

FILED
Superior Court of California
County of Los Angeles

FEB 25 2019

Sherri R. Carter, Executive Officer/Clerk
By Felipe Rojas Deputy

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8 **IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA**
9 **FOR THE COUNTY OF LOS ANGELES**

10
11 **PEOPLE OF THE STATE OF CALIFORNIA EX**
12 **REL. STATE WATER RESOURCES CONTROL**
13 **BOARD**

14 **PLAINTIFF,**

15 v.

16 **LOS ANGELES COUNTY METROPOLITAN**
17 **TRANSPORTATION AUTHORITY; AND DOES 1-**
18 **20 INCLUSIVE.**

19 **DEFENDANTS.**

Case No. 19STCV05173

~~PROPOSED~~ **FINAL CONSENT
JUDGMENT AND PERMANENT
INJUNCTION**

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

20
21 Plaintiff, the People of the State of California, *ex rel.* State Water Resources Control Board
22 (“State Water Board” or “Plaintiff”) and Defendant Los Angeles County Metropolitan
23 Transportation Authority, also known as Metro (“MTA” or “Defendant,” and all parties
24 collectively referred to as “Parties”) having stipulated and consented to the entry of this Final
25 Consent Judgment and Injunction (“Final Judgment”) in their Stipulation for Entry of Final
26 Consent Judgment and Permanent Injunction (“Stipulation”); and
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02/26/2019

1 The Court having considered the pleadings, which include, without limitation, the
2 Complaint, the parties' Stipulation, and the proposed Final Judgment;

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

4 **INTRODUCTION**

5 Concurrent with the filing of the Stipulation, the State Water Board filed a Complaint in
6 this matter alleging that MTA violated various laws and regulations governing the operation and
7 maintenance of underground storage tanks ("USTs") and UST systems. The Parties previously
8 stipulated to toll the statute of limitations as to the alleged violations so as to allow a discussion of
9 a negotiated resolution. In these negotiations, both Parties were represented by counsel.

10 **STIPULATION FOR ENTRY OF FINAL JUDGMENT**

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

18 **1. DEFINITIONS**

19 1.1. Except where otherwise expressly defined herein, all terms shall be interpreted
20 consistent with Chapter 6.7 of Division 20 of the California Health and Safety Code and Title 23,
21 Division 3, Chapter 16 of the California Code of Regulations ("the UST Regulations").

22 1.2. "Released USTs" shall mean the one hundred three (103) USTs currently and
23 formerly owned and/or operated by MTA and located at each of the Divisions of MTA. More
24 specifically, the USTs are or were located at:

- 25 a. Division 1, 1130 East 6th Street;
26 b. Division 2, 720 East 15th Street;
27 c. Division 6, 100 Sunset Avenue;
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- 1 d. Division 8, 9201 Canoga Avenue;
2 e. Division 10, 742 North Mission Road;
3 f. Division 30, 900 Lyon Street;
4 g. Division 99, 1 Gateway Plaza;
5 h. Division 20, 320 South Santa Fe Avenue;
6 i. Division 3, 630 West Avenue 28;
7 j. Division 5, 5425 South Van Ness Avenue;
8 k. Division 15, 11900 West Branford Street;
9 l. Division 11, 4350 East 208th Street;
10 m. Division 18, 450 West Griffith Street;
11 n. Division 9, 3449 Santa Anita Avenue;
12 o. Division 4, 7878 Telegraph Road;
13 p. Division 7, 8800 Santa Monica Boulevard.

14 1.3. "Covered USTs" shall mean all USTs that are owned and/or operated by MTA as of
15 the date of entry of the Final Judgment ("existing Covered USTs") and any USTs that come to be
16 owned and/or operated by MTA on or after the date of entry of the Final Judgment ("newly
17 acquired Covered USTs") subject to the following provisions:

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

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

23 1.4. "Certified Unified Program Agency" or "CUPA" is the agency certified by the
24 Secretary of the California Environmental Protection Agency pursuant to the requirements of
25 Chapter 6.11 of Division 20 of the Health and Safety Code and California Code of Regulations,
26 Title 27, to implement certain State environmental programs within a jurisdiction. As used in the
27 Stipulation and in the Final Judgment, "CUPA" includes any Participating Agency (as defined in
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1 Health and Safety Code section 25501(e)(2)) or Unified Program Agency (as defined in Health
2 and Safety Code section 25501(e)(3)).

3 1.5. "DO" means the designated UST operator.

4 1.6. "Immediately" means directly and without undue delay.

5 1.7. "Promptly" means as soon as reasonably practicable.

6 1.8. "Suspended Penalty Conduct" shall mean a violation of one or more provisions of
7 Paragraphs 5.1 through 5.22, below.

