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Superior Court of California
County of Los Angeles

DEC 01 2015

Sherri R. Carter, Executive Officer/Clerk

By Elvia T. Espinoza, Deputy

IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

PEOPLE OF THE STATE OF CALIFORNIA EX
REL. STATE WATER RESOURCES CONTROL
BOARD

PLAINTIFF,

v.

DEPARTMENT OF AIRPORTS OF THE CITY OF
LOS ANGELES, A MUNICIPAL CORPORATION; AND
DOES 1-20 INCLUSIVE.

DEFENDANTS.

Case No. BC 602041

[REDACTED] FINAL CONSENT
JUDGMENT AND PERMANENT
INJUNCTION

(Health & Saf. Code, Div. 20,
Chapter 6.7)

Plaintiff, the People of the State of California, *ex rel.* State Water Resources Control Board (“State Water Board” or “Plaintiff”) and Defendant Department of Airports of the City of Los Angeles, also known as Los Angeles World Airports (“LAWA” or “Defendant”), having consented pursuant to the entry of this Final Judgment and Injunction (“Injunction”); and

The Court having considered the pleadings, which include, without limitation, the Complaint, the parties’ Stipulation for Entry of Final Consent Judgment and Injunction, and the proposed Final Consent Judgment and Injunction;

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1 IT IS HEREBY ORDERED, ADJUDICATED, AND DECREED as follows:

2 **INTRODUCTION**

3 Concurrent with the filing of the Stipulation, the State Water Board filed a Complaint in
4 this matter alleging that LAWA violated various laws and regulations governing the operation
5 and maintenance of underground storage tanks (“USTs”) and UST systems. LAWA denies these
6 allegations and intends by entering the Stipulation merely to avoid any dispute and any expense
7 and inconvenience associated with present and future litigation or legal claims. The Parties
8 previously stipulated to toll the statute of limitations as to the alleged violations so as to allow a
9 discussion of a negotiated resolution. In these negotiations, both Parties were represented by
10 counsel.

11 **STIPULATION FOR ENTRY OF FINAL JUDGMENT**

12 The Parties entered into a Stipulation for Entry of Final Consent Judgment to settle this
13 matter in order to avoid prolonged and complicated litigation, and after opportunity for review by
14 counsel, the Parties consented to entry by the Court of this Final Consent Judgment and
15 Permanent Injunction (“Final Judgment”) on the terms set forth below. As set forth in the
16 Stipulation, the Parties have requested, and the Court has approved, that the Court retain
17 jurisdiction for the purpose of enabling any Party to this Final Judgment to apply to the Court at
18 any time for such further orders and directions as may be necessary and appropriate for the
19 enforcement or compliance with the Final Judgment.

20 **1. DEFINITIONS**

21 1.1. Except where otherwise expressly defined herein, all terms shall be interpreted
22 consistent with Chapter 6.7 of Division 20 of the California Health and Safety Code and Title 23,
23 Division 3, Chapter 16 of the California Code of Regulations (“the UST Regulations”).

24 1.2. “Released USTs” shall mean the nineteen (19) USTs currently and formerly owned
25 and/or operated by LAWA and located at the Los Angeles International Airport (“LAX”), the
26 LA/Ontario International Airport (“ONT”), and the Van Nuys Airport (“VNY”). More
27 specifically, the USTs are or were located at:

- 28 a. 100 World Way, Los Angeles, CA (LAX Terminal 1);

- b. 550 World Way, Los Angeles, CA (LAX Terminal 5);
- c. 7411 World Way West, Los Angeles, CA (LAX Maintenance);
- d. 7350 World Way West, Los Angeles, CA (LAX Vault 1);
- e. 11200 Pershing Drive, Los Angeles, CA (LAX Fire Training Site);
- f. 2132 E. Avion Street, Ontario, CA (ONT Fleet);
- g. 2500 E. Airport Drive, Ontario, CA (ONT Terminal 2);
- h. 2900 E. Airport Drive, Ontario, CA (ONT Terminal 4);
- i. 16300 W. Daily Drive, Van Nuys, CA (VNY Jet Center); and
- j. 16813 Stagg Street, Van Nuys, CA (VNY Maintenance).

1.3. "Covered USTs" shall mean all USTs that are owned and/or operated by LAWA as of the date of entry of the Final Judgment ("existing Covered USTs") and any USTs that come to be owned and/or operated by LAWA on or after the date of entry of the Final Judgment ("newly acquired Covered USTs") subject to the following provisions:

(a) Any Covered UST that is permanently closed in accordance with the requirements of Article 7 of title 23, California Code of Regulations shall cease to be a Covered UST at the time the permanent closure is complete.

(b) Any Covered UST that is sold or transferred so that LAWA is no longer the owner and/or operator of such UST shall cease to be a Covered UST at the time the sale or transfer is complete.

(c) The Parties acknowledge that Defendant is in the process of modernizing LAWA properties, including but not limited to planning and implementing the Los Angeles International Airport Landside Access Modernization Program (collectively, "Program") and that as part of the implementation of the Program Defendant may acquire one or more properties that are currently owned by third parties and which may include USTs. Any such USTs that come to be owned by Defendant shall be excluded from the definition of Covered USTs provided that: (1) Defendant comes to own the USTs by reason of acquiring the property on which the UST is located as part of the Program; (2) Defendant does not dispense product from the UST following acquisition of the property; (3) Defendant removes the contents of the UST within thirty (30) days of acquiring

1 the property on which the UST is located; and (4) Defendant diligently pursues closure of the
2 UST in accordance with the requirements of Article 7 of title 23, California Code of Regulations.

