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SACRAMENTO COURTS  
DEPT. #54

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SACRAMENTO

**People of the State of California ex rel.  
Attorney General Edmund G. Brown Jr. in  
his independent capacity, and the State  
Water Resources Control Board,**  
  
Plaintiffs,  
  
v.  
  
**E2C Remediation, LLC, et al.,**  
  
Defendants.

07AS04626

**JUDGMENT**

Trial Date October 5, 2009  
Action Filed: October 11, 2007

Plaintiffs, People of the State of California ex rel. Attorney General Edmund G. Brown Jr. (Attorney General) and the State Water Resources Control Board (Water Board), and Defendants Philip Goalwin, Debbie Goalwin, Environmental Engineering Consulting & Remediation, Inc., dba E2C Remediation (formerly known as E2C Remediation, LLC) (the E2C Defendants), Toms Sierra Company, Inc., dba Sierra Energy, C.P. Phelps, Inc., Marchbanks Truck Service, Inc., Inyo Crude, Inc., B & J Land Company, Ronald D. Grossman, Mitsuko Numata; JB Performance, Inc., Colleen T. Sample, (the Tank Owner Defendants) (collectively, Defendants), having stipulated to

1 entry of judgment in this matter,

2 IT IS HEREBY ORDERED, ADJUDGED, AND DECREED:

3 1. Jurisdiction

4 This Court has jurisdiction over the subject matter of this action and the parties to this  
5 Stipulated Judgment.

6 2. No Admission of Liability

7 Defendants expressly deny fault or liability for any and all claims made in the  
8 Complaint in this matter. The parties expressly acknowledge that this Stipulated Judgment is the  
9 compromise of disputed civil claims and that there was no adjudication of any claim.

10 3. Settlement Payments

11 a. Of the \$546,150.73 in funds currently being withheld from E2C and Tank Owner  
12 Defendants by the Fund, Defendants agree to waive any claim for reimbursement of any or all of  
13 this amount and agree that the Fund will distribute these funds as follows:

- 14 •\$41,925.21 to claimant Paramount Interests, Inc. (Claim No. 11465);
- 15 •\$39,051.54 to claimant Ken Sample (Claim No. 11908);
- 16 •\$465,173.98 to be kept by Fund.

17 Plaintiffs and Defendants agree that this settlement resolves all matters regarding Fund  
18 reimbursement of E2C costs invoiced on or prior to the date listed below whether the costs were  
19 previously determined to be ineligible, eligible, or pending.

20

21 Claimant	Claim No.	Date	Claimant	Claim No.	Date
22 B&J Land Co	2997	11/21/05	Ronald D. Grossman	8232	06/20/08
23 Bill G. & Roena M. 24 Royston	14341	01/10/08	Gurdip Pattar	12612	05/24/04
25 C.P. Phelps, Inc.	14561	01/03/06	Toms Sierra Co.	723	02/02/06
26 Frank H. Hobin	16900	05/11/05	Toms Sierra Co.	3262	02/01/06
27 HSK Enterprise, Inc.	17095	10/19/05	Toms Sierra Co.	10406	02/20/08

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Claimant	Claim No.	Date	Claimant	Claim No.	Date
Inyo Crude, Inc.	8646	07/27/05	Toms Sierra Co.	10407	03/10/06
Inyo Crude, Inc.	11908	03/29/06	Toms Sierra Co.	11673	08/18/08
Inyo Crude, Inc.	13811	07/22/05	Toms Sierra Co.	11674	11/17/08
JB Performance	3166	04/25/05	Toms Sierra Co.	12770	12/24/07
Jesse M. Lange Distributing Inc.	12481	03/29/07	Toms Sierra Co.	12790	04/10/08
Lloyd G. Childers	15846	10/18/05	Toms Sierra Co.	12987	03/21/06
Madeline Barr Trust	8666	12/31/04	Toms Sierra Co.	14423	02/16/06
Marchbanks Truck Service	115	12/03/07	Toms Sierra Co.	14438	05/17/06
Mitsuko Numata	11389	09/09/05	Toms Sierra Co.	16061	02/27/06
Nassri J. Jaber	16411	01/25/07	Toms Sierra Co.	16282	01/12/06
Nixon Foods, Inc.	14601	10/24/05	Toms Sierra Co.	16760	03/04/08
Paramount Interest, Inc.	11465	12/04/06	Toms Sierra Co.	17490	02/02/06
Richard Beckwith	13744	09/26/05	Toms Sierra Co.	17873	10/24/05
Robert V. Jensen, Inc.	13753	09/11/07	Toms Sierra Co.	18610	06/26/07
Roche Oil, Inc.	10957	01/16/06	COPA, Inc.	2126	12/20/06
John Harness & Sons, Inc.	785	05/27/07	Colleen T. Sample	13737	08/17/04
Rush Oil Company, Inc.	901	01/10/08			

