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JS-6

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

LOS ANGELES WATERKEEPER, a
California non-profit association,

Plaintiff,

v.

TONNAGE INDUSTRIAL LLC, a
California limited liability company;
TONNAGE INDUSTRIAL PROPERTIES
LLC, a California limited liability
company,

Defendants.

Case No.: 2:24-cv-03046-MCS-AJR
CONSENT DECREE

CONSENT DECREE

WHEREAS, Plaintiff Los Angeles Waterkeeper (“LA Waterkeeper” or “Plaintiff”) is a 501(c)(3) non-profit public benefit corporation organized under the laws of the State of California, with its main office in Los Angeles, California;

WHEREAS, LA Waterkeeper is dedicated to the preservation, protection and defense of the surface, ground, coastal and ocean waters of Los Angeles County from all sources of pollution and degradation;

1 **WHEREAS**, Defendants TONNAGE INDUSTRIAL LLC AND TONNAGE
2 INDUSTRIAL PROPERTIES LLC (“Defendants”) own and operate two industrial
3 facilities located at 1539 Cota Avenue, Long Beach, CA 90813 with Waste
4 Discharger Identification (“WDID”) Number 4 19I029804 (the “Cota Facility”); and
5 2130 W. Cowles Street, Long Beach, CA 90813, with WDID Number 4 19I028368
6 (the “Cowles Facility”) (together the “Facilities”);

7 **WHEREAS**, the Cota Facility’s industrial activities consist of metal cutting
8 and welding and is categorized under Standard Industrial Classification (“SIC”)
9 Codes 3441 and 3449, covering fabricated structural metal and miscellaneous
10 structural metal work, respectively;

11 **WHEREAS**, the Cowles Facility’s industrial activities consist of
12 manufacturing a line of products for industrial and other metalworking as an
13 industrial metal fabrication facility and sourcing service center that provides steel,
14 aluminum, and galvanized metal and other industrial products and tools. The Cowles
15 Facility is categorized under SIC Codes 3316 (Cold-Rolled Steel Sheet, Strip, and
16 Bars), 3317 (Steel Pipe and Tubes); and 5051 (Metal Service Centers and Offices);

17 **WHEREAS**, storm water discharges associated with industrial activity at the
18 Cota and Cowles Facilities are regulated by the National Pollutant Discharge
19 Elimination System (“NPDES”) General Permit No. CAS000001 [State Water
20 Resources Control Board], Water Quality Order 2014-0057-DWQ, as amended by
21 Order Nos. 2015-0122-DWQ and 2018-0028-DWQ (“General Permit” or “Permit”)¹,
22 and the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251, *et seq.* (“Clean
23 Water Act” or “CWA”), Sections 301(a) and 402, 33 U.S.C. §§ 1311(a), 1342;

24 **WHEREAS**, Defendants’ operations at the Facilities result in discharges of
25

26 ¹ Any references to the “General Permit” or “Permit” herein shall be to the then-effective version, regardless
27 of whether such changes are the result of amendments, revisions, reissuance, or similar modification of
28 material terms. Any reference in this Consent Decree to specific sections or subsections of the General
Permit that are moved, modified, or otherwise changed in a subsequent version of the General Permit shall be
to such subsequent reference(s) as if set forth herein, *e.g.*, the current §XI.B.6.c may be renumbered as
§XI.B.7.c, combined into the current §XI.B.6.d, or split into a new §XI.B.6.c and §XI.B.6.d.

1 pollutants into waters of the United States and are regulated by the Clean Water Act
2 Sections 301(a) and 402. 33 U.S.C. §§ 1311(a), 1342;

3 **WHEREAS**, the General Permit requires all permittees, including Defendants,
4 to comply with, inter alia, the following mandates: (1) develop and implement a
5 storm water pollution prevention plan and a storm water monitoring implementation
6 plan, (2) control pollutant discharges using, as applicable, best available technology
7 economically achievable or best conventional pollutant control technology to prevent
8 or reduce pollutants through the development and application of Best Management
9 Practices, which must be included and timely updated in the SWPPP, (3) reduce and
10 eliminate discharges necessary to comply with any and all applicable Water Quality
11 Standards, and (4) implement a monitoring and reporting program designed to assess
12 compliance with the Permit;

13 **WHEREAS**, on November 28, 2023, Plaintiff issued a notice of intent to file
14 suit (“60-Day Notice”) to Defendants, its registered agent, the Administrator of the
15 United States Environmental Protection Agency (“EPA”), the Executive Director of
16 the State Water Resources Control Board (“State Board”), the Executive Officer of
17 the Los Angeles Regional Water Quality Control Board (“Regional Board”), the
18 Regional Administrator of EPA Region IX, and the U.S. Attorney General, alleging
19 violations of the Clean Water Act and the General Permit Water Quality Order 2014-
20 0057-DWQ, as amended by Order Nos. 2015-0122-DWQ and 2018-0028-DWQ
21 incorporating: 1) Federal Sufficiently Sensitive Test Method Ruling; 2) Total
22 Maximum Daily Load Implementation Requirements; and 3) Statewide Compliance
23 Options Incentivizing On-Site or Regional Storm Water Capture and Use, at the
24 Facility;

25 **WHEREAS**, on April 4, 2024, LA Waterkeeper filed a complaint against
26 Defendants in the Central District of California (“Court”), Civil Case No. 2:24-cv-
27 03046-MCS-AJR (“Complaint”);
28

1 **WHEREAS**, Plaintiff’s Complaint alleged violations of the General Permit
2 and the Clean Water Act for Defendants’ discharges of pollutants into storm drains
3 and surface waters, including the Dominguez Channel Estuary, the Los Angeles and
4 Long Beach Harbors, and the Pacific Ocean (“Receiving Waters”);

5 **WHEREAS**, Defendants have acquired a separate property located at 1523
6 Cota Avenue, Long Beach, CA, and plan to move its industrial activities to this new
7 facility where such activities will be conducted under cover and not exposed to storm
8 water by the end of 2025;

9 **WHEREAS**, the Agreement shall only apply to the operations at the Facilities
10 and not apply to any new property or other facility operated by Defendants;

11 **WHEREAS**, Plaintiff and Defendants (collectively, “Settling Parties” or
12 “Parties”) agree that it is in their mutual interest to enter into a Consent Decree
13 setting forth terms and conditions appropriate to resolving the allegations set forth in
14 the 60-Day Notice and Complaint without further proceedings;

15 **WHEREAS**, all actions taken by Defendants pursuant to this Consent Decree
16 shall be made in compliance with all applicable federal, state and local laws, rules
17 and regulations.

18 **NOW, THEREFORE, IT IS HEREBY STIPULATED BETWEEN THE**
19 **SETTLING PARTIES AND ORDERED AND DECREED BY THE COURT AS**
20 **FOLLOWS:**

21 1. The Court has jurisdiction over the subject matter of this action pursuant
22 to Section 505(a)(1)(A) of the CWA, 33 U.S.C. § 1365(a)(1)(A).

