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24 UNITED STATES DISTRICT COURT  
 25 CENTRAL DISTRICT OF CALIFORNIA  
 26 WESTERN DIVISION

27 UNITED STATES OF AMERICA, and the ) Case No. CV 99-00552  
 28 STATE OF CALIFORNIA, on behalf of the )  
 California Department of Toxic Substances ) SECOND JOINT STIPULATION  
 Control, ) TO MODIFY CONSENT DECREE  
 )  
 Plaintiffs, )  
 )  
 v. )  
 )  
 )

1 ITT LLC as successor in interest to ITT )  
INDUSTRIES, INC; )  
2 LOCKHEED MARTIN CORPORATION; )  
A.G. Layne, Inc.; )  
3 Access Controls, Inc. of California; )  
4 Admiral Controls, Inc.; Aerogroup. Corp.; )  
Anthony Zambas; )  
5 Joseph F. Bangs, d/b/a Bangs )  
Manufacturing Co.; )  
6 Buckeye Steel Castings Company; )  
7 Max Cohen; Coltec Industries, Inc.; )  
Commercial Inspection Service, Inc.; )  
8 Cosmic Investments, Inc.; )  
Credit Managers Association of California; )  
9 Serge Dadone; Datron, Inc.; )  
10 Excello Plating Co., Inc.; )  
Foto-Kem Industries, Inc.; )  
11 GCG Corporation; Grant Management, Inc.; )  
Grant Products, Inc.; Grant Products, LLC; )  
12 Grant Products, LP; Glen Harleman; )  
Haskel International, LLC as successor in )  
13 interest to Haskel International, Inc.; David )  
Higgins; )  
14 International Electronic Research )  
15 Corporation; Elder Kree Kofford; )  
Lawrence Engineering & Supply, Inc.; )  
16 Lester C. Lawrence; Daniel Lee; )  
17 Michael Lee; Ronald S. Lee; )  
Ronald S. Lee, as Executor of the Lee )  
18 Living Trust; )  
Theodore M. Lee; )  
19 Theodore M. Lee, as Executor of the Estate )  
of Marlene Ann Lee; )  
20 Theodore R. Lee, Jr.; )  
21 Charles Carter Litchfield; )  
Lockheed Martin Librascope Corporation; )  
22 MAG Investments, Ltd.; )  
Pacific Bell Telephone Company; )  
23 Melvin S. Pechter; )  
24 Peterson Baby Products Co.; )  
Margaret R. Peterson, as Executrix of the )  
25 Estate of Arnold E. Peterson; )  
Margaret R. Peterson, as Trustee of the )  
26 Peterson Family Trust; )  
27 Philips North America LLC as successor in )  
interest to Philips Electronics North )  
28 America Corporation; )

1 PRC-DeSoto International as successor in )  
 interest to Courtaulds Aerospace, Inc.; )  
 2 The Prudential Insurance Company of )  
 America; )  
 3 Ralphs Grocery Company; )  
 4 Ranchito Allegra LLC; )  
 S.A.I. Industries; )  
 5 Sunland Chemical & Research Corporation; )  
 Richard Toshima; )  
 6 Union Pacific Railroad Company; )  
 7 Eaton Hydraulics LLC as successor in )  
 interest to Vickers, Incorporated; )  
 8 Volkswagen of America, Inc.; )  
 Edward L. Wallen; )  
 9 Walt Disney Pictures and Television; )  
 10 Disney Enterprises Inc. as successor in )  
 interest to Walt Disney World Co.; )  
 11 Whittaker Corporation; )  
 W&W Manufacturing Co., Inc.; and )  
 12 ZERO Corporation, )  
 )  
 13 Defendants. )  
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1 WHEREAS:

