekly operating report that  
19 includes a log of the dates and times of membrane filter operation and maintenance performed in  
20 the seven (7) Days leading up to submittal of the weekly report and also the analytical results of  
21 the previous week's bacteriological and residual chlorine sampling taken at the System's  
22 distribution system at the following sampling locations:  
23

- 24 a. Sampling locations Lot 2 and Lot 14 for residual chlorine sampling; and  
25 b. Sampling location Lot 14 for bacteriological sampling.  
26

27 After the Defendant receives notice from EPA that it may discontinue weekly reporting, it shall  
28 submit reports on a monthly basis, due ten (10) Days after the last day of every month.

1           27.    Operations and Maintenance Plan: The Defendant shall develop and implement an  
2 EPA-approved Operations and Maintenance (“O&M”) Plan for the System. The Defendant shall  
3 submit its proposed O&M Plan to EPA for review and approval within six (6) months of the  
4 Effective Date of this Consent Decree and begin implementing it within thirty (30) Days of EPA  
5 approval. The O&M Plan shall address how the System will:  
6

- 7           a.    Provide appropriately certified and qualified operating and managerial  
8                    personnel, including two-full time employees with at least one drinking-  
9                    water operator that maintains a T1/D1 certification as provided by the  
10                   Drinking Water Operator Certification Program that the California State  
11                   Water Resources Control Board administers;  
12
- 13           b.    Include an operator training program to ensure drinking-water operators  
14                   satisfy operator certification continuing education requirements and that  
15                   these expenses are included in the water operations budget that is  
16                   formulated for the System;  
17
- 18           c.    Provide necessary equipment, supplies and services associated with  
19                   routine Grindstone PWS operations;  
20
- 21           d.    Provide adequate backup equipment for repairs including spare parts,  
22                   facilities, and emergency power to ensure System operations will continue  
23                   under emergency situations;  
24
- 25           e.    Perform necessary routine maintenance and preventive maintenance on the  
26                   System and its components;  
27
- 28           f.    Procure and continuously use NSF International-approved chemicals in  
                  the System;

- 1 g. Complete O&M records/logs;
- 2 h. Regularly inspect major System components and document pending major
- 3 repair and capital improvement requirements;
- 4
- 5 i. Include a schedule for storage tank inspection and maintenance and
- 6 distribution system flushing and valve exercising; and
- 7 j. Communicate with the public and EPA concerning required SDWA
- 8 reporting, the need for boil orders and other drinking water issues
- 9 requiring public notice.

10  
11 28. Budget Approval: The annual budget for each fiscal year shall be developed  
12 consistent with Defendant's EPA-approved O&M Plan before the end of the Tribe's fiscal year  
13 on September 30th. On or before August 31st each year, the Council shall annually approve the  
14 water O&M budget for the coming fiscal year that is consistent with the EPA-approved O&M  
15 Plan. The Council shall ensure provision of adequate funding in the Budget to operate and  
16 maintain the water operations in full compliance with all applicable federal environmental laws,  
17 based on information outlined in the O&M Plan, and the Budget shall include: (a) an annual  
18 budget for all water operations; (b) a regular financial planning and review processes; (c)  
19 defined processes and controls for purchases and expenditures; and (d) adequate funding to  
20 address facility depreciation, reserve funds, capital improvements, and at least two drinking-  
21 water operators' salaries. Defendant shall provide the approved O&M Budget to EPA within  
22 fourteen (14) Days of its approval by Council.

25 29. Additional Plans: In addition to the O&M Plan required in Paragraph 27,  
26 Defendant shall also develop the following plans and provide them to EPA for review and  
27 approval under Paragraph 32 within ninety (90) Days of the Consent Order's Effective Date:  
28

- 1 a. A cross-connection control program (refer to *EPA's Cross-Connection*
- 2 *Control Manual*;
- 3 b. An emergency operations/response plan (refer to *EPA's Office of Water's*
- 4 *July 2019 Community Water System Emergency Response Plan Template*
- 5 *and Instructions*);
- 6
- 7 c. Standard operating procedures ("SOP") for line break repair;
- 8
- 9 d. A drought contingency plan; and
- 10 e. An asset management plan that corresponds to the above approved budget.

11 30. Pressure Loss/Line Breaks: Defendant shall report to EPA any instances where

12 there is a drop in pressure in the System's distribution system to less than 20 pounds per square

13 inch ("PSI"), and any instances where there are significant line breaks (causing water outages to

14 five or more users) within 24-hours of the Defendant's initial awareness of the pressure loss

15 and/or line break

16

17 31. Quarterly Meeting Requirements: Defendant shall convene quarterly meetings

18 with EPA by teleconference or at a centralized meeting location to: 1) discuss the adequacy of

19 Defendant's compliance with the Consent Decree; 2) establish any necessary managerial and

20 governance protocols that will assist in compliance with the Consent Decree; and 3) discuss how

21 to best promote long-term and efficient drinking water compliance at the System. The first

22 quarterly meeting shall be held within ninety (90) Days of the Effective Date of this Decree.