23 2. Venue is appropriate in the Central District Court pursuant to Section
24 505(c)(1) of the CWA, 33 U.S.C. § 1365(c)(1), because the Facilities at which the
25 alleged violations are taking place is located within this District.

26 3. The Complaint states a claim upon which relief may be granted against
27 Defendants pursuant to Section 505 of the CWA, 33 U.S.C. § 1365.

28 4. LA Waterkeeper has standing to bring this action.

1 5. The Court shall retain jurisdiction over this action for purposes of
2 interpreting, modifying, or enforcing the terms of this Consent Decree, or as long
3 thereafter as necessary for the Court to resolve any motion to enforce this Consent
4 Decree, but only regarding issues raised within the Term of this Consent Decree.

5 **I. OBJECTIVES**

6 6. It is the express purpose of the Settling Parties through this Consent
7 Decree to further the objectives of the Clean Water Act, and to resolve all issues
8 alleged by LA Waterkeeper in its 60-Day Notice and Complaint. These objectives
9 include compliance with the provisions of this Consent Decree, compliance with all
10 terms and conditions of the General Permit, and compliance with all applicable
11 sections of the CWA.

12 7. In light of these objectives and as set forth fully below, Defendants agree
13 to comply with the provisions of this Consent Decree, terms and conditions of the
14 General Permit, and all applicable sections of the CWA at the Facilities.

15 **II. AGENCY REVIEW AND DEFINITIONS**

16 **A. AGENCY REVIEW OF CONSENT DECREE**

17 8. Agency Review. Plaintiff shall submit this Consent Decree to the United
18 States Department of Justice and the United States EPA (the “Federal Agencies”) for
19 agency review consistent with 40 C.F.R. § 135.5. The agency review period expires
20 forty-five (45) calendar days after receipt by the Federal Agencies, as evidenced by
21 certified return receipts, or upon the date that the Federal Agencies provide a no
22 objection letter, whichever is earlier (“Agency Review Period”). In the event that the
23 Federal Agencies object to entry of this Consent Decree or to any portion of this
24 Consent Decree, the Parties agree to meet and confer to attempt to resolve the issue(s)
25 raised by the Federal Agencies. If the Parties are unable to resolve any issue(s) raised
26 by the Federal Agencies in their comments, the Parties agree to expeditiously seek a
27 settlement conference with the assigned Magistrate Judge to resolve any issue(s).

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1 9. Court Notice. Plaintiff shall notify the Court of the receipt date by the
2 Federal Agencies, as required by 40 C.F.R. § 135.5, in order to coordinate the Court’s
3 calendar with the 45-day review period.

4 10. Entry of Consent Decree. Following the expiration of the Agency
5 Review Period, Plaintiff shall submit the Consent Decree to the Court for entry.

6 **B. DEFINITIONS**

7 11. Unless otherwise expressly defined herein, terms used in this Consent
8 Decree which are defined in the CWA or in regulations or rules promulgated under
9 the CWA have the meaning assigned to them in the statutes or regulations or rules.
10 Whenever terms listed below are used in this Consent Decree, whether or not
11 capitalized, the following definitions apply:

- 12 a. “BAT” means the Best Available Technology Economically
13 Achievable.
- 14 b. “BCT” means the Best Conventional Pollutant Control
15 Technology, and collectively with BAT is referred to herein as
16 “BAT/BCT.”
- 17 c. “BMPs” means Best Management Practices as defined in
18 Attachment C (Glossary) of the General Permit.
- 19 d. “Consent Decree” means this Consent Decree and any
20 attachments or documents incorporated by reference.
- 21 e. “Day” means a calendar day. In computing any period of time
22 under this Consent Decree, where the last day of such period is a
23 Saturday, Sunday, or Federal or State Holiday, the period runs
24 until the close of business on the next day that is not a Saturday,
25 Sunday, or Federal or State Holiday.
- 26 f. “Discharge Point” means each discharge location designated in
27 the then-current SWPPP for each of the Facilities.

- 1 g. “Effective Date” means the effective date of this Consent Decree,
2 which shall be the date of full execution by the Parties.
- 3 h. “Entry Date” means the day this Consent Decree is approved and
4 entered by the Court.
- 5 i. “Forecasted Rain Event” means a rain event with a greater than
6 50% probability of occurrence as determined by the National
7 Oceanic and Atmospheric Administration
8 (<http://forecast.weather.gov/>) for “90813, Westside South, Long
9 Beach, CA, USA”².
- 10 j. “MIP” means a Monitoring Implementation Plan.
- 11 k. “PPT” means Pollution Prevention Team.
- 12 l. “Qualified Industrial Storm Water Practitioner” or “QISP” shall
13 have the definition set forth in Section IX.A.1 of the General
14 Permit.
- 15 m. “Qualifying Storm Event” or “QSE” shall have the definition set
16 forth in Section XI.B.1 of the General Permit.
- 17 n. “Reporting Year” means the period from July 1 of a given
18 calendar year to June 30 of the following calendar year.
- 19 o. “SMARTS” means the California State Water Resources Control
20 Board’s Stormwater Multiple Application and Report Tracking
21 System.
- 22 p. “SWPPP” means a Storm Water Pollution Prevention Plan.
- 23 q. “Term” means the period between the Effective Date and the
24 “Termination Date.”
- 25 r. “Termination Date” means the latest of:
26 i. June 30 following three (3) years from the Effective Date;
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28 ² Available at <https://forecast.weather.gov/MapClick.php?lat=33.7901&lon=-118.2268>

- 1 ii. Seven (7) days from the conclusion of any proceeding or
- 2 process to enforce the Consent Decree initiated prior to
- 3 June 30 following three (3) years after the Effective Date;
- 4 or
- 5 iii. Seven (7) days from Defendants’ completion of all
- 6 payments and other affirmative duties required by this
- 7 Consent Decree.
- 8 iv. Notwithstanding the foregoing, should Defendants satisfy
- 9 the requirements of a Notice of Termination pursuant to
- 10 Section II.C of the General Permit and receive approval
- 11 from the Regional Board, and all accrued monetary
- 12 obligations in this Consent Decree have been met, the
- 13 Termination Date of this Consent Decree shall be ten (10)
- 14 days after Defendants provide written notification to LA
- 15 Waterkeeper of the Regional Board’s approval.
- 16 s. “Wet Season” means the period beginning October 1st of any
- 17 given calendar year and ending May 30th of the following
- 18 calendar year.

19 **III. COMMITMENTS OF THE SETTLING PARTIES**

20 **A. STORM WATER POLLUTION CONTROL BEST MANAGEMENT PRACTICES**

21 12. Non-Storm Water Discharge Prohibition. Any unauthorized non-storm
22 water discharge, as defined in the General Permit, shall be a violation of this Consent
23 Decree.