2 In 2000, the Court entered a Consent Decree in this case (Dkt. #13)  
3 addressing the civil claims of Plaintiffs United States and the State of California  
4 Department of Toxic Substances Control (“DTSC”) (collectively “Plaintiffs”)  
5 against Defendants ITT LLC as successor in interest to ITT Industries, Inc.;  
6 Lockheed Martin Corporation; A.G. Layne, Inc.; Access Controls, Inc. of  
7 California; Admiral Controls, Inc.; Aerogquip. Corp.; Anthony Zambas; Joseph F.  
8 Bangs, d/b/a Bangs Manufacturing Co.; Buckeye Steel Castings Company; Max  
9 Cohen; Coltec Industries, Inc.; Commercial Inspection Service, Inc.; Cosmic  
10 Investments, Inc.; Credit Managers Association of California; Serge Dadone;  
11 Datron, Inc.; Excello Plating Co., Inc.; Foto-Kem Industries, Inc.; GCG  
12 Corporation; Grant Management, Inc.; Grant Products, Inc.; Grant Products, LLC;  
13 Grant Products, LP; Glen Harleman; Haskel International, LLC as successor in  
14 interest to Haskel International, Inc.; David Higgins; International Electronic  
15 Research Corporation; Elder Kree Kofford; Lawrence Engineering & Supply, Inc.;  
16 Lester C. Lawrence; Daniel Lee; Michael Lee; Ronald S. Lee; Ronald S. Lee, as  
17 Executor of the Lee Living Trust; Theodore M. Lee; Theodore M. Lee, as Executor  
18 of the Estate of Marlene Ann Lee; Theodore R. Lee, Jr.; Charles Carter Litchfield;  
19 Lockheed Martin Librascope Corporation; MAG Investments, Ltd.; Pacific Bell  
20 Telephone Company; Melvin S. Pechter; Peterson Baby Products Co.; Margaret R.  
21 Peterson, as Executrix of the Estate of Arnold E. Peterson; Margaret R. Peterson, as  
22 Trustee of the Peterson Family Trust; Philips North America LLC as successor in  
23 interest to Philips Electronics North America Corporation; PRC-DeSoto  
24 International as successor in interest to Courtaulds Aerospace, Inc.; The Prudential  
25 Insurance Company of America; Ralphs Grocery Company; Ranchito Allegra LLC;  
26 S.A.I. Industries; Sunland Chemical & Research Corporation; Richard Toshima;  
27 Union Pacific Railroad Company; Eaton Hydraulics LLC as successor in interest to  
28 Vickers, Incorporated; Volkswagen of America, Inc.; Edward L. Wallen; Walt

1 Disney Pictures and Television; Disney Enterprises Inc. as successor in interest to  
2 Walt Disney World Co.; Whittaker Corporation; W&W Manufacturing Co., Inc.;  
3 and ZERO Corporation (collectively, “Settling Defendants”) as alleged in the  
4 Complaint (Dkt. #10)<sup>1</sup>;

5  
6 WHEREAS:

7 The objectives of the Consent Decree are to “protect public health or welfare  
8 or the environment at the Site by the implementation of response actions at the Site,  
9 to reimburse response costs of the Plaintiffs, and to resolve the claims of Plaintiffs  
10 against Settling Defendants as provided in [the] Consent Decree.” Consent Decree  
11 Section V.5;

12  
13 WHEREAS:

14 Important steps in achieving protection of public health or welfare or the  
15 environment at the Site required a subset of the Settling Defendants known as the  
16 Settling Work Defendants,<sup>2</sup> in coordination with the City of Glendale<sup>3</sup> (“City”), to  
17 implement the interim remedies set forth by the United States Environmental  
18 Protection Agency (“EPA”) in the Glendale North and South Operable Units

19  
20 <sup>1</sup> All terms not specifically defined in this Second Joint Stipulation to Modify  
21 Consent Decree (“Second Joint Stipulation” or “this Stipulation”) shall have the  
22 meaning given to them in the Consent Decree.

23 <sup>2</sup> The term “Settling Work Defendants” is defined in Section IV of the  
24 Consent Decree, and Appendix F of the Decree identifies these defendants. Solely  
25 for the purposes of this Second Joint Stipulation, the term “Settling Work  
26 Defendants” shall not include (1) Zero Corporation and (2) Credit Managers  
27 Association of California (which filed a voluntary petition for relief under Chapter  
28 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for  
the District of Nevada on October 31, 2018, and against whom all rights and  
remedies are reserved).

<sup>3</sup> Pursuant to Section III, Paragraph 2 (page 8) of the Consent Decree, the City  
of Glendale is named and bound by the Consent Decree as one of the “Parties  
Bound,” and not as a “Settling Work Defendant,” as that term is defined in Section  
IV (page 15).