3 (d) The Parties acknowledge that LAWA may involuntarily acquire ownership of one or
4 more USTs including but not limited to by reason of a LAWA tenant declaring bankruptcy,
5 breaching its lease with LAWA and/or abandoning one or more USTs on LAWA-owned property
6 at lease termination. Any such USTs that were previously owned and/or operated by a third party
7 and come to be owned by Defendant shall be excluded from the definition of Covered USTs
8 provided that: (1) Defendant comes to own the USTs by reason of a tenant bankruptcy, tenant
9 breach, tenant abandonment or other involuntary acquisition; (2) Defendant does not dispense
10 product from the UST following acquisition of the UST; (3) Defendant removes the contents of
11 the UST within thirty (30) days of acquiring the UST; and (4) Defendant diligently pursues
12 closure of the UST in accordance with the requirements of Article 7 of title 23, California Code
13 of Regulations.

14 1.4. "Certified Unified Program Agency" or "CUPA" is the agency certified by the
15 Secretary of the California Environmental Protection Agency pursuant to the requirements of
16 Chapter 6.11 of Division 20 of the Health and Safety Code and California Code of Regulations,
17 Title 27, to implement certain State environmental programs within a jurisdiction. As used in the
18 Stipulation and in the Final Judgment, "CUPA" includes any Participating Agency (as defined in
19 Health and Safety Code section 25501(e)(2)) or Unified Program Agency (as defined in Health
20 and Safety Code section 25501(e)(3)).

21 1.5. "Immediately" means directly and without undue delay.

22 1.6. "Promptly" means as soon as reasonably practicable.

23 1.7. "Suspended Penalty Conduct" shall mean a violation of one or more provisions of
24 Paragraphs 5.1 through 5.22, below.

25 **2. JURISDICTION**

26 The Parties agree, and the Court hereby order, that the Superior Court of California, County
27 of Los Angeles, has subject matter jurisdiction over the matters alleged in this action and personal
28 jurisdiction over the Parties to the Stipulation.

1 **3. SETTLEMENT OF DISPUTED CLAIMS**

2 The Parties have stipulated pursuant to a compromise and settlement of disputed
3 Claims set forth in the Complaint. The Stipulation is not an admission by LAWA regarding any
4 issue of law or fact in the above-captioned matter or any violation of law. LAWA waived its
5 right to a hearing on any matter covered by the Complaint prior to the entry of this Final
6 Judgment.

7 **4. PAYMENT FOR CIVIL PENALTIES AND INVESTIGATION AND**
8 **ENFORCEMENT COSTS**

9 4.1. Upon entry of the Final Judgment, LAWA is liable for a total of TWO MILLION
10 THREE HUNDRED THOUSAND DOLLARS (\$2,300,000) in civil penalties to be paid and/or
11 suspended and ONE HUNDRED THOUSAND DOLLARS (\$100,000) in costs to be paid, as set
12 forth in paragraphs 4.2 through 4.4, below.

13 4.2. Cash Civil Penalties: Within thirty (30) days of entry of the Final Judgment, LAWA
14 shall be liable for a total of ONE MILLION TWO HUNDRED THOUSAND DOLLARS
15 (\$1,200,000) in civil penalties imposed pursuant to Section 25299 of the Health and Safety Code.
16 This payment shall be made by check, payable to the State Water Board's "State Water Pollution
17 Cleanup and Abatement Account." These funds may be used by the State Water Board, at its
18 discretion, to fund activities associated with the investigation and/or enforcement of UST
19 requirements, including those codified at Chapter 6.7 of Division 20 of the Health and Safety
20 Code and the UST Regulations, and the investigation and/or protection of the Underground
21 Storage Tank Cleanup Fund. These activities may include, but are not limited to, training State
22 and local enforcement staff, hiring enforcement staff, expert witness support, and criminal
23 investigation development and support.

24 4.3. Reimbursement of Costs of Investigation and Enforcement: Within thirty (30) days
25 of entry of the Final Judgment, LAWA shall pay a total of ONE HUNDRED THOUSAND
26 DOLLARS (\$100,000) to the State Water Board for reimbursement of attorney's fees, costs of
27 investigation and other costs of enforcement. This payment shall be made by check, payable to
28 the "State Water Board Underground Storage Tank Cleanup Fund."

1 4.4. Enhanced Compliance Actions: Of the total civil penalty amount of TWO MILLION
2 THREE HUNDRED THOUSAND DOLLARS (\$2,300,000), SIX HUNDRED FIFTY
3 THOUSAND DOLLARS (\$650,000) shall be suspended on the condition that: (1) LAWA
4 complies with its payment obligations of cash civil penalties and investigative and enforcement
5 costs as set forth in Paragraphs 4.2. and 4.3., and (2) LAWA demonstrates that it has expended at
6 least SIX HUNDRED FIFTY THOUSAND DOLLARS (\$650,000) on completing the actions
7 described in paragraphs 4.4.a through 4.4.c below that exceed regulatory requirements
8 (“Enhanced Compliance Actions”), subject to verification by an independent third party approved
9 by the State Water Board. The costs associated with retaining an independent third party to verify
10 LAWA’s expenditures on the Enhanced Compliance Actions shall not be considered an Enhanced
11 Compliance Action cost eligible to offset any portion of the suspended penalty amount of SIX
12 HUNDRED FIFTY THOUSAND DOLLARS (\$650,000).

13 4.4.a. Tamper-Proof Sensors: LAWA shall equip the turbine sumps, transition sumps,
14 under dispenser containment areas, and any other comparable monitored sump for each of its
15 existing Covered USTs with Veeder-Root model number 794380-323 tamper proof leak detection
16 sensors, or an equivalent sensor approved in writing by the Director of the State Water Board’s
17 Office of Enforcement, within one hundred eighty (180) days from the date of entry of the Final
18 Judgment. Any newly acquired Covered UST shall be equipped with tamper-proof sensors in
19 accordance with this paragraph within sixty (60) days of LAWA taking over as the owner and/or
20 operator of the UST or within one hundred eighty (180) days from the date of entry of the final
21 Judgment, whichever is later. Any Covered UST that is constructed by LAWA after the date of
22 entry of the Final Judgment shall be equipped with tamper-proof sensors in accordance with this
23 paragraph prior to the storage of hazardous substance in the UST.