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b. The Fund agrees to pay \$370,936.12 to the E2C Defendants for costs previously pended by the Fund. These previously pended costs include corrective action, third party compensation, and regulatory technical assistance for the claims listed in Paragraph 3.a., above,

1 including equipment charges for the following sites: 400 S. Auburn (Fund claim no. 12790), Bear  
2 Mountain Travel Stop (Fund claim no. 115), R.V. Jensen (Fund claim no. 13753), Laws Bulk  
3 Plant (Fund claim no. 8646), 1627 Hwy 99E (Fund claim no. 11673), and Inyo Crude (Fund  
4 claim no. 11908). The reimbursement cap for each of the identified claims will be adjusted to  
5 reflect payment of the respective pended invoices. The Fund payment to E2C Defendants will be  
6 further reduced by approximately \$24,000 for E2C's share of mediation fees in this matter  
7 previously advanced by the Fund. This payment to E2C is contingent on the State of California  
8 having an approved budget in place. The Fund will make good faith effort to make this payment  
9 within 30 days of entry of this stipulated judgment.

10 c. E2C shall pay the Fund an additional sum of \$450,000, in the form of offsets  
11 against any pending or future reimbursement requests. E2C agrees to allow the Fund to withhold  
12 20% from the reimbursement of those claims under submission and to be submitted by E2C for  
13 services rendered and work performed. Proof of payment by the RP's shall only be required for  
14 those amounts actually paid to the RP's by the Fund, net of the withheld amount referenced  
15 above.

16 d. The E2C Defendants shall pay a civil penalty pursuant to Business and Professions  
17 Code sections 17200, et seq. in the amount of \$50,000.00, payable half to the County of  
18 Sacramento and half to the State of California General Fund. This sum will be payable within 30  
19 days after receipt of the \$370,936.12, less E2C's share of mediation fees as described in  
20 Paragraph 3.b., from the Fund for machinery and other pended costs previously not reimbursed  
21 referred to in Paragraph 3(b), above.

22 e. The E2C Defendants shall agree to an injunction that requires that they pay to the  
23 Fund a further civil liability pursuant to Water Code section 13350 in the amount of \$250,000.00,  
24 however, this civil liability is stayed for a period of three years, beginning on the date of entry of  
25 this Stipulated Judgment, on the condition that the E2C Defendants will obey the terms of  
26 Paragraph 4, below, and the following environmental laws: Water Code Division 7, Sections  
27 13000, et seq. (water quality laws), Health and Safety Code Division 20, Chapter 6.5, Sections  
28 25100, et seq. (hazardous waste control laws); and/or Fish and Game Code section 5650 (water

1 pollution law). \$100,000.00 of this stayed portion of the judgment shall immediately be due and  
2 owing in this case if the E2C Defendants violate any of the above-referenced laws. The  
3 remaining \$150,000.00 of this stayed portion of the judgment shall immediately be due and  
4 owing in this case if the E2C Defendants violate any of the provisions of Paragraph 4, below. If  
5 there are no violations of the above-referenced laws, or the provisions of paragraph 4, below,  
6 within three (3) years beginning on the date of entry of this Stipulated Judgment, then the  
7 injunction shall be permanently lifted.

