1		
2		
3		
4		
5		
6		
7		
8	UNITED STATES DISTRICT COURT	
9	EASTERN DISTRICT OF CALIFORNIA	
10		
11	UNITED STATES OF AMERICA,	No. 2:01-cv-01520-MCE-DAD
12	Plaintiff,	
13	٧.	ORDER
14	EL DORADO COUNTY, CALIFORNIA;	
15	and CITY OF SOUTH LAKE TAHOE, CALIFORNIA,	
16	Defendants.	
17		
18	AND RELATED ACTIONS.	
19		
20	Through the present action, the government seeks to recover response costs to	
21	remediate pollution discovered at the site of a former landfill dump located on National	
22	Forest Service lands near Meyers, California. In August of 2010, the government and	
23	Defendant El Dorado County, entered into a Partial Consent Decree designed to	
24	consolidate buried waste mass at the landfill. On April 27, 2011, however, the County	
25	moved to modify that Decree on grounds that the design drawing and specifications	
26	created by the United States Forest Service deviated significantly from actual conditions	
27	at the site.	
28	///	
		1

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.

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

fifteen (15) pages, by January 2, 2015. Any reply on behalf of the County must be filed no later than January 14, 2015 and shall not exceed ten (10) pages in length. Following completion of the briefing above, the Court will determine whether oral argument is indicated and will schedule a hearing as necessary. IT IS SO ORDERED. Dated: October 28, 2014 MORRISON C. ENGLAND, JR CHIEF JUDGE UNITED STATES DISTRICT COURT