24 13. Current and Additional Best Management Practices. At all times,
25 Defendants shall implement BMPs identified in its SWPPP and BMPs described
26 herein, and shall develop and implement additional BMPs as necessary to comply
27 with the provisions of this Consent Decree and the General Permit, including but not
28 limited to those necessary to comply with: (1) BAT/BCT-level pollutant reductions;

1 and (2) the General Permit’s Receiving Water Limitations, which require that
2 discharges from the Facilities “not cause or contribute to an exceedance of any
3 applicable water quality standards” contained in a Statewide Water Quality Control
4 Plan or the applicable Regional Board’s Basin Plan.

5 14. Rain Gauge/Sensor. Defendants shall install and maintain an electronic
6 rain gauge or sensor at the Cota Facility within ten (10) days of the Effective Date.
7 The rain gauge/sensor shall be capable of measuring precipitation down to at least 0.1
8 inches, and record start/stop times and non-cumulative precipitation for each rain
9 event. During the Term, Defendants shall collect data using the gauge/sensor for all
10 precipitation events to the nearest 0.1 inch, including start/stop times. Data from the
11 rain gauge/sensor shall be conclusive of precipitation quantities and timing for
12 purposes of this Consent Decree.

13 15. Structural and Non-Structural BMPs for the Facilities. Within forty-five
14 (45) days of the Effective Date, Defendants shall develop and implement the
15 following BMPs at each of the Facilities, unless otherwise noted below:

- 16
- 17 a. Employ and secure new biochar-based,³ or similar activated
18 carbon-based, filtration socks (“Socks”) around each of the
19 Facilities’ storm water drain dop inlets configured in concentric
20 rings around the inlets. Where discharge occurs via sheet flow at
21 the Facilities, place at least two (2) rows of Socks in the flow
22 pathway, and configure the Socks to achieve maximum contact
23 time with storm water prior to discharge, *i.e.*, in multiple layers
24 and/or overlapping formations.
- 25 b. At the Cota Facility, place multiple rows of Socks within the
26 narrow alleyways between the Indoor Workshop Buildings to aid
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³ This requires replacement of all existing straw wattles currently in use at the Facilities.

1 in solids settling and retention of heavy metals, and configure the
2 Socks to achieve maximum contact time with storm water prior to
3 discharge, *i.e.*, in multiple layers and/or overlapping formations.
4 Defendant shall, thereafter, employ and secure the Socks in the
5 same manner annually prior to the start of the Wet Season, no later
6 than September 15th;

- 7 c. During the Wet Season, replace the Socks when degraded or
8 ineffective, including when there are rips, tears or other visual
9 damage, and/or if sampling data demonstrated the Socks are not
10 sufficiently reducing pollutant concentrations;
- 11 d. Establish secondary containment for the dust collection system at
12 the Cota Facility;
- 13 e. Implement a sweeping program using a magnetic sweeper and a
14 “shop-vac” vacuum with a Hepa filter adequate to access narrow
15 workspaces with the capacity to collect and retain PM-10 (10 μm ,
16 micrometers or microns) particles on all paved areas at the
17 Facilities at least once per week and within twenty-four (24) hours
18 prior to a Forecasted Rain Event;
- 19 f. Remove or cover all scrap and waste materials, and abandoned,
20 unused, or inutile equipment or vehicles from the property;
- 21 g. Place all raw, intermediate, or finished materials under a covered
22 structure adequate to minimize exposure to rainfall, consistent
23 with the definition of “Storm-Resistant Shelters” from the Permit,
24 to minimize the potential for storm water to encounter the material
25 below the structures or for contents to become windborne;
- 26 h. Cover all scrap, refuse, and recycling bins with lids, tarps, or other
27 coverings designed to be sufficient to minimize exposure to
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1 rainfall and prevent the mobilization of pollutants, or move them
2 under Storm-Resistant Shelters;

- 3 i. Maintain spill clean-up supplies at all fluid or chemical storage
4 areas, chemical loading areas, and maintenance areas; promptly
5 contain and clean all discharge, spills or leaks occurring outdoors
6 or with the potential to migrate outdoors using absorbents or other
7 appropriate equipment or materials;
- 8 j. Institute an equipment and vehicle maintenance program that
9 ensures:
 - 10 i. no maintenance activities occur outside during wet weather,
11 unless such maintenance is required for safe operation of
12 the Facility, e.g., the forklift breaks down in a location that
13 prevents ingress/egress;
 - 14 ii. maintenance activities occur only in designated work areas
15 or beneath covered maintenance areas; and
 - 16 iii. when maintenance activities must be performed outdoors,
17 action shall be taken to immediately contain, capture, and
18 clean up any discharge or spills of waste fluids to the
19 ground;
- 20 k. Do not leave drip pans or open waste containers unattended and
21 close such containers or transfer all wastes to proper containers as
22 soon as practical;
- 23 l. Regularly inspect industrial work areas, and hazardous material
24 and waste storage areas for proper implementation and
25 maintenance of control measures and containment integrity;
- 26 m. Store all hazardous materials and waste under cover and within
27 secondary containment;

- 1 n. Patch, pave, or otherwise resurface or cover areas of degraded
2 pavement or asphalt at the Facilities⁴;
- 3 o. Institute a formal pre-rain protocol throughout the Wet Season
4 implemented within twenty-four (24) hours prior to a Forecasted
5 Rain Event, involving inspection of any Socks or other filters
6 deployed at the Facilities, and to ensure coverage or removal of
7 materials most likely to increase storm water-borne pollutants; and
- 8 p. Within seven (7) days of the above BMPs being implemented,
9 Defendants shall confirm to LA Waterkeeper in writing, with
10 photographs (if applicable), that such BMP has been implemented
11 as set forth above.

12 **B. SAMPLING AT THE FACILITIES.**

13 16. Defendants shall develop a monitoring program consistent with the
14 General Permit. During the Term, Defendants shall collect samples of storm water
15 discharge from each Discharge Point from at least four (4) Qualifying Storm Events,
16 including, at minimum, the first Qualifying Storm Event during the first half of the
17 Reporting Year and the first Qualifying Storm Event during the second half of the
18 Reporting Year. Such sampling shall take place as soon as possible within the four
19 (4) hour period as required by the General Permit § XI.B.5. If Defendants would have
20 been required to collect samples during a rain event pursuant to this Consent Decree
21 had such rain event produced a discharge, but Defendants did not collect samples
22 because such rain event did not produce a discharge, then Defendants shall document
23 the inability to sample by taking representative photographs during the rain event of
24 each Discharge Point from which no discharge occurred. Defendants shall submit

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27 ⁴ Tonnage will provide temporary cover surrounded by additional Socks to areas of degraded
28 pavement or asphalt at the Cowles Facility until the lease expires in August 2025. If the lease at the
Cowles Facility is renewed, Tonnage (or the landlord) shall provide more permanent patching and
paving of degraded areas.

