

**CALIFORNIA STATE WATER RESOURCES CONTROL BOARD**

In the matter of:	)	
	)	
<b>SOMA ENVIRONMENTAL</b>	)	<b>SETTLEMENT AGREEMENT AND</b>
<b>ENGINEERING, INC.</b>	)	<b>STIPULATION FOR ENTRY OF</b>
	)	<b>ADMINISTRATIVE CIVIL LIABILITY</b>
<b>Alleged misrepresentations</b>	)	<b>ORDER</b>
<b>submitted to the Underground</b>	)	
<b>Storage Tank Cleanup Fund</b>	)	<b>PROPOSED</b>
	)	<b>ORDER</b>
	)	<b>WQ-2018-XXXX-EXEC</b>
	)	
	)	

**Section I: INTRODUCTION**

1. This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Order, Stipulation, or Stipulation and Order) is entered into by and between the State Water Resources Control Board (State Water Board), on behalf of the Underground Storage Tank Cleanup Fund (Cleanup Fund), and SOMA Environmental Engineering, Inc. (SOMA), and its principal Mansour Sepehr (collectively, the Settling Respondents) (collectively or separately with the State Water Board, the Party or Parties), and is presented to the State Water Board, or its delegee, for adoption as an Order by settlement, pursuant to Government Code section 11415.60. This Stipulation addresses all Covered Matters (as described herein) and resolves the violations alleged herein by the imposition of administrative civil liability against Settling Respondents in the amount of **\$200,000.00**.

**Section II: RECITALS**

2. On October 30, 2014, the Office of Enforcement’s Fraud, Waste, and Abuse Prevention Unit (Fraud Prevention Unit) issued a request for information and investigative subpoena to SOMA. The request notified SOMA that the Fraud Prevention Unit was in the process of conducting an audit of invoices and report documents submitted, either directly or through claimants, by SOMA to the Cleanup Fund for a period beginning in 2007 and ending June 20, 2018 (Investigation Period).
3. The audit focused on alleged misrepresentations SOMA made to the Cleanup Fund, including invoicing the Cleanup Fund for markup on an affiliated company, double billing the Cleanup Fund for labor paid to Golden Gate

Remediation Technologies, Inc., invoicing the Cleanup Fund for unnecessary site visits, remedial activities, and an unnecessary report, overbilling for senior review labor hours, and misrepresentations in a well decommissioning report for a well decommissioning performed by a subcontractor. The Settling Respondents deny all allegations set forth herein.

4. On September 25, 2014, Senate Bill 445 (Stats. 2014, Ch. 547) amended the Health and Safety Code, adding section 25299.80 that allows the State Water Board to impose civil liability administratively for misrepresentations made to the Cleanup Fund.
5. On April 30, 2018, without providing any detail on the alleged misrepresentations to the Cleanup Fund being investigated by the Fraud Prevention Unit, the Fraud Prevention Unit issued SOMA a letter offering to enter into settlement negotiations related to alleged misrepresentations to the Cleanup Fund.
6. At a meeting on June 19, 2018, the Fraud Prevention Unit presented its alleged misrepresentations to the Settling Respondent and offered to settle the allegations as part of an administrative settlement. Thereafter, the Parties engaged in settlement negotiations and agree to fully and finally settle the alleged violations for **\$200,000** without administrative or civil litigation and by presenting this Stipulation to the State Water Board, or its delegee, for adoption as an Order by settlement, pursuant to Government Code section 11415.60 and Health and Safety Code section 25299.80.
7. The Cleanup Fund believes that the resolution of the Alleged Matters for the Investigation Period set forth herein is fair and reasonable and fulfills all its enforcement objectives, that no further action against the Settling Respondents is warranted, either directly or through claimants, except as provided in this Stipulation, and that this Stipulation is in the best interest of the public.

### **Section III: STIPULATIONS**

The Parties stipulate to the following:

8. **Administrative Civil Liability:** The Settling Respondents hereby agree to pay the administrative civil liability totaling **\$200,000**, by check made payable to the *State Water Resources Control Board*, no later than 30 days following execution of this Order by the State Water Board or its delegee. The memo line of the check shall reference *UST Cleanup Fund*. The original signed check shall be sent to the following address, and notification of payment shall be sent to Nickolaus.Knight@waterboards.ca.gov.

