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ENDORSED
FILED AUG 15 2004
SHERI WERT, Court Administrator
By Therese Phelps, Deputy

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8 IN THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 FOR THE COUNTY OF PLUMAS

OFFICE COPY
ATTORNEY GENERAL

10 PEOPLE OF THE STATE OF CALIFORNIA, ex)
11 rel. CALIFORNIA REGIONAL WATER)
QUALITY, CONTROL BOARD, CENTRAL)
12 VALLEY REGION; and the STATE OF)
CALIFORNIA WATER RESOURCES)
13 CONTROL BOARD on behalf of the)
CALIFORNIA REGIONAL WATER QUALITY)
14 CONTROL BOARD, CENTRAL VALLEY)
REGION,)

Case No.: 19897

STIPULATION FOR ENTRY OF JUDGMENT

15 Plaintiffs,

16 v.

17 CEDAR POINT PROPERTIES, INC., a,)
18 California Corporation; DANIEL R. KENNEDY,)
individually and as President of Cedar Point)
19 Properties, Inc., and DOES I - XXX,)

20 Defendants.

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22 Plaintiff and Defendant DANIEL R. KENNEDY ("Kennedy") do hereby agree and stipulate as
23 follows:

24 1. CEDAR POINT PROPERTIES, INC., ("Cedar Point"), and Kennedy in his capacity as
25 President of Cedar Point, have decided not to pursue any further timber harvest at the property which
26 is the subject of this action (the "Walker Mine Property"). Kennedy has no objection to such decision.

27 2. As a result of the decision of Cedar Point to discontinue the timber harvest, there will be no
28 further timber harvest at the Walker Mine Property by Cedar Point.

1 3. Kennedy stipulates and agrees that he shall not, whether in his individual capacity or
2 through his agents or family members, or through any other legal entity existing in the present or
3 future, have any further or future financial interest in activities on the Walker Mine Property.
4 "Financial interest" includes direct or indirect profits or income from activities including, but not
5 limited to, timber harvesting, Christmas tree production and harvesting, production of other
6 agricultural crops, and conduct of recreational activities.

7 4. Pursuant to a previous written settlement agreement entered into by and among Plaintiffs,
8 Cedar Point and Kennedy (the "Settlement Agreement"), and pursuant to a stipulated injunction
9 previously entered by the Court in this action (the "Stipulated Injunction"), an escrow account
10 ("Escrow Account") was previously created at Mid Valley Title and Escrow Company. The proceeds
11 from the timber harvest previously conducted by Cedar Point were deposited into the Escrow
12 Account.

13 5. The Settlement Agreement and the Stipulated Injunction provide for certain distributions
14 from the Escrow Account. As a result of distributions which have previously been made from the
15 Escrow Account, either pursuant to the agreement of Plaintiffs, Cedar Point, and Kennedy, or
16 pursuant to previous orders of the Court, approximately \$119,609.78 now remains in the Escrow
17 Account.

18 6. Kennedy has previously received, from the Escrow Account, the distributions to which
19 Kennedy is entitled by virtue of the Settlement Agreement and/or the Stipulated Injunction and/or
20 previous orders of the Court. Kennedy stipulates and agrees that the amount he received from these
21 distributions is the entire amount to which he is entitled from the Walker Mine Property.

22 7. As a result of the previous distributions from the Escrow Account, the amount presently
23 remaining in the Escrow Account is, pursuant to the Settlement Agreement and/or the Stipulated
24 Injunction and/or previous orders of the Court, to be allocated as follows:

25 A. To the logger "hold back"/withhold, the sum of \$17,302.18; and

26 B. To the Regional Water Quality Control Board, Central Valley Region ("Regional
27 Board"), to be used only for "remedial activities" (as defined in the Settlement Agreement
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1 and/or the Stipulated Injunction) at the Walker Mine Property, or expenditures and/or
2 activities related to the conduct of remedial activities at the Walker Mine Property, the sum of
3 approximately \$102,307.60, which represents the Escrow Account balance minus the amount
4 of the logger "hold back," plus any additional amount that may remain in the Escrow Account
5 as a result of accrual of interest (collectively, the "Remediation Fund"). The Remediation
6 Fund will be deposited in a segregated account of the State Water Resources Control Board
7 Cleanup and Abatement Account and may only be used for the purpose as described above
8 consistent with California Water Code Division 7. Due to the suspended corporate status of
9 Cedar Point, it has been agreed that the Regional Board will expend the Remediation Fund for
10 remedial activities more efficiently than Cedar Point.

11 8. The Court has previously 1) stayed further proceedings in this action and 2) retained
12 jurisdiction to monitor and/or implement the provisions of the Settlement Agreement and/or the
13 Stipulated Injunction.