1 such photographs to LA Waterkeeper by email, along with rain gauge/sensor data for
2 the date of such rain event, within five (5) business days of a written request for such
3 records by LA Waterkeeper.

4 17. Sampling Parameters. All samples collected pursuant to this Consent
5 Decree shall be analyzed, at minimum, for the parameters listed in Table 1. Should
6 Defendants conduct sampling for any additional parameters that are listed in 40
7 C.F.R. § 131.38 and/or in the General Permit as a result of changed operations, or a
8 revised pollutant source assessment, or a new mandate from a regulatory agency,
9 such parameter shall be incorporated into this Consent Decree as if listed in Table 1
10 for all purposes, including any Action Plan requirements (as defined below).
11 Defendants shall promptly notify LA Waterkeeper of its intent to conduct sampling
12 for any such additional parameters and the Parties shall meet and confer regarding the
13 applicable Table 1 limit for such purposes within ten (10) days of such notification.

14 18. Laboratory and Holding Time. Except for pH samples, Defendants shall
15 deliver all samples to a California-certified environmental laboratory for analysis
16 within allowable hold times, pursuant to 40 C.F.R. Part 136. Analysis of pH will be
17 completed onsite using a portable instrument for pH calibrated and in accordance
18 with the manufacturer's instructions.

19 19. Detection Limit. Defendants shall request that the laboratory use
20 analytical methods adequate to detect the individual contaminants at or below the
21 values specified in the General Permit and Table 1 below.

22 20. Reporting. Defendants shall provide complete laboratory results of all
23 samples collected at the Facilities to SMARTS in accordance with the General
24 Permit, and shall provide copies to LA Waterkeeper within five (5) days of receiving
25 the laboratory report with the results.

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1 **C. REDUCTION OF POLLUTANTS IN DISCHARGES**

2 21. Table 1 Numeric Limits. Defendants shall develop and implement BMPs
3 for storm water discharges from the Facilities that reduce pollutant concentrations to
4 levels below those in Table 1.

5 **TABLE 1⁵**

6

Parameter	Values	Source of Limit
Total Suspended Solids (TSS)	400 mg/L (instantaneous) 100 mg/L (annual)	NAL
Iron	1 mg/L (annual)	NAL
Oil & Grease (O&G)	25 mg/L (instantaneous) 15 mg/L (annual)	NAL
Nitrate + Nitrite Nitrogen (N+N)	0.68 mg/L (annual)	NAL
Aluminum	0.75 mg/L (annual)	NAL
Nickel	1.02 mg/L (annual)	NAL
Cadmium	0.0053 mg/L (annual)	NAL
Zinc	0.26 mg/L (annual)	NAL
Lead	0.262 mg/L (annual)	NAL
Copper	0.0332 mg/L (annual)	NAL
pH	6.5-8.5 s.u. (instantaneous)	Basin Plan

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18 22. Table 1 Exceedances. Under this Consent Decree, an “Exceedance” of
19 Table 1 is defined as follows: an exceedance occurs when two (2) or more analytical
20 results from samples taken for any single parameter within a reporting year exceeds
21 the applicable annual value in Table 1;⁶ or one (1) or more analytical results from

22
23 ⁵ Unless the source of a limit in Table 1 is specifically noted as a “negotiated term”, the numeric limit listed
24 in Table 1 is for reference only, and the Table 1 limit for such parameter shall be the then-effective limit
25 provided by the applicable source, e.g., if the source for zinc is listed as its NAL and the NAL for zinc is
26 either increased to 0.3 mg/L or decreased to 0.20 mg/L, such new NAL, and not 0.26 mg/L, shall be used as
the Table 1 limit for the purposes of this Consent Decree as if set forth herein. If the source of a limit in
Table 1 is revised to no longer provide a limit for a given parameter, e.g., the benchmark for iron being
removed, then the Parties shall meet and confer regarding the applicable Table 1 limit for such parameter for
the purposes of this Consent Decree.

27 ⁶ As examples: (i) samples from both Sample Point 1 and Sample Point 2 exceeding the 0.0332 mg/L
28 standard for copper on December 28, 2024; (ii) samples from Sample Point 1 exceeding the 0.0332 mg/L
standard for copper on December 28, 2024 and on March 15, 2025; or (iii) a sample from Sample Point 1

1 samples taken for any single parameter within a Reporting Year exceeds the
2 applicable instantaneous value in Table 1.

3 23. Action Plan for Table 1 Exceedances. As of the Effective Date, and for
4 the remainder of the Term, if Defendants have an unauthorized non-storm water
5 discharge in violation of Paragraph 12, or storm water samples demonstrate an
6 Exceedance as defined above, Defendants shall prepare and submit to LA
7 Waterkeeper a plan for reducing and/or eliminating the relevant discharge of
8 pollutants for the Facilities and/or achieving compliance with the non-storm water
9 discharge prohibition (“Action Plan”). The complete Action Plan shall be submitted
10 to LA Waterkeeper within thirty (30) days of the unauthorized non-storm water
11 discharge or the receipt of the laboratory report demonstrating the Exceedance, as
12 applicable.

13 a. Action Plan Requirements. Each complete Action Plan submitted
14 shall include at a minimum: (1) the identification of the
15 contaminant(s) discharged in excess of the numeric limit(s); (2) an
16 assessment of the source of each contaminant exceedance; (3) the
17 identification of additional BMPs that shall be implemented to
18 achieve compliance with the numeric limit(s), as well as the
19 design plans and calculations of these additional BMPs; and (4)
20 time schedules for implementation of the proposed BMPs. The
21 time schedule(s) for implementation shall ensure that all BMPs
22 are implemented as soon as practicable, but in no event later than
23 ninety (90) days following the submission of the Action Plan,
24 unless a later implementation date is mutually agreed upon by the
25 Settling Parties. Within seven (7) days of each of the BMPs set
26 forth in the Action Plan being implemented, Defendants shall

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28 exceeding the 0.0332 mg/L standard for copper on December 28, 2024, and a sample from Sample Point 2
exceeding the 0.0332 mg/L standard for copper on March 15, 2025.

1 confirm to LA Waterkeeper in writing, with representative
2 photographs (if applicable), that such BMP has been implemented
3 as set forth in the Action Plan.