1 Records of Decision (“Glendale RODs”), and to achieve the Performance Standards  
2 contained therein. Consent Decree Section VI.11;

3  
4 WHEREAS:

5 The Settling Work Defendants and their successors, where applicable, have  
6 been and are performing the Work under the Consent Decree to implement the  
7 Glendale RODs;

8  
9 WHEREAS:

10 The Parties to this Second Joint Stipulation (hereinafter “Parties” or “Party”)  
11 are the Plaintiffs, the City, and the Settling Work Defendants;

12  
13 WHEREAS:

14 This Stipulation, if entered by the Court, would effect material modifications  
15 to the Consent Decree and to the Consent Decree’s Statement of Work;

16  
17 WHEREAS:

18 This Stipulation, if entered by the Court, does not affect DTSC’s reservation  
19 of rights under the Consent Decree;

20  
21 WHEREAS:

22 Material modifications to the Consent Decree require the Court’s approval;  
23 and

24  
25 WHEREAS:

26 The Parties represent that the modifications of the Consent Decree described  
27 in this Second Joint Stipulation have been negotiated by the Parties in good faith.

28

1 The Parties believe that these modifications of the Consent Decree are fair,  
2 reasonable, and in the public interest;

3  
4 NOW, THEREFORE, the Parties enter into this Second Joint Stipulation to  
5 Modify Consent Decree:

6  
7 **CONTINUATION OF WORK**

8 WHEREAS:

9 The Settling Work Defendants have agreed to perform the Work described in  
10 a Selected Interim Remedy Enhancement (“Remedy Enhancement Work”)  
11 Statement of Work, which Work has been substantially completed, and in a Vapor  
12 Intrusion Investigation (“VI Investigation Work”) Statement of Work, including a  
13 Vapor Intrusion Response Plan, all as material modifications to the Statement of  
14 Work under the Consent Decree. Among other things, the Remedy Enhancement  
15 Work is designed to evaluate and enhance the existing selected interim remedy and  
16 the VI Investigation Work is designed to investigate and plan for a potential  
17 response to a possible new human exposure pathway from volatile organic  
18 compounds in the regional groundwater contamination plume;

19  
20 WHEREAS:

21 The Settling Work Defendants and the City approve of such modifications to  
22 the Statement of Work, and DTSC has had a reasonable opportunity to review and  
23 comment on the proposed modifications. *See* Consent Decree, Section XXXI.106;

24  
25 WHEREAS:

26 Section XIV, Paragraph 51 of the Consent Decree states, “Within 90 (ninety)  
27 days after Settling Work Defendants conclude that all phases of the Work (including  
28 O&M) have been fully performed, which is anticipated to occur approximately

1 twelve (12) years after the System Operation Date, Settling Work Defendants and  
2 the City shall schedule and conduct a pre-certification inspection to be attended by  
3 Settling Work Defendants, EPA, the City and DTSC”;

4  
5 WHEREAS:

6 Section XIV, Paragraph 51 of the Consent Decree provides that if the Settling  
7 Work Defendants and the City believe that the Work has been fully performed as  
8 required by the Consent Decree, the Settling Work Defendants and the City may  
9 request from EPA a Certificate of Completion of the Work; and

10

11 WHEREAS:

12 In 2013, the Court approved and entered a joint stipulation regarding the  
13 Consent Decree (Dkt. #15-1, hereinafter “First Joint Stipulation”) by the Parties in  
14 which the Settling Work Defendants and the City agreed to continue to perform  
15 their respective Work required under the Consent Decree, the Settling Work  
16 Defendants agreed to perform certain limited additional Work resulting from  
17 modifications of the Consent Decree’s Statement of Work, and the Settling Work  
18 Defendants agreed not to request a Certificate of Completion regarding the Work  
19 before November 30, 2018, among other things (Dkt. #20);

20

21 NOW, THEREFORE, the Parties stipulate as follows:

22

23 Notwithstanding any other provision of the Consent Decree, the Parties agree  
24 that the Settling Work Defendants will not request a Certificate of Completion  
25 regarding the Work before November 30, 2024 and that the Settling Work  
26 Defendants and the City shall continue to perform their respective Work required to  
27 be performed under the Consent Decree and all other requirements of the Consent  
28 Decree, including the Performance Standards, Remedy Enhancement Work, VI



1 Investigation Work, and any implementation of Work resulting therefrom, now and  
2 into the future until at least November 30, 2024, when additional Site information  
3 will be available to the Parties, subject in all instances to the terms and conditions  
4 set forth in the Consent Decree, and without waiving any rights, defenses and/or  
5 remedies that the Plaintiffs, the City, or the Settling Work Defendants have under  
6 the Consent Decree.