14 9. The Settlement Agreement and/or the Stipulated Injunction provide that, upon payment to
15 the Regional Board of at least 50% of the amount of the lien of the Regional Board, Kennedy shall be
16 entitled to a judgment in this action which releases him, personally, from all claims and liabilities in
17 connection with this action.

18 10. The entire amount (\$238,334.00) of the lien of the Regional Board on the Walker Mine
19 Property has previously been paid from the Escrow Account, and Kennedy is, therefore, entitled to be
20 released, personally, from all claims and liabilities in connection with this action.

21 11. Pursuant to Section VI(B)(1) of the Settlement Agreement and Paragraph 3(A) of the
22 Stipulated Injunction, the sum of \$7.00 per thousand board feet of timber harvested was deposited
23 into the Escrow Account and held back from payment to the logger until such time as all legal
24 requirements under the THP, including the Forest Practice Act (Pub. Resources Code, § 895 et seq.)
25 and Forest Practice Rules (Cal. Code Regs., tit. 14, § 895 et seq.), were satisfied. (This held back sum
26 is also known as the "logger's withhold".) Because of violations of these requirements that occurred
27 during timber operations at the Walker Mine Property, the licensed timber operator who conducted
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1 timber operations at the Walker Mine Property under contract with Cedar Point, Walter L. Simonis
2 ("Simonis"), is not eligible to receive payment of the held back monies. On June 9, 2004, the
3 California Board of Forestry and Fire Protection found that Simonis committed violations of the
4 Forest Practice Act (Pub. Resources Code, § 4511, et seq.) the Forest Practice Rules (Cal. Code
5 Regs., tit. 14, § 895 et seq.), and consequently the THP, while working under contract with Cedar
6 Point at the Walker Mine Property. (A copy of the Board's Order in the Matter of Walter L. Simonis
7 is attached as Exhibit A.) Simonis was fined \$16,000 as an administrative civil penalty for those
8 violations. Simonis is therefore not entitled to receive the held back funds, and the held back funds
9 will be distributed as follows:

10 A. The held back funds will be distributed from the Escrow Account to the State of
11 California Department of Justice (DOJ), where they will be deposited in the Attorney
12 General's Trust Fund (the DOJ Account) to be held on behalf of the Regional Board.

13 B. The held back funds will be distributed from the DOJ Account on demand and
14 documentation by the staff of Regional Board, to be used only for timber restocking and/or
15 other timber harvesting-related remediation of the Walker Mine Property, related activities
16 and expenditures, and reasonable DOJ attorneys' fees in the event that litigation is brought by
17 Simonis regarding the Regional Board's use and distribution of the held back funds.

18 12. The parties agree that as of the date of execution of this Stipulation, any further tax
19 liability of Cedar Point is the sole responsibility of Cedar Point, and that Cedar Point and/or Kennedy
20 will not be entitled to make any further demands for payment of unpaid taxes on the Remediation
21 Fund.

22 13. As a result of the decision to discontinue timber harvest at the Walker Mine Property, and
23 as a result of the previous distributions from the Escrow Account, and as a result of the fact that the
24 amount required to be received by the Regional Board as a condition of the release of Kennedy,
25 personally, has occurred, Plaintiffs and Kennedy now wish to obtain a judgment of the Court which
26 provides for:

27 A. The release of Kennedy pursuant to the Settlement Agreement and/or the
28 Stipulated Injunction;

1 B. The disposition of the remaining funds in the Escrow Account; and

2 C. The dismissal of this action.

3 14. The corporate powers of Cedar Point Properties have been suspended, and therefore,
4 Cedar Point is not a party to this stipulation.

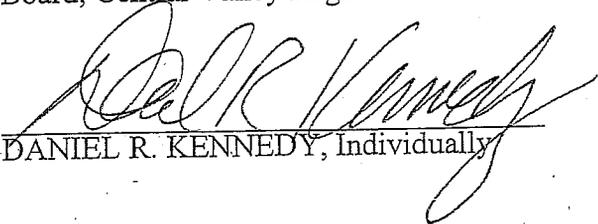
5 15. The Court may, and is hereby requested to, enter a stipulated judgment in the form
6 attached hereto as Exhibit "B."

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8 Dated: August 4, 2004

By: 
THOMAS R. PINKOS, Executive Officer

California Regional Water Quality Control
Board, Central Valley Region

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12 Dated: JULY 19, 2004

By: 
DANIEL R. KENNEDY, Individually

13
14 APPROVED AS TO FORM:

15
16 Dated: July 19, 2004

CHRISTENSEN & SCHWARTZ, LLP

17
18
19 By: 
NELS CHRISTENSEN
Attorneys for Defendant DANIEL R.
KENNEDY

20
21
22 Dated: _____, 2004

BILL LOCKYER
Attorney General
MARY HACKENBRACHT
Senior Assistant Attorney General

23
24
25
26 By: _____
CHRISTA L. SHAW
Deputy Attorney General
Attorneys for Plaintiffs

EXHIBIT B

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2 MARY HACKENBRACHT
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Case No.: 19897

JUDGMENT

15 Plaintiffs,

16 v.