8 4. Injunctive Relief

9 a. The E2C Defendants are mandated to:

10 1. All billings/submittals to the Fund after the date the Stipulated Judgment is  
11 entered, will be on a time and materials basis for all work regardless of any existing or future pre-  
12 approval and/or any budgetary proposals. The E2C Defendants will supply sufficient backup  
13 documentation for the Fund to verify the hours worked and personnel involved, and will provide  
14 reasonably sufficient documentation to establish that the charges in question are reasonable and  
15 necessary with respect to the work performed. Further, the hourly rate for all personnel shall be  
16 charged in compliance with the then-current Fund guidelines for personnel hourly rates.

17 2 Charge for machinery after the date the Stipulated Judgment is entered, at a  
18 monthly rental amount up to the purchase price of said machinery at multiple sites regardless of  
19 the machinery's reimbursement history.

20 3 Charge on a unit rate basis for the disposal/recycling of water for all billings  
21 after the date the Stipulated Judgment is entered for sites with 1-500 gallons per event at a rate of  
22 \$1.50 per gallon. Charge on a time and materials basis for the disposal/recycling of water for all  
23 billings after the date the Stipulated Judgment is entered for sites more than 500 gallons per event.  
24 For purposes of this paragraph, the phrase "disposal/recycling of water" shall include purge water  
25 from monitoring wells, remediation pumping events and any other water hauled away for  
26 disposal by the E2C Defendants.

27 4. Provide true and correct copies of the time sheets signed by the employee  
28 performing work, for all future claims to the Fund. If the Fund wishes to inspect the original,

1 signed time sheets maintained by the E2C Defendants relating to any charges submitted to the  
2 Fund by E2C, it shall have the right to do so upon 3 business days' written notice to the E2C  
3 Defendants.

4           5 Not mark up any charges by any affiliated companies. Entities are considered  
5 to be affiliated if there exists a relationship of shared interests, common control, or direct or  
6 indirect control through one or more intermediaries. The rates charged by any affiliated  
7 companies shall be in compliance with and will not exceed the then-current Fund guidelines for  
8 such rates.

9           6. Not submit to the Fund or cause to be submitted to the Fund any claim or  
10 request for reimbursement containing false or misleading information.

11           b. If the Fund finds a violation of Paragraph 4.a.1 through 4.a.5, it shall notify E2C in  
12 writing and give E2C 20 days to correct the violation before the suspended penalty amount of  
13 \$150,000 in paragraph 3.e, above, becomes due. However, in the event a violation of Paragraph  
14 4.a.6 (submitting false-or misleading information) occurs, there shall be no opportunity to correct  
15 and the suspended penalty shall be immediately due.

16           c. Plaintiffs are mandated to:

17           1. Designate a contact person at the Fund to communicate with Defendants and  
18 answer Defendants' questions concerning claims to the Fund. Said communication is to occur via  
19 e-mail, facsimile or telephonically within 5 days of the request. An alternate contact person is to  
20 be designated should the designated representative be unavailable.

21           2. Communicate in writing at least 30 days prior to the effective date of any  
22 changes in the Fund's procedures described in this agreement regarding Defendants' billing  
23 format or allowable charges. The terms of this agreement shall prevail over any future changes to  
24 the Fund's billing format or policies, unless specified in writing. Future changes to Cleanup Fund  
25 billing format or policies will be posted to its website at  
26 [www.waterboards.ca.gov/water\\_issues/programs/ustcf/](http://www.waterboards.ca.gov/water_issues/programs/ustcf/).

27           5. Indemnification

28           The E2C Defendants shall and do indemnify, save and hold harmless Plaintiffs and the

1 State of California, including each and every constituent agency, board, department, office,  
2 commission, fund or other entity thereof, as well as all past, present or future political  
3 subdivisions, officers, agents, directors, employees, contractors, subcontractors, attorneys,  
4 representatives, predecessors-in-interest, and successors and assigns of each and every constituent  
5 of the State of California ("Indemnified Parties") for or from any and all claims or causes of  
6 action, of every kind and nature whatsoever, in law and in equity, whether known or unknown,  
7 suspected or unsuspected, foreseen or unforeseen, arising from, or on account of acts or omissions  
8 of the E2C Defendants in carrying out activities pursuant to this Stipulated Judgment. In  
9 addition, the E2C Defendants shall pay the Indemnified Parties all costs incurred including, but  
10 not limited to, attorneys fees and other expenses of litigation and settlement, arising from, or on  
11 account of acts or omissions of the E2C Defendants in carrying out activities pursuant to this  
12 Stipulated Judgment.