- 4 b. Action Plan Proposed BMPs. The following BMPs should
5 generally be evaluated for inclusion in Action Plans to attain the
6 Table 1 levels in the Facilities' storm water discharges:
- 7 i. Hydrologic Controls. Installation of additional berms or
8 equivalent structural controls necessary to reduce or prevent
9 storm water from flowing off site other than through the
10 engineered storm water conveyance system or storm water
11 retention or treatment facilities.
 - 12 ii. Sweeping. The increased/more frequent use of sweepers
13 and manual sweeping in otherwise inaccessible areas.
 - 14 iii. Treatment Systems. Installing additional components or
15 systems, or otherwise improving, an advanced storm water
16 treatment system, or making changes to the operation and
17 maintenance protocols for such system, to provide more
18 effective filtration treatment of storm water prior to
19 discharge.
 - 20 iv. Evaluation of Existing BMPs. Replacing, rehabilitating, or
21 eliminating existing BMPs, taking into account the age of
22 the BMPs involved or employed, the engineering aspect of
23 the application of various BMPs, and any adverse
24 environmental impact of the BMPs.
- 25 c. Action Plan Review. LA Waterkeeper shall have thirty (30) days
26 upon receipt of Defendants' complete Action Plan to provide
27 Defendants with comments. Within fourteen (14) days of
28 receiving LA Waterkeeper's proposed revisions to an Action Plan,

1 Defendants shall consider each of LA Waterkeeper’s
2 recommended revisions and accept them or justify in writing why
3 any comment is not incorporated. Action Plan(s) developed and
4 implemented pursuant to this Consent Decree are an obligation of
5 this Consent Decree. Any disputes as to the adequacy of an Action
6 Plan shall be resolved pursuant to the dispute resolution
7 provisions of this Consent Decree, set out in Section IV below.
8 Disputes regarding the adequacy of a particular BMP shall not
9 impact the schedule for implementing any other BMP set forth in
10 the Action Plan.

- 11 d. Defendants shall revise the then-current SWPPP to reflect the
12 changes required by the Action Plan, as set forth in Paragraph 28
13 below.
- 14 e. Action Plan Payments. Defendants shall pay Two Thousand Five
15 Hundred Dollars (\$2,500.00) each time an Action Plan is
16 submitted to LA Waterkeeper. Payments are due at the same time
17 that the applicable Action Plan is submitted and shall be made to
18 “Los Angeles Waterkeeper” via certified mail, return receipt
19 requested to Los Angeles Waterkeeper, c/o Senior Attorney, 360
20 E. 2nd Street Suite 250, Los Angeles, CA 90012. No more than
21 two Action Plan Payments shall be required in any reporting year
22 under this Consent Decree. Failure to submit a payment as
23 required under this Paragraph will constitute a breach of the
24 Consent Decree.

25 **D. VISUAL OBSERVATIONS**

26 24. Storm Water Discharge Observations. During the Term, appropriately
27 trained staff of Defendants shall conduct visual observations during the Facilities’
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1 operating hours during every rain event. Such inspections shall comply with all
2 requirements of Section XI.A.2 of the General Permit, and any successor thereof.

3 25. Monthly Visual Observations. During the Term, appropriately trained
4 staff of Defendants shall conduct monthly non-storm water visual observations of the
5 Facilities. Such inspections shall comply with all requirements of Section XI.A.1 of
6 the General Permit, and any successor thereof. Such monitoring shall include outfalls,
7 Discharge Points, outdoor industrial equipment and storage areas, outdoor industrial
8 activities areas, BMPs, and all other potential sources of industrial pollutants. All
9 Discharge Points shall also be inspected for accumulation of dust, sediment, sand,
10 grit, oily substances, oily sheens upon any standing water, and other materials
11 associated with operations at the Facilities. During the Wet Season, such inspections
12 shall further include observations of all storm water BMPs that are used only during
13 the Wet Season at the Facilities to ensure that operational BMPs are being
14 implemented, structural BMPs are in good condition or working order, and that
15 BMPs have been effective in producing clean conditions at the Facilities. Such
16 inspections shall further include observation as to whether there are any non-storm
17 water discharges from the Facilities.

18 26. Visual Observations Records. Defendants shall maintain observation
19 records, including representative photographs, to document compliance with
20 Paragraphs 24 and 25. Such records shall include, but not be limited to, the persons
21 who completed the inspection, the date of the inspection, and notes sufficient to
22 describe the completed activity and all observations thereof, including but not limited
23 to: (i) whether BMPs are in a proper, working condition; (ii) whether any repair,
24 replacement, or operation and maintenance is needed for any BMPs; (iii) other
25 conditions that have the potential to lead to pollutant loading in storm water
26 discharges; and (iv) photographs of all the foregoing. Defendants shall provide LA
27 Waterkeeper with a copy of those records within seven (7) days of receipt of a written
28 request from LA Waterkeeper for those records.

1 27. Employee Training Program. Within thirty (30) days of the Effective
2 Date, Defendants shall develop and implement an employee training program that
3 meets the following requirements and ensures (1) that there is a sufficient number of
4 employees at the Facilities designated to achieve compliance with the General Permit
5 and this Consent Decree (“Designated Employees”), and (2) that these Designated
6 Employees are properly trained to perform the activities required by the General
7 Permit and this Consent Decree (“Training Program”):

- 8 a. Materials. Training materials should include, at minimum, a
9 detailed Training Manual or Standard Operating Procedure,
10 including drawings and diagrams where appropriate, for reference
11 and use by Defendants’ personnel to ensure effective
12 implementation of all BMPs at the Facilities;
- 13 b. Language. The training and training materials shall be available
14 and offered in the language(s) in which relevant employees are
15 fluent. If necessary, Defendants shall provide a translator or
16 translators at all trainings where such translation is likely to
17 improve staff comprehension of the Training Program and
18 improve compliance with this Consent Decree and the General
19 Permit;
- 20 c. Training Frequency. Training shall be provided by a QISP
21 familiar with the requirements of this Consent Decree and the
22 General Permit, and shall be repeated as necessary to ensure that
23 all relevant employees are familiar with the requirements of this
24 Consent Decree, the Permit, and the Facilities’ SWPPP. All
25 relevant new staff shall receive this training before assuming
26 responsibilities for implementing the SWPPP;
- 27 d. Sampling Training. Defendants shall designate an adequate
28 number of employees necessary to collect storm water samples as

1 required by this Consent Decree, including training to ensure
2 samples are properly collected, stored, and submitted to a certified
3 laboratory;

4 e. Visual Observation Training. Defendants shall provide training on
5 how and when to properly conduct visual observations to
6 Designated Employees;

7 f. Non-Storm Water Discharge Training. Defendants shall train all
8 Designated Employees at the Facilities on the General Permit's
9 prohibition of non-storm water discharges, so that Designated
10 Employees know what non-storm water discharges are and how to
11 detect and prevent non-storm water discharges;

12 g. Employees. All Designated Employees at the Facilities shall
13 participate in the Training Program annually. New Designated
14 Employees shall participate in the Training Program within thirty
15 (30) days of their hiring date; and

16 h. Records. Defendants shall maintain training records to document
17 compliance with this Paragraph and shall provide LA Waterkeeper
18 with a copy of these records within seven (7) days of receipt of a
19 written request.

20 28. SWPPP Revisions.

