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*Attorneys for Plaintiff People ex rel. California
Regional Water Quality Control Board, Central
Valley Region*

**ENDORSED:
FILED**

FEB 24 2015

SIERRA COUNTY SUPERIOR COURT
BY Cecilia Kuhn
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SIERRA

**PEOPLE OF THE STATE OF
CALIFORNIA, ex rel. CALIFORNIA
REGIONAL WATER QUALITY
CONTROL BOARD, CENTRAL VALLEY
REGION,**

Plaintiff,

v.

**ORIGINAL SIXTEEN TO ONE MINE,
INC., a CALIFORNIA CORPORATION,
MICHAEL M. MILLER, and DOES 1
through 50,**

Defendants.

Case No. 7019

NOTICE OF ENTRY OF JUDGMENT

TO ALL PARTIES AND TO THEIR ATTORNEYS OF RECORD:

You are hereby notified that, on February 11, 2015, the above-captioned court entered the attached Stipulated Final Judgment in this matter.

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Dated: February 20, 2015

Respectfully Submitted,
KAMALA D. HARRIS
Attorney General of California



JEFFREY P. REUSCH
Deputy Attorney General
*Attorneys for Plaintiff People ex rel.
California Regional Water Quality Control
Board, Central Valley Region*

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E-mail: Jeffrey.Reusch@doj.ca.gov
*Attorneys for Plaintiff People ex rel. California
Regional Water Quality Control Board, Central
Valley Region*

**ENDORSED:
FILED**

FEB 11 2015

SIERRA COUNTY SUPERIOR COURT
BY *Coelia Kuhn*
DEPUTY CLERK

SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF SIERRA

**PEOPLE OF THE STATE OF
CALIFORNIA, ex rel. CALIFORNIA
REGIONAL WATER QUALITY
CONTROL BOARD, CENTRAL VALLEY
REGION,**

Plaintiff,

v.

**ORIGINAL SIXTEEN TO ONE MINE,
INC., a CALIFORNIA CORPORATION,
MICHAEL M. MILLER, and DOES 1
through 50,**

Defendants.

Case No. 7019
STIPULATED FINAL JUDGMENT

Action Filed: May 1, 2009

This Stipulated Final Judgment (Stipulated Judgment) is entered into by and between Plaintiff, PEOPLE OF THE STATE OF CALIFORNIA, ex rel. CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, CENTRAL VALLEY REGION (PLAINTIFF), and Defendant ORIGINAL SIXTEEN TO ONE MINE, INC. (DEFENDANT).

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RECITALS

A. Water Code section 13385, subdivision (h)(1), provides that, “[n]otwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation.” Water Code section 13385.1, subdivision (a)(1), provides that, “[f]or the purposes of subdivision (h) of Section 13385, a ‘serious violation’ also means a failure to file a discharge monitoring report required pursuant to Section 13383 for each complete period of 30 days following the deadline for submitting the report, if the report is designed to ensure compliance with limitations contained in waste discharge requirements that contain effluent limitations.”

B. On April 30, 2003, the California Regional Water Quality Control Board, Central Valley Region (the Board) issued Waste Discharge Requirements Order No. R5-2002-0042, Amended (the Amended Order). The Amended Order included effluent limitations and a monitoring and reporting program requiring DEFENDANT to, among other things, conduct certain water quality monitoring and submit to the Board monthly reports of the results of that monitoring. The Amended Order required DEFENDANT to submit such monthly reports beginning in 2003, and continuing until the expiration of the Amended Order on March 1, 2007. The last sampling required by the Amended Order was due to be completed in February 2007, and the final monitoring report was due to be submitted by April 1, 2007. As of April 1, 2007, DEFENDANT had not submitted any of the twelve monitoring reports (the Reports) for the monitoring periods from February 2006 through January 2007.

C. PLAINTIFF alleges that DEFENDANT’s failure to submit the Reports as of April 1, 2007, constitutes 78 serious violations pursuant to Water Code sections 13385 and 13385.1, resulting in mandatory minimum penalties totaling \$234,000.