23 Invitations to this first meeting must be provided at least fourteen (14) Days in advance and at a

24 minimum must be sent to the EPA points of contact identified in Section XIII (Notices).

25

26 32. Approval of Deliverables: After review of any plan, report, or other item that is

27 required to be submitted under this Consent Decree, EPA will in writing: (a) approve the

28

1 submission; (b) approve the submission upon specified conditions; (c) approve part of the  
2 submission and disapprove the remainder; or (d) disapprove the submission.

- 3
- 4 a. If the submission is approved under Paragraph 32(a), Defendant shall take  
5 all actions required by the plan, report, or other document, in accordance  
6 with the schedules and requirements of the plan, report, or other  
7 document, as approved.
- 8 b. If the submission is conditionally approved or approved only in part under  
9 Paragraph 32(b) or (c), Defendant shall, upon written direction from EPA,  
10 take all actions required by the approved plan, report, or other item that  
11 EPA determines are technically severable from any disapproved portions,  
12 subject to Defendant's right to dispute only the specified conditions or the  
13 disapproved portions, under Section IX (Dispute Resolution).
- 14
- 15 c. If the submission is disapproved in whole or in part under Paragraph 32(c)  
16 or (d), Defendant shall, within forty-five (45) Days or such other time as  
17 the Parties agree to in writing, correct all deficiencies and resubmit the  
18 plan, report, or other item, or disapproved portion thereof, for approval, in  
19 accordance with the preceding Paragraphs.
- 20
- 21 d. If the resubmission is approved in whole or in part, Defendant shall  
22 proceed in accordance with the preceding Paragraph 32 (a), (b), or (c).
- 23
- 24 e. If a resubmitted plan, report, or other item, or portion thereof, is  
25 disapproved in whole or in part, EPA may again require Defendant to  
26 correct any deficiencies, in accordance with the preceding Paragraph 32  
27 (a), (b), or (c), subject to Defendant's right to invoke Dispute Resolution  
28

1 and the right of EPA to seek stipulated penalties as provided in the  
2 preceding Paragraphs.

3 f. If Defendant elects to invoke Dispute Resolution as set forth in Section  
4 IX, Defendant shall do so by sending a Notice of Dispute in accordance  
5 with Section IX within thirty (30) Days (or such other time as the Parties  
6 agree to in writing) after receipt of the applicable decision.

7  
8 g. Any stipulated penalties applicable to the original submission, as provided  
9 in Section VII, that accrue during the forty-five (45) Day period or other  
10 specified period provided in subparagraph 32.c above, but shall not be  
11 payable unless the resubmission is untimely or is disapproved in whole or  
12 in part; provided that, if the original submission was so deficient as to  
13 constitute a material breach of Defendant's obligations under this Decree,  
14 the stipulated penalties applicable to the original submission shall be due  
15 and payable notwithstanding any subsequent resubmission.  
16  
17

18 33. Permits: Where any compliance obligation under this Section requires Defendant  
19 to obtain a federal, state, or local permit or approval, Defendant shall submit timely and complete  
20 applications and take all other actions necessary to obtain all such permits or approvals.  
21 Defendant may seek relief under the provisions of Section VIII (Force Majeure) for any delay in  
22 the performance of any such obligation resulting from a failure to obtain, or a delay in obtaining,  
23 any permit or approval required to fulfill such obligation, if Defendant has submitted timely and  
24 complete applications and has taken all other actions necessary to obtain all such permits or  
25 approvals.  
26  
27

28 **VI. REPORTING REQUIREMENTS**



1           34. Defendant shall submit the following reports to EPA, at the addresses set forth  
2 Section XIII (Notices):

- 3           a. Semi-Annual Report: By July 31st and January 31st of each year after the  
4 lodging of this Consent Decree, until termination of this Decree under  
5 Section XVII (Termination), Defendant shall submit electronically a semi-  
6 annual report for the preceding six months that includes: the status of  
7 surface water treatment measures; the status of Defendant's monitoring  
8 work; the provision of alternative water to customers; operation and  
9 maintenance; and problems encountered or anticipated. The report shall  
10 also include a description of any non-compliance with the requirements of  
11 this Consent Decree and an explanation of the violation(s)' likely cause  
12 and of the remedial steps taken, or to be taken, to prevent or minimize  
13 such violation(s)  
14  
15  
16

17           35. If Defendant violates, or has reason to believe that it may violate, any requirement  
18 of this Consent Decree, Defendant shall notify DOJ and EPA of such violation and its likely  
19 duration, in writing, within ten business days of the Day Defendant first becomes aware of the  
20 actual or prospective violation, with an explanation of its likely cause and of the remedial steps  
21 taken, or to be taken, to prevent or minimize such violation. If the cause of a violation cannot be  
22 fully explained at the time the report is due, Defendant shall so state in the report. Defendant  
23 shall investigate the cause of the violation and shall then submit an amendment to the report,  
24 including a full explanation of the cause of the violation, within thirty (30) Days of the Day  
25 Defendant becomes aware of the cause of the violation. Nothing in this Paragraph or the  
26 following Paragraph relieves Defendant of its obligation to provide the notice required by  
27  
28