21 a. Initial SWPPP Revisions. Defendants shall amend the Facilities'
22 SWPPPs to incorporate the requirements in this Consent Decree
23 and comply with the General Permit and submit the complete,
24 updated SWPPP to LA Waterkeeper within thirty (30) days of the
25 Effective Date for LA Waterkeeper's review and comment. The
26 complete, updated SWPPP shall contain, at a minimum, the
27 following elements:
28

- 1 i. A revised pollutant source assessment, including all
2 elements required by section X.G of the General Permit as
3 well as assessments of the potential for the Facilities' storm
4 water discharges to contain pollutants for which the
5 Receiving Waters are 303(d) listed and/or have Total
6 Maximum Daily Loads;
- 7 ii. A detailed narrative description and assessment of each
8 industrial activity with the potential to impact storm water
9 quality occurring at the Facilities as required by section X.G
10 of the General Permit;
- 11 iii. Descriptions of all BMPs in accordance with section X.H.4
12 of the General Permit, including without limitation BMPs
13 required by this Consent Decree;
- 14 iv. A set of site maps that comply with section X.E of the
15 General Permit and provisions of this Consent Decree;
- 16 v. A MIP as required by sections XI and X.I of the General
17 Permit;
- 18 vi. A designation (by position/title) of employees responsible
19 for carrying out storm water management, monitoring,
20 sampling and SWPPP implementation, e.g., visual
21 inspection of each specific area, monitoring each specific
22 BMP, sampling, etc.; and
- 23 vii. A Training Program as described above in Paragraph 27.
- 24 b. Additional SWPPP Revisions.
- 25 i. Within thirty (30) days after approval of any Action Plan by
26 LA Waterkeeper (or resolution pursuant to Dispute
27 Resolution), Defendants shall revise the then-current
28 SWPPP to reflect the changes required by the Action Plan

1 and submit the complete, updated SWPPP to LA
2 Waterkeeper for LA Waterkeeper's review and comment.

3 ii. Within thirty (30) days after any material changes in
4 industrial activities, sources of industrial pollutants, changes
5 to Discharge Points, or changes to sections of the SWPPP
6 identified in the SWPPP as requiring a SWPPP revision
7 (including but not limited to, changes or additions of BMPs,
8 or changes in or additions of industrial activities that impact
9 storm water discharge), Defendants shall revise the then-
10 current SWPPP for the affected Facility to reflect such
11 changes and submit the complete, updated SWPPP to LA
12 Waterkeeper for LA Waterkeeper's review and comment.

13 c. Review of SWPPPs. For any SWPPP updates pursuant to
14 Paragraph 28, LA Waterkeeper shall have thirty (30) days upon
15 receipt of Defendants' complete SWPPP to provide Defendants
16 with comments. Within thirty (30) days of receiving LA
17 Waterkeeper's comments and proposed changes to the SWPPP,
18 Defendants shall consider each of the comments and proposed
19 changes and either accept them or justify in writing why a change
20 is not incorporated. The Parties agree to work in good faith to
21 resolve any disputes with respect to the SWPPP, and any
22 remaining disputes will be resolved through timely initiation of
23 the dispute resolution procedures in Section IV below. Following
24 its incorporation of proposed modification or additions (if any)
25 into each revised SWPPP, Defendants shall upload the revised
26 SWPPP to SMARTS.

1 **E. COMPLIANCE MONITORING AND REPORTING**

2 29. LA Waterkeeper may conduct one annual site inspection (“Site
3 Inspection”) during each Reporting Year during the Term for the purpose of ensuring
4 compliance with this Consent Decree and the General Permit. In the event of a
5 dispute regarding Defendants’ compliance with this Consent Decree, and provided a
6 Site Inspection would be relevant to resolving the Parties’ dispute, the Parties agree to
7 meet and confer regarding an additional Site Inspection at Plaintiff’s request. Plaintiff
8 shall not unreasonably request, and Defendants shall not unreasonably deny, one
9 additional Site Inspection. Any Site Inspection shall occur during normal business
10 hours, and LA Waterkeeper will provide Defendants with at least forty-eight (48)
11 hours’ notice prior to a dry weather Site Inspection and twenty-four hours prior to a
12 wet weather inspection. For any Site Inspection requested to occur in wet weather,
13 Plaintiff shall be entitled to adjust timing or reschedule during normal business hours
14 in the event the forecast changes and anticipated precipitation appears unlikely, and
15 thus frustrates the purpose of visiting the Facilities in wet weather. Notice will be
16 provided by electronic mail to the individual(s) designated below at Paragraph 56.
17 During the Wet Weather inspection, Plaintiff may request that Defendants collect a
18 sample of industrial storm water discharge from the Facilities’ designated industrial
19 discharge point(s) referenced in its SWPPP, to the extent that such discharges are
20 occurring. Defendants shall collect the sample and provide a split sample to LA
21 Waterkeeper. LA Waterkeeper’s representative(s) may observe the split sample(s)
22 being collected by Defendants’ representative. LA Waterkeeper shall be permitted to
23 take photographs or video recordings of outdoor operations during any Site
24 Inspection.

25 30. Document Provision. During the Term, Defendants shall notify and
26 submit documents to LA Waterkeeper as follows:

- 27 a. Defendants shall copy LA Waterkeeper, by email to the
28 individual(s) designated below at Paragraph 56, on all compliance

1 documents, monitoring and/or sampling data, written
2 communications and/or correspondences, or any documents
3 related to storm water quality at the Facilities that are submitted to
4 the Regional Board, the State Board, and/or any state or local
5 agency, county or municipality.

- 6 b. Within three (3) business days of receipt by Defendants, send to
7 LA Waterkeeper, by email to the individual(s) designated below at
8 Paragraph 56, any compliance document, inspection report,
9 written communication and/or correspondence, or any document
10 related to storm water quality at the Facilities received by
11 Defendants from the Regional Board, the State Board, and/or any
12 state or local agency, county, municipality.

13 31. Compliance Monitoring. Defendants shall partially defray costs
14 associated with Plaintiff's monitoring of Defendants' compliance with this Consent
15 Decree during the Term by paying Thousand Dollars (\$2,500.00). Payment shall be
16 made within thirty (30) days of the Entry Date. The payment shall be made via check,
17 made payable to: "Los Angeles Waterkeeper" via certified mail, return receipt
18 requested to Los Angeles Waterkeeper, c/o Senior Attorney, 360 E 2nd Street, Suite
19 250, Los Angeles, CA 90012. Failure to submit payment as required under this
20 Paragraph will constitute breach of the Consent Decree.