D. On May 1, 2009, PLAINTIFF filed suit against DEFENDANT in Sierra County Superior Court, case no. 7019.

E. DEFENDANT filed an Answer denying and disputing certain allegations made by PLAINTIFF, and that Answer is on file in Sierra County Superior Court, case no. 7019.

1 F. After arms-length negotiations, PLAINTIFF and DEFENDANT have reached and
2 entered into a settlement agreement by way of this Stipulated Judgment in a good faith effort to
3 avoid the uncertainty and expense of protracted litigation. PLAINTIFF believes that this
4 settlement is in the best interests of the people of the State of California.

5 **TERMS**

6 THEREFORE, PLAINTIFF and DEFENDANT stipulate as follows:

7 1. Jurisdiction

8 This court has jurisdiction over the subject matter of this action and the parties to this
9 Stipulated Judgment.

10 2. No Admission of Liability

11 DEFENDANT denies fault or liability for any and all claims made in the Complaint in this
12 matter. The parties expressly acknowledge that this Stipulated Judgment is the compromise of
13 disputed civil claims and that there was no adjudication of any claim.

14 3. Payment by Defendant

15 DEFENDANT shall pay the total sum of two hundred thirty-seven thousand eighty-three
16 dollars and no cents (\$237,083.00), paid in monthly installments due on the 30th day of every
17 month (the 28th day for February), except that when the 30th day of the month is a weekend or
18 State holiday the payment shall be due on the next day that is neither a weekend nor a State
19 holiday. The first monthly installment shall be due on January 30, 2015, and shall proceed
20 pursuant to the following schedule:

- 21 • \$500.00 per month, from January 30, 2015 through and including June 30, 2016;
22 • \$1,000.00 per month, from July 30, 2016 through and including June 30, 2018;
23 • \$1,500.00 per month, from July 30, 2018 through and including June 30, 2019;
24 • \$2,000.00 per month, from July 30, 2019 through and including June 30, 2020;
25 • Outstanding balance due on or before July 30, 2020, with no penalty for prepayment.

26 The total payment of \$237, 083.00 includes the sum of \$3,083.00, representing past-due
27 fees for DEFENDANT's filing of a Report of Waste Discharge on August 8, 2008, pursuant to
28 Water Code section 13260.

1 4. Method of Payment

2 The payments required by Paragraph 3, above, shall be by certified or cashier's check
3 payable to "State Water Resources Control Board" with a notation on the check reading "Central
4 Valley Water Board v. Original Sixteen to One Mine, Inc., WDID # 5A462023001," and shall be
5 mailed to:

6 State Water Resources Control Board
7 Accounting Office
8 P.O. Box 1888
9 Sacramento, CA 95812-1888

9 A copy shall also be mailed to:

10 Central Valley Regional Water Quality Control Board
11 Attn.: Gayleen Perreira
12 11020 Sun Center Drive, Suite 200
13 Rancho Cordova, CA 95670-6114

13 5. Late Payment; Acceleration of Judgment

14 At the Board's sole discretion, if DEFENDANT fails to mail any monthly installment
15 within 60 days after it is due, the full unpaid balance of this Stipulated Judgment (\$237,083.00,
16 less any previously paid amounts) shall immediately become due, enforceable, and collectible.

17 6. Compliance with NPDES Permit

18 DEFENDANT shall obtain from the Board a National Pollutant Discharge Elimination
19 System (NPDES) permit, pursuant to Water Code sections 13263 et seq. and 13377 et seq.,
20 covering the discharge from the 21 Tunnel of the Sixteen to One Mine (the Mine) to Kanaka
21 Creek. DEFENDANT shall fully comply with each and every term of the NPDES permit, subject
22 only to DEFENDANT's right to petition for review as provided in Water Code sections 13320
23 and 13330.

24 7. Scope of Stipulated Judgment

25 This Stipulated Judgment shall apply to and be binding upon DEFENDANT and
26 DEFENDANT's successors and assignees, including but not limited to individuals, partners, and
27 subsidiary and parent corporations, and upon the Board and any successor agency that may have
28 responsibility for and jurisdiction over the subject matter of this Stipulated Judgment.