1 Section VIII (Force Majeure).

2 36. Whenever any violation of this Consent Decree or any other event affecting  
3 Defendant's performance under this Decree may pose an immediate threat to the public health or  
4 welfare or the environment, Defendant shall notify EPA by telephone or by email to EPA as  
5 soon as possible, but no later than 24-hours after Defendant first knew of the violation or event.  
6

7 This procedure is in addition to the requirements set forth in the preceding Paragraph.

8 37. Each report submitted by Defendant under this Section shall be signed by an  
9 official of the submitting party and include the following certification:

10  
11 I certify under penalty of perjury that this document and all attachments were prepared  
12 under my direction or supervision in accordance with a system designed to assure that  
13 qualified personnel properly gather and evaluate the information submitted. Based on my  
14 inquiry of the person or persons who manage the system, or those persons directly  
15 responsible for gathering the information, the information submitted is, to the best of my  
16 knowledge and belief, true, accurate, and complete. I have no personal knowledge that  
17 the information submitted is other than true, accurate, and complete. I am aware that  
18 there are significant penalties for submitting false information, including the possibility  
19 of fine and imprisonment for knowing violations.

20 This certification requirement does not apply to emergency or similar notifications where  
21 compliance would be impractical.

22 38. The reporting requirements of this Consent Decree do not relieve Defendant of  
23 any reporting obligations required by the SDWA or implementing regulations, or by any other  
24 federal, state, or local law, regulation, permit, or other requirement.

25 39. Any information provided pursuant to this Consent Decree may be used by the  
26 United States in any proceeding to enforce the provisions of this Consent Decree and as  
27 otherwise permitted by law.

28 **VII. STIPULATED PENALTIES**

40. Defendant shall be liable for stipulated penalties to the United States for

1 violations of this Consent Decree as specified below, unless excused under Section VIII (Force  
2 Majeure). A violation includes failing to perform any obligation required by the terms of this  
3 Decree, including any work plan or schedule approved under this Decree, according to all  
4 applicable requirements of this Decree and within the specified time schedules established by or  
5 approved under this Decree.  
6

7 41. Late Payment of Civil Penalty: If Defendant fails to pay the civil penalty required  
8 to be paid under Section IV (Civil Penalty) when due, Defendant shall pay a stipulated penalty of  
9 \$250 for 1st through 7th day; \$500 for 8th through 14 day; and \$800 for each day thereafter per  
10 Day for each Day that the payment is late.  
11

12 42. Stipulated Penalty Amounts: The following stipulated penalties shall accrue per  
13 violation per Day for each violation of a requirement of Section V (Injunctive Relief) or Section  
14 VI (Reporting Requirements):

<u>Penalty Per Violation Per Day</u>	<u>Period of Noncompliance</u>
\$300 .....	1st through 14th Day
\$550 .....	15th through 30th Day
\$850 .....	31st Day and beyond

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19 43. Stipulated penalties under this Section shall begin to accrue on the Day after  
20 performance is due or on the Day a violation occurs, whichever is applicable, and shall continue  
21 to accrue until performance is satisfactorily completed or until the violation ceases. Stipulated  
22 penalties shall accrue simultaneously for separate violations of this Consent Decree.  
23

24 44. Defendant shall pay any stipulated penalty within thirty (30) Days of receiving the  
25 United States' written demand.

26 45. The United States may in the unreviewable exercise of its discretion, reduce or  
27 waive stipulated penalties otherwise due it under this Consent Decree.  
28

1           46. Stipulated penalties shall continue to accrue as provided in Paragraph 43, during  
2 any Dispute Resolution, but need not be paid until the following:

3           a. If the dispute is resolved by agreement of the Parties or by a decision of  
4 EPA that is not appealed to the Court, Defendant shall pay accrued  
5 penalties determined to be owing, together with interest, to the United  
6 States within thirty (30) Days of the effective date of the agreement or the  
7 receipt of EPA's decision or order.  
8

9           b. If the dispute is appealed to the Court and the United States prevails in  
10 whole or in part, Defendant shall pay all accrued penalties determined by  
11 the Court to be owing, together with interest, within sixty (60) Days of  
12 receiving the Court's decision or order, except as provided in  
13 subparagraph c, below.  
14

15           c. If any Party appeals the District Court's decision, Defendant shall pay all  
16 accrued penalties determined to be owing, together with interest, within  
17 fifteen (15) Days of receiving the final appellate court decision.  
18

19           47. Defendant shall pay stipulated penalties owing to the United States in the manner  
20 set forth below:

