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IN THE UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

18  
19 UNITED STATES OF AMERICA,  
20 Plaintiff,  
21 v.  
22 EL DORADO COUNTY, CALIFORNIA;  
23 and CITY OF SOUTH LAKE TAHOE,  
24 CALIFORNIA,  
25 Defendants.  
26  
27 AND RELATED ACTIONS

Civil No. S-01-01520 MCE GGH

PARTIAL CONSENT DECREE WITH  
SOUTH TAHOE REFUSE COMPANY, INC.

25 AND RELATED ACTIONS

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## I. BACKGROUND

2 A. On August 3, 2001, Plaintiff United States of America ("United States"), on behalf of the  
3 United States Department of Agriculture, Forest Service ("Forest Service"), filed a complaint  
4 pursuant to Sections 107 and 113(f) of the Comprehensive Environmental Response, Compensation,  
5 and Liability Act ("CERCLA"), 42 U.S.C. §§ 9607, 9613(f), against Defendants the County of El  
6 Dorado (the "County") and the City of South Lake Tahoe (the "City"). The complaint filed by the  
7 United States seeks recovery of environmental response costs incurred by the Forest Service related  
8 to the release or threatened release and/or disposal of hazardous substances at or from the Meyers  
9 Landfill Site, a former waste disposal facility located on National Forest System lands administered  
10 by the Lake Tahoe Basin Management Unit of the Forest Service, and a "facility" as defined under  
11 42 U.S.C. § 9601(9), with accrued interest, and a declaration of the County's and the City's liability  
12 for future response costs incurred by the United States related to the Site. On June 19, 2002, the  
13 County filed its Second Amended Third Party Complaint in this Action, seeking contribution under  
14 CERCLA Section 113(f), 42 U.S.C. § 9613(f), from Third-Party Defendant South Tahoe Refuse  
15 Company, Inc. ("STR" or "Settling Defendant"), which collected garbage in the South Lake  
16 Tahoe-area during a portion of the relevant time Meyers Landfill operated, and from a number of  
17 reported customers of STR during a portion of the relevant time and also contracted with the County  
18 to operate the dump.

19       B. The defendant that has entered into this Partial Consent Decree (“Settling Defendant”)  
20 does not admit any liability to Plaintiff, cross-complainant or any other party arising out of the  
21 transactions or occurrences alleged in the Second Amended Third Party Complaint.

22 C. In response to a release or a substantial threat of a release of hazardous substances at or  
23 from the Site, in 2005 the Forest Service commenced a Supplemental Remedial Investigation and  
24 Supplemental Feasibility Study (“SRI/SFS”) for the Site pursuant to 40 C.F.R. § 300.430.

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1           D. In early 2006, consistent with EPA CERCLA guidance, the Forest Service made a  
2 determination to separate the landfill and the contaminated groundwater beneath the Site into two  
3 separate operable units (“OUS”) for remediation purposes. OU-1 is the landfill waste mass itself and  
4 OU-2 is the contaminated groundwater plume and any other site-wide response actions required  
5 subsequent to the implementation of the remedial action for OU-1. This Partial Consent Decree  
6 addresses OU-1.

7           E. The Forest Service completed the OU-1 SRI/SFS Report in May, 2007.

8           F. Pursuant to Section 117 of CERCLA, 42 U.S.C. § 9617, the Forest Service published  
9 notice of the completion of the OU-1 SRI/SFS and of the OU-1 proposed plan for remedial action  
10 on May 21, 2007, in a major local newspaper of general circulation. The Forest Service provided  
11 an opportunity for written and oral comments from the public on the proposed plan for remedial  
12 action. A copy of the transcript of the public meeting is available to the public as part of the  
13 administrative record upon which the Forest Service based the selection of the response action.

14           G. The decision by the Forest Service on the Remedial Action to be implemented at the Site  
15 for OU-1 is embodied in a final Record of Decision (“ROD” or “OU-1 ROD”), executed on  
16 November 15, 2007, on which the State had a reasonable opportunity to review and comment. The  
17 OU-1 ROD is supported by an administrative record that contains the documents and information  
18 upon which the Forest Service based its selection of the response action.