7

8 **PAYMENT OF STIPULATED BASIN-WIDE FUTURE REPOSE COSTS**

9 WHEREAS:

10 Section XVI, Paragraph 55 a. of the Consent Decree requires the Settling  
11 Work Defendants to reimburse EPA for “Future Response Costs,” which is defined  
12 in Section IV of the Consent Decree to exclude “Basin-Wide Future Response  
13 Costs”;

14

15 WHEREAS:

16 “Basin-Wide Future Response Costs” is defined in Section IV of the Consent  
17 Decree as “Basin-Wide Response Costs incurred and/or paid by EPA or DTSC  
18 subsequent to December 30, 1997 or by DTSC after December 31, 1996”; and

19

20 WHEREAS:

21 Plaintiffs reserved their rights against the Settling Work Defendants with  
22 respect to Basin-Wide Future Response Costs. Consent Decree Section XXI.83.a.ix;

23

24 NOW, THEREFORE, the Parties stipulate as follows:

25

26 From and after the date that the Court enters an order granting a motion to  
27 approve this Second Joint Stipulation, EPA will bill to the Settling Work Defendants  
28 no more often than annually, and the Settling Work Defendants agree to pay to EPA,

1 twenty-three percent (23%) of those Basin-Wide Future Response Costs paid by  
2 EPA on or after October 1, 2016, all pursuant to the terms and conditions set forth in  
3 the Consent Decree, as amended by this Second Joint Stipulation. Accordingly, the  
4 Parties agree to modify the Consent Decree language as follows:

5 **1. Replace the definition of “Basin-Wide Response Costs” in**  
6 **Paragraph 4 (pages 9-10) with the following new definition of “Basin-Wide**  
7 **Response Costs”:**

8 “Basin-Wide Response Costs” shall mean those response costs incurred for  
9 Basin-wide groundwater investigation and other Basin-wide activities that are  
10 allocated by EPA or DTSC to the Site, including but not limited to, direct and  
11 indirect costs incurred in reviewing or developing plans or reports, verifying  
12 work, or otherwise implementing, overseeing, or enforcing Basin-wide  
13 activities, including, but not limited to, payroll costs, contractor costs, travel  
14 costs, laboratory costs, the costs incurred pursuant to remedy review or the  
15 necessity to obtain access to any property (including, but not limited to,  
16 attorneys fees and any monies paid to secure access and/or to secure  
17 institutional controls, including the amount of just compensation), and the  
18 costs incurred to conduct emergency response actions. “Basin-Wide Past  
19 Response Costs” shall refer to Basin-Wide Response Costs paid by EPA prior  
20 to December 30, 1997 or by DTSC prior to December 31, 1996. “Basin-Wide  
21 Future Response Costs” shall refer to Basin-Wide Response Costs incurred  
22 and/or paid by EPA or DTSC subsequent to December 30, 1997 or by DTSC  
23 after December 31, 1996. “Stipulated Basin-Wide Future Response Costs”  
24 shall mean twenty-three percent (23%) of Basin-Wide Future Response Costs  
25 paid by EPA on or after October 1, 2016.

26 **2. Replace Paragraph 6 (page 17) with the following new Paragraph**

27 **6:**

28 **6. Commitments by Settling Defendants and the City**

1 a. Settling Defendants and the City shall fund and Settling Work  
2 Defendants and the City shall perform the Work in accordance with this  
3 Consent Decree, the Glendale RODs, the SOW, and all work plans and other  
4 plans, standards, specifications, and schedules set forth herein or developed  
5 by Settling Work Defendants or the City and approved by EPA pursuant to  
6 this Consent Decree. Settling Defendants shall also reimburse the United  
7 States and DTSC for Past Response Costs and Future Response Costs as  
8 provided in this Consent Decree. Settling Work Defendants shall reimburse  
9 the United States for Stipulated Basin-Wide Future Response Costs as  
10 provided in this Consent Decree.