21           a. Defendant shall pay the stipulated penalty due to the United States by  
22 certified or cashier's check in the amount due, payable to the "U.S.  
23 Department of Justice," referencing the civil action number of this case,  
24 and the DOJ Case No. 90-5-1-1-12322, and delivered to the Financial  
25 Litigation Unit of the Office of the United States Attorney for the Eastern  
26 District of California: Attn. Financial Litigation Unit, 501 I Street, Suite  
27  
28

1 10-100, Sacramento, CA 95814. The payments shall be made in  
2 accordance with instructions provided to Defendant by the Financial  
3 Litigation Unit of the Office of the United States Attorneys for the Eastern  
4 District of California. Concurrently with payment, Defendant shall provide  
5 a copy of the check and a transmittal letter to those persons identified in  
6 Section XIII (Notices). That transmittal letter shall state that the payment  
7 is for stipulated penalties owed pursuant to the Consent Decree in *United*  
8 *States v. Grindstone Indian Rancheria of Wintun-Wailaki Indians of*  
9 *California*, and shall reference the civil action number, and the DOJ Case  
10 No. 90-5-1-1-12322.  
11

12  
13 48. If Defendant fails to pay stipulated penalties according to the terms of this  
14 Consent Decree, Defendant shall be liable for interest on such penalties, as provided for in  
15 28 U.S.C. § 1961, accruing as of the date payment became due. Nothing in this Paragraph shall  
16 be construed to limit the United States from seeking any remedy otherwise provided by law for  
17 Defendant's failure to pay any stipulated penalties.  
18

19 49. The payment of penalties and interest, if any, shall not alter in any way  
20 Defendant's obligation to complete the performance of the requirements of this Consent Decree.  
21

22 50. Non-Exclusivity of Remedy: Stipulated penalties are not the United States'  
23 exclusive remedy for violations of this Consent Decree. Subject to the provisions of Section XI  
24 (Effect of Settlement/Reservation of Rights), the United States expressly reserves the right to  
25 seek any other relief it deems appropriate for Defendant's violation of this Decree or applicable  
26 law, including but not limited to an action against Defendant for statutory penalties, additional  
27 injunctive relief, mitigation or offset measures, and/or contempt. However, the amount of any  
28

1 statutory penalty assessed for a violation of this Consent Decree shall be reduced by an amount  
2 equal to the amount of any stipulated penalty assessed and paid pursuant to this Consent Decree.

3  
4 **VIII. FORCE MAJEURE**

5 51. "Force Majeure," for purposes of this Consent Decree, is defined as any event  
6 arising from causes beyond the control of Defendant, of any entity controlled by Defendant, or of  
7 Defendant's contractors, that delays or prevents the performance of any obligation under this  
8 Consent Decree despite Defendant's best efforts to fulfill the obligation. The requirement that  
9 Defendant exercise "best efforts to fulfill the obligation" includes using best efforts to anticipate  
10 any potential Force Majeure event and best efforts to address the effects of any potential force  
11 majeure event (a) as it is occurring and (b) following the potential Force Majeure, such that the  
12 delay and any adverse effects of the delay are minimized. "Force Majeure" does not include  
13 Defendant's financial inability to perform any obligation under this Consent Decree.  
14

15 52. If any event occurs or has occurred that may delay the performance of any  
16 obligation under this Consent Decree, whether or not caused by a Force Majeure event,  
17 Defendant shall provide notice by telephone or by email to EPA within 72-hours of when  
18 Defendant first knew that the event might cause a delay. Within seven (7) Days thereafter,  
19 Defendant shall provide in writing to EPA an explanation and description of the reasons for the  
20 delay; the anticipated duration of the delay; all actions taken or to be taken to prevent or  
21 minimize the delay; a schedule for implementation of any measures to be taken to prevent or  
22 mitigate the delay or the effect of the delay; Defendant's rationale for attributing such delay to a  
23 Force Majeure event if it intends to assert such a claim; and a statement as to whether, in the  
24 opinion of Defendant, such event may cause or contribute to an endangerment to public health,  
25 welfare or the environment. Defendant shall include with any notice all available documentation  
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1 supporting the claim that the delay was attributable to a Force Majeure. Failure to comply with  
2 the above requirements shall preclude Defendant from asserting any claim of Force Majeure for  
3 that event for the period of time of such failure to comply, and for any additional delay caused by  
4 such failure. Defendant shall be deemed to know of any circumstance of which Defendant, any  
5 entity controlled by Defendant, or Defendant's contractors knew or should have known.  
6

7 53. If EPA agrees that the delay or anticipated delay is attributable to a Force Majeure  
8 event, the time for performance of the obligations under this Consent Decree that are affected by  
9 the Force Majeure event will be extended by EPA for such time as is necessary to complete those  
10 obligations. An extension of the time for performance of the obligations affected by the Force  
11 Majeure event shall not, of itself, extend the time for performance of any other obligation. EPA  
12 will notify Defendant in writing of the length of the extension, if any, for performance of the  
13 obligations affected by the Force Majeure event.  
14

