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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
11 COUNTY OF GLENN

15 **PEOPLE OF THE STATE OF**  
**CALIFORNIA EX REL. THE REGIONAL**  
16 **WATER QUALITY BOARD, CENTRAL**  
**VALLEY REGION; DEPARTMENT OF**  
17 **FISH AND WILDLIFE,**  
18 Plaintiffs,  
19 v.  
20 **ORLAND SAND AND GRAVEL**  
21 **CORPORATION, a California**  
22 **Corporation; DALE ROY BOGART, an**  
**individual; and DOES 1 through 50,**  
23 **inclusive,**  
24 Defendants.

Case No. 15CV01436

**JUDGMENT PURSUANT TO  
STIPULATION**

Action Filed: April 13, 2015

1 Plaintiffs People of the State of California ex rel. the Regional Water Quality Control  
2 Board, Central Valley Region (Regional Water Board), and Department of Fish and Wildlife  
3 (DFW), filed this action against defendants Orland Sand and Gravel Corporation (OSG) and Dale  
4 Roy Bogart to enforce provisions of the federal Clean Water Act, Water Code, and Fish and  
5 Game Code. The parties have agreed to the entry of this Judgment Pursuant to Stipulation  
6 (Stipulated Judgment) to resolve all matters in dispute in this action without the completion of  
7 trial or the adjudication of any issue of law or fact.

8 **THEREFORE, IT IS HEREBY ORDERED, ADJUDGED, AND DECREED** that  
9 judgment is entered as follows:

10 A. Compliance with Fish and Game Code, § 1600 et seq.

11 1. OSG and Dale Roy Bogart, and any of their employees or agents, shall not conduct  
12 any activity that substantially diverts or obstructs the natural flow of Stony Creek; uses any  
13 material from the bed, channel, or bank of Stony Creek; substantially alters the bed, channel, or  
14 bank of Stony Creek; or results in the disposal or deposit of debris or waste where it may pass  
15 into Stony Creek (“activity or activities”), including but not limited to the following: (a) mining  
16 in or adjacent to, or otherwise extracting, harvesting, or removing material from the bed, channel,  
17 or bank of Stony Creek; (b) placing or moving equipment, concrete, asphalt, riprap, gravel, or  
18 other material or waste in Stony Creek; and (c) retaining, modifying, or removing, the gravel  
19 ramp, identified in Exhibit A hereto (“gravel ramp”), unless and until OSG and Dale Roy Bogart  
20 fully comply with Fish and Game Code section 1602 by submitting to DFW a written notification  
21 for the project, and, if necessary, obtaining a streambed alteration agreement from DFW for the  
22 project.

23 2. No later than 30 days after this Stipulated Judgment is entered by the Court, OSG and  
24 Dale Roy Bogart shall submit to DFW a written notification pursuant to Fish and Game Code  
25 section 1602 for the gravel ramp, specifically, whether to retain, modify, or remove the gravel  
26 ramp, and any other activity at the Orland Sand and Gravel facility located at 6535 County Road  
27 9 in Orland, California (OSG Facility) subject to Fish and Game Code section 1602. If OSG and  
28 Dale Roy Bogart indicate in the notification an intent to retain the gravel ramp, DFW may require

1 OSG and Dale Roy Bogart to modify or reconstruct the ramp to ensure that the ramp does not  
2 adversely affect fish and wildlife resources.

3 3. The notification described in paragraph 2 shall include a comprehensive work plan  
4 prepared by a licensed engineer who has experience preparing plans for in-stream mining  
5 projects. The work plan shall include measures to ensure that the project will not adversely affect  
6 fish and wildlife resources or Stony Creek by, for example, impeding fish passage, disturbing  
7 nesting birds, obstructing the flow of or otherwise altering the creek's hydrology, removing or  
8 reducing riparian vegetation in or along the creek, mining below or too close to the low flow  
9 channel of the creek, or extracting material from the creek in excess of net recruitment.

10 4. Pursuant to Fish and Game Code section 1602, DFW may deem any notification  
11 incomplete if DFW determines that the work plan described in paragraph 3 or any other  
12 information contained in or submitted with the notification is inadequate or insufficient in  
13 accordance with Fish and Game Code section 1602.