19           H. The United States has reviewed the Financial Information and Insurance Information  
20 submitted by Settling Defendant to determine whether Settling Defendant is financially able to pay  
21 response costs incurred and to be incurred at the Site. Based upon this Financial Information and  
22 Insurance Information, the United States has determined that Settling Defendant is able to pay the  
23 amounts specified in Section VI (Payment of Response Costs).

24           D. The United States and Settling Defendant agree, and this Court by entering this Partial  
25 Consent Decree finds, that this Partial Consent Decree has been negotiated by the Parties in good  
26 faith, that settlement of this matter will avoid prolonged and complicated litigation between the  
27 Parties, and that this Partial Consent Decree is fair, reasonable, and in the public interest.

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1 THEREFORE, with the consent of the Parties to this Decree, it is ORDERED, ADJUDGED,  
2 AND DECREED:

3 **II. JURISDICTION**

4 1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§  
5 1331 and 1345 and 42 U.S.C. §§ 9607 and 9613(b) and also has personal jurisdiction over Settling  
6 Defendant. Solely for the purposes of this Partial Consent Decree and the underlying cross  
7 complaint, Settling Defendant waives all objections and defenses that it may have to jurisdiction of  
8 the Court or to venue in this District. Settling Defendant shall not challenge entry or the terms of  
9 this Partial Consent Decree or this Court's jurisdiction to enter and enforce this Partial Consent  
10 Decree.

11 **III. PARTIES BOUND**

12 2. This Partial Consent Decree is binding upon the United States, and upon Settling  
13 Defendant and its successors and assigns. Any change in ownership or corporate or other legal  
14 status, including, but not limited to, any transfer of assets or real or personal property, shall in no way  
15 alter the status or responsibilities of Settling Defendant under this Partial Consent Decree.

16 **IV. DEFINITIONS**

17 3. Unless otherwise expressly provided in this Partial Consent Decree, terms used in this  
18 Partial Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA  
19 shall have the meanings assigned to them in CERCLA or in such regulations. Whenever terms listed  
20 below are used in this Partial Consent Decree or in any appendix attached hereto, the following  
21 definitions shall apply:

22 "CERCLA" shall mean the Comprehensive Environmental Response, Compensation,  
23 and Liability Act of 1980, as amended, 42 U.S.C. § 9601, *et seq.*

24 "Day" shall mean a calendar day. In computing any period of time under this Partial  
25 Consent Decree, where the last day would fall on a Saturday, Sunday, or federal holiday, the period  
26 shall run until the close of business of the next working day.

27 "DOJ" shall mean the United States Department of Justice and any successor  
28 departments, agencies or instrumentalities of the United States.

1           “Forest Service” shall mean the United States Department of Agriculture, Forest  
2 Service and any successor departments or agencies of the United States.

3           “Effective Date” shall be the date the Court enters this Partial Consent Decree.

4           “EPA Hazardous Substance Superfund” shall mean the Hazardous Substance  
5 Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

6           “Financial Information” shall mean those financial documents identified in  
7 Appendix A.

8           “Future OU1 Response Costs” shall mean all costs, including, but not limited to,  
9 direct and indirect costs, that the United States incurs pursuant to CERCLA related to OU-1 from  
10 the Effective Date of this Partial Consent Decree forward.

11           “Insurance Information” shall mean those insurance documents identified in  
12 Appendix C.

13           “Interim Response Costs” shall mean all costs, including direct and indirect costs,  
14 (a) paid by the United States in connection with the Site between January 1, 2008 and the Effective  
15 Date, or (b) incurred prior to the Effective Date but paid after that date, plus Interest on all such costs  
16 which has accrued pursuant to 42 U.S.C. § 9607(a) between such dates.