15 54. If EPA does not agree that the delay or anticipated delay has been or will be  
16 caused by a Force Majeure event, EPA will notify Defendant in writing of its decision.  
17

18 55. If Defendant elects to invoke the dispute resolution procedures set forth in  
19 Section IX (Dispute Resolution), it shall do so no later than fifteen (15) Days after receipt of  
20 EPA's notice. In any such proceeding, Defendant shall have the burden of demonstrating by a  
21 preponderance of the evidence that the delay or anticipated delay has been or will be caused by a  
22 Force Majeure event, that the duration of the delay or the extension sought was or will be  
23 warranted under the circumstances, that best efforts were exercised to avoid and mitigate the  
24 effects of the delay, and that Defendant complied with the requirements of Paragraphs 51 and 52.  
25 If Defendant carries this burden, the delay at issue shall be deemed not to be a violation by  
26 Defendant of the affected obligation of this Consent Decree identified to EPA and the Court.  
27  
28

1 **IX. DISPUTE RESOLUTION**

2 56. Unless otherwise expressly provided for in this Consent Decree, the dispute  
3 resolution procedures of this Section shall be the exclusive mechanism to resolve disputes arising  
4 under or with respect to this Consent Decree. Defendant's failure to seek resolution of a dispute  
5 under this Section shall preclude Defendant from raising any such issue as a defense to an action  
6 by the United States to enforce any obligation of Defendant arising under this Decree.  
7

8 57. Informal Dispute Resolution. Any dispute subject to Dispute Resolution under  
9 this Consent Decree shall first be the subject of informal negotiations. The dispute shall be  
10 considered to have arisen when Defendant sends DOJ and EPA a written Notice of Dispute. Such  
11 Notice of Dispute shall state clearly the matter in dispute. The period of informal negotiations  
12 shall not exceed twenty (20) Days from the date the dispute arises unless that period is modified  
13 by written agreement. If the Parties cannot resolve a dispute by informal negotiations, then the  
14 position advanced by the United States shall be considered binding unless, within ten (10) Days  
15 after the conclusion of the informal negotiation period, Defendant invokes formal dispute  
16 resolution procedures as set forth below.  
17

18 58. Formal Dispute Resolution: Defendant shall invoke formal dispute resolution  
19 procedures, within the time period provided in the preceding Paragraph, by sending DOJ and  
20 EPA a written Statement of Position regarding the matter in dispute. The Statement of Position  
21 shall include, but need not be limited to, any factual data, analysis, or opinion supporting  
22 Defendant's position and any supporting documentation relied upon by Defendant.  
23

24 59. The United States will send Defendant its Statement of Position within forty-five  
25 (45) Days of receipt of Defendant's Statement of Position. The United States' Statement of  
26 Position shall include, but need not be limited to, any factual data, analysis, or opinion  
27  
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1 supporting that position and any supporting documentation relied upon by the United States. The  
2 United States' Statement of Position is binding on Defendant unless Defendant files a motion for  
3 judicial review of the dispute in accordance with the following Paragraph.

4  
5 60. Judicial Dispute Resolution: Defendant may seek judicial review of the dispute by  
6 filing with the Court and serving on the United States a motion requesting judicial resolution of  
7 the dispute. The motion must be filed within ten (10) Days of receipt of the United States'  
8 Statement of Position pursuant to the preceding Paragraph. The motion shall contain a written  
9 statement of Defendant's position on the matter in dispute, including any supporting factual data,  
10 analysis, opinion, or documentation, and shall set forth the relief requested and any schedule  
11 within which the dispute must be resolved for orderly implementation of the Consent Decree.  
12 The motion may not raise any issue not raised in informal dispute resolution pursuant to  
13 Paragraph 57, unless the United States raises a new issue or law or fact in its Statement of  
14 Position.  
15

16  
17 61. The United States shall respond to Defendant's motion within the time period  
18 allowed by the Local Rules of this Court. Defendant may file a reply memorandum, to the extent  
19 permitted by the Local Rules.

20 62. Standard of Review

- 21  
22 a. Disputes Concerning Matters Accorded Record Review: Except as  
23 otherwise provided in this Consent Decree, in any dispute brought under  
24 Paragraph 58 pertaining to the adequacy or appropriateness of plans,  
25 procedures to implement plans, schedules or any other items requiring  
26 approval by EPA under this Consent Decree; the adequacy of the  
27 performance of work undertaken pursuant to this Consent Decree; and all  
28

1 other disputes that are accorded review on the administrative record under  
2 applicable principles of administrative law, Defendant shall have the  
3 burden of demonstrating, based on the administrative record, that the  
4 position of the United States is arbitrary and capricious or otherwise not in  
5 accordance with law.  
6

- 7 b. Other Disputes: Except as otherwise provided in this Consent Decree, in  
8 any other dispute brought under Paragraph 58, Defendant shall bear the  
9 burden of demonstrating that its position complies with this Consent  
10 Decree and better furthers the objectives of the Consent Decree.  
11