24 4.4.b. Special Inspector: LAWA shall contract with a special inspector as authorized
25 pursuant to Health and Safety Code section 25288(c) to conduct annual inspections for each
26 Covered UST located at LAX for a period of five (5) years following the date of entry of the Final
27 Judgment. The special inspector shall meet the criteria specified in Health and Safety Code
28 section 25288 and California Code of Regulations, Title 23, section 2715(j) and shall be approved

1 in writing by the Director of the State Water Board's Office of Enforcement. The special
2 inspector shall perform its first inspection within one hundred eighty (180) days following the
3 date of entry of the Final Judgment and every twelve (12) months thereafter. The special
4 inspector's annual inspection is in addition to and separate from the local agency's annual
5 inspection and therefore shall not be conducted concurrently or in conjunction with the local
6 agency; however, the special inspector's authority shall be the same as that of the local agency.
7 The special inspector shall conduct the annual inspection in accordance with Chapter 6.7 of
8 Division 20 of the Health and Safety Code, Chapter 16 of Title 23, California Code of
9 Regulations, and State Water Board Local Guidance Letter LG-159-2 ("LG 159"). The annual
10 inspection shall be documented on the UST inspection checklist provided as part of LG-159.
11 LAWA shall include in its contract conditions with the special inspector a term that requires the
12 special inspector to submit the UST inspection checklist, inspection findings, corrective actions,
13 and any appropriate supporting documentation to the Plaintiffs Notices specified in Paragraph 19
14 within thirty days (30) of inspection.

15 4.4.c. UST Replacement: Within three years from the date of entry of the Final Judgment,
16 LAWA may remove and, at LAWA's sole discretion, replace any of its Released USTs with
17 aboveground storage tanks that meet the requirements of the Aboveground Petroleum Storage Act,
18 as set forth in Chapter 6.67 of Division 20 of Health and Safety Code.

19 4.4.d. All costs associated with completing the Enhanced Compliance Actions must be
20 submitted to the State Water Board no later than three (3) years and six (6) months following
21 entry of the Final Judgment.

22 4.4.e. In the event that LAWA is not able to demonstrate to the reasonable satisfaction of
23 the State Water Board that it has expended at least SIX HUNDRED FIFTY THOUSAND
24 DOLLARS (\$650,000) in verifiable costs of completing the Enhanced Compliance Actions,
25 LAWA shall pay to the State Water Board the amount of the difference between the amount
26 reasonably accepted by the State Water Board and the suspended penalty amount of SIX
27 HUNDRED FIFTY THOUSAND DOLLARS (\$650,000). In the event the Parties disagree over
28 whether one or more expenditures by LAWA are eligible as a cost of completing an Enhanced

1 Compliance Action, either Party may seek resolution of the dispute by filing a noticed motion in
2 accordance with the provisions of Paragraph 21. In any such proceeding, LAWA shall have the
3 burden of proving that each disputed expenditure qualifies as one associated with completing an
4 Enhanced Compliance Action.

5 4.4.f. The Parties agree that none of the costs associated with completing an Enhanced
6 Compliance Action shall be considered a reimbursable cost by the Underground Storage Tank
7 Cleanup Fund. Furthermore, LAWA agrees not to seek reimbursement from the Underground
8 Storage Tank Cleanup Fund for any Enhanced Compliance Action costs.

9 4.5. Suspended Penalties: Of the total civil penalty amount of TWO MILLION THREE
10 HUNDRED THOUSAND DOLLARS (\$2,300,000), FOUR HUNDRED FIFTY THOUSAND
11 DOLLARS (\$450,000) shall be suspended on the condition that: (1) LAWA complies with its
12 payment obligations of cash civil penalties and investigative and enforcement costs as set forth in
13 Paragraphs 4.2. and 4.3., and (2) LAWA does not engage in any Suspended Penalty Conduct
14 specified in Paragraph 6 for a period of five (5) years, beginning immediately upon entry of the
15 Final Judgment.

16 4.5.a. Subject to the provisions of Paragraph 4.5.b, if the State Water Board determines, in
17 its sole discretion, that LAWA has engaged in Suspended Penalty Conduct, as set forth in
18 Paragraph 6, below, the State Water Board may initiate a new enforcement action and seek
19 appropriate relief as authorized by law, including but not limited to, injunctive relief and civil
20 penalties, and/or move the Court by noticed motion to assess and collect suspended penalties as
21 provided herein. LAWA shall retain all of its rights to contest the State Water Board's claim that
22 it has engaged in Suspended Penalty Conduct, including the right to assert that the alleged
23 violation was due to a *Force Majeure Event*, as described in Paragraph 22.

24 4.5.b. If the State Water Board elects to assess and collect suspended penalties as provided
25 herein and the Court finds that LAWA has engaged in Suspended Penalty Conduct, or failed to
26 act when it had a duty to act on one or more occasions that constitute a violation of the provisions
27 that are designated as Suspended Penalty Conduct, the Court shall impose a civil penalty as
28 follows: For each Suspended Penalty Conduct violation and for each thirty (30) day calendar