8 **2. JURISDICTION**

9 The Parties agree, and the Court hereby orders, that the Superior Court of California,
10 County of Los Angeles, has subject matter jurisdiction over the matters alleged in this action and
11 personal jurisdiction over the Parties to the Stipulation.

12 **3. SETTLEMENT OF DISPUTED CLAIMS**

13 The Parties have stipulated pursuant to a compromise and settlement of disputed Claims set
14 forth in the Complaint. MTA waived its right to a hearing on any matter covered by the
15 Complaint prior to the entry of this Final Judgment.

16 **4. PAYMENT FOR CIVIL PENALTIES AND INVESTIGATION AND**
17 **ENFORCEMENT COSTS**

18 4.1. Upon entry of the Final Judgment, MTA is liable for a total of SIX MILLION
19 DOLLARS (\$6,000,000) in civil penalties to be paid and/or suspended and SIXTY-SEVEN
20 THOUSAND FIFTY DOLLARS (\$67,050) in costs to be paid, as set forth in paragraphs 4.2
21 through 4.5, below.

22 4.2. Cash Civil Penalties: Within thirty (30) days of entry of the Final Judgment, MTA
23 shall be liable for a total of TWO MILLION DOLLARS (\$2,000,000) in civil penalties imposed
24 pursuant to Section 25299 of the Health and Safety Code. This payment shall be made by check,
25 payable to the State Water Board's "State Water Pollution Cleanup and Abatement Account."
26 These funds may be used by the State Water Board, at its discretion, to fund activities associated
27 with the investigation and/or enforcement of UST requirements, including those codified at
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1 Chapter 6.7 of Division 20 of the Health and Safety Code and the UST Regulations, and the
2 investigation and/or protection of the Underground Storage Tank Cleanup Fund. These activities
3 may include, but are not limited to, training State and local enforcement staff, hiring enforcement
4 staff, expert witness support, and criminal investigation development and support.

5 4.3. Reimbursement of Costs of Investigation and Enforcement: Within thirty (30) days
6 of entry of the Final Judgment, MTA shall pay a total of SIXTY-SEVEN THOUSAND FIFTY
7 DOLLARS (\$67,050) to the State Water Board for reimbursement of the costs of investigation
8 and other costs of enforcement. This payment shall be made by check, payable to the “State
9 Water Board Underground Storage Tank Cleanup Fund.”

10 4.4. Enhanced Compliance Actions: Of the total civil penalty amount of SIX MILLION
11 DOLLARS (\$6,000,000), TWO MILLION DOLLARS (\$2,000,000) shall be suspended on the
12 condition that: (1) MTA complies with its payment obligations of cash civil penalties and
13 investigative and enforcement costs as set forth in Paragraphs 4.2. and 4.3., and (2) MTA
14 demonstrates that it has expended at least TWO MILLION (\$2,000,000) on completing the
15 actions described in paragraphs 4.4.a through 4.4.c below that exceed regulatory requirements
16 (“Enhanced Compliance Actions”), subject to verification by an independent third party approved
17 by the State Water Board. The costs associated with retaining an independent third party to verify
18 MTA’s expenditures on the Enhanced Compliance Actions shall not be considered an Enhanced
19 Compliance Action cost eligible to offset any portion of the suspended penalty amount of TWO
20 MILLION DOLLARS (\$2,000,000) for enhanced compliance actions.

21 4.4.a. Test Boot Replacement: MTA may replace test boots at each covered facility prior
22 to conducting any secondary containment test during the period of the injunction.

23 4.4.b. Environmental Compliance Manager (ECM) and Annual Reporting: MTA shall
24 employ or contract for an ECM for the period of the injunction. The ECM shall ensure
25 compliance with all UST statutes and regulations. The ECM shall submit an annual report
26 including all the compliance information related to USTs, including, but not limited to inspection
27 reports, notices of violation, corrective actions taken, any ongoing violations, and supporting
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1 documentation for each of the foregoing. The ECM shall have the following minimum
2 qualifications: five (5) years' experience in environmental compliance, knowledge of the UST
3 laws and regulations, and is a separate entity from the entity providing monitoring services for
4 MTA. The ECM may be a third party. The ECM shall provide the first annual report one (1) year
5 from the effective date of this judgment, and each year following the first report for the term of
6 the injunction.

7 4.4.c. UST Replacement: Within five (5) years from the date of entry of the Final
8 Judgment, MTA may remove and, at MTA's sole discretion, replace any of its Released USTs
9 with aboveground storage tanks that meet the requirements of the Aboveground Petroleum
10 Storage Act, as set forth in Chapter 6.67 of Division 20 of Health and Safety Code.

