



1 The County's Motion was granted by Memorandum and Order filed July 8, 2011 (ECF  
2 No. 416), and this Court ordered that a separate evidentiary hearing be held to  
3 determine the government's liability for any additional costs paid by the County, but not  
4 reflected by the original specifications, to effectuate the remediation design. In their  
5 Joint Status Report filed December 20, 2013, the parties requested that the evidentiary  
6 hearing be referred to the assigned Magistrate Judge for adjudication. The undersigned  
7 issued the requested referral by order filed April 3, 2014, but before the hearing was  
8 scheduled the parties entered into a Stipulation, filed September 9, 2014, agreeing that  
9 the additional response costs incurred by the County and subject to reimbursement by  
10 the government totaled \$5,703,003.50. Since that computation of the government's  
11 liability for additional costs was the subject of the undersigned's referral to the Magistrate  
12 Judge, the Magistrate Judge's task in this matter is now complete.

13 The parties' most recent Joint Status Report, filed September 9, 2014, indicates  
14 that while the amount of additional response costs is now undisputed, the baseline by  
15 which the government's net liability to the County is computed remains in dispute. The  
16 County maintains that all expenses incurred above and beyond the amount of the  
17 construction bids obtained on the basis of the Forest Service's design drawing and  
18 specifications (\$3,427,745.00) are recoverable, meaning that the government owes the  
19 entire \$5,703,003.30 in additional costs. The government, on the other hand, contends  
20 that the baseline for its liability should be \$5,500,000.00, the estimated cost of  
21 constructing the Remedial Design as set forth in the Partial Consent Decree executed by  
22 the parties and entered by the Court in August of 2010. ECF No. 389. If that baseline is  
23 accepted, the government's liability would decrease from \$5,703,003.30 to  
24 \$3,427,745.00.

25 Not later than November 28, 2014, the County is directed to submit an opening  
26 brief, not to exceed fifteen (15) pages, setting forth its proposed resolution as to  
27 reimbursement and specifying its view as to the total amount now owed by the  
28 government. The government shall then submit its responsive brief, also not to exceed

1 fifteen (15) pages, by January 2, 2015. Any reply on behalf of the County must be filed  
2 no later than January 14, 2015 and shall not exceed ten (10) pages in length. Following  
3 completion of the briefing above, the Court will determine whether oral argument is  
4 indicated and will schedule a hearing as necessary.

5 IT IS SO ORDERED.

6 Dated: October 28, 2014

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10 MORRISON C. ENGLAND, JR., CHIEF JUDGE  
11 UNITED STATES DISTRICT COURT  
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