1 period that a Suspended Penalty Conduct violation remains uncorrected, the Court shall impose a
2 mandatory NINETY THOUSAND DOLLAR (\$90,000) civil penalty payable to the State Water
3 Pollution Cleanup and Abatement Account. The State Water Board shall have the burden of
4 proof for establishing that an alleged Suspended Penalty Conduct violation(s) has occurred.
5 LAWA shall have the burden of proof for establishing that the alleged Suspended Penalty
6 Conduct violation(s) has been corrected in accordance with all applicable laws. LAWA shall not
7 be liable for suspended penalties if the alleged Suspended Penalty Conduct has been corrected
8 within thirty (30) calendar days after LAWA received "Notice" of the violation upon which the
9 Suspended Penalty Conduct is based. If LAWA experiences problems obtaining parts or vendors
10 due to availability limitations precluding repair within thirty (30) days of LAWA receiving Notice
11 of the violation LAWA shall: (1) notify the State Water Board or CUPA no less than two (2)
12 weeks prior to the thirty (30)-day deadline; and (2)(a) state the specific basis for the delay; (2)(b)
13 estimate the time when parts or vendors will be available; (2)(c) identify the entities or persons
14 contacted in attempts to procure parts and vendors; (2)(d) provide the most recent CUPA annual
15 inspection report form; (2)(e) state that all reasonable and diligent efforts to effect the repair have
16 been, are and will be undertaken to complete the repair as soon as practicable; and (2)(f) obtain
17 written approval from the CUPA of the requested extension of time. If the CUPA fails to respond
18 to a request for extension of time, the request for extension of time will be deemed granted.
19 LAWA shall be deemed to have "Notice" of Suspended Penalty Conduct in any of the following
20 instances: (i) the State Water Board has provided LAWA actual written notice of the violation(s)
21 which constitute Suspended Penalty Conduct; (ii) a CUPA has identified the violation(s) in any
22 written inspection report or other written report; (iii) a special inspector has identified the
23 violation(s) in any written inspection report or other written report; (iv) the violation(s) or the
24 facts that constitute Suspended Penalty Conduct are identified in a written inspection report
25 prepared by LAWA's designated operator, or (v) when any officer, employee or agent of LAWA
26 becomes aware of facts that constitute Suspended Penalty Conduct. The State Water Board may
27 still take enforcement action and seek any appropriate relief for violations that constitute
28 Suspended Penalty Conduct as authorized by law, including but not limited to, the assessment and

1 collection of civil penalties pursuant to Health and Safety Code section 25299. If the Court finds
2 that LAWA has engaged in Suspended Penalty Conduct, the Parties agree that the Court shall
3 have no discretion to reduce or otherwise modify the amount of suspended penalties to be
4 assessed and awarded to the State Water Board pursuant to the Stipulation and the Final Judgment
5 until the entire suspended penalty amount of FOUR HUNDRED FIFTY THOUSAND
6 DOLLARS (\$450,000) is exhausted. Payment of the suspended penalties imposed by the Court
7 pursuant to this paragraph shall be due to the State Water Board within thirty (30) days from the
8 Court's final order(s). If LAWA complies with its payment obligations set forth in Paragraphs
9 4.2. and 4.3. and does not engage in Suspended Penalty Conduct for a period of five (5) years,
10 beginning with the entry of the Final Judgment, the suspension of penalties as herein provided
11 shall become permanent. However, if a motion to assess and collect suspended civil penalties as
12 provided herein is still pending before the Court five (5) years after the entry of the Final
13 Judgment, the suspension of penalties shall not become final until a final order has been issued
14 and payment of civil penalties to the State Water Board has been made if required by such order.

15 4.5.c. The suspended penalties provided by Paragraph 4.5 are in addition to, and do not bar,
16 any other remedies or sanctions that may be available for any violations of Chapter 6.7 of
17 Division 20 of the California Health and Safety Code and the UST Regulations.

18 4.6. Late Payments: LAWA shall be liable for a stipulated civil penalty of FIVE
19 THOUSAND DOLLARS (\$5,000) for each day that a payment required pursuant to the
20 Stipulation and this Final Judgment is late.

21 4.7. Payments made pursuant to Paragraphs 4.2. and 4.3. of the Stipulation and this Final
22 Judgment shall be made by check and delivered to the State Water Resources Control Board:

23
24 Division of Administrative Services, Accounting Branch
25 1001 I Street, 18th Floor [95814]
26 P.O. Box 1888
27 Sacramento, CA 95812-1888
28

1 LAWA shall send a photocopy of payments made pursuant to Paragraphs 4.2 and 4.3 to the
2 Plaintiff's Notices identified in Paragraph 19.

3 **5. INJUNCTIVE RELIEF**

4 Pursuant to the provisions of Health and Safety Code section 25299.01, but subject to the
5 termination Paragraph 20 below, upon approval and entry of the Final Judgment by the Court,
6 LAWA, with respect to the Covered USTs, is enjoined to comply with Chapter 6.7 of Division 20
7 of the Health and Safety Code, the UST Regulations and additional requirements as provided
8 herein. Specifically, LAWA is enjoined to comply with the following requirements for each of
9 the Covered USTs:

10 5.1. USTs installed pursuant to Health and Safety Code sections 25290.1, 25290.2 and
11 25291 shall be constructed and maintained such that the secondary containment shall prevent
12 structural weakening as a result of contact with any released hazardous substances, and shall also
13 be capable of storing hazardous substances for the maximum anticipated period of time necessary
14 for the recovery of any released hazardous substance, as required by Health and Safety Code
15 sections 25290.1(c)(2), 25290.2(c)(2), 25291(a)(2), 25292(e) and Title 23 California Code of
16 Regulations section 2662(b) and (c).

17 5.2. USTs installed pursuant to Health and Safety Code sections 25290.1 and 25290.2
18 shall have secondary containment that is constructed, operated, and maintained to prevent water
19 intrusion into the system by precipitation, infiltration, or surface runoff, in accordance with
20 Health and Safety Code sections 25290.1(c)(3) and 25290.2(c)(3). USTs installed pursuant to
21 Health and Safety Code section 25291 shall contain a means of monitoring for water intrusion
22 and for removing the water by the owner or operator if water could enter into the secondary
23 containment by precipitation or infiltration, in accordance with Health and Safety Code section
24 25291(e).

25 5.3. USTs shall be equipped with an overfill prevention system, as required by Health and
26 Safety Code section 25290.1(f), 25290.2(e), 25291(c), 25292(d), and 25292.1(a), and the overfill
27 prevention system shall not allow for manual override, as required by Title 23, California Code of
28 Regulations section 2635(b)(2).

