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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION

CITY OF COLTON, a California municipal corporation, Plaintiff, v. AMERICAN PROMOTIONAL EVENTS, INC., et al. Defendants.	CASE NO. ED CV 09-01864 PSG (SSx) [Consolidated with Case Nos. CV 09-6630 PSG (SSx), CV 09-06632 PSG (SSx), CV 09-07501 PSG (SSx), CV 09-07508 PSG (SSx), CV 10-824 PSG (SSx) and CV 05-01479 PSG (SSx)] **CONSENT DECREE**
AND CONSOLIDATED ACTIONS	

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I. BACKGROUND

A. The United States of America ("United States"), on behalf of the Administrator of the United States Environmental Protection Agency ("EPA"), filed a complaint in this matter pursuant to Sections 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. § 9607 ("CERCLA"), and Section 7003 of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6973, seeking injunctive relief and reimbursement of response costs incurred by EPA and the United States Department of Justice for response actions at the B.F. Goodrich Superfund Site in Rialto, California.

B. The Local Government Entities (as defined in Section IV (Definitions)) filed complaints in this matter pursuant to Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613, and/or state law seeking injunctive relief, declaratory relief, reimbursement of response costs and other damages. Rialto also filed claims pursuant to Section 7002 of RCRA, 42 U.S.C. § 6972, against certain parties.

C. Defendants Pyro Spectaculars, Inc.; Astro Pyrotechnics, Inc.; Trojan Fireworks Company; Thomas O. Peters; The 1996 Thomas O. Peters and Kathleen S. Peters Revocable Trust; and Stonehurst Site LLC (collectively, "Settling Defendants" as defined in Section IV (Definitions)), are entities which are named as defendants in one or more of the complaints referenced in the foregoing paragraphs. The Settling Defendants do not admit, and specifically deny: (1) any liability arising out of the transactions or occurrences alleged in the claims or deemed by the Court in the Consolidated Federal Action; and (2) that the release or threatened release of Waste Material at or from the B.F. Goodrich Site or the RABSP (as defined in Section IV (Definitions)) constitutes, contributed to or caused an imminent or substantial endangerment to the public health or welfare or the environment. The Local Government Entities, the County Related Parties, and

the Federal Defendants also do not admit, and specifically deny, any liability arising out of the transactions or occurrences alleged in the claims or deemed by the Court in the Consolidated Federal Action.

D. The United States has requested and reviewed Financial Information and Insurance Information from Pyro Spectaculars, Inc. and Insurance Information from Astro to determine whether they are financially able to pay response costs incurred and to be incurred in connection with the B.F. Goodrich Site. Based upon such Financial Information and Insurance Information, the United States has determined that Pyro Spectaculars, Inc. and Astro are able to pay no more than the amounts specified in Section VI (Settlement of Response Costs) of this Consent Decree.

NOW, THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED:

II. JURISDICTION

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331 and 1345; 42 U.S.C. §§ 6973(a), 9607, and 9613(b); and also has personal jurisdiction over Settling Defendants. Solely for the purposes of this Consent Decree and the underlying complaints, Settling Defendants waive all objections and defenses that they may have to jurisdiction of the Court or to venue in this District. Settling Defendants shall not challenge entry or the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

III. PARTIES BOUND

2. This Consent Decree is binding upon the United States, the Local Government Entities, the County Related Parties, and upon Settling Defendants and their heirs, successors and assigns. Any change in ownership or corporate or other legal status, including, but not limited to, any transfer of assets or real or

personal property, shall in no way alter the status or responsibilities of Settling Defendants under this Consent Decree.

IV. DEFINITIONS

3. Unless otherwise expressly provided in this Consent Decree, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Consent Decree or in any appendix attached hereto, the following definitions shall apply:

"160-Acre Area" shall mean the area located in San Bernardino County that is bounded by West Casa Grande Drive on the north, Locust Avenue on the east, Alder Avenue on the west, and an extension of Summit Avenue on the south. The 160-Acre Area is depicted generally on the map included in Appendix A.

"2010 Record of Decision" or "2010 ROD" shall mean the EPA Record of Decision relating to the Source Area Operable Unit at the B.F. Goodrich Site signed on September 30, 2010, by the Regional Administrator, EPA Region 9, or his/her delegate, and all attachments thereto.

