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FILED
Superior Court of California
County of Placer

NOV 01 2017

Jake Chatters
Executive Officer & Clerk
By: T. Rawson, Deputy

8 SUPERIOR COURT OF CALIFORNIA

9 COUNTY OF PLACER

10 THE PEOPLE OF THE STATE OF CALIFORNIA,)

Case No. **MCV0068543**

11 Plaintiff,)

STIPULATION FOR ENTRY OF FINAL
JUDGMENT AND PERMANENT
INUNCTION

12 v.)

Exempt from fees per Gov. Code, § 6103

14 STEVE AGUILAR,)

15 Defendant.)
16)
17)

18
19 Plaintiff, THE PEOPLE OF THE STATE OF CALIFORNIA, generally appearing through its
20 attorneys, R. Scott Owens, District Attorney of Placer County by Senior Deputy District Attorney
21 Jane Crue; ("the People"); and Defendant STEVE AGUILAR ("Defendant") generally appearing
22 through his attorneys, Lewis Brisbois by Timothy Swickard, hereby stipulate and agree as follows:

23 1. This Court may enter this Final Judgment and Permanent Injunction ("Final
24 Judgment") before the taking of any proof and without trial or adjudication of any fact or law;

25 2. This Court has subject matter jurisdiction over the matters alleged in this action and
26 personal jurisdiction over the parties to this Final Judgment;

27 3. This Final Judgment is a fair and reasonable resolution of the matters alleged in the
28 People's Complaint;

1 4. Defendant is entering into this Stipulation for Entry of Final Judgment without any
2 admission of the truth of any allegation of the Complaint herein and without any inference or
3 presumption which may arise by reason of entering into the Stipulation for Entry of Final Judgment.
4 Defendant has defended and denied the claims made by Plaintiff and other parties, and this
5 Stipulation is entered into with the understanding that it is the result of a compromise of disputed
6 claims and shall never at any time for any purpose be considered an admission of the truth of any of
7 the allegations, claims or contentions made by any party against any of the other parties.; and

8 5. The People and Defendant (collectively, "the Parties") waive any right to move for a
9 new trial or otherwise seek to set aside the Final Judgment through any collateral attack, and further
10 waive their right to appeal from the Final Judgment.

11 NOW THEREFORE, the People and Defendant having requested that this Court enter this
12 Final Judgment and the Court having considered the Final Judgment reached between the Parties, IT
13 IS HEREBY ORDERED, ADJUDGED, AND DECREED as follows:

14 **1. JURISDICTION**

15 This Court has subject matter jurisdiction over the matters alleged in this action and personal
16 jurisdiction over the Parties to this Final Judgment.

17 **2. SETTLEMENT OF DISPUTED CLAIMS**

18 As recited by the parties in paragraph 4 above, this settlement is a compromise of disputed
19 claims and shall never at any time for any purpose be considered an admission of the truth of any of
20 the allegations, claims or contentions made by any party against any of the other parties. This Final
21 Judgment is a fair and reasonable resolution of the Covered Matters (as defined in Paragraph 6
22 below), and is in the best interest of the public. Pursuant to stipulation, the Parties have waived their
23 right to appeal.

24 **3. DEFINITIONS**

25 Except where otherwise expressly defined in this Final Judgment, all terms shall be
26 interpreted consistent with Chapters 6.5 and 6.95 of Division 20 of the Health and Safety Code and
27 the regulations promulgated under these chapters.

28 "Unified Program Agency" or "UPA" is an agency certified by the California Environmental

1 Protection Agency pursuant to the requirements of Chapter 6.11 of Division 20 of the Health and
2 Safety Code and California Code of Regulations, title 27, to implement certain state environmental
3 programs within the local agency's jurisdiction.

4 "Facilities" means any and all businesses Defendant currently owns or operates, and all other
5 businesses located and/or operating within the State of California subsequent to the effective date of
6 this Final Judgment.

7 "Participating Agency" means an agency that has been designated by the UPA to administer
8 one or more state environmental programs on behalf of the UPA.

9 **4. INJUNCTIVE RELIEF**

10 **4.1. Applicability**

11 The provisions of this injunction are applicable to Defendant and all persons, partnerships,
12 corporations, and other entities acting under, by, through, on behalf of, or in concert with Defendant
13 with actual or constructive knowledge of this injunction.

14 **4.2. General Injunctive Provision**

15 Pursuant to the provisions of Health and Safety Code sections 25181 and 25515.6, and
16 Business and Professions Code section 17203, Defendant is permanently enjoined from violating
17 Chapters 6.5 and 6.95 of Division 20 of the Health and Safety Code and the regulations promulgated
18 under these chapters. Notwithstanding any other provision in this Final Judgment, nothing in this
19 Final Judgment shall relieve Defendant from prospectively complying with any and all applicable
20 laws and regulations.

