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13
 14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 SUNSET COMMERCIAL LLC, a Nevada
 Limited Liability Company,

17 Plaintiff,

18 vs.

19 BAYER CROPSCIENCE, INC., a New York
 20 Corporation; MONTROSE CHEMICAL
 CORPORATION OF CALIFORNIA, a
 21 Delaware Corporation; ATLANTIC
 RICHFIELD COMPANY, a Delaware
 22 Corporation; OLIN CORPORATION, a Virginia
 Corporation, TITANIUM METALS
 23 CORPORATION, a Delaware Corporation; LE
 PETOMANE XXVII, INC., an Illinois
 24 Corporation, in its representative capacity as the
 NEVADA ENVIRONMENTAL RESPONSE
 25 TRUST TRUSTEE; and the UNITED STATES
 OF AMERICA.

26 Defendants.
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 28

Case No. 2:23-cv-02081-GMN-BNW

**STIPULATION AND ORDER RE:
 APPLICATION OF THE UNIFORM
 COMPARATIVE FAULT ACT TO THE
 SETTLEMENT BETWEEN PLAINTIFF
 AND DEFENDANTS THE UNITED
 STATES OF AMERICA AND ATLANTIC
 RICHFIELD COMPANY**

1 All parties to this action hereby stipulate to the following:

2 WHEREAS plaintiff Sunset Commercial LLC (“Plaintiff”) has filed a Motion to Enter
3 Consent Decree (ECF #114) requesting that the Court: 1) find a settlement reached in the form of
4 a Consent Decree (attached hereto as Exhibit A) between Plaintiff and defendants the United
5 States of America (“U.S.”) and Atlantic Richfield Corporation (“Arco”) (collectively, the U.S.
6 and Arco are the “Settling Defendants,” and together with Plaintiff, the “Settling Parties”) to be
7 in good faith, and 2) enter the Consent Decree as an Order of the Court; and

8 WHEREAS, subparagraphs 6(b) and (c) of the Consent Decree bar any known or unknown
9 contribution claims against the Settling Defendants for Covered Matters (as defined in the Consent
10 Decree) to the fullest extent permitted by law, which would include claims by the remaining
11 named defendants, Bayer CropScience, Inc., Montrose Chemical Corporation of California, Olin
12 Corporation, Titanium Metals Corporation, and Le Petomane XXVII, Inc., in its representative
13 capacity as the Nevada Environmental Response Trust Trustee (collectively, “the Non-Settling
14 Parties”); and

15 WHEREAS, under subparagraph 6(c) of the Consent Decree, Plaintiff shall assume and
16 bear the risk if it is ultimately determined that the amount paid by a Settling Defendant pursuant
17 to the Consent Decree is less than that Settling Defendant’s equitable share of Response Costs (as
18 defined in the Consent Decree), damages, or both, alleged by Plaintiff, and, in the event of any
19 such determination, the full amount of any under-payment shall be borne solely by Plaintiff; and

20 WHEREAS, section 6 of the Uniform Comparative Fault Act (“UCFA”) provides: “A
21 release, covenant not to sue, or similar agreement entered into by a claimant and a person liable
22 discharges that person from all liability for contribution, but it does not discharge any other
23 persons liable upon the same claim unless it so provides. However, the claim of the releasing
24 person against other persons is reduced by the amount of the released person’s equitable share of
25 the obligation, determined in accordance with the provisions of Section 2.”

26 WHEREAS, the Non-Settling Parties are willing to stipulate to the good faith of the
27 settlement embodied in the Consent Decree and not to oppose entry of the Consent Decree, subject
28 to the Settling Parties clarifying that the UCFA’s proportionate share method shall apply to any

1 claims for the Covered Matters (as defined in the Consent Decree) among Plaintiff and any person
2 or entity other than the Settling Defendants, including the Non-Settling Parties; and

3 THEREFORE, all parties STIPULATE that:

- 4 1. For the purposes of Covered Matters (as defined in the Consent Decree) and this action
5 only, the proportionate-share rule of section 6 of the UCFA (and not the rules
6 contemplated in 42 U.S.C. § 9613(f)(2) (CERCLA § 113(f)(2)) or Nev. Rev. Stat. §
7 17.245.1(b) or any other statute or common law) applies to discharge the released
8 parties from all liability for contribution, regardless whether such claims are founded
9 in CERCLA or state law) and reduce the potential liability of any person or entity that
10 has not entered into a settlement, release, or similar agreement with Plaintiff by the
11 amount of the released parties' equitable shares of the obligation, as opposed to by the
12 amount of the settlement payments by the released parties;
- 13 2. Execution and entry of the Consent Decree by the Court is not opposed by any party;
- 14 3. The Effective Date of the Consent Decree is the date that both the Consent Decree and
15 this Stipulation and Order are entered as Orders of the Court; and
- 16 4. The stipulations set forth herein are for the purpose of the Covered Matters (as defined
17 in the Consent Decree) and this action only and are not admissions or stipulations for
18 any other purpose, nor may they be used against any party in any other proceeding.

19 DATED this 26th day of November 2024

DATED this 26th day of November 2024.

20 UNITED STATES OF AMERICA

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14 DATED this 26th day of November 2024.

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DATED this 26th day of November 2024.

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IT IS SO ORDERED:



GLORIA M. NAVARRO
UNITED STATES JUDGE

DATED: November 26, 2024