21 **F. ENVIRONMENTAL MITIGATION, LITIGATION FEES AND COSTS, MISSED**
22 **DEADLINES, AND INTEREST**

23 32. Environmentally Beneficial Project. To fund environmentally beneficial
24 project activities that will reduce or mitigate the impacts of storm water pollution
25 from industrial activities occurring in the Los Angeles/Long Beach Harbor,
26 Defendants shall make a payment totaling Twenty-Two Thousand Five Hundred
27 Dollars (\$22,500.00) to the Rose Foundation for Communities and the Environment
28 made within one hundred and fifty (150) days of the Entry Date, payable to the Rose

1 Foundation for Communities and the Environment and sent via overnight mail to
2 Rose Foundation, 201 4th Street, Suite 102, Oakland, CA 94607. Failure to submit
3 payment as required under this Paragraph will constitute breach of the Consent
4 Decree.

5 33. LA Waterkeeper's Fees and Costs. Defendants shall pay a total of Forty
6 Thousand Dollars (\$40,000.00) to LA Waterkeeper to partially reimburse Plaintiff for
7 their investigation fees and costs, expert/consultant fees and costs, reasonable
8 attorneys' fees, and other costs incurred as a result of investigating and filing the
9 lawsuit, and negotiating a resolution of this matter within made in three installments,
10 with 1) the first installment for Twenty Thousand (\$20,000) being made within forty-
11 five (45) days of the Entry Date, 2) the second installment for Ten Thousand
12 (\$10,000) being made within seventy-five (75) days of the Entry Date, and 3) the
13 third installment for Ten Thousand (\$10,000) being made within one hundred and
14 twenty (120) days of the Entry Date. The payment shall be made payable to: Aqua
15 Terra Aeris Law Group and delivered by overnight carrier to 8 Rio Vista Ave.,
16 Oakland, CA 94611. Failure to submit payment as required under this Paragraph will
17 constitute breach of the Consent Decree.

18 34. Missed Deadlines. In the event that Defendants fail to submit to LA
19 Waterkeeper any payment, document, report, or communication required by this
20 Consent Decree, LA Waterkeeper shall provide Defendants notice of said failure, and
21 Defendants shall have twenty (20) days to remedy the failure. If Defendants do not
22 fail to provide the required item, or provide justification for failing to provide said
23 time, Defendants shall pay a stipulated payment of Five Hundred Dollars (\$500) per
24 month. Such stipulated payments shall be made by check payable to: Rose
25 Foundation for Communities and the Environment, and such funds shall be used for
26 the sole purpose of funding environmentally beneficial projects, as described in
27 Paragraph 32. Payment shall be sent via overnight mail to Rose Foundation, 201 4th
28 Street, Suite 102, Oakland, CA 94607. Defendants agree to make the stipulated

1 payment within fourteen (14) days after the resolution of the event that precipitated
2 the stipulated payment liability.

3 35. Interest on Late Payments. Defendants shall pay interest on any
4 payments, fees, or costs owed pursuant to this Consent Decree that are not received
5 by the due date. The interest shall accrue starting the next business day after the
6 payment is due and shall be computed at a rate equal to the lower of: (i) 10% per year
7 (0.833% per month); or (ii) the maximum rate permitted by applicable law. Interest
8 shall continue to accrue daily on any outstanding balance until Defendants are current
9 on all payments then due under this Consent Decree, and shall be paid at the same
10 time that the payments, fees, or costs owed are paid to LA Waterkeeper. Interest on
11 late payments shall be paid by check payable to: Rose Foundation for Communities
12 and the Environment, and such funds shall be used for the sole purpose of funding
13 environmentally beneficial projects, as described in Paragraph 32. Payment shall be
14 sent via overnight mail to Rose Foundation, 201 4th Street, Suite 102, Oakland, CA
15 94607.

16 **IV. DISPUTE RESOLUTION**

17 36. This Court shall retain jurisdiction over this matter for the Term for the
18 purposes of enforcing its terms and conditions, and adjudicating all disputes among
19 the Parties that may arise under the provisions of this Consent Decree. The Court
20 shall have the power to enforce this Consent Decree with all available legal and
21 equitable remedies, including contempt.

22 37. Meet and Confer. Either party to this Consent Decree may invoke the
23 dispute resolution procedures of this Section IV by notifying the other party in
24 writing of the matter(s) in dispute and of the disputing party's proposal for resolution.
25 The Parties shall then meet and confer in good faith (either telephonically or in
26 person) within ten (10) days of the date of the notice in an attempt to fully resolve the
27 dispute no later than thirty (30) days from the date of the meet and confer.
28

1 38. Settlement Conference. If the Parties cannot resolve the dispute within
2 thirty (30) days of the meet and confer described in Paragraph 37, the Parties agree
3 that the dispute may be submitted for formal resolution by filing a motion before the
4 United States District Court for the Central District of California. The Parties agree to
5 request an expedited hearing schedule on the motion.

6 39. In resolving any dispute arising from this Consent Decree before the
7 Court, the prevailing Party shall be entitled to seek fees and costs incurred pursuant to
8 the provisions set forth in Section 505(d) of the Clean Water Act, 33 U.S.C. §
9 1365(d), and applicable case law interpreting such provisions, or as otherwise
10 provided for by statute and/or case law.

11 **V. MUTUAL RELEASE OF LIABILITY AND COVENANT NOT TO SUE**

12 40. Plaintiff's Waiver and Release of Defendants. In consideration of the
13 above, upon the Effective Date of this Consent Decree, Plaintiff, on its own behalf
14 and on behalf of its officers and directors, release Defendants, its officers, directors,
15 managers, employees, members, parents, subsidiaries, divisions, affiliates, successors
16 or assigns, agents, attorneys and other representatives, from and waives all claims
17 that were raised in the 60-Day Notice and/or the Complaint or could have been raised
18 in the 60-Day Notice and/or Complaint up to and including the Termination Date of
19 this Consent Decree.

20 41. Defendants' Waiver and Release of Plaintiff. In consideration of the
21 above, upon the Effective Date of this Consent Decree, Defendants, on its own behalf
22 and on behalf of its officers, directors, employees, parents, subsidiaries, affiliates and
23 each of their successors or assigns, release Plaintiff, its officers and directors, from
24 and waives all claims related to the 60-Day Notice and/or the Complaint up to and
25 including the Termination Date of this Consent Decree.

26 42. Nothing in this Consent Decree limits or otherwise affects Plaintiff's
27 rights to address or take any position that it deems necessary or appropriate in an
28 informal or formal proceeding before the State Board, Regional Board, EPA, or any

1 other judicial or administrative body on any matter relating to Defendants'
2 compliance at the Facilities with the General Permit or the Clean Water Act occurring
3 or arising after the Effective Date.

4 **VI. MISCELLANEOUS PROVISIONS**

5 43. No Admission of Liability. The Parties enter into this Consent Decree
6 for the purpose of avoiding prolonged and costly litigation. Neither the Consent
7 Decree nor any payment pursuant to the Consent Decree shall constitute or be
8 construed as a finding, adjudication, or acknowledgement of any fact, law or liability,
9 nor shall it be construed as an admission of violation of any law, rule, or regulation.
10 Defendants maintain and reserve all defenses it may have to any alleged violations
11 that may be raised in the future.