11 b. The obligations of Settling Defendants to pay amounts owed DTSC  
12 under this Consent Decree are joint and several. The obligations of Settling  
13 Defendants to pay amounts owed the United States for Past Response Costs  
14 and Future Response Costs as provided in this Consent Decree are joint and  
15 several as among the Settling Defendants. The obligations of Settling Work  
16 Defendants to pay amounts owed the United States for Stipulated Basin-Wide  
17 Future Response Costs as provided in this Consent Decree are joint and  
18 several as among the Settling Work Defendants. The respective obligations  
19 of the Settling Work Defendants and the City to fund and perform portions of  
20 the Work under this Consent Decree are joint and several as among the  
21 Settling Work Defendants and several as between the City and the Settling  
22 Work Defendants. In the event of insolvency or other failure of any one or  
23 more of the Settling Defendants or Settling Work Defendants to implement  
24 the requirements of this Consent Decree, the remaining Settling Defendants or  
25 Settling Work Defendants, as appropriate, shall complete all such  
26 requirements.

27 **3. Replace Paragraph 55.a (pages 55-56) with the following new**

28 **Paragraph 55.a:**

1 a. Settling Defendants shall reimburse the EPA Hazardous Substance  
2 Superfund for all Future Response Costs not inconsistent with the National  
3 Contingency Plan. Settling Work Defendants shall additionally reimburse the  
4 EPA Hazardous Substance Superfund for all Stipulated Basin-Wide Future  
5 Response Costs not inconsistent with the National Contingency Plan. The  
6 United States will send Settling Defendants and Settling Work Defendants a  
7 bill requiring payment that includes an Agency Financial Management  
8 System summary data (SCORES Report or the equivalent) and a summary of  
9 DOJ costs with similar documentation no more often than annually. Settling  
10 Defendants and Settling Work Defendants, as applicable, shall make all  
11 payments within 60 (sixty) days of Settling Defendants' and Settling Work  
12 Defendants' receipt of each bill requiring payment, except as otherwise  
13 provided in Paragraph 56. The Settling Defendants and Settling Work  
14 Defendants, as applicable, shall make all payments required by this Paragraph  
15 in the form of a certified or cashier's check or checks made payable to "EPA  
16 Hazardous Substance Superfund" and referencing the EPA Region and  
17 Site/Spill ID # 09-1G, 1H, N2 or 59 as applicable, the DOJ case number 90-  
18 11-2-442A, and the name and address of the Parties making payment. The  
19 Settling Defendants and/or Settling Work Defendants shall send the check(s)  
20 to

21 U.S. Environmental Protection Agency  
22 Region IX, Attn: Superfund Accounting  
23 P.O. Box 360863M  
24 Pittsburgh, PA 15251

25 and shall send copies of the check(s) to the United States as specified in  
26 Section XXVI (Notices and Submissions). Future Response Costs paid to  
27 EPA shall be placed in the Glendale Operable Units Special Account and  
28 used to conduct or finance the response actions at or in connection with the

1 Glendale North and South OUs. Any balance remaining in the Glendale  
2 Operable Units Special Account at the completion of the response at or in  
3 connection with the Glendale North and South OUs shall be deposited in the  
4 EPA Hazardous Substance Superfund. Stipulated Basin-Wide Future  
5 Response Costs paid to EPA shall be deposited by EPA in the San Fernando  
6 Valley Basin-Wide Special Account to be retained and used to conduct or  
7 finance response actions at or in connection with the Site, the San Fernando  
8 Valley (Area 1) Superfund Site, or the San Fernando Valley (Area 4)  
9 Superfund Site, or to be transferred by EPA to the EPA Hazardous Substance  
10 Superfund, provided, however, that EPA may deposit a Stipulated  
11 Basin-Wide Future Response Costs payment directly into the EPA Hazardous  
12 Substance Superfund if, at the time the payment is received, EPA estimates  
13 that the San Fernando Valley Basin-Wide Special Account balance is  
14 sufficient to address currently anticipated future response actions to be  
15 conducted or financed by EPA at or in connection with the Site, the San  
16 Fernando Valley (Area 1) Superfund Site, and the San Fernando Valley (Area  
17 4) Superfund Site. Any decision by EPA to deposit a Stipulated Basin-Wide  
18 Future Response Costs payment directly into the EPA Hazardous Substance  
19 Superfund for this reason shall not be subject to challenge by Settling Work  
20 Defendants pursuant to the dispute resolution provisions of this CD or in any  
21 other forum. Any balance remaining in the San Fernando Valley Basin-Wide  
22 Special Account at the completion of the last response action at or in  
23 connection with the Site, the San Fernando Valley (Area 1) Superfund Site,  
24 and the San Fernando Valley (Area 4) Superfund Site shall be deposited in the  
25 EPA Hazardous Substance Superfund.

