

1 A. Rule 59(e)

2 Rule 59(e) provides, “[a] motion to alter or amend a judgment must be filed no
3 later than 28 days after the entry of the judgment.” Fed. R. Civ. P. 59(e). Here, defendant filed
4 his motion fourteen days after the court’s entry of judgment. *See* ECF No. 26.

5 “Although Rule 59(e) permits a district court to reconsider and amend a previous
6 order, the rule offers an extraordinary remedy, to be used sparingly in the interests of finality and
7 conservation of judicial resources.” *Kona Enters., Inc. v. Estate of Bishop*, 229 F.3d 877, 890
8 (9th Cir. 2000) (internal citations and quotations omitted). The burden on the moving party is
9 high. *See, e.g., Sec. and Exch. Comm’n v. Pattison*, 2011 U.S. Dist. LEXIS 61922, at *4–5 (N.D.
10 Cal. Jun. 9, 2011). The Ninth Circuit has articulated four grounds upon which a Rule 59(e)
11 motion may be granted:

- 12 (1) if such motion is necessary to correct manifest errors of law or
13 fact upon which the judgment rests; (2) if such motion is necessary
14 to present newly discovered or previously unavailable evidence;
15 (3) if such motion is necessary to prevent manifest injustice; or
16 (4) if the amendment is justified by an intervening change in
17 controlling law.

18 *Allstate Ins. Co. v. Herron*, 634 F.3d 1101, 1111 (9th Cir. 2011). The Rule “may not be used to
19 relitigate old matters, or to raise arguments or present evidence that could have been made prior
20 to the entry of judgment.” *Exxon Shipping Co. v. Baker*, 554 U.S. 471, 485 n.5 (2008) (internal
21 citation omitted).

22 B. Rule 60(b)

23 Rule 60(b) enumerates six grounds under which a court may relieve a party from a
24 final judgment:

- 25 (1) mistake, inadvertence, surprise, or excusable neglect;
26 (2) newly discovered evidence that, with reasonable diligence,
27 could not have been discovered in time to move for a new trial
28 under Rule 59(b)
 (3) fraud (whether previously called intrinsic or extrinsic),
misrepresentation, or misconduct by an opposing party;
 (4) the judgment is void;

1 (5) the judgment has been satisfied, released or discharged; it is
2 based on an earlier judgment that has been reversed or vacated; or
applying it prospectively is no longer equitable; or

3 (6) any other reason that justifies relief.

4 Fed. R. Civ. P. 60(b). For the “any other reason” catchall portion of the rule, extraordinary
5 circumstances are required to justify relief. *See Ackermann v. U.S.*, 340 U.S. 193, 202 (1950)
6 (“Neither the circumstances of petitioner nor his excuse for not appealing is so extraordinary as to
7 bring him within ... Rule 60(b)(6).”); *see also* 11 Charles Alan Wright & Arthur R. Miller,
8 Federal Practice and Procedure: Civil § 2857 (3d ed. 2013) (“ ‘[E]xtraordinary circumstances’
9 should only be required under catchall clause (6) of the rule.”).

10 II. DISCUSSION

11 In its removal petition, defendant alleged the court had jurisdiction because:

12 (1) there was admiralty jurisdiction, and (2) the claims in the complaint fall under the Clean
13 Water Act. Not. Remov. 2, ECF No. 1.

14 The magistrate judge concluded defendant had alleged “in conclusory fashion”
15 that plaintiff’s complaint is subject to federal question jurisdiction because the claims fall under
16 the federal Clean Water Act. F&Rs at 1. She found the plaintiff’s complaint, however, did not
17 present a federal question, and defendant’s exhibits attached to the petition established the state
18 court action alleged claims only under state law. *Id.* at 2.

19 Here, defendant again argues the court has admiralty jurisdiction and plaintiff’s
20 claims fall under the Clean Water Act. Mot. 2–6. Defendant adds a further argument, contending
21 the federal Comprehensive Environmental Response, Compensation, and Liability Act
22 (CERCLA), which regulates the cleanup of hazardous substances, provides “exclusive” original
23 jurisdiction over plaintiff’s case.

24 Regarding the first two arguments, defendant’s attempt to relitigate old matters
25 does not warrant amending the judgment. *Exxon*, 554 U.S. 471 at 485 n.5. As to the new third
26 argument, assuming without deciding that defendant could not have presented this argument in its
27 removal petition, defendant contends now and only in conclusory fashion that plaintiff’s
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1 complaint “falls within the boundaries of CERCLA and concerns that statute’s goals.” *See* Mot.
2 at 5–6. Defendant has not presented any grounds warranting reconsideration or amendment.

3 Additionally, defendant does not specify what grounds justify relief from
4 judgement, and the court finds no “extraordinary circumstances” to otherwise justify relief.
5 *Ackermann v. U.S.*, 340 U.S. at 202.

6 III. CONCLUSION

7 Based on the forgoing, the court DENIES defendant’s motion to amend the court’s
8 judgment.

9 This resolves ECF No. 26.

10 IT IS SO ORDERED.

11 DATED: January 13, 2017.

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15 UNITED STATES DISTRICT JUDGE
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