11 4.4.d. All costs associated with completing the Enhanced Compliance Actions must be
12 submitted to the State Water Board no later than three (3) years and six (6) months following
13 entry of the Final Judgment. Any costs submitted after that time will not be eligible for
14 application as an Enhanced Compliance Action, and will not result in the suspension of any
15 penalty amount.

16 4.4.e. In the event that MTA is not able to demonstrate to the reasonable satisfaction of the
17 State Water Board that it has expended at least TWO MILLION DOLLARS (\$2,000,000) in
18 verifiable costs of completing the Enhanced Compliance Actions, MTA shall pay to the State
19 Water Board the amount of the difference between the amount reasonably accepted by the State
20 Water Board and the suspended penalty amount of TWO MILLION DOLLARS (\$2,000,000). In
21 the event the Parties disagree over whether one or more expenditures by MTA are eligible as a
22 cost of completing an Enhanced Compliance Action, either Party may seek resolution of the
23 dispute by filing a noticed motion in accordance with the provisions of Paragraph 20. In any such
24 proceeding, MTA shall have the burden of proving that each disputed expenditure qualifies as one
25 associated with completing an Enhanced Compliance Action.

26 4.4.f. The Parties agree that none of the costs associated with completing an Enhanced
27 Compliance Action shall be considered a reimbursable cost by the Underground Storage Tank
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1 Cleanup Fund. Furthermore, MTA agrees not to seek reimbursement from the Underground
2 Storage Tank Cleanup Fund for any Enhanced Compliance Action costs.

3 4.5. Suspended Penalties: Of the total civil penalty amount of SIX MILLION DOLLARS
4 (\$6,000,000), TWO MILLION DOLLARS (\$2,000,000) shall be suspended on the condition that:
5 (1) MTA complies with its payment obligations of cash civil penalties and investigative and
6 enforcement costs as set forth in Paragraphs 4.2. and 4.3., and (2) MTA does not engage in any
7 Suspended Penalty Conduct specified in Paragraph 6 for a period of five (5) years, beginning
8 immediately upon entry of the Final Judgment.

9 4.5.a. Subject to the provisions of Paragraph 4.5.b, if the State Water Board determines, in
10 its sole discretion, that MTA has engaged in Suspended Penalty Conduct, as set forth in
11 Paragraph 6, below, the State Water Board may pursue enforcement of this Final Judgment and
12 seek appropriate relief as authorized by law, including but not limited to, injunctive relief and
13 civil penalties, and/or move the Court by noticed motion to assess and collect suspended penalties
14 as provided herein. MTA shall retain all of its rights to contest the State Water Board's claim that
15 it has engaged in Suspended Penalty Conduct, including the right to assert that the alleged
16 violation was due to a *Force Majeure Event*, as described in Paragraph 21.

