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13 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
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15	UNITED STATES OF AMERICA,)	No. 2:13-cv-00848-MCE-CMK
16	Plaintiff,)	
17	v.)	STIPULATION AND MOTION
18	MATTHEW R.)	TO TERMINATE CONSENT
19	ANCHORDOGUY, et al.,)	DECREE;
20	Defendants.)	ORDER THEREON

Stipulation and Motion to Terminate Consent Decree; Order Thereon 1

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2 Pursuant Plaintiff United States of America (“United States”) and
3 Defendants Matthew R. Anchordoguy, Anchordoguy and Company Limited
4 Partnership, and John R. Barlow (“Defendants”) stipulate and move to terminate
5 the Consent Decree that this Court entered on or about November 7, 2014 (ECF
6 No. 45), as follows:

7 1. The Consent Decree provides (Paragraph 57): “After Defendants
8 have paid civil penalties (Paragraph 19); recorded the Consent Decree (Paragraph
9 23, subparagraph c); completed mitigation (Paragraph 24); continuously complied
10 with the injunctions (Paragraph 23, subparagraphs a and b) . . . ; and paid any
11 outstanding stipulated penalties required by this Consent Decree, Defendants may”
12 request termination of the Consent Decree.

13 2. The Consent Decree also provides (Paragraph 58): “If the United
14 States agrees that the Consent Decree may be terminated, the Parties shall submit,
15 for the Court’s approval, an appropriate paper or pleading to terminate the Consent
16 Decree.”

17 3. Defendants timely paid civil penalties, recorded the Consent Decree,
18 and completed mitigation.

19 4. No stipulated penalties are due from Defendants under the Consent
20 Decree.

1 5. Defendants warrant and represent, through their counsel, that they
2 have continuously complied with the injunctions set forth in Paragraph 23,
3 subparagraphs a and b. Paragraph 23.a. provides: “Defendants and Defendants’
4 agents, successors, and assigns are enjoined from discharging any pollutant into
5 Coyote Creek, Stream 1, Stream 2, Stream 3, Stream 4, Stream 5, Stream 6, or
6 Unfilled Wetlands, unless such discharge complies with the provisions of the
7 CWA and its implementing regulations.” Paragraph 23.b. provides: “Defendants
8 and Defendants’ agents, successors, and assigns are enjoined from dredging or
9 excavating any portion of Coyote Creek unless, before initiating any such activity,
10 Defendants provide written notification to the Corps fully describing the proposed
11 activity and obtain from the Corps a CWA section 404 permit, a verification of the
12 applicability of a nationwide permit, or a determination that no CWA section 404
13 permit is required for the proposed activities.”

14 6. The United States relies on the foregoing warranty and representation
15 from Defendants and is not aware of evidence indicating non-compliance.

16 7. Accordingly, all conditions for termination of this Consent Decree
17 have been met.

18 8. The Consent Decree provides (Paragraph 60): “Termination . . . does
19 not extinguish the prohibitions of subparagraphs a and b of Paragraph 23, which
20 run with ownership or control of the Site.”

1 STIPULATED AND RESPECTFULLY SUBMITTED ON BEHALF OF THE
2 UNITED STATES:

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4 Dated: October 23, 2020

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10 STIPULATED AND RESPECTFULLY SUBMITTED ON BEHALF OF
11 DEFENDANTS:

12 Dated: October 23, 2020

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15 Dated: October 23, 2020

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ORDER TERMINATING CONSENT DECREE

In accordance with the Parties’ stipulation and joint motion, and good cause appearing, the Consent Decree (ECF No. 45) is hereby TERMINATED. As the Consent Decree provides (Paragraph 60): “Termination does not extinguish the prohibitions of subparagraphs a and b of Paragraph 23, which run with ownership or control of the Site.” Paragraph 23.a. provides: “Defendants and Defendants’ agents, successors, and assigns are enjoined from discharging any pollutant into Coyote Creek, Stream 1, Stream 2, Stream 3, Stream 4, Stream 5, Stream 6, or Unfilled Wetlands, unless such discharge complies with the provisions of the CWA and its implementing regulations.” Paragraph 23.b. provides: “Defendants and Defendants’ agents, successors, and assigns are enjoined from dredging or excavating any portion of Coyote Creek unless, before initiating any such activity, Defendants provide written notification to the Corps fully describing the proposed activity and obtain from the Corps a CWA section 404 permit, a verification of the applicability of a nationwide permit, or a determination that no CWA section 404 permit is required for the proposed activities.”

IT IS SO ORDERED.

Dated: November 5, 2020


MORRISON C. ENGLAND, JR.
SENIOR UNITED STATES DISTRICT JUDGE