1 8. Stipulated Judgment Does Not Bind Any Other Agency

2 This Stipulated Judgment is made and entered into by and on behalf of PLAINTIFF only.
3 Except as expressly provided in this Stipulated Judgment, nothing in this Stipulated Judgment is
4 intended or shall be construed to preclude the Attorney General from exercising his or her
5 authority as an independent Constitutional officer under any law, statute, or regulation.
6 Furthermore, except as expressly provided in this Stipulated Judgment, nothing in this Stipulated
7 Judgment is intended or shall be construed to preclude any state, local, or federal agency, board,
8 department, office, commission, or entity from exercising its authority under any law, statute,
9 regulation, or ordinance.

10 9. Jurisdiction, Interpretation

11 This court shall retain jurisdiction, pursuant to Code of Civil Procedure section 664.6, to
12 interpret, modify and enforce the terms and conditions of this Stipulated Judgment. This
13 Stipulated Judgment shall be deemed to have been drafted equally by the parties, and shall not be
14 interpreted for or against either party on the ground that any such party drafted it. This Stipulated
15 Judgment shall be governed by and construed in accordance with the laws of the State of
16 California.

17 10. Knowing, Voluntary Agreement

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

21 11. Authority to Execute

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

25 12. Costs and Attorneys' Fees

26 Each party to this Stipulated Judgment shall bear its own respective costs and attorneys'
27 fees in connection with this matter, including costs and fees associated with negotiating and
28 seeking court approval of this Stipulated Judgment.

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13. Counterparts

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

14. Waiver of Appeal Right; Reservation of Right to Appeal Collateral Orders

The parties agree to waive their right to appeal from this Stipulated Judgment. Nothing in this Stipulated Judgment shall be construed as a waiver of any party's right to appeal from an order that arises from an action to enforce the terms of this Stipulated Judgment.

15. Effective Date

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

16. No Third Party Benefits

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

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IT IS SO STIPULATED.

Dated: 2-5-2015

By: *Pamela Creedon*
California Regional Water Quality Control
Board, Central Valley Region
Pamela C. Creedon, Executive Officer

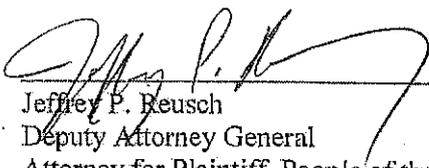
Dated: January 26, 2015

By: *Michael Mester Miller*
Original Sixteen to One Mine, Inc.
Michael M. Miller, President

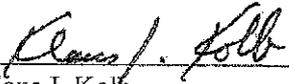
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APPROVED AS TO FORM:

Dated: 2/5/15

By: 
Jeffrey P. Reusch
Deputy Attorney General
Attorney for Plaintiff, People of the State of
California, ex rel. California Regional Water
Quality Control Board, Central Valley Region

Dated: 1/27/15

By: 
Klaus J. Kolb
Attorney for Defendant, Original Sixteen to
One Mine, Inc.

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IT IS SO ORDERED.

Dated: FEB 11 2015

By: John P. Kennelly
JUDGE OF THE SUPERIOR COURT

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **People v. Original Sixteen To One Mine, Inc.**
No.: **7019**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On February 5, 2015, I served the attached **STIPULATED FINAL JUDGMENT** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Klaus J. Kolb, Esq.
13620 Lincoln Way, Suite 380
Auburn, CA 95603

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on February 5, 2015, at Sacramento, California.

Corey A. Bakarich
Declarant


Signature

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **People v. Original Sixteen To One Mine, Inc.**

No.: **7019**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

On February 23, 2015, I served the attached **NOTICE OF ENTRY OF JUDGMENT** by placing a true copy thereof enclosed in a sealed envelope in the internal mail collection system at the Office of the Attorney General at 1300 I Street, Suite 125, P.O. Box 944255, Sacramento, CA 94244-2550, addressed as follows:

Klaus J. Kolb, Esq.
13620 Lincoln Way, Suite 380
Auburn, CA 95603

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on February 23, 2015, at Sacramento, California.

Corey A. Bakarich
Declarant


Signature