17 4.5.b. If the State Water Board elects to assess and collect suspended penalties as provided
18 herein and the Court finds that MTA has engaged in Suspended Penalty Conduct, or failed to act
19 when it had a duty to act on one or more occasions that constitute a violation of the provisions
20 that are designated as Suspended Penalty Conduct, the Court shall impose a civil penalty as
21 follows: For each Suspended Penalty Conduct violation and for each thirty (30) day calendar
22 period that a Suspended Penalty Conduct violation remains uncorrected, the Court shall impose a
23 mandatory ONE HUNDRED FIFTY THOUSAND DOLLAR (\$150,000) civil penalty payable to
24 the State Water Pollution Cleanup and Abatement Account. The State Water Board shall have
25 the burden of proof for establishing that an alleged Suspended Penalty Conduct violation(s) has
26 occurred. MTA shall have the burden of proof for establishing that the alleged Suspended
27 Penalty Conduct violation(s) has been corrected in accordance with all applicable laws. MTA
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1 shall not be liable for suspended penalties if the alleged Suspended Penalty Conduct has been
2 corrected within thirty (30) calendar days after MTA received "Notice" of the violation upon
3 which the Suspended Penalty Conduct is based. If MTA experiences problems obtaining parts or
4 vendors due to availability limitations precluding repair within thirty (30) days of MTA receiving
5 Notice of the violation MTA shall: (1) notify the State Water Board or CUPA no less than two (2)
6 weeks prior to the thirty (30)-day deadline; and (2)(a) state the specific basis for the delay; (2)(b)
7 estimate the time when parts or vendors will be available; (2)(c) identify the entities or persons
8 contacted in attempts to procure parts and vendors; (2)(d) provide the most recent CUPA annual
9 inspection report form; (2)(e) state that all reasonable and diligent efforts to effect the repair have
10 been, are, and will be undertaken to complete the repair as soon as practicable; and (2)(f) obtain
11 written approval from the CUPA of the requested extension of time. If the CUPA fails to respond
12 to a request for extension of time, the request for extension of time will be deemed granted. MTA
13 shall be deemed to have "Notice" of Suspended Penalty Conduct in any of the following
14 instances: (i) the State Water Board has provided MTA actual written notice of the violation(s)
15 which constitute Suspended Penalty Conduct; (ii) a CUPA has identified the violation(s) in any
16 written inspection report or other written report; (iii) any inspector has identified the violation(s)
17 in any written inspection report or other written report; (iv) the violation(s) or the facts that
18 constitute Suspended Penalty Conduct are identified in a written inspection report prepared by
19 MTA's designated operator, or (v) when any officer, employee or agent of MTA becomes aware
20 of facts that constitute Suspended Penalty Conduct. The State Water Board may still pursue
21 enforcement and seek any appropriate relief for violations that constitute Suspended Penalty
22 Conduct as authorized by law, including but not limited to, the assessment and collection of
23 administrative civil penalties or civil penalties pursuant to Health and Safety Code section 25299.
24 If the Court finds that MTA has engaged in Suspended Penalty Conduct, the Parties agree that the
25 Court shall have no discretion to reduce or otherwise modify the amount of suspended penalties
26 to be assessed and awarded to the State Water Board pursuant to the Stipulation and the Final
27 Judgment until the entire suspended penalty amount of TWO MILLION DOLLARS (\$2,000,000)
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1 is exhausted. Payment of the suspended penalties imposed by the Court pursuant to this
2 paragraph shall be due to the State Water Board within thirty (30) days from the Court's final
3 order(s). If MTA complies with its payment obligations set forth in Paragraphs 4.2. and 4.3. and
4 does not engage in Suspended Penalty Conduct for a period of five (5) years, beginning with the
5 entry of the Final Judgment, the suspension of penalties as herein provided shall become
6 permanent. However, if a motion to assess and collect suspended civil penalties as provided
7 herein is still pending before the Court five (5) years after the entry of the Final Judgment, the
8 suspension of penalties shall not become final until the Court issues a final order and MTA has
9 made all payments of civil penalties to the State Water Board if required by such order.

10 4.5.c. The suspended penalties provided by Paragraph 4.5 are in addition to, and do not bar,
11 any other remedies or sanctions that may be available for any violations of Chapter 6.7 of
12 Division 20 of the California Health and Safety Code and the UST Regulations.

13 4.6. Late Payments: MTA shall be liable for a stipulated civil penalty of FIVE
14 THOUSAND DOLLARS (\$5,000) for each day that a payment required pursuant to the
15 Stipulation and this Final Judgment is late.

16 4.7. Payments made pursuant to Paragraphs 4.2. and 4.3. of the Stipulation and this Final
17 Judgment shall be made by check and delivered to the State Water Resources Control Board:

18
19 Division of Administrative Services, Accounting Branch
20 1001 I Street, 18th Floor [95814]
21 P.O. Box 1888
Sacramento, CA 95812-1888

22 MTA shall send a photocopy of payments made pursuant to Paragraphs 4.2 and 4.3 to the
23 Plaintiff's Notices identified in Paragraph 18.

24 **5. INJUNCTIVE RELIEF**

25 Pursuant to the provisions of Health and Safety Code section 25299.01, but subject to the
26 termination Paragraph 19 below, upon approval and entry of the Final Judgment by the Court,
27 MTA, with respect to the Covered USTs, is enjoined to comply with Chapter 6.7 of Division 20
28 of the Health and Safety Code, the UST Regulations and additional requirements as provided

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1 herein. Specifically, MTA is enjoined to comply with the following requirements for each of the
2 Covered USTs:

3 5.1. MTA shall comply with all orders for information relevant to compliance with
4 UST statutes and regulations pursuant to Health and Safety Code section 25289.

5 5.2. MTA shall continuously monitor any underground pressurized piping with a Line
6 Leak Detector (LLD), continuously monitor with an audio/visual alarm, and conduct a 0.1 gallon
7 per hour (gph) precision line test annually, consistent with the requirements of Title 23, California
8 Code of Regulations sections 2636(f). Where UST systems exist, but contain substances with
9 viscosities too high for any LLD to function properly, the State Water Board requires MTA to test
10 the in line solenoid valve every 12 months for proper operation, ensure the valve is tagged at the
11 time of testing, and include test results on the monitoring certification documentation as required
12 in Title 23, California Code of Regulations section 2638.