17           “Interest” shall mean interest at the rate specified for interest on investments of the  
18 EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on  
19 October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall  
20 be the rate in effect at the time the interest accrues. The rate of interest is subject to change on  
21 October 1 of each year.

22           “Meyers Landfill Site Special Account” shall mean the special account established  
23 at the Site by the Forest Service pursuant to 16 U.S.C. § 579c.

24           “OU1 Record of Decision” or “OU1 ROD” shall mean the Forest Service Record of  
25 Decision relating to Operable Unit 1 at the Site, signed on November 15, 2007, by the Forest  
26 Service, and all attachments thereto.

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1           “OU1 Remedial Action” shall mean those activities, including construction work, to  
2 be undertaken to implement the OU-1 ROD, in accordance with the final Statement of Work  
3 (“SOW”) for OU-1 and the final Remedial Design and Remedial Action Work Plans and other plans  
4 approved by the Forest Service.

5           “Paragraph” shall mean a portion of this Partial Consent Decree identified by an  
6 Arabic numeral or an upper or lower case letter.

7           “Partial Consent Decree” shall mean this Partial Consent Decree and all appendices  
8 attached hereto. In the event of conflict between this Partial Consent Decree and any appendix, this  
9 Partial Consent Decree shall control.

10           “Parties” shall mean the United States and the Settling Defendant.

11           “Past Response Costs” shall mean all costs, including, but not limited to, direct and  
12 indirect costs, that the United States paid at or in connection with the Site through December 31,  
13 2007, plus Interest on all such costs which has accrued pursuant to 42 U.S.C. § 9607(a) through such  
14 date.

15           “Section” shall mean a portion of this Partial Consent Decree identified by a Roman  
16 numeral.

17           “Settling Defendant” shall mean South Tahoe Refuse Company, Inc. and its  
18 predecessor in interest, SERV-U-GARBAGE, a partnership and their successors and assigns.

19           “Site” shall mean the Meyers Landfill Site, located in Meyers, El Dorado County,  
20 California, encompassing the areal extent of contamination including, without limitation,  
21 approximately 11 acres of buried waste and the groundwater plume originating therefrom (which  
22 presently has an areal extent of approximately 31 acres), and generally shown on the map attached  
23 hereto as Appendix “B.”

24           “United States” shall mean the United States of America and each department, agency  
25 and instrumentality of the United States, including the Forest Service.

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## **V. STATEMENT OF PURPOSE**

2       4. By entering into this Partial Consent Decree, the mutual objective of the Parties is for  
3 Settling Defendant to make a cash payment to resolve its alleged civil liability for OU1 at the Site  
4 under Sections 106 and 107 of CERCLA, 42 U.S.C. §§ 9606 and 9607, as provided in the Covenant  
5 Not to Sue by Plaintiff in Section VIII, and subject to the Reservations of Rights by United States  
6 in Section IX.

## **VI. PAYMENT OF RESPONSE COSTS**

8        5. Within 45 days of the Effective Date of this Partial Consent Decree, Settling Defendant  
9 shall pay \$1,000,000.00 to the Forest Service to be deposited in the Meyers Landfill Special Account  
10 to be retained and used to conduct or finance response actions at or in connection with the Site.

11       6. Payment shall be made by FedWire Electronic Funds Transfer (“EFT”) to the U.S.  
12 Department of Justice account in accordance with current EFT procedures, referencing USAO File  
13 Number 2001V00433 and DOJ Case Number 90-11-3-06554 and Agency Locator Code AGFS.  
14 Payment shall be made in accordance with instructions provided to Settling Defendant by the  
15 Financial Litigation Unit of the U.S. Attorney’s Office in the Eastern District of California following  
16 lodging of the Partial Consent Decree. Any payment received by the Department of Justice after  
17 4:00 p.m. Eastern Time shall be credited on the next business day.

18        7. At the time of payment, Settling Defendant shall send notice that payment has been made  
19 to the Forest Service and DOJ in accordance with Section XIII (Notices and Submissions).