12 63. The invocation of dispute resolution procedures under this Section shall not, by  
13 itself, extend, postpone, or affect in any way any obligation of Defendant under this Consent  
14 Decree, unless and until final resolution of the dispute so provides. Stipulated penalties with  
15 respect to the disputed matter shall continue to accrue from the first Day of noncompliance, but  
16 payment shall be stayed pending resolution of the dispute as provided in Paragraph 46. If  
17 Defendant does not prevail on the disputed issue, stipulated penalties shall be assessed and paid  
18 as provided in Section VII (Stipulated Penalties).  
19

20 **X. INFORMATION COLLECTION AND RETENTION**

21 64. The United States and its representatives, including attorneys, contractors, and  
22 consultants, shall have the right of entry to the System or any facility covered by this Consent  
23 Decree, at all reasonable times, upon presentation of credentials, to:  
24

- 25 a. monitor the progress of activities required under this Consent Decree;  
26 b. verify any data or information submitted to the United States in  
27 accordance with the terms of this Consent Decree;  
28

- 1 c. obtain samples and, upon request, splits of any samples taken by
- 2 Defendant or its representatives, contractors, or consultants;
- 3 d. obtain documentary evidence, including photographs and similar data; and
- 4
- 5 e. assess Defendant's compliance with this Consent Decree.

6 65. Until five years after the termination of this Consent Decree, Defendant shall  
7 retain, and shall instruct its contractors and agents to preserve, all non-identical copies of all  
8 documents, records, or other information (including documents, records, or other information in  
9 electronic form) in its or its contractors' or agents' possession or control, or that come into its or  
10 its contractors' or agents' possession or control, and that relate in any manner to Defendant's  
11 performance of its obligations under this Consent Decree. This information-retention  
12 requirement shall apply regardless of any contrary corporate or institutional policies or  
13 procedures. At any time during this information-retention period, upon request by the United  
14 States, Defendant shall provide copies of any documents, records, or other information required  
15 to be maintained under this Paragraph.  
16  
17

18 66. At the conclusion of the information-retention period provided in the preceding  
19 Paragraph, Defendant shall notify the United States at least ninety (90) Days prior to the  
20 destruction of any documents, records, or other information subject to the requirements of the  
21 preceding Paragraph and, upon request by the United States, Defendant shall deliver any such  
22 documents, records, or other information to EPA. Defendant may assert that certain documents,  
23 records, or other information is privileged under the attorney-client privilege, or any other  
24 privilege recognized by federal law. If Defendant asserts such a privilege, it shall provide the  
25 following: (a) the title of the document, record, or information; (b) the date of the document,  
26 record, or information; (c) the name and title of each author of the document, record, or  
27  
28

1 information; (d) the name and title of each addressee and recipient; (e) a description of the  
2 subject of the document, record, or information; and (f) the privilege asserted by Defendant.  
3 However, no documents, records, or other information created or generated pursuant to the  
4 requirements of this Consent Decree shall be withheld on grounds of privilege.  
5

6 67. Defendant may also assert that information required to be provided under this  
7 Section is protected as Confidential Business Information (“CBI”) under 40 C.F.R. Part 2. As to  
8 any information that Defendant seeks to protect as CBI, Defendant shall follow the procedures  
9 set forth in 40 C.F.R. Part 2.  
10

11 68. This Consent Decree in no way limits or affects any right of entry and inspection,  
12 or any right to obtain information, held by the United States pursuant to applicable federal laws,  
13 regulations, or permits, nor does it limit or affect any duty or obligation of Defendant to maintain  
14 documents, records, or other information imposed by applicable federal or tribal laws,  
15 regulations, or permits.  
16

17 **XI. EFFECT OF SETTLEMENT/RESERVATION OF RIGHTS**

18 69. This Consent Decree resolves the civil claims of the United States for the  
19 violations alleged in the Complaint filed in this action through the date of lodging.  
20

21 70. The United States reserves all legal and equitable remedies available to enforce  
22 the provisions of this Consent Decree. This Consent Decree shall not be construed to limit the  
23 rights of the United States to obtain penalties or injunctive relief under the SDWA or its  
24 implementing regulations, or under other federal laws, regulations, or permit conditions, except  
25 as expressly specified in Paragraph 68. The United States further reserves all legal and equitable  
26 remedies to address any imminent and substantial endangerment to the public health or welfare  
27 or the environment arising at, or posed by, Defendant’s System, whether related to the violations  
28

1 addressed in this Consent Decree or otherwise.