1 5.4 The UST monitoring equipment shall be operated and maintained in accordance with
2 the equipment manufacturer's instructions and certified every twelve (12) months for operability,
3 proper operating condition and proper calibration, as required by Title 23, California Code of
4 Regulations sections 2638 and 2641.

5 5.5. USTs shall be equipped with a spill container that will collect any hazardous
6 substances spilled during product delivery operations to prevent the hazardous substance from
7 entering the subsurface environment, as required by Health and Safety Code section 25284.2 and
8 Title 23, California Code of Regulations section 2635(b)(1), and the spill containment structure
9 shall be tested annually in accordance with the requirements of Health and Safety Code section
10 25284.2.

11 5.6. Secondary containment testing shall be conducted in accordance with the
12 requirements of Title 23, California Code of Regulations section 2637.

13 5.7. Underground pressurized piping that conveys a hazardous substance shall be
14 equipped with a functional automatic line leak detector, as required by Health and Safety Code
15 sections 25290.1(h), 25290.2(g), 25291(f) and 25292(e), and Title 23, California Code of
16 Regulations sections 2636(f)(2) and 2643(c)(1).

17 5.8. Automatic line leak detectors shall be tested in accordance with the requirements of
18 Health and Safety Code section 25293 and Title 23, California Code of Regulations sections
19 2638(a) and 2641(j).

20 5.9. USTs shall be protected against corrosion, as required by Title 23, California Code of
21 Regulations, sections 2635(a)(2) and 2636(b).

22 5.10. At all times, the UST monitoring system shall be capable of detecting an
23 unauthorized release from any portion of the UST system at the earliest possible opportunity, as
24 required by Health and Safety Code sections 25290.1(d), 25290.2(d), 25291(b) and 25292(a) and
25 Title 23, California Code of Regulations sections 2630(d) and 2641(a). LAWA shall properly
26 install and place all leak detection sensors in true vertical position, or as otherwise specified by
27 the manufacturer's instructions, so that each is capable of detecting a leak at the earliest possible
28 opportunity as required by Title 23, California Code of Regulations, including but not limited to,

1 section 2630(d). LAWA shall promptly replace or repair any sensor that, for any reason,
2 becomes incapable of detecting a leak at the earliest possible opportunity.

3 5.11. All double-walled UST systems shall be equipped with continuous monitoring and all
4 single-walled UST systems shall be equipped and monitored using a qualitative release detection
5 method listed in, and as required by Health and Safety Code section 25290.1(d), 25290.2(d),
6 25291(b) and Title 23, California Code of Regulations section 2643(b).

7 5.12. Except as necessary to facilitate testing or maintenance, LAWA shall at all times
8 ensure that the test boots or other termination fittings or couplings at turbine sumps, transition
9 sumps and other piping sumps are properly placed so that the secondary piping drains to a
10 monitored sump as required by Title 23, California Code of Regulations section 2636(c).

11 5.13. Emergency Generator Tank Systems that do not have an automatic line leak detector
12 shall have continuous monitoring and a daily inspection log shall be kept as required by Title 23,
13 California Code of Regulations, sections 2363(f)(6) and 2643(d).

14 5.14. Piping that conveys hazardous substances under less than atmospheric pressure
15 (suction piping) shall be tested in accordance with the requirements set forth in Title 23,
16 California Code of Regulations, section 2643(d).

17 5.15. Training for employees at each site where a Covered UST is located shall be
18 conducted by the designated UST operator, as required by Title 23, California Code of
19 Regulations, section 2715(f) and a list of employees who have been trained by the designated
20 operator and the dates of their hiring and training shall be maintained and provided to the CUPA
21 upon request, as required by Title 23, California Code of Regulations, section 2715(f)(3).

22 5.16. Evidence of financial responsibility shall be maintained at all times, as required by
23 Health and Safety Code section 25292.2.

24 5.17. Updated and approved monitoring plans and accurate plot plans/site map shall be
25 retained on-site. These plans/maps shall be consistent with the UST monitoring system and
26 monitoring equipment employed at each Covered UST, as required by Title 23, California Code
27 of Regulations sections 2632(b) and (d), 2634(d), 2641(g) and (h) and 2712(i).

28

1 5.18. All monitoring plans shall include a release response plan and be retained on site in
2 accordance with the requirements of Title 23, California Code of Regulations sections 2632(d)(2),
3 2634(e), 2641(h) and 2712(i).

4 5.19. Written records of monitoring, testing, repairing and closure shall be maintained on
5 site, as required by Health and Safety Code section 25293 and Title 23, California Code of
6 Regulations section 2712(b).

7 5.20. UST operating permit applications shall be complete and a copy of the permit and all
8 conditions and attachments shall be retained on site, as required by Title 23, California Code of
9 Regulations sections 2711(a) and 2712(i).

10 5.21. Notification shall be made to the Local Agency of any change of designated UST
11 operator(s) no later than thirty (30) days after the change, as required by Title 23, California Code
12 of Regulations section 2715(a).

13 5.22. Notifications shall be made to the Local Agency of any changes in the usage of any
14 Covered UST within thirty (30) days, including but not limited to, storage of new hazardous
15 substances (as the term is defined in Health and Safety Code section 25281(h)), and changes in
16 monitoring procedure, as required by Health and Safety Code section 25286(a). Notification shall
17 also be made if there has been any unauthorized release, as required by Health and Safety Code
18 section 25294 and 25295.

19 5.23. LAWA shall equip the turbine sumps, transition sumps, under dispenser containment
20 areas, and any other comparable monitored sump for each of its existing Covered USTs with
21 Veeder-Root model number 794380-323 tamper proof leak detection sensors, or an equivalent
22 sensor approved in writing by the Director of the State Water Board's Office of Enforcement,
23 within one hundred eighty (180) days from the date of entry of the Final Judgment. Any newly
24 acquired Covered UST shall be equipped with tamper-proof sensors in accordance with this
25 paragraph within sixty (60) days of LAWA taking over as the owner and/or operator of the UST
26 or within one hundred eighty (180) days from the date of entry of the final Judgment, whichever
27 is later. Any Covered UST that is constructed by LAWA after the date of entry of the Final
28

1 Judgment shall be equipped with tamper-proof sensors in accordance with this paragraph prior to
2 the storage of hazardous substance in the UST.