## **VII. FAILURE TO COMPLY WITH PARTIAL CONSENT DECREE**

21       8. Interest on Late Payments. If Settling Defendant fails to make any payment required by  
22 Paragraph 5 by the required due date, Interest shall continue to accrue on the unpaid balance through  
23 the date of payment.

## 24 || 9. Stipulated Penalty.

25 a. If any amounts due under Paragraph 5 are not paid by the required date, Settling  
26 Defendant shall be in violation of this Partial Consent Decree and shall pay, as a stipulated penalty,  
27 in addition to the Interest required by Paragraph 9, \$500 per violation per day that such payment is  
28 late.

1           10. If the United States brings an action to enforce this Partial Consent Decree, Settling  
2 Defendant shall reimburse the United States for all costs of such action, including but not limited  
3 to costs of attorney time.

4           11. Payments made under this Section shall be in addition to any other remedies or sanctions  
5 available to Plaintiff by virtue of Settling Defendant's failure to comply with the requirements of this  
6 Partial Consent Decree.

7           12. Notwithstanding any other provision of this Section, the United States may, in its  
8 unreviewable discretion, waive payment of any portion of the stipulated penalties that have accrued  
9 pursuant to this Partial Consent Decree. Payment of stipulated penalties shall not excuse Settling  
10 Defendant from payment as required by Section VI or from performance of any other requirements  
11 of this Partial Consent Decree.

12           **VIII. COVENANT NOT TO SUE BY PLAINTIFF**

13           13. Except as specifically provided in Section IX (Reservation of Rights by United States),  
14 the United States covenants not to sue or to take administrative action against Settling Defendant  
15 pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), with regard to  
16 Past Response Costs, Interim Response Costs, and Future OU1 Response Costs. This covenant shall  
17 take effect upon receipt by the Forest Service of all amounts required by Section VI (Payment of  
18 Response Costs) and any amount due under Section VII (Failure to Comply with Partial Consent  
19 Decree). This covenant not to sue is conditioned upon the satisfactory performance by Settling  
20 Defendant of its obligations under this Partial Consent Decree, including but not limited to, payment  
21 of all amounts due under Section VI (Payment of Response Costs), and any amount due under  
22 Section VII (Failure to Comply with Partial Consent Decree). This covenant not to sue is also  
23 conditioned upon the veracity and completeness of the Financial Information and Insurance  
24 Information provided to the Forest Service by Settling Defendant and the financial, insurance and  
25 indemnity certification made by Settling Defendant in Paragraph 25.

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1 If the Financial Information or the Insurance Information provided by Settling Defendant, or the  
2 financial, insurance, or indemnity certification made by Settling Defendant in Paragraph 25, is  
3 subsequently determined by the Forest Service to be false or, in any material respect, inaccurate,  
4 Settling Defendant shall forfeit all payments made pursuant to this Partial Consent Decree and this  
5 covenant not to sue and the contribution protection in Paragraph 20 shall be null and void. Such  
6 forfeiture shall not constitute liquidated damages and shall not in any way foreclose the United  
7 States' right to pursue any other causes of action arising from Settling Defendant's false or materially  
8 inaccurate information. This covenant not to sue extends only to Settling Defendant and does not  
9 extend to any other person.

10 **IX. RESERVATION OF RIGHTS BY UNITED STATES**

11 14. The United States reserves, and this Partial Consent Decree is without prejudice to, all  
12 rights against Settling Defendant with respect to all matters not expressly included within the  
13 Covenant Not to Sue by United States in Paragraph 13. Notwithstanding any other provision of this  
14 Partial Consent Decree, the United States reserves all rights against Settling Defendant with respect  
15 to:

16 a. liability for failure of Settling Defendant to meet a requirement of this Partial  
17 Consent Decree;

18 b. criminal liability;

19 c. liability, based on the ownership or operation of the Site by Settling Defendant  
20 when such ownership or operation commences after signature of this Partial Consent Decree by  
21 Settling Defendant;

22 d. liability arising from the past, present, or future disposal, release or threat of  
23 release of a hazardous substance, pollutant, or contaminant outside of the Site;

24 e. liability for damages for injury to, destruction of, or loss of natural resources, and  
25 for the costs of any natural resource damage assessments; and

26 f. liability for additional operable units at the Site or the final response action.