"2010 ROD Response Costs" shall mean: (1) all costs, including but not limited to, direct and indirect costs, in connection with the B.F. Goodrich Site that the United States incurred before the signing of the 2010 Record of Decision; (2) all costs, including but not limited to direct and indirect costs that the United States incurred or will incur after the 2010 Record of Decision to perform or oversee the work required to implement the 2010 Record of Decision; and (3) costs that were otherwise identified and sought by the United States in the Consolidated Federal Action.

"Astro" shall mean Astro Pyrotechnics, Inc. and includes past and current officers and employees acting in the course and scope of their employment,

successors, and assigns. Astro also includes Astro Pyrotechnics, a California corporation (Corp. Reg. No. C0720080) formed on August 9, 1974 and dissolved on September 17, 1990.

"Astro Insurance Information" shall mean those insurance documents identified in Appendix B.

"Basin Contaminants" shall mean any type of perchlorate; trichloroethylene ("TCE"); perchloroethylene; carbon tetrachloride; chloroform; or methylene chloride; including any breakdown or "daughter" products of the foregoing.

"B.F. Goodrich Site" shall mean the B.F. Goodrich Superfund Site in San Bernardino County, California, which includes the 160-Acre Area and all areas where contamination from the 160-Acre Area otherwise comes to be located.

"B.F. Goodrich Special Account" shall mean the special account, within the EPA Hazardous Substances Superfund, established for the B.F. Goodrich Site by EPA pursuant to Section 122(b)(3) of CERCLA, 42 U.S.C. § 9622(b)(3).

"CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. §§ 9601-9675.

"Certification of Completion of the Final Remedial Action" shall mean the certification of completion of the remedial action associated with the Final Record of Decision for the B.F. Goodrich Site.

"Colton" shall mean the City of Colton and any of its present, former, or future subdivisions, departments, commissions, agencies, or instrumentalities.

"Consent Decree" shall mean this Consent Decree and all appendices attached hereto. In the event of conflict between this Consent Decree and any appendix, this Consent Decree shall control.

"Consolidated Federal Action" shall mean *City of Colton v. American Promotional Events, Inc., et al.*, Case No. ED CV 09-01864 PSG (SSx); *Goodrich Corporation v. Chung Ming Wong, et al.*, Case No. CV 09-6630 PSG (SSx);

County of San Bernardino, et al., v. Tung Chun Co., et al., Case No. CV 09-06632 PSG (SSx); *City of Rialto and Rialto Utility Authority v. United States Department of Defense, et al.*, Case No. CV 09-7501 PSG (SSx); and *Emhart Industries, Inc. v. American Promotional Events, Inc.-West, et al.*, Case No. CV 09-07508 PSG (SSx), all of which were consolidated pursuant to an order issued on January 20, 2010; and *United States of America v. Goodrich Corporation, et al.*, Case No. 10-00824 PSG (SSx), which was consolidated with the previously consolidated cases pursuant to an order issued on June 3, 2010; and *City of Colton v. American Promotional Events, Inc., et al.*, Case No. ED CV 05-01479 PSG (SSx).

"County" shall mean the County of San Bernardino and any of its present, former, or future subdivisions, departments, commissions, agencies, or instrumentalities.

"County Property" shall mean the property known as the Mid Valley Sanitary Landfill, which is currently owned by the County of San Bernardino, including those areas currently leased to Robertson's Ready Mix. The County Property is bounded by Summit Avenue on the north, generally by Alder Avenue on the east, (until Alder Avenue terminates at or within the Robertson's Ready Mix leasehold), generally by the municipal boundaries of the Cities of Fontana and Rialto on the west except for a strip of land located in the City of Fontana, and by Casmalia Street on the south. The County Property is depicted generally on the map included in Appendix A.

"County Related Parties" shall mean Robertson's Ready Mix, Inc., the Schulz Parties[1] and the Zambelli Parties.[2]

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[1] The Schulz Parties include the following: Edward Stout; Edward Stout as the Trustee of the Stout-Rodriquez Trust; Elizabeth Rodriquez; John Callagy as Trustee of the Fredricksen Children's Trust Under Trust Agreement Dated February 20, 1985; John Callagy as Trustee of the E.F. Schulz Trust; Linda

"Day" or "day" shall mean a calendar day unless expressly stated to be a business day. In computing any period of time under this Consent Decree, where the last day would fall on a Saturday, Sunday, or federal or state holiday, the period shall run until the close of business of the next working day.

"DOJ" shall mean the United States Department of Justice and its successor departments, agencies, or instrumentalities.