13 6. Scope of Stipulated Judgment

14 This Stipulated Judgment shall apply to and be binding upon Defendants and their  
15 officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and  
16 assignees, including but not limited to individuals, partners, and subsidiary and parent  
17 corporations, and upon Plaintiffs and any successor agency that may have responsibility for and  
18 jurisdiction over the subject matter of this Stipulated Judgment.

19 7. Stipulated Judgment Does Not Bind Any Other Agency

20 This Stipulated Judgment is made and entered into by and on behalf of the Plaintiffs  
21 only. Furthermore, except as expressly provided in this Stipulated Judgment, nothing in this  
22 Stipulated Judgment is intended or shall be construed to preclude any state, local, or federal  
23 agency, board, department, office, commission, or entity from exercising its authority under any  
24 law, statute, regulation, or ordinance.

25 8. Defendant's Release of Plaintiff and the State of California

26 Upon the effective date of this Stipulated Judgment, and except as provided in  
27 Paragraph 10, Defendant shall and does release, discharge and covenant not to sue Plaintiff and  
28 the State of California, including each and every constituent agency, board, department, office,

1 commission, fund or other entity thereof, as well as all past, present and future political  
2 subdivisions, officers, agents, directors, employees, contractors, subcontractors, attorneys,  
3 representatives, predecessors-in-interest, and successors and assigns of each and every constituent  
4 of the State of California, for any and all claims or causes of action, of every kind and nature  
5 whatsoever, in law and in equity, whether known or unknown, suspected or unsuspected, foreseen  
6 or unforeseen, which arise out of or are related to this action.

7       9. Plaintiffs' Release of Defendant

8           Except as provided in Paragraph 10, Plaintiff shall and does release, discharge and  
9 covenant not to sue or to take administrative action against Defendant for matters covered.  
10 "Matters covered" are the causes of action alleged in the Complaint in this matter. This covenant  
11 not to sue shall become effective only upon the occurrence of both of the following: (1)  
12 completion by Defendants, to Plaintiffs' reasonable satisfaction, of the activities required by this  
13 Stipulated Judgment, and (2) the final payments to be made by the Defendants pursuant to this  
14 Stipulated Judgment. This covenant not to sue shall not act to release from liability any person or  
15 entity other than Defendant.

16       10. Reservation of Rights

17           Plaintiffs, on the one hand, and Defendants, on the other hand, reserve their respective  
18 rights to initiate judicial or administrative action against each other for any matter not released by  
19 this Stipulated Judgment. Nothing in this Stipulated Judgment shall constitute or be construed as  
20 a satisfaction or release from liability for any conditions or claims arising as a result of past,  
21 current, or future operations or activities of Defendants that are not matters covered by this  
22 Stipulated Judgment. Nothing herein is intended or shall be construed as a waiver of the Parties'  
23 right to institute an action to compel compliance with this Stipulated Judgment. In addition,  
24 nothing in this Stipulated Judgment is intended or shall be construed to preclude Plaintiffs from  
25 exercising their authority under any statute, regulation, ordinance, or other law.

26       11. Jurisdiction, Interpretation

27           This Court shall retain jurisdiction to interpret, modify and enforce the terms and  
28 conditions of this Stipulated Judgment. This Stipulated Judgment shall be deemed to have been



1 drafted equally by the parties, and shall not be interpreted for or against either party on the ground  
2 that any such party drafted it. This Stipulated Judgment shall be governed by and construed in  
3 accordance with the laws of the State of California.