26 **4. Replace Paragraph 56 (pages 56-58) with the following new**

27 **Paragraph 56:**

28

1 56. Settling Defendants may contest payment of any Future Response Costs  
2 under Paragraph 55 if they determine that the United States or DTSC has  
3 made an accounting error or if they allege that a cost item that is included  
4 seeks costs that are inconsistent with the NCP. Settling Work Defendants  
5 may contest payment of any Stipulated Basin-Wide Future Response Costs  
6 under Paragraph 55 if they determine that the United States has made an  
7 accounting error or if they allege that a cost item that is included seeks costs  
8 that are inconsistent with the NCP. Such objection shall be made in writing  
9 within 60 (sixty) days of receipt of the bill and must be sent to the United  
10 States (if the United States' accounting is being disputed) or DTSC (if  
11 DTSC's accounting is being disputed) pursuant to Section XXVI (Notices and  
12 Submissions). Any such objection shall specifically identify the contested  
13 Future Response Costs or Stipulated Basin-Wide Future Response Costs and  
14 the basis for the objection. In the event of an objection regarding Future  
15 Response Costs, the Settling Defendants shall within the 60 (sixty) day period  
16 pay all uncontested Future Response Costs to the United States or DTSC in  
17 the manner described in Paragraph 55.a with respect to the United States or  
18 54.b with respect to DTSC. In the event of an objection regarding Stipulated  
19 Basin-Wide Future Response Costs, the Settling Work Defendants shall  
20 within the 60 (sixty) day period pay all uncontested Stipulated Basin-Wide  
21 Future Response Costs to the United States in the manner described in  
22 Paragraph 55.a. Simultaneously, the Settling Defendants and/or Settling  
23 Work Defendants, as applicable, shall establish an interest-bearing escrow  
24 account in a federally-insured bank duly chartered in the State of California  
25 and Settling Defendants shall remit to that escrow account funds equivalent to  
26 the amount of the contested Future Response Costs, and Settling Work  
27 Defendants shall remit to that escrow account funds equivalent to the amount  
28 of the contested Stipulated Basin-Wide Future Response Costs. The Settling

1 Defendants shall send to the United States and DTSC, as provided in Section  
2 XXVI (Notices and Submissions), a copy of the transmittal letter and check  
3 paying the uncontested Future Response Costs. Settling Work Defendants  
4 shall send to the United States, as provided in Section XXVI (Notices and  
5 Submissions), a copy of the transmittal letter and check paying the  
6 uncontested Stipulated Basin-Wide Future Response Costs, and a copy of the  
7 correspondence that establishes and funds the escrow account, including, but  
8 not limited to, information containing the identity of the bank and bank  
9 account number under which the escrow account is established as well as a  
10 bank statement showing the initial balance of the escrow account.  
11 Simultaneously with establishment of the escrow account; the Settling  
12 Defendants and/or Settling Work Defendants, as applicable, shall initiate the  
13 Dispute Resolution procedures in Section XIX (Dispute Resolution). If the  
14 United States or DTSC prevails in the dispute, within 5 (five) days of the  
15 resolution of the dispute, the Settling Defendants and/or Settling Work  
16 Defendants, as applicable, shall pay the sums due (with accrued Interest) to  
17 the United States in the manner described in Paragraph 55.a, or if DTSC costs  
18 were disputed, to DTSC in the manner described in Paragraph 54.b. If the  
19 Settling Defendants and/or Settling Work Defendants prevail concerning any  
20 aspect of the contested costs, the Settling Defendants and/or Settling Work  
21 Defendants, as applicable, shall within 5 (five) days of the resolution of the  
22 dispute pay that portion of the costs (plus associated accrued Interest) owing  
23 to the United States, or to DTSC, if DTSC costs are disputed; Settling  
24 Defendants and/or Settling Work Defendants, as applicable, shall be  
25 disbursed any balance of the escrow account. Settling Defendants and/or  
26 Settling Work Defendants, as applicable, shall maintain the escrow account in  
27 accordance with the requirements of this Paragraph until all amounts owed to  
28 the United States or DTSC under this Paragraph are paid. The dispute

1 resolution procedures set forth in this Paragraph in conjunction with the  
2 procedures set forth in Section XIX (Dispute Resolution) shall be the  
3 exclusive mechanisms for resolving disputes regarding the Settling  
4 Defendants' obligation to reimburse the United States and DTSC for their  
5 Future Response Costs, and/or Settling Work Defendants' obligation to  
6 reimburse the United States for Stipulated Basin-Wide Future Response  
7 Costs.