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1        15. Notwithstanding any other provision of this Partial Consent Decree, the United States  
2 reserves, and this Partial Consent Decree is without prejudice to, the right to reinstitute or reopen this  
3 action, or to commence a new action seeking relief other than as provided in this Partial Consent  
4 Decree, if the Financial Information or the Insurance Information provided by Settling Defendant,  
5 or the financial, insurance, or indemnity certification made by Settling Defendant in Paragraph 25,  
6 is false or, in any material respect, inaccurate.

7        **X. COVENANT NOT TO SUE BY SETTLING DEFENDANT**

8        16. Settling Defendant covenants not to sue and agrees not to assert any claims or causes of  
9 action against the United States, or its contractors or employees, with respect to Past Response Costs,  
10 Interim Response Costs, or Future OU1 Response Costs at the Site and this Partial Consent Decree,  
11 including but not limited to:

12            a. any direct or indirect claim for reimbursement from the Hazardous Substance  
13 Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2),  
14 9607, 9611, 9612, or 9613, or any other provision of law;

15            b. any claim arising out of response actions at or in connection with the Site,  
16 including any claim under the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the  
17 Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

18            c. any claim against the United States pursuant to Sections 107 or 113 of CERCLA,  
19 42 U.S.C. §§ 9607 or 9613, relating to the Site.

20        Except as provided in Paragraph 18 (claims against other PRPs) and Paragraph 21 (*res*  
21 *judicata* and other defenses), these covenants not to sue shall not apply in the event the United States  
22 brings a cause of action or issues an order pursuant to any of the reservations set forth in Section IX  
23 (Reservations of Rights by United States), other than in Paragraph 14(a)(claims for failure to meet  
24 a requirement of the Partial Consent Decree) or 14(b) (criminal liability), but only to the extent that  
25 Settling Defendant's claims arise from the same response action or response costs that the United  
26 States is seeking pursuant to the applicable reservation.

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1           17. Nothing in this Partial Consent Decree shall be deemed to constitute approval or  
2 preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or  
3 40 C.F.R. 300.700(d).

4           18. Settling Defendant agrees not to assert any claims or causes of action and to waive all  
5 claims or causes of action (including but not limited to claims or causes of action under Sections  
6 107(a) and 113 of CERCLA) that it may have for all matters relating to OU-1 at the Site against any  
7 other person who is a potentially responsible party under CERCLA at OU-1 at the Site. This waiver  
8 shall not apply with respect to any defense, claim, or cause of action that Settling Defendant may  
9 have against any person if such person asserts a claim or cause of action relating to OU-1 at the Site  
10 against Settling Defendant.

11           **XI. EFFECT OF SETTLEMENT**

12           19. Except as provided in Paragraph 18 (claims against other PRPs), nothing in this Partial  
13 Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person  
14 not a Party to this Partial Consent Decree. Except as provided in Paragraph 18 (claims against other  
15 PRPs), each of the Parties expressly reserves any and all rights (including, but not limited to, Section  
16 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action which it may  
17 have with respect to any matter, transaction, or occurrence relating in any way to the Site against any  
18 person not a Party hereto. Nothing in this Partial Consent Decree diminishes the right of the United  
19 States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. §§ 9613(f)(2)-(3), to pursue any  
20 such persons to obtain additional response costs or response action and to enter into settlements that  
21 give rise to contribution protection pursuant to Section 113(f)(2).

22           20. The Parties agree, and by entering this Partial Consent Decree this Court finds, that this  
23 settlement constitutes a judicially-approved settlement for purposes of Section 113(f)(2) of  
24 CERCLA, 42 U.S.C. § 9613(f)(2), and that Settling Defendant is entitled, as of the date of entry of  
25 this Partial Consent Decree, to protection from contribution actions or claims as provided by Section  
26 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), or as may be otherwise provided by law for “matters  
27 addressed” in this Partial Consent Decree.