State Water Resources Control Board  
Office of Enforcement

801 "K" St., Suite 2300  
Sacramento, CA 95814  
Attn: Nickolaus Knight

9. **Injunctive Relief/ Prohibitions:**

- a. Settling Respondents agree that as of June 20, 2018, SOMA and its principal, Mansour Sepehr are prohibited from performing any work for or in connection with any program administered, funded, or directed in any manner by the State Water Board.
  - i. The prohibition in this paragraph includes, but is not limited to, any program, fund, or account authorized under Division 20, Chapters 6.75 and 6.76 of the Health and Safety Code.
  - ii. The prohibition in this paragraph does not apply to work on sites where the responsible party is paying the Settling Respondents directly and will not seek any reimbursement from any State Water Board program.
- b. Settling Respondents are specifically disqualified from participation in any fund or account authorized under Division 20, Chapter 6.75 of the Health and Safety Code pursuant to this Order and section 25299.71.
- c. Settling Respondents agree to submit any and all unpaid reimbursement requests for any work on existing claims they have performed before June 20, 2018 no later than July 6, 2018. After July 6, 2018, Settling Respondents shall not submit any further reimbursement requests for work performed after June 20, 2018 to the Cleanup Fund, or any program listed in paragraph 9(a).
- d. Settling Respondents agree to waive all rights to appeal or petition, administratively or judicially, or in any forum or venue, any and all determinations of eligibility made by the Cleanup Fund with respect to reimbursement of costs and work performed at any site. All determinations regarding whether costs invoiced to the Cleanup Fund are eligible, reasonable, and necessary costs are final.
- e. Settling Respondents agree to waive and/or abandon all appeals or petitions related to any reimbursement requests for costs incurred on claims within the meaning of Division 20, Chapter 6.75 of the Health and Safety Code presently before the State Water Board and/or any court in California or anywhere in the United States of America.
- f. Settling Respondents agree that after June 20, 2018, any and all work performed, supervised by and/or directed by the Settling Respondents that has not been submitted for reimbursement by the Cleanup Fund by July 6, 2018 is not subject to reimbursement from the Cleanup Fund. This includes,

but is not limited to, work performed by a third party or subcontractor to SOMA not submitted as part of a reimbursement request by July 6, 2018.

- g. Settling Respondents agree they are not entitled to any further payment based upon any reimbursement request submitted to the Cleanup Fund, including costs submitted or pending appeal before the State Water Board, submitted but determined ineligible, or for work completed but not yet submitted or appeals not yet submitted, with the exception of those reimbursement requests submitted pursuant to paragraph 9(c) – reimbursement requests submitted by July 6, 2018 are excepted from this Clause.
  - h. Settling Respondents agree they will seek no further payment from any claimants for any work performed that was or will be reimbursed from the Cleanup Fund from the effective date of this Order, except for those reimbursement requests submitted pursuant to paragraph 9(c) – reimbursement requests submitted by July 6, 2018 are excepted from this Clause.
  - i. Settling Respondents will provide written notice to all clients of the Settling Respondents who are existing site claimants under Division 20, Chapters 6.75 and 6.76 of the Health and Safety Code, that Settling Respondents are no longer doing any work for any claims, grants, or loans within the meaning of Division 20, Chapters 6.75 and 6.76 of the Health and Safety Code. Copies of the written notice shall be submitted to the contacts in paragraph 14 within 30 days of the effective date of this Order.
10. The State Water Board’s Cleanup Fund agrees to review reimbursement requests and reimburse SOMA’s Claimants for eligible reasonable and necessary work performed on sites where SOMA was active and authorized to work as of June 20, 2018 for which SOMA has not already been paid. These reimbursement requests will be approved for payment within 60 days after execution of this Order by the State Water Board.
11. **Covered Matters:** This agreement covers all known administrative actions the State Water Board alleged or could have alleged under Health and Safety Code Section 25299.80 up to and including June 20, 2018. This agreement is a full and complete Settlement of all those matters against Settling Respondents and its principal, spouses, shareholders, agents, employees, and former employees except for the obligations imposed herein.
12. **State Water Board is not Liable:** Neither the State Water Board members nor the State Water Board staff, attorneys, or representatives shall be liable for any injury or damage to persons or property resulting from acts or omissions by Settling Respondents, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this

Stipulation and Order, nor shall the State Water Board, its members or staff be held as parties to or guarantors of any contract entered into by Settling Respondent, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulation and Order.

13. **Necessity for Written Approvals:** All approvals and decisions of the State Water Board under the terms of this Stipulation and Order shall be communicated to the Settling Respondents in writing. No oral advice, guidance, suggestions or comments by employees or officials of the State Water Board regarding submissions or notices shall be construed to relieve the Settling Respondents of the obligation to obtain any final written approval required by this Order.