3 5.24. LAWA shall contract with a special inspector as authorized pursuant to Health and
4 Safety Code section 25288(c) to conduct annual inspections for each Covered UST located at
5 LAX for a period of five (5) years following the date of entry of the Final Judgment. The special
6 inspector shall meet the criteria specified in Health and Safety Code section 25288 and California
7 Code of Regulations, Title 23, section 2715(j) and shall be approved in writing by the Director of
8 the State Water Board's Office of Enforcement. The special inspector shall perform its first
9 inspection within one hundred eighty (180) days following the date of entry of the Final Judgment
10 and every twelve (12) months thereafter. The special inspector's annual inspection is in addition
11 to and separate from the local agency's annual inspection and therefore shall not be conducted
12 concurrently or in conjunction with the local agency; however, the special inspector's authority
13 shall be the same as that of the local agency. The special inspector shall conduct the annual
14 inspection in accordance with Chapter 6.7 of the Health and Safety Code, Chapter 16 of Title 23,
15 California Code of Regulations, and State Water Board Local Guidance Letter LG-159-2 ("LG
16 159"). The annual inspection shall be documented on the UST inspection checklist provided as
17 part of LG-159. LAWA shall include in its contract conditions with the special inspector a term
18 that requires the special inspector to submit the UST inspection checklist, inspection findings,
19 corrective actions, and any appropriate supporting documentation to the Plaintiffs Notices
20 specified in Paragraph 19 within thirty days (30) of inspection.

21 **6. SUSPENDED PENALTY CONDUCT**

22 The failure by LAWA to comply with any one of the requirements in paragraphs 5.1
23 through 5.22 shall constitute Suspended Penalty Conduct for which LAWA will be subject to the
24 Suspended Penalties described in Paragraph 4.5, above.

25 **7. MATTERS COVERED BY THE FINAL JUDGMENT**

26 7.1. This Final Judgment is a final and binding resolution and settlement of all claims,
27 violations, and causes of action alleged by the Plaintiff in the Complaint regarding the Released
28 USTs and all claims, violations, penalties and causes of action related to the Released USTs

1 which could have been asserted by the Plaintiff based upon the acts, omissions and/or events that
2 are alleged in the Complaint (hereinafter referred to as "Covered Matters"). The Parties reserve
3 the right to pursue any claim that is not a Covered Matter ("Reserved Claim") and to defend
4 against any Reserved Claims.

5 7.2. The Covered Matters do not include and the Final Judgment does not apply to any
6 claims, actions or penalties for the performance, or lack of performance of, cleanup, corrective
7 action, or response action concerning or arising out of actual past or future releases, spills, leaks,
8 discharges or disposal of motor vehicle fuels, hazardous wastes, or hazardous substances caused
9 or contributed by LAWA at locations at or from the Released USTs or Covered USTs. This Final
10 Judgment does not prevent any claims, actions, or penalties by the Plaintiff and/or other
11 regulatory entity based upon the actual release of any motor vehicle fuels, hazardous wastes, or
12 hazardous substances into the soil or groundwater.

13 7.3. Except as otherwise provided in the Stipulation and in this Final Judgment, the
14 Plaintiff covenants not to sue or pursue any further civil claims, actions or penalties against
15 LAWA or any of its officers, employees, representatives, agents or attorneys for the Covered
16 Matters.

17 7.4. LAWA covenants not to sue or pursue any civil or administrative claims against the
18 Plaintiff or against any agency of the State of California or against its officers, employees,
19 representatives, agents or attorneys arising out of or related to any Covered Matters.

20 7.5. Any claims, violations, or causes of action that are based on acts, omissions or events
21 occurring after the date of entry of the Final Judgment in this matter, are not resolved, settled or
22 covered by the Final Judgment.

23 7.6. In any subsequent action that may be brought by the Plaintiff based on any Reserved
24 Claim(s), LAWA agrees that it will not assert that failing to pursue the Reserved Claim(s) as part
25 of this action constitutes claim-splitting, laches, or is otherwise inequitable. This Paragraph does
26 not prohibit LAWA from asserting any statute of limitations defense that may be applicable to
27 any Reserved Claim.

28 8. **NON-ADMISSION OF LIABILITY**

1 LAWA does not admit any allegation, finding, determination or conclusion contained,
2 alleged or asserted in the Complaint, and the Final Judgment is not an admission by LAWA
3 regarding any issue of law or fact alleged in the Complaint and shall not be construed as an
4 admission by LAWA regarding the same. Except as otherwise expressly provided in the Final
5 Judgment, nothing in the Final Judgment shall prejudice, waive or impair any right, remedy or
6 defense that LAWA has against any person or entity not party to the Final Judgment. Nothing in
7 the Stipulation is intended or shall be construed to give any person or entity not party to the Final
8 Judgment any legal or equitable right, remedy, or claim under or with respect to the Final
9 Judgment or any provisions contained herein.

10 **9. PLAINTIFF NOT LIABLE**

11 The Plaintiff shall not be liable for any injury or damage to persons or property resulting
12 from acts or omissions by LAWA in carrying out the activities pursuant to the Final Judgment,
13 nor shall the Plaintiff be held as a party to or guarantor or any contract entered into by LAWA, its
14 officers, employees, agents, representatives or contractors in carrying out activities required
15 pursuant to the Final Judgment.

16 **10. EFFECT OF FINAL JUDGMENT**

17 Except as expressly provided in the Final Judgment or applicable statutory or common law,
18 nothing in the Final Judgment is intended nor shall it be construed to preclude the Plaintiff from
19 exercising its authority under any law, statute or regulation. Except as expressly provided by the
20 Final Judgment, LAWA retains all of its defenses and rights to the exercise of such authority.