14 5. OSG and Dale Roy Bogart shall comply with all provisions of any streambed  
15 alteration agreement issued by DFW to OSG and/or Dale Roy Bogart.

16 B. Enrollment in Industrial Storm Water General Permit

17 1. No later than 30 days after this Stipulated Judgment is entered by the Court, OSG and  
18 Dale Roy Bogart shall enroll for coverage of the OSG Facility under the Statewide General  
19 Permit for Storm Water Discharges Associated with Industrial Activities, Order 2014-0057-DWQ  
20 (Industrial Storm Water General Permit, or IGP) by certifying and submitting Permit Registration  
21 Documents via the State Water Resources Control Board's online Storm Water Multiple  
22 Application and Report Tracking System (SMARTS). The Permit Registration Documents shall  
23 consist of: (a) a completed Notice of Intent and signed certification statement; (b) a Storm Water  
24 Pollution Prevention Plan; (c) a copy of a current Site Map from the Storm Water Pollution  
25 Prevention Plan; (d) enrollment fee; and (e) an Electronic Authorization form submitted by mail.

26 2. At the time of enrollment for coverage under the Industrial Storm Water General  
27 Permit and annually thereafter, OSG and Dale Roy Bogart shall pay the appropriate fee in  
28 accordance with California Code of Regulations, title 23, section 2200 et seq.

1           3.     OSG and Dale Roy Bogart shall fully and timely comply with all provisions and  
2 requirements of the Industrial Storm Water General Permit.

3     C.   Amended Report of Waste Discharge

4           1.     No later than 30 days after this Stipulated Judgment is entered by the Court, OSG and  
5 Dale Roy Bogart shall submit to the Regional Water Board an Amended Report of Waste  
6 Discharge for all applicable discharges at the OSG Facility, in order to update the Waste  
7 Discharge Requirements applicable to the OSG Facility as required by Water Code section  
8 13260. OSG and Dale Roy Bogart shall also include a map and complete description of all floor  
9 drains at the OSG Facility, and their point of termination, with the Amended Report of Waste  
10 Discharge.

11          2.     OSG and Dale Roy Bogart shall respond to all requests by the Regional Water Board  
12 for information associated with the Amended Report of Waste Discharge within 30 days from the  
13 date of the request.

14          3.     OSG and Dale Roy Bogart shall fully and timely comply with all requirements,  
15 including fees and monitoring and reporting requirements, of any updated Waste Discharge  
16 Requirements issued by the Regional Water Board upon OSG and Dale Roy Bogart's submission  
17 of the complete Amended Report of Waste Discharge, in accordance with Water Code section  
18 13260.

19     D.   Federal Requirements

20          1.     OSG and Dale Roy Bogart shall comply with any requirements arising under federal  
21 law applicable to activities at the OSG Facility covered by this Stipulated Judgment, including,  
22 but not limited to, United States Army Corps of Engineers permitting requirements.

23     E.   Permitting for Activities in Stony Creek

24          1.     If the United States Army Corps of Engineers (Corps) determines a permit is  
25 necessary for any activity or work in Stony Creek or a water of the United States proposed by  
26 OSG and Dale Roy Bogart, including, but not limited to, dredging, construction, removal or  
27 extraction of earthen material, and/or removal or modification of the gravel ramp, no later than 14  
28 days from issuance of such permit, OSG and Dale Roy Bogart shall submit a Clean Water Act

1 section 401 Water Quality Certification Application to the Regional Water Board for any work in  
2 Stony Creek and/or waters of the United States, including, but not limited to, dredging,  
3 construction, removal or extraction of earthen material, and/or removal or modification of the  
4 gravel ramp. OSG and Dale Roy Bogart shall timely pay any and all fees associated with the  
5 Water Quality Certification Application and shall comply with the requirements of the Water  
6 Quality Certification.

7 2. If the Corps determines a permit is not necessary for activity or work in Stony Creek,  
8 prior to beginning such work, OSG and Dale Roy Bogart shall submit to the Regional Water  
9 Board a report of waste discharge for activities in Stony Creek, including, but not limited to,  
10 dredging, construction, removal or extraction of earthen material, and/or removal or modification  
11 of the gravel ramp, in compliance with the procedures set forth in Water Code section 13260.