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1 The “matters addressed” in this Partial Consent Decree are the OU-1 Remedial Action, Past OU-1  
2 Response Costs, Interim OU-1 Costs, and Future OU-1 Costs; provided, however, that if the United  
3 States exercises rights under the reservations in Section IX (Reservation of Rights by United States),  
4 other than claims for failure to comply with this Partial Consent Decree or in Paragraph  
5 14(b)(Criminal liability), the “matters addressed” in this Partial Consent Decree will no longer  
6 include those response costs or response actions that are within the scope of such reservations.

7       21. Settling Defendant shall, with respect to any suit or claim brought by it for matters  
8 related to this Partial Consent Decree, notify the Forest Service and DOJ in writing no later than 60  
9 days prior to the initiation of such suit or claim. Settling Defendant also agrees that, with respect  
10 to any suit or claim for contribution brought against it for matters related to this Partial Consent  
11 Decree, it will notify the Forest Service and DOJ in writing within 10 days of service of the  
12 complaint or claim upon it. In addition, Settling Defendant shall notify the Forest Service and DOJ  
13 within 10 days of service or receipt of any Motion for Summary Judgment, and within 10 days of  
14 receipt of any order from a court setting a case for trial, for matters related to this Partial Consent  
15 Decree.

16       22. In any subsequent administrative or judicial proceeding initiated by the United States for  
17 injunctive relief, recovery of response costs, or other relief relating to the Site, Settling Defendant  
18 shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, *res*  
19 *judicata*, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any  
20 contention that the claims raised by the United States in the subsequent proceeding were or should  
21 have been brought in the instant case; provided, however, that nothing in this Paragraph affects the  
22 enforceability of the Covenant Not to Sue by Plaintiff set forth in Section VIII.

23                   **XII. DOCUMENT RETENTION/CERTIFICATION**

24       23. Until 10 years after the entry of this Partial Consent Decree, Settling Defendant shall  
25 preserve and retain all records now in its possession or control, or which come into its possession  
26 or control, that relate in any manner to response actions taken at the Site or the liability of any person  
27 under CERCLA with respect to the Site, regardless of any corporate retention policy to the contrary.

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1           24. After the conclusion of the document retention period in the preceding paragraph,  
2 Settling Defendant shall notify the Forest Service and DOJ at least 90 days prior to the destruction  
3 of any such records, and, upon request by the Forest Service or DOJ, Settling Defendant shall deliver  
4 any such records to the Forest Service. Settling Defendant may assert that certain records are  
5 privileged under the attorney-client privilege or any other privilege recognized by federal law. If  
6 Settling Defendant asserts such a privilege, it shall provide Plaintiff with the following: 1) the title  
7 of the record; 2) the date of the record; 3) the name and title of the author of the record; 4) the name  
8 and title of each addressee and recipient; 5) a description of the subject of the record; and 6) the  
9 privilege asserted. However, no records created or generated pursuant to the requirements of this  
10 or any other settlement with the United States shall be withheld on the grounds that they are  
11 privileged. In addition, Settling Defendant may assert business confidentiality claims covering part  
12 or all of the records submitted to Plaintiff[s] under this Partial Consent Decree to the extent  
13 permitted by and in accordance with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7), and 40  
14 C.F.R. 2.203(b). Records determined to be confidential by the Forest Service will be accorded the  
15 protection specified in 40 C.F.R. Part 2, Subpart B. If no claim of confidentiality accompanies  
16 records when they are submitted to the Forest Service, or if the Forest Service has notified Settling  
17 Defendant that the records are not confidential under the standards of Section 104(e)(7) of CERCLA  
18 or 40 C.F.R. Part 2, Subpart B, the public may be given access to such records without further notice  
19 to Settling Defendant.