21 **11. APPLICATION OF FINAL JUDGMENT**

22 This Final Judgment applies to and is binding upon the Plaintiff and the Defendant and to
23 each of their respective predecessors, subsidiaries, affiliates, successors and assigns.

24 **12. REGULATORY CHANGES**

25 Nothing in the Final Judgment shall excuse LAWA from complying with any more
26 stringent requirements that may be imposed by changes in applicable law. To the extent any
27 future regulatory or statutory changes make the obligations of LAWA less stringent than as
28 provided for in Paragraphs 5.1 through 5.22 of the Stipulation and in the corresponding

1 paragraphs of this Final Judgment, LAWA may apply to the Court, upon noticed motion, for
2 modification(s) of any of the obligations contained in Paragraphs 5.1 through 5.22 hereof.

3 **13. AUTHORITY TO ENTER STIPULATION**

4 Each signatory to the Stipulation certified that he or she is fully authorized by the Party he
5 or she represents to enter into the Stipulation, to execute it on behalf of the Party, and to legally
6 bind that Party.

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

8 Except as otherwise provided in the Stipulation and in this Final judgment, each of the
9 Parties shall bear and pay their own fees and costs, including, but not limited to, their attorney
10 fees, expert witness fees, and costs and all other costs of litigation, investigation, inspection,
11 enforcement, prosecution and suit incurred to date, in and regarding this action, although nothing
12 in this Paragraph is intended to abridge the allocation of the payments made by LAWA pursuant
13 to Paragraph 4 hereof.

14 **15. COUNTERPART SIGNATURES**

15 The Stipulation may be executed by the Parties in counterpart.

16 **16. ENTRY OF JUDGMENT**

17 Pursuant to the Stipulation, the Parties sought approval of the Final Judgment and requested
18 that the Court make a determination that the Final Judgment is fair and in the public interest. The
19 Court determines that the Final Judgment is fair and in the public interest.

20 **17. INTEGRATION**

21 The Stipulation and this Final Judgment constitutes the whole agreement between the
22 Parties. The Final Judgment may not be amended or modified except as provided for in the
23 Stipulation and in this Final Judgment.

24 **18. MODIFICATION OF FINAL JUDGMENT**

25 The Final Judgment may be amended or modified only on a noticed motion by one of the
26 Parties with subsequent approval by the Court or upon written consent by the Parties and the
27 subsequent approval of the Court.

28 **19. NOTICES**

1 All notices and submissions required by the Stipulation and this Final Judgment shall be
2 sent to the following via personal delivery, or overnight mail using a reputable delivery courier,
3 or United States Postal Service mail, certified or registered mail, return receipt requested:
4

5 **For Plaintiff:**

6 David Boyers, Assistant Chief Counsel
7 State Water Resources Control Board
8 Office of Enforcement
9 P.O. Box 1888
10 Sacramento, CA 95812-1888

11 And

12 Ross H. Hirsch, Deputy Attorney General
13 300 South Spring Street, 11th Floor North
14 Los Angeles, CA 90013

5 **For Defendant:**

6 Nargis Choudhry, Deputy City Attorney
7 Los Angeles World Airports
8 Office of the City Attorney – Airports Div.
9 1 World Way, Room 104, Los Angeles, CA
10 90045-5803

11 Deputy Executive Director
12 Attn: Cynthia Guidry
13 Administration [USTs]
14 Los Angeles World Airports
15 1 World Way, Room 219
16 Los Angeles, CA 90045

17 Division Director
18 Attn: Lisa Trifiletti
19 Los Angeles World Airports
20 Environmental & Land Use Planning
21 Division [USTs]
22 Los Angeles World Airports
23 1 World Way, Room 218
24 Los Angeles, CA 90045

25 Airport Environmental Manager
26 Attn: Robert Freeman
27 Environmental & Land Use Planning
28 Division [USTs]
Los Angeles World Airports
7301 World Way West, 3rd Floor
Los Angeles, CA 90045

And

Gary Meyer, Esq.
Parker Milliken, Clark, O'Hara & Samuelian
555 South Flower Street, 30th Floor
Los Angeles, CA 90071

26 **20. TERMINATION OF INJUNCTIVE RELIEF PROVISIONS**

1 At any time after the Final Judgment has been in effect for five (5) years, LAWA may file a
2 motion seeking to have the Court relieve it from any further compliance with all and/or some of
3 the injunctive relief provisions of Paragraph 5 of the Stipulation and the corresponding provisions
4 of this Final Judgment based upon LAWA's demonstrated history of compliance with Paragraph
5 5. If the State Water Board agrees that LAWA has demonstrated that it has complied with
6 Paragraph 5, it may file a statement of non-opposition to such motion. If the State Water Board
7 disagrees, the State Water Board may file an opposition setting forth its reasoning and
8 recommending that the Final Judgment, including the injunctive relief provisions, remain in effect.
9 Within thirty (30) calendar days of the filing of LAWA's motion, the State Water Board may file
10 either a statement of non-opposition, or an opposition, and within forty-five (45) calendar days of
11 the filing of LAWA's motion, LAWA may file a reply. The Parties agree that the Court may
12 grant LAWA's request upon a showing by LAWA that it has complied with Paragraph 5 and a
13 determination by this Court that LAWA has complied with the obligations set forth in Paragraph
14 5 of the Final Judgment. In the event the Court denies LAWA's request, the injunctive relief
15 provisions of Paragraph 5 of the Stipulation and the corresponding provisions of this Final
16 Judgment shall remain in force for an additional term of one (1) year, at which time LAWA may
17 file a further motion seeking to have the court relieve it from the injunctive relief provisions of
18 Paragraph 5 of the Stipulation and the corresponding provisions of this Final Judgment.