14. **Party Contacts for Communications related to this Stipulation and Order:**

**For the Cleanup Fund:**

Nickolaus Knight  
Senior Counsel  
State Water Board, OE  
801 K Street, Suite 2300  
Sacramento, CA 95814  
[Nickolaus.Knight@waterboards.ca.gov](mailto:Nickolaus.Knight@waterboards.ca.gov)  
916.327.0169

**For Settling Respondent:**

Charles Pomeroy  
StilesPomeroy LLP  
Attorney for Settling Respondents  
301 E. Colorado Blvd., Suite 600  
Pasadena, CA 91101  
[cpomeroy@stilespomeroy.com](mailto:cpomeroy@stilespomeroy.com)  
626.243.5599

15. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

16. **Matters Addressed by this Stipulation:** Upon adoption of the Order incorporating the terms set forth herein, this Stipulation represents a final and binding resolution and settlement of all claims, violations, or causes of action alleged herein. The provisions of this paragraph are expressly conditioned on Settling Respondents' full payment of the Stipulated Administrative Civil Liability by the deadline specified above.


17. **Public Notice:** The Parties understand that this Stipulation and Order must be noticed for a 30-day public review and comment period prior to consideration by the State Water Board or its delegee. In the event objections are raised during the public review and comment period, the State Water Board or its delegee may, under certain circumstances, require a public hearing regarding the Stipulation and Order. In that event, the Parties agree to meet and confer concerning any such objections and may agree to revise or adjust the proposed Order as necessary or advisable under the circumstances.

18. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for adopting the Order by the State Water Board, or its delegee, and review of this Stipulation by the public is lawful and adequate. In the event procedural objections are raised prior to the Order becoming effective, the Parties agree to meet and confer concerning any such objections and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.
19. **Interpretation:** This Stipulation and Order shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party. The Parties are represented by counsel in this matter.
20. **Modification:** This Stipulation and Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing, signed by all Parties, and approved by the State Water Board or its delegee.
21. **Severability:** This Stipulation and Order are severable; should any provision be found invalid the remainder shall remain in full force and effect.
22. **If the Order Does Not Take Effect:** If the Order does not take effect because it is not approved by the State Water Board or its delegee, the Parties agree to meet to attempt to resolve any issues before this matter proceeds to a contested hearing, and that all discussions of settlement and this Settlement Agreement shall not be referred to in any such hearing.
23. **Waiver of Right to Petition or Appeal:** The Parties hereby waive their rights, if any, to petition the adoption of this Order to the State Water Board, petition for writ of administrative mandate in the California Superior Court or to appeal to a California Superior Court and/or any California appellate level court.
24. **Covenant Not to Sue:** Settling Respondents covenant not to sue or pursue any administrative or civil claim(s) against any State agency or the State of California, their officers, Board Members, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by this Stipulation and Order.
25. **Authority to Bind:** Each person executing this Stipulation in a representative capacity represents and warrants that he or she is authorized to execute this Stipulation on behalf of and to bind the entity on whose behalf he or she executes the Stipulation.
26. **No Third-Party Beneficiaries:** This Stipulation is not intended to confer any rights or obligations on any third-party or parties, and no third-party or parties shall have any right of action under this Stipulation for any cause whatsoever.

27. **Counterpart Signatures; Facsimile and Electronic Signature:** This Stipulation may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document. Further, this Stipulation may be executed by facsimile or electronic signature, and any such facsimile or electronic signature by any Party hereto shall be deemed to be an original signature and shall be binding on such Party to the same extent as if such facsimile or electronic signature were an original signature.
28. **Effective Date:** This Stipulation is effective and binding on the Parties upon the entry of this Order by the State Water Board, or its delegee, which incorporates the terms of this Stipulation.

**IT IS SO STIPULATED.**

Date: 11/14/18

By:   
Leslie S. Laudon, Deputy Director  
Division of Financial Assistance  
State Water Resources Control Board

**SOMA Environmental Engineering, Inc.**

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

By: \_\_\_\_\_  
Mansour Sepehr, individually and as its President

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

By: \_\_\_\_\_

Leslie S. Laudon, Deputy Director  
Division of Financial Assistance  
State Water Resources Control Board

**SOMA Environmental Engineering, Inc.**

Date: 11/13/18

By:  \_\_\_\_\_  
Mansour Sepehr, individually and as its President



**ORDER OF THE STATE WATER BOARD**

1. This Order incorporates the foregoing Stipulation.
2. The Parties believe that settlement of this matter is in the best interest of the People of the State. Therefore, to settle this matter, the Settling Respondents agree to comply with the terms and conditions of this Order.
3. The Stipulation and Order are severable; should any provision be found invalid the remainder shall remain in full force and effect.
4. The State Water Board is authorized to refer this matter directly to the Attorney General for enforcement if the Settling Respondents fail to perform any of their obligations under the Stipulation and Order.

**PURSUANT** to Government code section 11415.60 and Health and Safety code section 25299.80, IT IS HEREBY ORDERED on behalf of the State Water Resources Control Board.

\_\_\_\_\_  
Eileen Sobeck, Executive Director

\_\_\_\_\_  
Date