20           25. Settling Defendant hereby certifies that, to the best of its knowledge and belief, after  
21 thorough inquiry, it has:

22           a. not altered, mutilated, discarded, destroyed or otherwise disposed of any records,  
23 reports, or other information relating to its potential liability regarding the Site since notification of  
24 potential liability by the United States or the filing of suit against it regarding the Site, and that it has  
25 fully complied with any and all Forest Service requests for information regarding the Site and  
26 Settling Defendant's financial circumstances pursuant to Sections 104(e) and 122(e) of CERCLA,  
27 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927; and

28           ///

1 b. submitted to the Forest Service Financial Information that fairly, accurately, and  
2 materially sets forth its financial circumstances, and that those circumstances have not materially  
3 changed between the time the Financial Information was submitted to the Forest Service and the time  
4 Settling Defendant executes this Partial Consent Decree.

### **XIII. NOTICES AND SUBMISSIONS**

6       26. Whenever, under the terms of this Partial Consent Decree, notice is required to be given  
7 or a document is required to be sent by one party to another, it shall be directed to the individuals  
8 at the addresses specified below, unless those individuals or their successors give notice of a change  
9 to the other Parties in writing. Written notice as specified herein shall constitute complete  
10 satisfaction of any written notice requirement of the Partial Consent Decree with respect to the  
11 United States, the Forest Service, and Settling Defendant, respectively.

## 12 || As to the United States:

13 Chief, Environmental Enforcement Section  
14 Environment and Natural Resources Division  
15 U.S. Department of Justice (DJ # 90-11-3-06554)  
P.O. Box 7611  
Washington, D.C. 20044-7611

## 16 As to the Forest Service:

17 Dennis Geiser  
18 Regional Environmental Engineer  
19 Pacific Southwest Region, Region 5  
1323 Club Drive  
19 Vallejo, California 94592

20 Gail Bakker, C.Hg., P.G.  
Tahoe National Forest  
631 Coyote Street  
Nevada City, CA 95959  
21

23 Rose Miksovsky  
24 Staff Attorney  
Office of the General Counsel  
33 New Montgomery St., 17th Floor  
San Francisco, California 94150

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1 As to Settling Defendant:

2 Jeff Tillman, President  
3 South Tahoe Refuse  
2140 Ruth Avenue  
South Lake Tahoe, CA 96150

5 Jeffrey K. Rahbeck, Esq.  
P.O. Box 435  
Zephyr Cove, NV 89448

#### **XIV. RETENTION OF JURISDICTION**

8        27. This Court shall retain jurisdiction over this matter for the purpose of interpreting and  
9 enforcing the terms of this Partial Consent Decree.

## **XV. INTEGRATION/APPENDICES**

11       28. This Partial Consent Decree and its appendices constitute the final, complete and  
12 exclusive understanding between the Parties with respect to the settlement embodied in this Partial  
13 Consent Decree. The Parties acknowledge that there are no representations, agreements or  
14 understandings relating to the settlement other than those expressly contained in this Partial Consent  
15 Decree. The following appendices are attached to and incorporated into this Partial Consent Decree:

16 "Appendix A" is a list of the financial documents submitted to the Forest Service by Settling  
17 Defendant;

18 || “Appendix B” is a map of the Site.

## XVI. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

20        29. This Partial Consent Decree shall be lodged with the Court for a period of not less than  
21 30 days for public notice and comment. The United States reserves the right to withdraw or withhold  
22 its consent if the comments regarding the Partial Consent Decree disclose facts or considerations  
23 which indicate that this Partial Consent Decree is inappropriate, improper, or inadequate. Settling  
24 Defendant consents to the entry of this Partial Consent Decree without further notice.

25       30. If for any reason this Court should decline to approve this Partial Consent Decree in the  
26 form presented, this Partial Consent Decree is voidable at the sole discretion of any party and the  
27 terms of the Partial Consent Decree may not be used as evidence in any litigation between the  
28 Parties.