21 **4.3. Specific Injunctive Provisions**

22 Pursuant to Health and Safety Code sections 25181, 25515.6, and 25515.8, and Business and
23 Professions Code section 17203, Defendant is enjoined, restrained, and prohibited from doing any of
24 the following:

25 4.3.a. Disposing, or causing the disposal, of hazardous waste at a point not authorized by
26 law, in violation of Health and Safety Code sections 25189 and 25189.2;

27 4.3.b. Transporting, transferring custody of, or causing to be transported in California any
28 hazardous waste unless the transporter is registered to transport hazardous waste, as required by

1 Health and Safety Code section 25163;

2 4.3.c. Failing to determine if a waste, including, but not limited to, wastes generated at the
3 Facilities, are hazardous wastes, as required by California Code of Regulations, title 22, section
4 66262.11;

5 4.3.d. Failing, refusing, or neglecting to handle hazardous waste in accordance with the
6 requirements of Chapter 6.5 and its implementing regulations in California Code of Regulations, title
7 22;

8 4.3.e. Failing to conduct testing and analysis prior to shipping used oil of the state of
9 California, in accordance with Health and Safety Code section 25250.29; or in the alternative, failing
10 to enter into a testing and reporting agreement with the Department of Toxic Substances Control
11 ("DTSC") pursuant to Health and Safety Code section 25250.30;

12 4.3.f. Failing to timely cause to be prepared and filed with the DTSC a hazardous waste
13 manifest for all hazardous waste that is transported, or submitted for transportation, for offsite
14 handling, treatment, storage, disposal, or any combination thereof, as required by Health and Safety
15 Code section 25160(b)(3) and California Code of Regulations, title 22, section 66262.23;

16 4.3.g. Failing to timely notify the DTSC by filing an exception report concerning a
17 treatment, storage, or disposal facility's failure to return any executed manifest, as required by Health
18 and Safety Code section 25160(b)(3) and California Code of Regulations, title 22, section 66262.42;

19 4.3.h. Failing to maintain copies of hazardous-waste manifests for three (3) years, in
20 violation of California Code of Regulations, title 22, section 66262.40;

21 4.3.i. Unlawfully failing to segregate incompatible hazardous-waste items, as required by
22 California Code of Regulations, title 22, section 66265.177;

23 4.3.j. Failing to comply with employee training obligations pertaining to the handling of
24 hazardous waste, as required by California Code of Regulations, title 22, section 66265.16; and

25 4.3.k. Transporting, or causing to be transported, any hazardous waste to an unauthorized
26 location in California, in violation of Health and Safety Code section 25189.5.

27 **5. CIVIL PENALTIES AND COSTS**

28 **5.1. Civil Penalties**

1 Within thirty (30) business days after entry of this Final Judgment, Defendant shall pay ONE
2 THOUSAND DOLLARS (\$1,000.00) as civil penalties pursuant to Health and Safety Code section
3 25189.2(b).

4 **5.2. Reimbursement of Costs of Investigation and Enforcement**

5 Within thirty (30) business days after entry of this Final Judgment, Defendant shall
6 collectively pay TWENTY FOUR THOUSAND SEVEN HUNDRED TWENTY THREE
7 DOLLARS (\$24,723) for reimbursement of costs of investigation to the DTSC.

8 **5.3. Payments and Expenditures**

9 The payment of all civil penalties, reimbursement of costs, and any other expenditures set
10 forth in Paragraphs 5.1 and 5.2, above, shall be made by checks and delivered to the District
11 Attorney's Office for the County of Placer, Attention: Jane Crue, for distribution pursuant to the
12 terms of this Final Judgment.

13 **6. MATTERS COVERED BY THIS FINAL JUDGMENT**

14 6.1. This Final Judgment is a final and binding resolution and settlement of all violations
15 and causes of action occurring at any of Defendant's Facilities during the time period alleged by the
16 People in the Complaint and shall be known as "Covered Matters."

17 6.2. Any claim, violation, or cause of action that is not a Covered Matter is a "Reserved
18 Claim." Reserved Claims include, without limitation, any unknown violation, any violation that
19 occurs after the filing of this Final Judgment, and any claim, violation, or cause of action against
20 Defendant's independent contractors or subcontractors. Reserved Claims also include any claims or
21 causes of action against Defendant for performance of cleanup, corrective action, or response action
22 for any actual past or future releases, spills, or disposals of hazardous waste or hazardous substances
23 that were caused or contributed to by Defendant at or from any of Defendant's Facilities.

24 6.3. In any subsequent action that may be brought by the People based on any Reserved
25 Claim, Defendant cannot assert that failing to pursue any Reserved Claim as part of this action
26 constitutes claim-splitting.

27 6.4. Any claims by Defendant, civil or administrative, against the People or against any
28 agency of the State of California, or local agency (collectively, "Agencies"), or against any of their

1 officers, employees, representatives, agents, or attorneys, arising out of or related to any Covered
2 Matter are hereby merged into and extinguished by this Final Judgment; provided, however, that if
3 any Agencies initiate claims against Defendant, Defendant retains any and all rights and defenses
4 against such Agencies.