19 **21. ENFORCEMENT OF FINAL JUDGMENT**

20 21.1. The State Water Board may move this Court to enjoin LAWA from any violation of
21 any provisions of the Final Judgment and to award other appropriate relief, including penalties
22 and costs, by serving and filing a regularly noticed motion in accordance with Code of Civil
23 Procedure section 1005 ("Enforcement Motion"). LAWA may file an opposition and the State
24 Water Board may file a reply. At least ten (10) days before filing an Enforcement Motion, the
25 State Water Board will meet and confer in good faith with LAWA to attempt to resolve the matter
26 without judicial intervention. Notwithstanding any other provisions in the Stipulation or this
27 Final Judgment, the State Water Board may take immediate action as authorized by law in order
28 to respond to an immediate threat to human health or the environment.

1 21.2. The Court has the authority to enjoin any violation of the Final Judgment. On the
2 State Water Board's Enforcement Motion and the State Water Board has met its burden of proof
3 as required by Paragraph 4.5, if applicable, the payment amounts as provided in those Paragraphs
4 shall be binding on LAWA. The Court retains, in addition, its power to enforce the Final
5 Judgment through contempt. Except as to Covered Matters between the State Water Board and
6 LAWA, nothing in the Final Judgment or the Stipulation shall restrict the authority of any state or
7 local agency to seek criminal or civil penalties and injunctive relief as provided by law.

8 **22. FORCE MAJEURE EVENT**

9 22.1. It is not a breach of LAWA's obligations under Paragraph 5 if LAWA is unable to
10 perform due to a *Force Majeure Event*. Any event due to acts of God, acts of war (including, but
11 not limited to, acts of terror) or circumstances beyond the control of LAWA that prevents the
12 performance of such an obligation despite LAWA's timely and diligent efforts to fulfill the
13 obligation is a *Force Majeure Event*. The inability to obtain any legally required authorizations,
14 permits, or licenses, after exercise of reasonable diligence, from any governmental agency is a
15 *Force Majeure Event*. A *Force Majeure Event* does not include financial inability to fund or
16 complete any work, any failure by LAWA's suppliers, contractors, subcontractors or other
17 persons contracted to perform the work for or on behalf of LAWA (unless their failure to do so is
18 itself due to a *Force Majeure Event*), nor does it include circumstances which could have been
19 avoided if LAWA had complied with preventative requirements imposed by law, regulation or
20 ordinance.

21 22.2. If LAWA claims a *Force Majeure Event*, it shall notify the State Water Board in
22 writing within three (3) business days of when LAWA learns that the event will prevent
23 performance of an obligation in Paragraph 5. Within fourteen (14) calendar days thereafter,
24 LAWA shall provide the State Water Board a written explanation and description of the reasons
25 for the prevention of performance, all actions taken or to be taken to prevent or mitigate the
26 nonperformance, the anticipated date for performance, and explanation of why the event is a
27 *Force Majeure Event*, and any documentation to support LAWA's explanation. Within fourteen
28 (14) calendar days of receipt of such explanation, the State Water Board will notify LAWA in

1 writing whether the State Water Board agrees or disagrees with LAWA's assertion of a *Force*
2 *Majeure Event*. If the Parties do not agree that a particular delay or lack of performance is
3 attributable to a *Force Majeure Event*, either Party may petition the Court to resolve the dispute.
4 If either Party petitions the Court to resolve the dispute, it will neither prejudice nor preclude the
5 State Water Board from bringing a motion to enforce any of the provisions of Paragraph 5 against
6 LAWA as provided in Paragraph 22.4., below.

7 22.3. The time for performance of the obligations under Paragraph 5 of the Stipulation that
8 are affected by a *Force Majeure Event* will be extended for such time as is necessary to complete
9 those obligations. An extension of time for performance of the obligations affected by the *Force*
10 *Majeure Event* shall not, of itself, extend the time for performance of any other obligation.

11 22.4. If the State Water Board decides to enforce the Provisions of Paragraph 5 against
12 LAWA for the failure to perform in spite of LAWA's claim of a *Force Majeure Event*, LAWA
13 may raise the claimed *Force Majeure Event* as a defense to such an action and shall have the
14 burden of proof to demonstrate the *Force Majeure Event*.

15 **23. NO WAIVER OF RIGHT TO ENFORCE**

16 The failure of the State Water Board to enforce any provision of the Final Judgment shall
17 neither be deemed a waiver of such provision nor in any way affect the validity of the Final
18 Judgment. The failure of the State Water Board to enforce any such provision shall not preclude
19 it from later enforcing the same or any other provision of the Final Judgment. Except as
20 expressly provided in the Final Judgment, LAWA retains all defenses allowed by law to any such
21 later enforcement. No oral advice, guidance, suggestions or comments by employees or officials
22 of any Party regarding matters covered in the Final Judgment shall be construed to relieve any
23 Party of its obligations under the Final Judgment.

24 **24. NECESSITY FOR WRITTEN APPROVALS**

25 All approvals and decisions of the State Water Board under the terms of the Final Judgment
26 shall be communicated to LAWA in writing. No oral advice, guidance, suggestions or comments
27 by employees of or officials of the State Water Board regarding submissions or notices shall be
28

1 construed to relieve LAWA of its obligation to obtain any final written approval required by the
2 Final Judgment.

3 **25. ABILITY TO INSPECT AND COPY RECORDS AND DOCUMENTS**

4 LAWA shall permit any duly authorized representative of the State Water Board to inspect
5 and copy LAWA's records and documents, and to enter and inspect LAWA's facilities to
6 determine whether LAWA is in compliance with the terms of the Final Judgment. Such
7 documents include, but are not limited to, LAWA's designated operator reports. Nothing in this
8 Paragraph is intended to require access to or production of any documents that are protected from
9 production or disclosure by the attorney-client privilege, attorney work product doctrine or any
10 other applicable privilege afforded to LAWA under law.

11

12 **IT IS SO ORDERED, ADJUDICATED AND DECREED**

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14 Dated: DEC 01 2015, 2015

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MARC MARMARO
Judge of the Superior Court
County of Los Angeles

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