"Effective Date" shall mean the date upon which this Consent Decree is entered by the District Court as recorded on the District Court docket, or, if the District Court instead issues an order approving the Consent Decree, the date such order is recorded on the District Court docket, whichever occurs first.

"EPA" shall mean the United States Environmental Protection Agency and its successor departments, agencies, or instrumentalities.

"EPA Hazardous Substance Superfund" shall mean the Hazardous Substance Superfund established by the Internal Revenue Code, 26 U.S.C. § 9507.

"Federal Defendants" shall mean any federal agency, department, or instrumentality named or alleged to be liable for contamination in the Consolidated Federal Action, including but not limited to the United States Army, the Department of the Navy, the United States Air Force, the United States Department of Defense, the Farm Credit Administration, the United States Customs Department, and any of their predecessors or successors.

Fredricksen; Linda Fredricksen as Trustee of the Walter M. Pointon Trust Dated 11/19/1991; Linda Fredricksen as Trustee of the Michelle Ann Pointon Trust Under Trust Agreement Dated February 15, 1985; Linda Fredricksen as Trustee of the E.F. Schulz Trust; John Callagy; Mary Callagy; Jeanine Elzie; Stephen Callagy; Michelle Ann Pointon; and Anthony Rodriquez.

[2] The Zambelli Parties include the following: Zambelli Fireworks Manufacturing Company, Inc., Zambelli Fireworks Company, aka Zambelli Fireworks Internationale, and Zambelli Fireworks Manufacturing Company.

"Final Record of Decision" shall mean the final Record of Decision (and all attachments) for the B.F. Goodrich Site that will be signed by EPA in the future, and after lodging of this Consent Decree.

"Final Remedial Action" shall mean activities associated with implementing the Final Record of Decision.

"Interest" shall mean interest at the rate specified for interest on investments of the EPA Hazardous Substance Superfund established by 26 U.S.C. § 9507, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change on October 1 of each year.

"Local Government Entities" shall mean the County, Rialto, and Colton, which includes their past and current officers and employees acting in the course and scope of their employment.

"Paragraph" shall mean a portion of this Consent Decree identified by an Arabic numeral or an upper or lower case letter.

"Parties" shall mean the United States, the Local Government Entities, the County Related Parties, and the Settling Defendants.

"Peters Parties" shall mean Thomas O. Peters and The 1996 Thomas O. Peters And Kathleen S. Peters Revocable Trust and includes past and current trustees and beneficiaries, agents, heirs, successors, and assigns.

"Plaintiffs" shall mean the United States, on behalf of EPA, and the Local Government Entities.

"PSI" shall mean Pyro Spectaculars, Inc. and includes past and current officers and employees acting in the course and scope of their employment, successors, and assigns.

"PSI Financial Information" shall mean those financial documents identified

in Appendix C.

"PSI Insurance Information" shall mean those insurance documents identified in Appendix D.

"RABSP" shall mean the parcel of land originally containing the former Rialto Ammunition Backup Storage Point, located in San Bernardino County, California. The 160-Acre Area is within the geographic area of the RABSP. The RABSP is depicted generally on the map included in Appendix A.

"RABSP Site" shall mean the RABSP and all areas where contamination from the RABSP otherwise comes to be located.

"RCRA" shall mean the Solid Waste Disposal Act, 42 U.S.C. §§ 6901-6992.

"Rialto" shall mean the City of Rialto and any of its present, former, or future subdivisions, departments, commissions, agencies, or instrumentalities, including, but not limited to, the Rialto Utility Authority and the Rialto Redevelopment Agency.

"Section" shall mean a portion of this Consent Decree identified by a Roman numeral.

"Settling Defendants" shall mean PSI, Astro, Trojan, Peters Parties, and Stonehurst.

"State" shall mean the State of California.

"Stonehurst" shall mean Stonehurst Site LLC and includes past and current officers, members and managers acting in the course and scope of their employment, successors, and assigns.

"Stonehurst Property" shall mean the approximate 5-acre property in the County of San Bernardino, County APNs 1133-07-105, 1133-07-106, and 1133-07-107, collectively, located at 2298 West Stonehurst Drive, Rialto, California. The Stonehurst Property is depicted generally on the map included in Appendix A.

"Trojan" shall mean Trojan Fireworks Company and includes past and

current officers and employees acting in the course and scope of their employment, successors, and assigns.

"United States" shall mean the United States of America and each department, agency, and instrumentality of the United States, including EPA and the Federal Defendants.

"Waste Material" shall mean (a) any hazardous substance under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (b) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); and (c) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27).