17 CEDAR POINT PROPERTIES, INC., a,
18 California Corporation; DANIEL R. KENNEDY,
individually and as President of Cedar Point
19 Properties, Inc., and DOES I - XXX,

20 Defendants.
21

22 Plaintiffs and Defendant DANIEL R. KENNEDY having stipulated that the Court may make
23 and enter this Judgment, and the corporate powers of Defendant CEDAR POINT PROPERTIES,
24 INC., having been suspended, and good cause appearing therefor, it is hereby adjudged, ordered and
25 decreed as follows:

26 1. The timber harvest at the Walker Mine Property by Defendant CEDAR POINT
27 PROPERTIES, INC., pursuant to a written settlement agreement previously entered into by and
28 among Plaintiffs, CEDAR POINT PROPERTIES, INC., and DANIEL R. KENNEDY (the

1 "Settlement Agreement") and/or pursuant to a previous stipulated injunction previously entered by
2 this Court (the "Stipulated Injunction"), has been completed.

3 2. Defendant CEDAR POINT PROPERTIES, INC., shall conduct no further timber harvest at
4 the Walker Mine Property.

5 3. Defendant DANIEL R. KENNEDY shall not, whether in his individual capacity or through
6 his agents or family members, or through any other legal entity existing in the present or future, have
7 any further or future financial interest in activities on the Walker Mine Property. "Financial interest"
8 includes, but is not limited to, direct or indirect profits or income from activities including, but not
9 limited to, timber harvesting, Christmas tree production and harvesting, production of other
10 agricultural crops, and conduct of recreational activities.

11 4. The amount presently held in the escrow account pursuant to the Settlement Agreement
12 and the Stipulated Injunction is approximately \$119,609.78. Such amount represents the total of (a)
13 the logger's withhold pursuant to Section VI(B)(1) of the Settlement Agreement and/or Paragraph
14 3(A) of the Stipulated Injunction in the amount of approximately \$17,302.18, and (b) the amount to
15 be used by CEDAR POINT PROPERTIES, INC. ("CEDAR POINT") pursuant to the Settlement
16 Agreement and/or the Stipulated Injunction, for remedial activities at the Walker Mine Property, in
17 the amount of approximately \$102,307.60.

18 5. The amount of \$17,302.18, representing the logger's withhold, shall be distributed from the
19 Escrow Account as follows:

20 A. The held back funds will be distributed from the Escrow Account to the State of
21 California Department of Justice (DOJ), where they will be deposited in the Attorney
22 General's Trust Fund (the DOJ Account) to be held on behalf of the Regional Board.

23 B. The held back funds will be distributed from the DOJ Account on demand and
24 documentation by the staff of the Regional Water Quality Control Board, Central Valley
25 Region ("Regional Board"), to be used only for timber restocking and/or other timber
26 harvesting-related remediation of the Walker Mine Property, related activities and
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1 expenditures, and reasonable DOJ attorneys' fees that may be incurred in representing the
2 Regional Board related to its possession and/or use of the held back funds.

3 6. Due to the suspended corporate status of CEDAR POINT, the funds remaining in the
4 Escrow Account after distribution of the logger's hold-back, which total approximately \$102,307.60,
5 plus any additional amount that may remain in the Escrow Account as the result of accrual of interest,
6 shall be distributed to the Regional Water Quality Control Board, Central Valley Region ("Regional
7 Board"), to be deposited in a segregated account of the State Water Resources Control Board Cleanup
8 and Abatement Account and to be used only for "remedial activities" (as defined in the Settlement
9 Agreement and/or the Stipulated Injunction) at the Walker Mine Property, or expenditures and/or
10 activities related to the conduct of remedial activities at the Walker Mine Property, consistent with
11 California Water Code, Division 7.

12 7. The Regional Board, its employees, agents, and contractors, may freely enter the Walker
13 Mine Property and conduct any monitoring, remediation, or related activities as may be deemed
14 necessary or desirable in the judgment of the Regional Board.

15 8. Defendant DANIEL R. KENNEDY is hereby released from any and all claims and
16 liabilities in connection with this action.

17 9. The complaint in this proceeding is hereby dismissed with prejudice as to Defendant
18 DANIEL R. KENNEDY.

19 10. The complaint in this proceeding is hereby dismissed without prejudice as to Defendant
20 CEDAR POINT PROPERTIES, INC.

21
22 Dated: _____, 2004

23 JUDGE OF THE SUPERIOR COURT