12 F. Compliance with July 11, 2014, Notice of Violation

13 1. No later than 30 days after this Stipulated Judgment is entered by the Court, OSG and  
14 Dale Roy Bogart shall submit to the Regional Water Board a work plan that details proposed  
15 actions to rectify the violations noted in the July 11, 2014, Notice of Violation issued by the  
16 Regional Water Board, which is attached as Exhibit B. The work plan shall be prepared by a  
17 qualified consultant and include a description of any special studies and/or applicable permits  
18 required to complete the proposed work. The work plan shall be implemented within 30 days  
19 following approval by the Regional Water Board's Executive Officer or his/her designee.

20 2. OSG and Dale Roy Bogart shall respond to all requests by the Regional Water Board  
21 for information associated with the work plan described in paragraph F.1. within 30 days from the  
22 date of the request.

23 G. Site Access for Inspections

24 1. OSG and Dale Roy Bogart shall permit staff of the Regional Water Board and/or  
25 DFW to enter onto the OSG Facility for the purpose of conducting administrative inspections,  
26 sampling, testing, and monitoring pursuant to state laws and regulations. The Regional Water  
27 Board or DFW shall notify OSG and Dale Roy Bogart no less than twenty-four (24) hours before  
28 conducting any on-site inspection of the OSG Facility.

1 H. Monetary Liability

2 1. OSG and Dale Roy Bogart are each jointly and severally liable for civil penalties for  
3 violations of the federal Clean Water Act, Water Code, and Fish and Game Code in the amount of  
4 \$675,000, payable to the Regional Water Board and DFW. Payments shall be made payable to  
5 the "State of California" and transmitted to the Office of the Attorney General as provided in  
6 paragraph K.1.

7 I. Jurisdiction

8 1. Pursuant to Code of Civil Procedure 664.6, the Court shall retain jurisdiction to  
9 interpret, modify, and enforce the terms and conditions of this Stipulated Judgment.

10 J. Costs and Attorneys Fees Incurred in Enforcement of Stipulated Judgment

11 1. If OSG and/or Dale Roy Bogart fail to perform any obligation or pay any liability or  
12 civil penalty imposed under this Stipulated Judgment, in accordance with Government Code  
13 section 12513.1, OSG and Dale Roy Bogart shall be required to pay, in addition to that liability or  
14 civil penalty, interest, reasonable attorney's fees, and costs for collection or enforcement  
15 proceedings to enforce the payment or obligation. Each party shall bear its own attorney's fees,  
16 costs, and expenses in connection with this matter, except as provided in this paragraph.

17 K. Notice/Correspondence

18 1. All notices pertaining to this Stipulated Judgment, except for notices of on-site  
19 inspection pursuant to paragraph G.1, shall be sent by regular or overnight mail as follows:

20  
21 **If to OSG or Dale Roy Bogart:**

Geoffrey Evers  
Evers Law Group  
641 Fulton Ave, Suite 200  
Sacramento, CA 95825  
(916) 974-3000  
g.evers@everslaw.com

22  
23  
24  
25 **If to the Regional Water Board or DFW:**

Andrea Kendrick  
Office of the Attorney General  
1300 I Street  
Sacramento, CA 95814  
(916) 210-7821  
Andrea.Kendrick@doj.ca.gov

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L. Interpretation

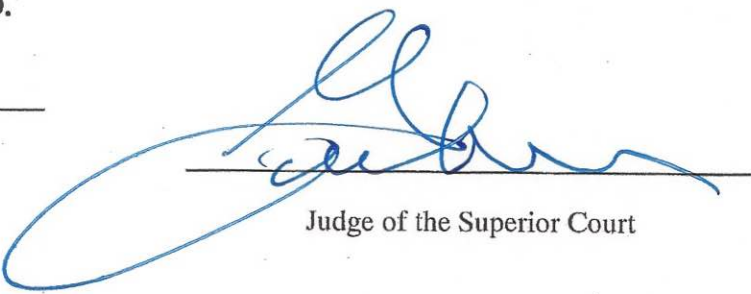
This Stipulated Judgment shall be governed by and construed in accordance with the laws of the State of California.

M. Dismissal Vacated and Judgment Entered Nunc Pro Tunc

Any dismissal which has been entered in this matter is hereby vacated, and this judgment is entered nunc pro tunc as of April 2, 2018.

**IT IS SO ORDERED.**

Dated: May 22, 2019



Judge of the Superior Court