4 12. Integration

5 This Stipulated Judgment contains all of the terms and conditions agreed upon by the  
6 parties relating to the matters covered by this Stipulated Judgment, and supersedes any and all  
7 prior and contemporaneous agreements, negotiations, correspondence, understandings, and  
8 communications of the parties, whether oral or written, respecting the matters covered by this  
9 Stipulated Judgment. This Stipulated Judgment may be amended or modified only by a writing  
10 signed by the parties or their authorized representatives, and then by order of the Court.

11 13. Knowing, Voluntary Agreement

12 Each party to this Stipulated Judgment acknowledges that it has been represented by  
13 legal counsel, and that each party has reviewed, and has had the benefit of legal counsel's advice  
14 concerning, all of the terms and conditions of this Stipulated Judgment.

15 14. Authority to Execute

16 Each party to this Stipulated Judgment represents and warrants that the person who has  
17 signed this Stipulated Judgment on its behalf is duly authorized to enter into this Stipulated  
18 Judgment, and to bind that party to the terms and conditions of this Stipulated Judgment.

19 15. Costs and Attorneys Fees

20 Except as provided in this stipulated judgment, Plaintiffs on the one hand, and all  
21 Defendants on the other, shall bear all their own respective costs and attorneys' fees in connection  
22 with this matter, including costs and fees associated with negotiating and seeking court approval  
23 of this Stipulated Judgment. If the E2C Defendants fail to perform any obligation or pay any  
24 liability or penalty imposed under this Stipulated Judgment, in accordance with Government  
25 Code section 12513.1, Defendants shall be required to pay, in addition to that liability or penalty,  
26 interest, reasonable attorneys' fees, and costs for collection or enforcement proceedings to  
27 enforce the payment or obligation.  
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1           16. Counterparts

2           This Stipulated Judgment may be executed by the parties in counterpart originals with  
3 the same force and effect as if fully and simultaneously executed as a single, original document.

4           17. Waiver of Appeal Right; Reservation of Right to Appeal Collateral Orders

5           The parties agree to waive their right to appeal from this Stipulated Judgment. Nothing  
6 in this Stipulated Judgment shall be construed as a waiver of any party's right to appeal from an  
7 order that arises from an action to enforce the terms of this Stipulated Judgment. E2C further  
8 expressly agrees to waive any administrative appeal rights it might otherwise pursue on behalf of  
9 a Fund claimant for the claims resolved in this settlement, and will not cooperate with Fund  
10 claimants on their appeals, if any.

11           18. Effective Date

12           The effective date of this Stipulated Judgment shall be the date that it is signed by the  
13 Judge of the Superior Court.

14           19. No Third Party Benefits

15           This Stipulated Judgment is made for the sole benefit of the parties, and no other person  
16 or entity shall have any rights or remedies under or by reason of this Stipulated Judgment, unless  
17 otherwise expressly provided for herein.

18           20. Dismissal Without Prejudice

19           The E2C Defendants are the settling defendants. The Tank Owner defendants only are  
20 dismissed without prejudice. The Tank Owner defendants agree to cooperate with the Water  
21 Board and waive any administrative appeal rights for the claims resolved in this settlement.

22           21. No Waiver of Right to Enforce

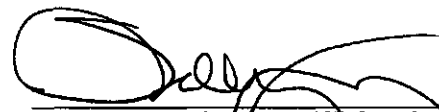
23           The failure of the Plaintiff to enforce any provision of this Stipulated Judgment shall  
24 neither be deemed a waiver of such provision nor in any way affect the validity of this Stipulated  
25 Judgment. The failure of the Plaintiff to enforce any such provision shall not preclude it from  
26 later enforcing the same or any other provision of this Stipulated Judgment. No oral advice,  
27 guidance, suggestions or comments by employees or officials of any Party regarding matters  
28 covered in this Stipulated Judgment shall be construed to relieve any Party of its obligations

1 under this Consent Judgment.

2 IT IS SO ORDERED, ADJUDGED, AND DECREED:

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Dated: FEB 26 2010, ~~2010~~

  
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JUDGE OF THE SUPERIOR COURT  
SHELLEYANNE W.L. CHANG