12 44. Counterparts. This Consent Decree may be executed in any number of
13 counterparts, all of which together shall constitute one original document. Telecopy
14 and/or facsimile copies of original signature shall be deemed to be originally
15 executed counterparts of this Consent Decree.

16 45. Authority. The undersigned representatives for Plaintiff and Defendants
17 each certify that s/he is fully authorized by the party whom s/he represents to enter
18 into this Consent Decree. A Party's signature to this Consent Decree transmitted by
19 facsimile or electronic mail shall be deemed binding.

20 46. Construction. The language in all parts of this Consent Decree shall be
21 construed according to its plain and ordinary meaning, except as to those terms
22 defined in the Permit, the Clean Water Act, or specifically herein. The captions and
23 paragraph headings used in this Consent Decree are for reference only and shall not
24 affect the construction of this Consent Decree.

25 47. Full Settlement. This Consent Decree constitutes a full and final
26 settlement of this matter.

27 48. Integration Clause. This is an integrated Consent Decree. This Consent
28 Decree is intended to be a full and complete statement of the terms of the agreement

1 between the Parties and expressly supersedes any and all prior oral or written
2 agreements, covenants, representations, and warranties (express or implied)
3 concerning the subject matter of this Consent Decree.

4 49. Severability. In the event that any provision, paragraph, section, or
5 sentence of this Consent Decree is held by a court to be unenforceable, the validity of
6 the enforceable provisions shall not be adversely affected.

7 50. Choice of Law. The laws of the United States shall govern this Consent
8 Decree.

9 51. Diligence. Defendants shall diligently file and pursue all required permit
10 applications for any required BMPs and shall diligently procure contractors, labor,
11 and materials needed to complete all BMPs by the required deadlines.

12 52. Effect of Consent Decree. Compliance with this Consent Decree does
13 not mean that Defendants are complying with the General Permit, the Clean Water
14 Act, or any other law, rule, or regulation.

15 53. Negotiated Settlement. The Settling Parties have negotiated this Consent
16 Decree, and agree that it shall not be construed against the party preparing it, but shall
17 be construed as if the Settling Parties jointly prepared this Consent Decree, and any
18 uncertainty and ambiguity shall not be interpreted against any one party.

19 54. Modification of the Consent Decree. This Consent Decree, and any
20 provisions herein, may not be changed, waived, discharged, or terminated unless by a
21 written instrument, signed by the Parties and approved by the Court. Any request to
22 modify any provision of the Consent Decree, including but not limited to any
23 deadline(s) set forth herein, must be made in writing at least fourteen (14) days before
24 the existing deadline(s) applicable to the provision(s) proposed to be modified.

25 55. Assignment. Subject only to the express restrictions contained in this
26 Consent Decree, all of the rights, duties and obligations contained in this Consent
27 Decree shall inure to the benefit of and be binding upon the Parties, and their
28

1 successors and assigns. Defendants shall notify Plaintiff within ten (10) days of any
2 assignment.

3 56. Force Majeure. Neither of the Parties shall be considered to be in default
4 in the performance of any of their respective obligations under this Consent Decree
5 when performance becomes impossible due to a Force Majeure event. A Force
6 Majeure event is any circumstance beyond a Settling Party's control, including any
7 act of God, war, fire, earthquake, flood, windstorm, pandemic, public health crisis, or
8 natural catastrophe; criminal acts; civil disturbance, vandalism, sabotage, or
9 terrorism; restraint by court order or public authority or agency; or action or non-
10 action by, or inability to obtain the necessary authorizations or approvals from any
11 governmental agency. A Force Majeure event shall not include normal inclement
12 weather, economic hardship, inability to pay, or employee negligence. Any party
13 seeking to rely upon this Paragraph to excuse or postpone performance shall have the
14 burden of establishing that it could not reasonably have been expected to avoid the
15 Force Majeure event and which by exercise of due diligence has been unable to
16 overcome the failure of performance. The Parties shall exercise due diligence to
17 resolve and remove any Force Majeure event.

18 57. Correspondence. All notices required herein or any other correspondence
19 pertaining to this Consent Decree shall be, the extent feasible, sent via electronic mail
20 transmission to the e-mail address listed below, or if electronic mail is not feasible,
21 then by certified U.S. mail with return receipt, or by hand delivery to the following
22 addresses:

23 If to Plaintiff:
24 Los Angeles Waterkeeper
25 Erina Kwon
26 Benjamin Harris
27 Madeleine Siegel
28 360 E. 2nd St., Suite 250
Los Angeles, CA 90012
Email: erina@lawaterkeeper.org
Email: ben@lawaterkeeper.org

If to Defendants:
Tonnage Industrial LLC and Tonnage
Industrial Properties LLC
Greg Phillips
2130 W. Cowles St.
Long Beach, CA 90813
Email: greg@tonnageindustrial.com
Phone: 310-489-4021 (c)
Phone: 800-893-9681 (o)

1 Email: madeleine@lawaterkeeper.org
2 Phone: (310) 394-6162

3
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5 With copies to:
6 Aqua Terra Law Group LLP
7 Anthony M. Barnes
8 8 Rio Vista Ave.
9 Oakland CA, 94611
10 Email: amb@atalawgroup.com
11 Phone: 917-371-8293

With copies to:
Perry S. Hughes
Cox, Castle & Nicholson
2029 Century Park East, Suite 2100
Los Angeles, CA 90067
Email: phughes@coxcastle.com
Phone: 310-740-0297

12 Notifications of communications shall be deemed submitted three (3) days after the
13 date that they are postmarked and sent by first-class mail, or immediately after
14 acknowledgement of receipt via email by the receiving party. Any change of address
15 or addresses shall be communicated in the manner described above for giving notices.

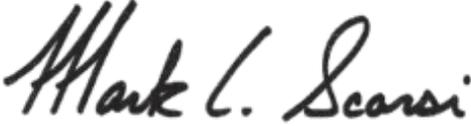
16 58. If for any reason the Federal Agencies should object to entry of this
17 Consent Decree or to any portion of this Consent Decree or the Court should decline
18 to approve this Consent Decree in the form presented, the Parties shall use their best
19 efforts to work together to modify the Consent Decree within thirty (30) days so that
20 it is acceptable to the Federal Agencies or the Court. If the Parties are unable to
21 modify this Consent Decree in a mutually acceptable manner that is also acceptable
22 to the Court, this Consent Decree shall immediately be null and void as well as
23 inadmissible as a settlement communication under Federal Rule of Evidence 408 and
24 California Evidence Code section 1152.

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1 Upon approval and entry of this Consent Decree by the Court, this Consent
2 Decree shall constitute a final judgment between the Plaintiff and Defendants.

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5 Dated: March 10, 2025

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8 _____
9 Mark C. Scarsi
10 United States District Judge

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