13 5.3. MTA shall install and maintain LLDs with the ability to detect a 3 gph leak,
14 consistent with the requirements of Health and Safety Code section 25290.1(h), 25291(f), and
15 Title 23, California Code of Regulations sections 2636(f).

16 5.4. MTA shall maintain the required records for maintenance, monitoring, and testing
17 records, and records related to the Designated Operator, including training records, at each of the
18 UST facilities, consistent with Health and Safety Code section 25293, and Title 23, California
19 Code of Regulations sections 2712(b), 2715(c), and 2716(f).

20 5.5. MTA shall maintain a current operating permit for each UST facility, consistent
21 with Health and Safety Code section 25284(a).

22 5.6. MTA shall maintain the current operating permit on site at each UST facility,
23 consistent with Title 23, California Code of Regulations section 2712(i).

24 5.7. MTA shall meet overfill prevention equipment requirements at each of the UST
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1 facilities in a manner acceptable to the State Water Board, and consistent with Health and Safety
2 Code sections 25290.1(f), 25290.2(e), 25291(c), and Title 23, California Code of Regulations
3 section 2635(c)(1) and (d).

4 5.8. MTA shall ensure that all USTs are constructed, operated and maintained to
5 provide primary containment, consistent with the requirements of Health and Safety Code
6 25291(a)(1), and Title 23, California Code of Regulations section 2631(a) and 2712(j).

7 5.9. MTA shall ensure USTs installed pursuant to Health and Safety Code sections
8 25290.1, 25290.2 and 25291 shall be constructed and maintained such that the primary
9 containment shall be product tight and compatible with the substance stored, and the secondary
10 containment shall prevent structural weakening as a result of contact with any released hazardous
11 substances, and shall also be capable of storing hazardous substances for the maximum
12 anticipated period of time necessary for the recovery of any released hazardous substance, as
13 required by Health and Safety Code sections 25290.1(c)(2), 25290.2(c)(1) and (2), 25291(a)(1)
14 and (2). Primary containment must be installed inside secondary containment and be installed in
15 accordance with industry code as required by Title 23 California Code of Regulations section
16 2636(c)(1) and (2).

17 5.10. MTA shall maintain all components of the UST monitoring system and ensure that
18 they are functional, consistent with the requirements for Health and Safety Code sections
19 25290.1(d), 25290.2(d), 25291(b), and Title 23, California Code of Regulations sections 2630(d),
20 and 2632(c)(2).

21 5.11. MTA shall meet all the requirements for Title 23, California Code of Regulations
22 section 2636(a)(3) for UST systems applying the exemptions for safe suction systems.

23 5.12. MTA shall ensure that all UST systems meet spill containment requirements,
24 including minimum five (5)-gallon capacities, protection from galvanic corrosion if made of steel,
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1 and drain method, consistent with Title 23, California Code of Regulations section 2635(b).

2 5.13. MTA shall monitor product piping to detect a leak at the earliest opportunity,
3 including ensuring that test boots are pulled back allowing for drainage of leaked product to reach
4 leak detection sensors, boot ports (Schrader valves) have no obstructions and are positioned
5 between 3 o'clock and 9 o'clock to allow for drainage, monitoring sensors are functional,
6 monitoring sensors are positioned in accordance with the manufacturer's specifications, and that
7 there are no other circumstances interfering with monitoring equipment, consistent with the
8 requirements of Health and Safety Code sections 25290.1(d), 25290.2(d), 25291(b), and Title 23,
9 California Code of Regulations sections 2630(d), and 2638(a).

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11 5.14. MTA shall perform spill containment testing for each UST facility, consistent with
12 Health and Safety Code section 25284.2 and Title 23, California Code of Regulations section
13 2637.1(a).

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15 5.15. MTA shall ensure that DO inspections occur in accordance with Title 23,
16 California Code of Regulations section 2716(a) and (b).

17 5.16. MTA shall ensure that employees, contractors, agents or other personnel that
18 utilize UST systems receive the required DO training, consistent with Title 23, California Code of
19 Regulations section 2715(c). MTA shall maintain all DO training records at each UST facility,
20 consistent with Title 23, California Code of Regulations section 2715(c).

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22 5.17. MTA shall submit and update, as required, facility and tank information
23 documents consistent with the requirements of Health and Safety Code section 25286(a) and Title
24 23, California Code of Regulations section 2711(a).

25 5.18. MTA shall submit and update, as required, monitoring plans for each UST system
26 at each UST facility consistent with the requirements of Health and Safety Code section 25286(a)
27 and (c), and Title 23, California Code of Regulations sections 2632(d)(1), 2634(a),(b),(c) and (d)
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1 and 2711(a)(9).