"West Side Area" shall mean the County Property and the Stonehurst Property. The West Side Area is depicted generally on the map included in Appendix A.

"West Side Site" shall mean the West Side Area and all areas where TCE and perchlorate contamination from the West Side Area otherwise comes to be located.

V. STATEMENT OF PURPOSE

4. By entering into this Consent Decree, the mutual objectives of the Parties are to avoid difficult and prolonged litigation and resolve claims as set forth herein.

VI. SETTLEMENT OF RESPONSE COSTS

5. Payments

The Settling Defendants shall severally pay a total of five million six hundred sixty-three thousand dollars ($5,663,000) to the United States and the Local Government Entities. Of this amount, the United States shall receive four million three hundred thirty thousand dollars ($4,330,000); Colton shall receive five hundred thousand dollars ($500,000); Rialto shall receive five hundred

thousand dollars ($500,000); and the County shall receive three hundred thirty-three thousand dollars ($333,000). The payments to be made by the Settling Defendants set forth above are for reimbursement of response costs.

The Settling Defendants' obligations to pay these amounts are described below.

a. Pyro Spectaculars, Inc. Payments

i. Pyro Spectaculars, Inc. shall pay to EPA the principal amount of two million two hundred eighty-six thousand, six hundred sixty-seven dollars and ninety-one cents ($2,286,667.91).

ii. Pyro Spectaculars, Inc. shall pay to Rialto the principal amount of three hundred thirty-three thousand, three hundred thirty-three dollars and fifty cents ($333,333.50).

iii. Pyro Spectaculars, Inc. shall pay to Colton the principal amount of three hundred thirty-three thousand, three hundred thirty-three dollars and fifty cents ($333,333.50).

iv. Pyro Spectaculars, Inc. shall pay to the County the principal amount of two hundred twenty-two thousand dollars and eleven cents ($222,000.11).

v. In addition to the payments described in subparagraphs i.– iv. above, Pyro Spectaculars, Inc. shall pay to EPA the additional principal amount of six hundred thousand dollars ($600,000) in three (3) installments. The first installment payment of two hundred thousand dollars ($200,000) is due within one (1) year after the Effective Date. The second installment payment of two hundred thousand dollars ($200,000) is due within two (2) years after the Effective Date. The third installment payment of two hundred thousand dollars ($200,000) is due within three (3) years after the Effective Date. Each installment payment shall also include an additional sum for Interest accrued on the unpaid portion of

the principal amount calculated from the 30th day after the Effective Date until the date of the payment. The United States shall provide Pyro Spectaculars, Inc. with information on the amount of Interest due thirty (30) days before the due date for each of the installment payments required by this Paragraph.

b. Astro, Trojan, the Peters Parties, and Stonehurst Payments

Astro, Trojan, the Peters Parties, and Stonehurst shall jointly and severally pay as follows:

i. As to EPA the principal amount of one million four hundred forty-three thousand, three hundred thirty-two dollars and nine cents ($1,443,332.09).

ii. As to Rialto the principal amount of one hundred sixty-six thousand, six hundred sixty-six dollars and fifty cents ($166,666.50).

iii. As to Colton the principal amount of one hundred sixty-six thousand, six hundred sixty-six dollars and fifty cents ($166,666.50).

iv. As to the County the principal amount of one hundred ten thousand, nine hundred ninety-nine dollars and eighty-nine cents ($110,999.89).

6. Escrow for Payments to Plaintiffs

No later than twenty (20) business days after Settling Defendants receive notice that this Consent Decree has been lodged with the Court, each Settling Defendant shall deposit its respective share of the payment due Plaintiffs into an interest-bearing escrow account at a bank that is insured by the Federal Deposit Insurance Corporation. Within thirty (30) days after the Effective Date, the funds placed in the Escrow Account together with interest thereon, shall be disbursed as described in Paragraph 5; provided however, the installment payments required by Section Paragraph 5 a.v. shall be due as set forth therein.