2 71. In any subsequent administrative or judicial proceeding initiated by the United  
3 States for injunctive relief, civil penalties, other appropriate relief relating to the System or  
4 Defendant's violations, Defendant shall not assert, and may not maintain, any defense or claim  
5 based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim  
6 preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by  
7 the United States in the subsequent proceeding were or should have been brought in the instant  
8 case, except with respect to claims that have been specifically resolved pursuant to Paragraph 69.  
9

10 72. This Consent Decree is not a permit, or a modification of any permit, under any  
11 federal, tribal, state, or local laws or regulations. Defendant is responsible for achieving and  
12 maintaining complete compliance with all applicable federal, tribal, state, and local laws,  
13 regulations, and permits; and Defendant's compliance with this Consent Decree shall be no  
14 defense to any action commenced pursuant to any such laws, regulations, or permits, except as  
15 set forth herein. The United States does not, by its consent to the entry of this Consent Decree,  
16 warrant or aver in any manner that Defendant's compliance with any aspect of this Consent  
17 Decree will result in compliance with provisions of the SDWA, 42 U.S.C. § 300f, *et seq.*, or with  
18 any other provisions of federal, tribal, state, or local laws, regulations, or permits.  
19  
20

21 73. This Consent Decree does not limit or affect the rights of Defendant or of the  
22 United States against any third parties, not party to this Consent Decree, nor does it limit the  
23 rights of third parties, not party to this Consent Decree, against Defendant, except as otherwise  
24 provided by law.  
25

26 74. This Consent Decree shall not be construed to create rights in, or grant any cause  
27 of action to, any third party not party to this Consent Decree.  
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**XII. COSTS**

75. The Parties shall bear their own costs of this action, including attorneys' fees, except that the United States shall be entitled to collect the costs (including attorneys' fees) incurred in any action necessary to collect any portion of the civil penalty or any stipulated penalties due but not paid by Defendant.

**XIII. NOTICES**

76. Unless otherwise specified in this Decree, whenever notifications, submissions, or communications are required by this Consent Decree, they shall be made in writing and sent by mail or email, with a preference for email), addressed as follows:

As to DOJ by email (preferred): eescdcopy.enrd@usdoj.gov  
Re: DJ # 90-5-1-1-12322

As to DOJ by mail: EES Case Management Unit  
Environment and Natural Resources Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
Re: DJ # 90-5-1-1-12322

As to EPA: Christopher Chen  
Drinking Water Section, EPA Region 9  
Enforcement and Compliance Assurance Division  
600 Wilshire Blvd, Suite 940 (ENF-3-3)  
Los Angeles, CA 90017  
Phone: (213) 244-1853  
chen.christopher@epa.gov

Rich Campbell  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. EPA Region 9

1 75 Hawthorne Street (ORC-2)  
2 San Francisco, CA 94105  
3 (415) 972-3870  
4 campbell.rich@epa.gov

5 As to Defendant:

6 Jack Duran  
7 Duran Law Office, P.C.  
8 4010 Foothills Blvd, S-103, #98  
9 Roseville, CA 95747  
10 (916) 779-3316  
11 duranlaw@yahoo.com

12 77. Any Party may, by written notice to the other Parties, change its designated notice  
13 recipient or notice address provided above.

14 78. Notices submitted under this Section shall be deemed submitted upon mailing or  
15 transmission by email, unless otherwise provided in this Consent Decree or by mutual agreement  
16 of the Parties in writing.

17 **XIV. EFFECTIVE DATE**

18 79. The Effective Date of this Consent Decree shall be the date upon which this  
19 Consent Decree is entered by the Court or a motion to enter the Consent Decree is granted,  
20 whichever occurs first, as recorded on the Court's docket.

21 **XV. RETENTION OF JURISDICTION**

22 80. The Court shall retain jurisdiction over this case until termination of this Consent  
23 Decree, for the purpose of resolving disputes arising under this Decree or entering orders  
24 modifying this Decree, under Sections IX (Dispute Resolution) and XVI (Modification), or  
25 effectuating or enforcing compliance with the terms of this Decree.

26 **XVI. MODIFICATION**

27 81. The terms of this Consent Decree, including any attached appendices, may be  
28

1 modified only by a subsequent written agreement signed by all the Parties. Where the  
2 modification constitutes a material change to this Decree, it shall be effective only upon approval  
3 by the Court.

4  
5 82. Any disputes concerning modification of this Decree shall be resolved under  
6 Section IX (Dispute Resolution), provided, however, that, instead of the burden of proof  
7 provided by Paragraph 62, the Party seeking the modification bears the burden of demonstrating  
8 that it is entitled to the requested modification in accordance with Federal Rule of Civil  
9 Procedure 60(b).

#### 10 **XVII. TERMINATION**

11  
12 83. After Defendant has completed the requirements of Section IV (Civil Penalty) and  
13 Section V (Injunctive Relief), has thereafter maintained continuous satisfactory compliance with  
14 this Consent Decree for a period of 60 months, and has paid any accrued stipulated penalties as  
15 required by this Consent Decree, Defendant may serve upon the United States a Request for  
16 Termination, stating that Defendant has satisfied those requirements, together with all necessary  
17 supporting documentation.