8 **5. Replace Paragraph 79 (pages 78-79) with the following new**

9 **Paragraph 79:**

10 79. Settling Defendants and the City. In consideration of the actions that will  
11 be performed and the payments that will be made by the Settling Defendants  
12 and the actions that will be performed by the City under the terms of the  
13 Consent Decree, and except as specifically provided in Paragraphs 81-85 of  
14 this Section, the United States and DTSC covenant not to sue or to take  
15 administrative action against the Released Parties pursuant to Sections 106  
16 and 107(a) of CERCLA, 42 U.S.C. §§ 9606, 9607(a), and Section 7003 of  
17 RCRA, 42 U.S.C. § 6973, and their respective state law counterparts, for  
18 performance of the Work and for recovery of Past Response Costs and Future  
19 Response Costs. These covenants not to sue shall take effect as to the City,  
20 upon the entry of this Consent Decree, and as to the Settling Defendants, upon  
21 the receipt by EPA and DTSC of the payments required by Paragraph 54 of  
22 Section XVI (Reimbursement of Response Costs). As to each Settling  
23 Defendant and the City, these covenants not to sue are conditioned upon the  
24 continued satisfactory performance by each such Party of its obligations  
25 under this Consent Decree. These covenants not to sue extend only to the  
26 Released Parties and the City and do not extend to any other person,  
27 including, but not limited to, any person or entity with liability for the Site  
28 independent of that person's or entity's association with a Settling Defendant.



1        Settling Work Defendants Only. In consideration of the payments for  
2        Stipulated Basin-Wide Future Response Costs that will be made by the  
3        Settling Work Defendants under the terms of the Consent Decree, and except  
4        as specifically provided in Paragraphs 81-85 of this Section, the United States  
5        covenants not to sue or to take administrative action against the Settling Work  
6        Defendants pursuant to Section 107(a) of CERCLA, 42 U.S.C. § 9607(a), for  
7        recovery of Basin-Wide Future Response Costs paid by EPA on or after  
8        October 1, 2016. This covenant not to sue shall take effect upon the date of  
9        the Court's entry of the Second Joint Stipulation to Modify Consent Decree  
10       filed by the United States, DTSC, Settling Work Defendants, and the City.  
11       As to each Settling Work Defendant, this covenant not to sue is conditioned  
12       upon the continued satisfactory performance by each such Party of its  
13       obligations to pay Stipulated Basin-Wide Future Response Costs under this  
14       Consent Decree. This covenant not to sue extends only to the Settling Work  
15       Defendants and does not extend to any other person, including, but not  
16       limited to, any person or entity with liability for the Site independent of that  
17       person's or entity's association with a Settling Work Defendant.

18       **6. Replace Paragraph 83.a (pages 81-82) with the following new**

19       **Paragraph 83.a:**

- 20       a. The United States and DTSC reserve, and this Consent Decree is  
21       without prejudice to, all rights against the Released Parties with respect to all  
22       other matters, including, but not limited to, the following:
- 23                i. claims based on a failure by any Released Party to meet a  
24                requirement of this Consent Decree;
  - 25                ii. liability arising from the past, present, or future disposal, release, or  
26                threat of release of Waste Materials outside of the Site;
  - 27                iii. liability for future disposal of Waste Material at the Site, other than  
28                as provided in the Glendale RODs, the Work, or otherwise ordered by EPA;

1 iv. liability for damages for injury to, destruction of, or loss of natural  
2 resources, and for the costs of any natural resource damage assessments;

3 v. criminal liability;

4 vi. liability for violations of federal or state law that occur during or  
5 after implementation of the Remedial Action;

6 vii. liability, prior to the Certification of Completion of the Remedial  
7 Action, for additional response actions that EPA determines are necessary to  
8 achieve Performance Standards, but that cannot be required pursuant to  
9 Paragraph 15 (Modification of the SOW or Related Work Plans);

10 viii. liability for additional OUs at the Site or the final response action;

11 ix. as against Released Parties that are not Settling Work Defendants,  
12 liability for costs that the United States or DTSC will incur related to the  
13 Basin that are not within the definition of Future Response Costs;

14 x. as against Released Parties that are Settling Work Defendants,  
15 liability for Basin-Wide Future Response Costs paid by EPA before October  
16 1, 2016; and

17 xi. as against Released Parties that are Settling Work Defendants,  
18 liability for Basin-Wide Future Response Costs incurred or paid by DTSC.