## **XVII. SIGNATORIES/SERVICE**

2       31. Each undersigned representative of Settling Defendant to this Partial Consent Decree and  
3 the Deputy Section Chief of the Environmental Enforcement Section, Environment and Natural  
4 Resources Division of the United States Department of Justice certifies that he or she is authorized  
5 to enter into the terms and conditions of this Partial Consent Decree and to execute and bind legally  
6 such Party to this document.

7       32. Settling Defendant hereby agrees not to oppose entry of this Partial Consent Decree by  
8 this Court or to challenge any provision of this Partial Consent Decree, unless the United States has  
9 notified Settling Defendant in writing that it no longer supports entry of the Partial Consent Decree.

10       33. Settling Defendant shall identify, on the attached signature page, the name and address  
11 of an agent who is authorized to accept service of process by mail on its behalf with respect to all  
12 matters arising under or relating to this Partial Consent Decree. Settling Defendant hereby agrees  
13 to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of  
14 the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not  
15 limited to, service of a summons.

## XVIII. FINAL JUDGMENT

17       34. Upon approval and entry of this Partial Consent Decree by the Court, this Partial Consent  
18 Decree shall constitute the final judgment between the United States and Settling Defendant. The  
19 Court finds that there is no just reason for delay and therefore enters this judgment as a final  
20 judgment under Fed. R. Civ. P. 54 and 58.

21 IT IS SO ORDERED.

Dated: May 12, 2010

  
MORRISON C. ENGLAND, JR.  
UNITED STATES DISTRICT JUDGE

1 THE UNDERSIGNED PARTIES enter into this Partial Consent Decree in the matter of United  
2 States v. El Dorado County, California, et al., Civil Action No. 2:01-cv-1520 MCE GGH, relating  
to the Meyers Landfill Site.

3 FOR THE UNITED STATES OF AMERICA

4  
5 BENJAMIN B. WAGNER  
6 United States Attorney  
Eastern District of California

7 Date: \_\_\_\_\_

8 /S/ Ellen Mahan \_\_\_\_\_  
9 ELLEN MAHAN  
10 Deputy Chief  
11 Environmental Enforcement Section  
12 Environment and Natural Resources Division  
13 U.S. Department of Justice

14 Date: 2/24/10

15 /S/ Karl J. Fingerhood \_\_\_\_\_  
16 KARL J. FINGERHOOD  
17 Trial Attorney  
18 Environmental Enforcement Section  
19 Environment and Natural Resources Division

20 FOR THE UNITED STATES DEPARTMENT OF AGRICULTURE, FOREST SERVICE

21 Dated: 2/22/10

22 /S/Randy Moore \_\_\_\_\_  
23 RANDY MOORE  
24 Regional Forester  
25 U.S. Department of Agriculture  
26 Forest Service  
27 1323 Club Drive  
28 Vallejo, California 94592

1 THE UNDERSIGNED PARTIES enter into this Partial Consent Decree in the matter of United  
2 States v. El Dorado County, California, et al., Civil Action No. 2:01-cv-1520 MCE GGH, relating  
to the Meyers Landfill Site.

3 FOR SOUTH TAHOE REFUSE COMPANY

4 Date: 11/5/09 /S/ Jeff Tillman \_\_\_\_\_  
5 JEFF TILLMAN  
President, South Tahoe Refuse Company

6  
7 Date: 11/5/09 /S/ John D. Marchini \_\_\_\_\_  
JOHN D. MARCHINI  
8 Secretary, South Tahoe Refuse Company

9 Date: 11/5/09 /S/Gloria Lehman \_\_\_\_\_  
10 GLORIA LEHMAN  
Treasurer, South Tahoe Refuse Company

11 Agent Authorized to Accept Service on Behalf of Above-signed Party:

12 Name: Jeffrey K. Rahbeck, Esq.

13 Title: Corporate Attorney

14 Address: P.O. Box 435,  
15 Zephyr Cove, NV 89448

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