18  
19 84. Following receipt by the United States of Defendant's Request for Termination,  
20 the Parties shall confer informally concerning the Request and any disagreement that the Parties  
21 may have as to whether Defendant has satisfactorily complied with the requirements for  
22 termination of this Consent Decree. If the United States agrees that the Decree may be  
23 terminated, the Parties shall submit, for the Court's approval, a joint stipulation terminating the  
24 Decree.

25  
26 85. If the United States does not agree that the Decree may be terminated, Defendant  
27 may invoke Dispute Resolution under Section IX. However, Defendant shall not seek Dispute  
28



1 Resolution of any dispute regarding termination until ten (10) Days after service of its Request  
2 for Termination.

3  
4 **XVIII. PUBLIC PARTICIPATION**

5 86. This Consent Decree shall be lodged with the Court for a period of not less than  
6 thirty (30) Days for public notice and comment in accordance with 28 C.F.R. § 50.7. The United  
7 States reserves the right to withdraw or withhold its consent if the comments regarding the  
8 Consent Decree disclose facts or considerations indicating that the Consent Decree is  
9 inappropriate, improper, or inadequate. Defendant consents to entry of this Consent Decree  
10 without further notice and agrees not to withdraw from or oppose entry of this Consent Decree  
11 by the Court or to challenge any provision of the Decree, unless the United States has notified  
12 Defendant in writing that it no longer supports entry of the Decree.  
13

14 **XIX. SIGNATORIES/SERVICE**

15 87 Each undersigned representative of Defendant and the Assistant Attorney General  
16 for the Environment and Natural Resources Division of the Department of Justice certifies that  
17 he or she is fully authorized to enter into the terms and conditions of this Consent Decree and to  
18 execute and legally bind the Party he or she represents to this document.  
19

20 88. This Consent Decree may be signed in counterparts, and its validity shall not be  
21 challenged on that basis. Defendant agrees to accept service of process by electronic mail with  
22 respect to all matters arising under or relating to this Consent Decree and to waive the formal  
23 service requirements set forth in Rules 4 and 5 of the Federal Rules of Civil Procedure and any  
24 applicable Local Rules of this Court including, but not limited to, service of a summons.  
25 Defendant need not file an answer to the Complaint in this action unless or until the Court  
26 expressly declines to enter this Consent Decree.  
27  
28

1 **XX. INTEGRATION**

2 89. This Consent Decree, including deliverables that are subsequently approved under  
3 this Decree, constitutes the entire agreement among the Parties regarding the subject matter of  
4 the Decree and supersedes all prior representations, agreements, and understandings, whether  
5 oral or written, concerning the subject matter of the subject matter of the Decree herein.  
6

7 **XXI. FINAL JUDGMENT**

8 90. Upon approval and entry of this Consent Decree by the Court, this Consent  
9 Decree shall constitute a final judgment of the Court as to the United States and Defendant. The  
10 Court finds that there is no just reason for delay and therefore enters this judgment as a final  
11 judgment under Federal Rules of Civil Procedure 54 and 58.  
12

13 **XXII. HEADINGS**

14 91. Headings to the Sections and sub-Sections of this Consent Decree are provided  
15 for convenience and do not affect the meaning or interpretation of the provisions of this Consent  
16 Decree.  
17

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19  
20 Dated and entered this \_\_\_\_ day of \_\_\_\_\_, 2023

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23 UNITED STATES DISTRICT JUDGE  
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FOR THE UNITED STATES OF AMERICA:

TODD KIM  
Assistant Attorney General  
Environment and Natural Resources Division  
U.S. Department of Justice

ELLEN M. MAHAN  
Deputy Section Chief  
Environmental Enforcement Section  
Environment and Natural Resources Division  
United States Department of Justice

4/3/24  
Date



ELISE FELDMAN  
Senior Counsel  
Environmental Enforcement Section  
Environment and Natural Resources Division  
U.S. Department of Justice  
450 Golden Gate Ave., Suite 07-6714  
San Francisco, California 94102  
Telephone: (415) 744-6470  
Email: Elise.Feldman@usdoj.gov

FOR THE U.S. ENVIRONMENTAL PROTECTION  
AGENCY, OFFICE OF ENFORCEMENT AND  
COMPLIANCE ASSURANCE:

**JOSEPH  
THEIS**

Digitally signed by  
JOSEPH THEIS  
Date: 2024.03.01  
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JOSEPH G. THEIS  
Acting Director  
Water Enforcement Division  
Office of Civil Enforcement  
Office of Enforcement and Compliance Assurance  
U.S. Environmental Protection Agency

OF COUNSEL:

**NATALIA  
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Date: 2024.02.22  
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FOR THE U.S. ENVIRONMENTAL PROTECTION  
AGENCY, REGION 9:

**Quast, Sylvia** Digitally signed by Quast, Sylvia  
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1 FOR [DEFENDANT]:

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11/27/23

Date

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RONALD H. KIRK  
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