2 5.19. MTA shall submit and update, as required, the plot/site map for each UST facility,
3 consistent with Health and Safety Code section 25286(a) and Title 23, California Code of
4 Regulations 2711(a)(8).

5 5.20. MTA shall ensure that all monitoring equipment is tagged during the Monitoring
6 Certification, consistent with Title 23, California Code of Regulations section 2638(f).

7 5.21. MTA shall ensure that there is no tampering with monitoring equipment such that
8 monitoring equipment is disabled, manipulated, or otherwise prevented from effectively
9 performing its function.

10 5.22. MTA shall continuously monitor emergency generator pressurized piping, with an
11 automatic LLD, which will restrict flow, shut down flow, or activate an audio-visual alarm in the
12 event of a leak detection. MTA shall perform a 0.1 gph line tightness test every twelve (12)
13 months, in accordance with Title 23, California Code of Regulations section 2636(f)(5).

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16 **6. SUSPENDED PENALTY CONDUCT**

17 The failure by MTA to comply with any one of the requirements in paragraphs 5.1 through
18 5.22 shall constitute Suspended Penalty Conduct for which MTA will be subject to the Suspended
19 Penalties described in Paragraph 4.5, above.

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

21 7.1. This Final Judgment is a final and binding resolution and settlement of all claims,
22 violations, and causes of action alleged by the Plaintiff in the Complaint regarding the Released
23 USTs and all claims, violations, penalties and causes of action related to the Released USTs
24 which could have been asserted by the Plaintiff based upon the acts, omissions and/or events that
25 are alleged in the Complaint (hereinafter referred to as "Covered Matters"). The Parties reserve
26 the right to pursue any claim that is not a Covered Matter ("Reserved Claim") and to defend
27 against any Reserved Claims.

1 7.2. The Covered Matters do not include and the Final Judgment does not apply to any
2 claims, actions or penalties for the performance, or lack of performance of, cleanup, corrective
3 action, or response action concerning or arising out of actual past or future releases, spills, leaks,
4 discharges or disposal of motor vehicle fuels, hazardous wastes, or hazardous substances caused
5 or contributed by MTA at locations at or from the Released USTs or Covered USTs. This Final
6 Judgment does not prevent any claims, actions, or penalties by the Plaintiff and/or other
7 regulatory entity based upon the actual release of any motor vehicle fuels, hazardous wastes, or
8 hazardous substances into the soil or groundwater.

9 7.3. Except as otherwise provided in the Stipulation and in this Final Judgment, the
10 Plaintiff covenants not to sue or pursue any further civil claims, actions or penalties against MTA
11 or any of its officers, employees, representatives, agents or attorneys for the Covered Matters.

12 7.4. MTA covenants not to sue or pursue any civil or administrative claims against the
13 Plaintiff or against any agency of the State of California or against its officers, employees,
14 representatives, agents or attorneys arising out of or related to any Covered Matters.

15 7.5. Any claims, violations, or causes of action that are based on acts, omissions or events
16 occurring after the date of entry of the Final Judgment in this matter, are not resolved, settled or
17 covered by the Final Judgment.

18 7.6. In any subsequent action that may be brought by the Plaintiff based on any Reserved
19 Claim(s), MTA agrees that it will not assert that failing to pursue the Reserved Claim(s) as part of
20 this action constitutes claim-splitting, laches, or is otherwise inequitable. This Paragraph does not
21 prohibit MTA from asserting any statute of limitations defense that may be applicable to any
22 Reserved Claim.

23 **8. PLAINTIFF NOT LIABLE**

24 The Plaintiff shall not be liable for any injury or damage to persons or property resulting
25 from acts or omissions by MTA in carrying out the activities pursuant to the Final Judgment, nor
26 shall the Plaintiff be held as a party to or guarantor or any contract entered into by MTA, its
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1 officers, employees, agents, representatives or contractors in carrying out activities required
2 pursuant to the Final Judgment.

3 **9. EFFECT OF FINAL JUDGMENT**

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

8 **10. APPLICATION OF FINAL JUDGMENT**

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

11 **11. REGULATORY CHANGES**

12 Nothing in the Final Judgment shall excuse MTA from complying with any more stringent
13 requirements that may be imposed by changes in applicable law. To the extent any future
14 regulatory or statutory changes make the obligations of MTA less stringent than as provided for
15 in Paragraphs 5.1 through 5.22 of the Stipulation and in the corresponding paragraphs of this
16 Final Judgment, MTA may apply to the Court, upon noticed motion, for modification(s) of any of
17 the obligations contained in Paragraphs 5.1 through 5.22 hereof.