5 **7. EFFECT OF FINAL JUDGMENT**

6 Except as expressly provided in this Final Judgment, nothing in this Final Judgment is
7 intended, nor shall it be construed, to preclude the People or any state, county, city or local agency,
8 department, board, or UPA from exercising its authority under any law, statute, or regulation.

9 **8. NO WAIVER OF RIGHT TO ENFORCE**

10 The failure of the People to enforce any provision of this Final Judgment shall neither be
11 deemed a waiver of such provision nor in any way affect the validity of this Final Judgment. The
12 failure of the People to enforce any such provision shall not preclude them from later enforcing the
13 same or any other provision of this Final Judgment. Except as expressly provided in this Final
14 Judgment, Defendant retains all defenses to any such later enforcement action.

15 **9. INTERPRETATION**

16 This Final Judgment was drafted equally by all Parties hereto. Accordingly, any and all rules
17 of construction holding that ambiguity is construed against the drafting party shall not apply to the
18 interpretation of this Final Judgment.

19 **10. INTEGRATION**

20 This Final Judgment constitutes the entire agreement between the Parties and may not be
21 amended or supplemented except as provided for herein. No oral advice, guidance, suggestions, or
22 comments by employees or officials of any Party regarding matters covered in this Final Judgment
23 shall be construed to relieve any Party of its obligations under this Final Judgment. No oral
24 representations have been made or relied upon other than as expressly set forth herein.

25 **11. FUTURE REGULATORY CHANGES**

26 Nothing in this Final Judgment shall excuse Defendant from meeting any more-stringent
27 requirement that may be imposed by applicable existing law or by any change in the applicable law.
28 To the extent any future statutory or regulatory change makes Defendant's obligations less stringent

1 than those provided for in this Final Judgment, Defendant's compliance with the changed law shall
2 be deemed compliance with this Final Judgment; however, any change in law or regulation shall not
3 reduce or diminish Defendant's obligations to comply with Paragraph 4.4.

4 **12. CONTINUING JURISDICTION**

5 The Court shall retain continuing jurisdiction to enforce the injunctive terms of this Final
6 Judgment and to address any other matters arising out of or regarding this Final Judgment.

7 **13. ABILITY TO INSPECT AND COPY RECORDS AND DOCUMENTS**

8 Defendant shall permit any duly authorized representative of the People to inspect and copy
9 records and documents relevant to determine compliance with the terms of this Final Judgment. This
10 paragraph shall not limit the People's authority access or obtain information, records, and documents
11 pursuant to any other statute or regulation.

12 **14. PAYMENT OF LITIGATION EXPENSES AND FEES**

13 Defendant shall make no request of the People to pay its attorney fees, expert witness fees
14 and costs, or any other costs of litigation or investigation incurred to date.

15 **15. COUNTERPART SIGNATURES**

16 The stipulation for entry of this Final Judgment may be executed by the Parties in
17 counterparts. For purposes of this Final Judgment, facsimile signatures shall be deemed originals,
18 and the parties agree to exchange original signatures as promptly as possible.

19 **16. MODIFICATION**

20 The injunctive provisions of this Final Judgment may be modified only on noticed motion by
21 one of the parties with approval of the Court, or upon written consent by all of the parties and the
22 approval of the Court.

23 **17. TERMINATION OF PERMANENT INJUNCTION**

24 At any time after this Final Judgment has been in effect for five (5) years, and Defendant has
25 paid all amounts due under the Final Judgment, Defendant may file a motion requesting a court order
26 that the permanent injunctive provisions of Paragraphs 4.2 and 4.3 shall have no prospective force or
27 effect based on Defendant's demonstrated history of compliance with the Final Judgment. Within
28 forty-five (45) calendar days of the service date of Defendant's motion, the People will file either a

1 statement of non-opposition, or an opposition, and within fifteen (15) calendar days thereafter,
2 Defendant may file a reply. The Parties agree that the hearing on such motion shall be set consistent
3 with this briefing schedule. The Parties further agree that the court may grant Defendant's request
4 upon determining that Defendant has demonstrated compliance with the obligations set forth in the
5 Final Judgment.

6 **18. EFFECTIVE DATE OF FINAL JUDGMENT**

7 This Final Judgment shall become effective upon entry. The Parties need not file a Notice of
8 Entry of Judgment.

9 **IT IS SO STIPULATED.**

10 FOR THE PEOPLE:

11
12 R. SCOTT OWENS, District Attorney
County of Placer, State of California

13 Original Signed

14 DATED: 9/28/17

15 By: JANE CRUE
Senior Deputy District Attorney

16
17 FOR THE DEFENDANT:

18 Original Signed

19 DATED: 09-21-2017

20 By: STEVE AGUILAR

1 REVIEWED AND APPROVED AS TO FORM AND CONTENT:

2
3
4 LEWIS BRISBOIS

Original Signed

5 DATED: _____

By: _____

TIMOTHY SWICKARD

Attorneys for Steve Aguilar

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7
8
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10 IT IS SO ORDERED.

11
12
13 DATED: NOV 01 2017

By: _____

Original Signed

JUDGE OF THE SUPERIOR COURT