19 **7. Replace Paragraph 91 (page 86) with the following new Paragraph**

20 **91:**

21 91. The matters addressed in this Consent Decree are:

22 a. EPA's and DTSC's Past Response Costs;

23 b. EPA's and DTSC's Future Response Costs;

24 c. all matters addressed in AOC No. 94-11 and UAO Nos. 97-06 and  
25 97-18;

26 d. all costs of implementing the Work performed under this Consent  
27 Decree; and  
28

1 e. as to Settling Work Defendants only, Basin-Wide Future Response  
2 Costs paid by EPA on or after October 1, 2016.

3  
4 **GENERAL PROVISIONS**

5 Each undersigned representative of a Party certifies that he or she is fully  
6 authorized to bind such Party to this Second Joint Stipulation by his or her signature  
7 below.

8 Except as specifically addressed or modified by the First Joint Stipulation and  
9 this Second Joint Stipulation, the Consent Decree remains in full force and effect.

10 This Second Joint Stipulation shall be lodged with the Court for a period of  
11 not less than 30 days for public notice and comment in accordance with 28 C.F.R.  
12 § 50.7. Plaintiffs reserve the right to withdraw or withhold their consent if the  
13 comments regarding this Second Joint Stipulation disclose facts or considerations  
14 indicating that this Stipulation is inappropriate, improper, or inadequate. The  
15 Settling Work Defendants and the City consent to entry of this Second Joint  
16 Stipulation without further notice.

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18 IT IS SO STIPULATED.

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1 The undersigned party enters into this Second Joint Stipulation to Modify Consent  
2 Decree.

3  
4 For Plaintiff the United States of America:  
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6  
7

8 Dated: June 18, 2019 By: /s/ Jonathan D. Brightbill  
9 JONATHAN D. BRIGHTBILL  
10 Principal Deputy Assistant Attorney General  
11 Environmental and Natural Resources  
12 Division  
13  
14

15 Dated: June 18, 2019 By: /s/ Angela Mo  
16 ANGELA MO  
17 Trial Attorney  
18 Environmental Enforcement Section  
19 Environment and Natural Resources Division  
20 United States Department of Justice  
21 Email: angela.mo@usdoj.gov  
22 Telephone (202) 514-1707

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Attorneys for Plaintiff United States of  
America

1 The undersigned party enters into this Second Joint Stipulation to Modify Consent  
2 Decree.

3  
4 For Plaintiff California Department of Toxic Substances Control:  
5

6  
7  
8 Dated: Oct 12, 2018

By: Olivia W. Karlin

9 OLIVIA W. KARLIN  
10 Deputy Attorney General  
11 California Department of Justice  
12 300 South Spring Street  
13 Los Angeles, CA 90013  
14 email: Olivia.Karlin@doj.ca.gov  
15 Telephone (213) 897-0473

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17 Attorney for California Department of Toxic  
18 Substances Control  
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1 The undersigned party enters into this Second Joint Stipulation to Modify Consent  
2 Decree.

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4 For the Settling Work Defendants:

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Dated: 11/28/18

By: 

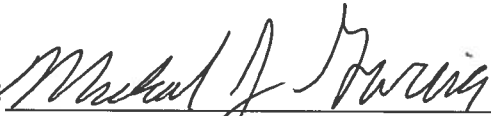
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Partner  
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840 Newport Center Drive  
Suite 400  
Newport Beach, CA 92660-6324  
Telephone (949) 760-0991

Attorney for the Settling Work Defendants

1 The undersigned party enters into this Second Joint Stipulation to Modify Consent  
2 Decree.

3  
4 For the City of Glendale:

5  
6  
7  
8 Dated: 10/9/18

By: 

9 MICHAEL J. GARCIA, CITY ATTORNEY  
10 DORINE MARTIROSIAN, ASST. CITY  
11 ATTORNEY  
12 City of Glendale  
13 613 East Broadway, Suite 220  
14 Glendale, CA 91206  
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Attorneys for City of Glendale