18 **12. AUTHORITY TO ENTER STIPULATION**

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

22 **13. PAYMENT OF LITIGATION EXPENSES AND FEES**

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

3 **14. COUNTERPART SIGNATURES**

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

5 **15. ENTRY OF JUDGMENT**

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

9 **16. INTEGRATION**

10 The Stipulation and this Final Judgment constitute the whole agreement between the
11 Parties. The Final Judgment may not be amended or modified except as provided for in the
12 Stipulation and in this Final Judgment.

13 **17. MODIFICATION OF FINAL JUDGMENT**

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

17 **18. NOTICES**

18 All notices and submissions required by the Stipulation and this Final Judgment shall be
19 sent to the following via personal delivery, or overnight mail using a reputable delivery courier,
20 or United States Postal Service mail, certified or registered mail, return receipt requested:
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| 22 For Plaintiff: 23 Nickolaus Knight 24 Senior Staff Counsel 25 State Water Resources Control Board 26 Office of Enforcement 27 801 K Street, 23 rd Floor 28 Sacramento, CA 95814 And Ross Hirsch | For Defendant: Cris Liban Executive Officer, Projects Engineering Los Angeles County Metropolitan Transportation Authority One Gateway Plaza Los Angeles, CA 90012 And Ronald W. Stamm |
|--|---|

2025.06.20

1 Deputy Attorney General
2 300 South Spring Street, 11th Floor North
3 Los Angeles, CA 90013

Principal Deputy County Counsel
One Gateway Plaza, 24th Fl.
Los Angeles, CA 90012

4 **19. TERMINATION OF INJUNCTIVE RELIEF PROVISIONS**

5 At any time after the Final Judgment has been in effect for five (5) years, MTA may file a
6 motion seeking to have the Court relieve it from any further compliance with all and/or some of
7 the injunctive relief provisions of Paragraph 5 of the Stipulation and the corresponding provisions
8 of this Final Judgment based upon MTA's demonstrated history of compliance with Paragraph 5.
9 If the State Water Board agrees that MTA has demonstrated that it has complied with Paragraph
10 5, it may file a statement of non-opposition to such motion. If the State Water Board disagrees,
11 the State Water Board may file an opposition setting forth its reasoning and recommending that
12 the Final Judgment, including the injunctive relief provisions, remain in effect. Within thirty (30)
13 calendar days of the filing of MTA's motion, the State Water Board may file either a statement of
14 non-opposition, or an opposition, and within forty-five (45) calendar days of the filing of MTA's
15 motion, MTA may file a reply. The motion's hearing date will be based on the Court's calendar,
16 but in no event will it be less than fifty (50) calendar days after MTA's filing of its motion. The
17 Parties agree that the Court may grant MTA's request upon a showing by MTA that it has
18 complied with Paragraph 5 and a determination by this Court that MTA has complied with the
19 obligations set forth in Paragraph 5 of the Final Judgment. In the event the Court denies MTA's
20 request, the injunctive relief provisions of Paragraph 5 of the Stipulation and the corresponding
21 provisions of this Final Judgment shall remain in force for an additional term of one (1) year, at
22 which time MTA may file a further motion seeking to have the court relieve it from the injunctive
23 relief provisions of Paragraph 5 of the Stipulation and the corresponding provisions of this Final
24 Judgment.

25 **20. ENFORCEMENT OF FINAL JUDGMENT**

26 20.1. The State Water Board may move this Court to enjoin MTA from any violation of
27 any provisions of the Final Judgment and to award other appropriate relief, including penalties
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02/28/2019

1 and costs, by serving and filing a regularly noticed motion in accordance with Code of Civil
2 Procedure section 1005 (“Enforcement Motion”). MTA may file an opposition, and the State
3 Water Board may file a reply. At least ten (10) days before filing an Enforcement Motion, the
4 State Water Board will meet and confer in good faith with MTA to attempt to resolve the matter
5 without judicial intervention. Notwithstanding any other provisions in the Stipulation or this
6 Final Judgment, the State Water Board may take immediate action as authorized by law in order
7 to respond to an immediate threat to human health or the environment.

8 20.2. The Court has the authority to enjoin any violation of the Final Judgment. On the
9 State Water Board’s Enforcement Motion and if the State Water Board has met its burden of
10 proof as required by Paragraph 4.5, if applicable, the payment amounts as provided in those
11 Paragraphs shall be binding on MTA until the entire suspended penalty amount of TWO
12 MILLION DOLLARS (\$2,000,000) is exhausted. The Court retains, in addition, its power to
13 enforce the Final Judgment through contempt. Except as to Covered Matters between the State
14 Water Board and MTA, nothing in the Final Judgment or the Stipulation shall restrict the
15 authority of any state or local agency to seek criminal or civil penalties and injunctive relief as
16 provided by law.

17 **21. FORCE MAJEURE EVENT**

18 21.1. It is not a breach of MTA’s obligations under Paragraph 5 if MTA is unable to
19 perform due to a *Force Majeure Event*. Any event due to acts of God, acts of war (including, but
20 not limited to, acts of terror) or circumstances beyond the control of MTA that prevents the
21 performance of such an obligation despite MTA’s timely and diligent efforts to fulfill the
22 obligation is a *Force Majeure Event*. The inability to obtain any legally required authorizations,
23 permits, or licenses, after exercise of reasonable diligence, from any governmental agency is a
24 *Force Majeure Event*. A *Force Majeure Event* does not include financial inability to fund or
25 complete any work, any failure by MTA’s suppliers, contractors, subcontractors or other persons
26 contracted to perform the work for or on behalf of MTA (unless their failure to do so is itself due
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1 to a *Force Majeure Event*), nor does it include circumstances which could have been avoided if
2 MTA had complied with preventative requirements imposed by law, regulation or ordinance.

3 21.2. If MTA claims a *Force Majeure Event*, it shall notify the State Water Board in
4 writing within three (3) business days of when MTA learns that the event will prevent
5 performance of an obligation in Paragraph 5. Within fourteen (14) calendar days thereafter, MTA
6 shall provide the State Water Board a written explanation and description of the reasons for the
7 prevention of performance, all actions taken or to be taken to prevent or mitigate the
8 nonperformance, the anticipated date for performance, and explanation of why the event is a
9 *Force Majeure Event*, and any documentation to support MTA's explanation. Within fourteen
10 (14) calendar days of receipt of such explanation, the State Water Board will notify MTA in
11 writing whether the State Water Board agrees or disagrees with MTA's assertion of a *Force*
12 *Majeure Event*. If the Parties do not agree that a particular delay or lack of performance is
13 attributable to a *Force Majeure Event*, either Party may petition the Court to resolve the dispute.
14 If either Party petitions the Court to resolve the dispute, it will neither prejudice nor preclude the
15 State Water Board from bringing a motion to enforce any of the provisions of Paragraph 5 against
16 MTA as provided in Paragraph 21.4., below.

17 21.3. The time for performance of the obligations under Paragraph 5 of the Stipulation that
18 are affected by a *Force Majeure Event* will be extended for such time as is necessary to complete
19 those obligations. An extension of time for performance of the obligations affected by the *Force*
20 *Majeure Event* shall not, of itself, extend the time for performance of any other obligation.

21 21.4. If the State Water Board decides to enforce the Provisions of Paragraph 5 against
22 MTA for the failure to perform in spite of MTA's claim of a *Force Majeure Event*, MTA may
23 raise the claimed *Force Majeure Event* as a defense to such an action and shall have the burden of
24 proof to demonstrate the *Force Majeure Event*.

25 **22. NO WAIVER OF RIGHT TO ENFORCE**

26 The failure of the State Water Board to enforce any provision of the Final Judgment shall
27 neither be deemed a waiver of such provision nor in any way affect the validity of the Final
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1 Judgment. The failure of the State Water Board to enforce any such provision shall not preclude
2 it from later enforcing the same or any other provision of the Final Judgment. Except as
3 expressly provided in the Final Judgment, MTA retains all defenses allowed by law to any such
4 later enforcement. No oral advice, guidance, suggestions or comments by employees or officials
5 of any Party regarding matters covered in the Final Judgment shall be construed to relieve any
6 Party of its obligations under the Final Judgment.

7 **23. NECESSITY FOR WRITTEN APPROVALS**

8 All approvals and decisions of the State Water Board under the terms of the Final Judgment
9 shall be communicated to MTA in writing. No oral advice, guidance, suggestions or comments
10 by employees of or officials of the State Water Board regarding submissions or notices shall be
11 construed to relieve MTA of its obligation to obtain any final written approval required by the
12 Final Judgment.

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

14 MTA shall permit any duly authorized representative of the State Water Board to inspect
15 and copy MTA's records and documents, and to enter and inspect MTA's facilities to determine
16 whether MTA is in compliance with the terms of the Final Judgment. Such documents include,
17 but are not limited to, MTA's designated operator reports, inspection reports, and environmental
18 compliance documents. Nothing in this Paragraph is intended to require access to or production
19 of any documents that are protected from production or disclosure by the attorney-client
20 privilege, attorney work product doctrine or any other applicable privilege afforded to MTA
21 under law.

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

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25 Dated: 2-25, 2019

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27 _____
28 Judge of the Superior Court
County of Los Angeles

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