7. Payment Instructions

a. Any payments due EPA pursuant to Section VI (Settlement of

Response Costs) shall be made in accordance with instructions provided to such Settling Defendant(s) by EPA or the Financial Litigation Unit ("FLU") of the United States Attorney's Office for the Central District of California. Any payments due Local Government Entities shall be made via wire transfer as described in Paragraphs 8 – 10.

b. At the time of each installment payment required by Paragraph 5 a.v., Pyro Spectaculars, Inc. shall send notice to DOJ and EPA that payment has been made in accordance with Section XIV (Notices and Submissions), and to the EPA Cincinnati Finance Office by email at acctsreceivable.cinwd@epa.gov, or by mail to:

EPA Cincinnati Finance Office
26 Martin Luther King Drive
Cincinnati, Ohio 45268

Such notice shall reference the Site/Spill ID Number 09JW, and DOJ Case Number 90-11-2-09952.

c. The total amount to be paid to EPA pursuant to Section VI (Settlement of Response Costs) shall be deposited by EPA in the B.F. Goodrich Special Account to be retained and used to conduct or finance response actions at or in connection with the Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

8. Payment Instructions for Rialto:

City of Rialto -- General Fund Account
Account Number -- 9739869858
Routing No. 121000248
Wells Fargo Bank
21680 Gateway Center Drive, #225
Diamond Bar, California 91765
Contact at bank: Yolanda Anaya (909) 612-1389

9. Payment Instructions for Colton:

Account of City of Colton
Account No. 143138235
Routing No. 026009593
Bank of America
101 South Marengo Ave.
Pasadena, California 91101

10. Payment Instructions for the County

Account Name: County of San Bernardino
Account #: 1496150090
ABA#: 026009593
Bank of America
Brea Client Service Center
Branch: Los Angeles, Government Banking
Bank Contact & Ph#: Wendy Sieruga 909-387-6375
Ref: Solid Waste Management Division of County
Public Works Department
275 Valencia Avenue
Brea, California 92823

VII. FAILURE TO COMPLY WITH PAYMENT OBLIGATIONS

11. Interest on Payments and Accelerated Payments

If any Settling Defendant fails to make its payments required by Section VI (Settlement of Response Costs) by the required due date, Interest shall accrue on the unpaid balance owed by that Settling Defendant from the date payment is due through the date of payment. If Pyro Spectaculars, Inc. fails to make any installment payment required by Section VI (Settlement of Response Costs) by the required due date, all remaining installment payments and all accrued Interest shall become due immediately upon such failure. Interest shall continue to accrue on any unpaid amounts until the total amount due has been received.

12. Stipulated Penalty

If any amounts due the United States or the Local Government Entities are not paid by their respective required date(s), the non-paying or late-paying Settling Defendant(s) shall be in violation of this Consent Decree and shall pay, as a stipulated penalty, in addition to the Interest required by Paragraph 11, five

thousand dollars ($5,000) per violation per day to the unpaid party for each day such payment is late. Stipulated penalties are due and payable within thirty (30) days after the date of the demand for payment of the penalty or penalties.

All payments of stipulated penalties owed to the United States under this Paragraph shall be identified as "stipulated penalties" and shall be made in accordance with instructions provided to such Settling Defendant(s) by the United States. Such payment shall reference Site/Spill ID Number 09JW, and DOJ Case Number 90-11-2-09952.

All payments of stipulated penalties to each of the Local Government Entities (if they are the unpaid party) and not including the County under this Paragraph shall be made as set forth in Paragraphs 8, 9, and 10, respectively.

At the time of payment of a stipulated penalty to the United States, the non-paying or late-paying Settling Defendant(s) shall send notice to DOJ and EPA that payment has been made in accordance with Section XIV (Notices and Submissions). Such notice shall reference Site/Spill ID Number 09JW, and DOJ Case Number 90-11-2-09952.

Penalties shall accrue as provided in this Paragraph regardless of whether the United States or the Local Government Entities have notified the non-paying Settling Defendant(s) of the violation or made a demand for payment, but need only be paid upon demand. All penalties shall begin to accrue on the day after payment is due and shall continue to accrue through the date of payment. Nothing in this Consent Decree shall prevent the simultaneous accrual of separate penalties for separate violations of this Consent Decree.

13. Payments made under this Section shall be in addition to any other remedies or sanctions available to Plaintiffs by virtue of Settling Defendants' failure to comply with the requirements of this Consent Decree.

14. Notwithstanding any other provision of this Section, a Plaintiff may,

in its unreviewable discretion, waive payment of any portion of the stipulated penalties due to that Plaintiff pursuant to this Consent Decree. Payment of stipulated penalties shall not excuse Settling Defendants from payment as required by Section VI (Settlement of Response Costs) or from performance of any other requirements of this Consent Decree.

VIII. COVENANTS BY PLAINTIFFS

15. United States' Covenants

a. Ability to Pay Parties. Except as specifically provided in Section IX (Reservation of Rights by Plaintiffs), the United States covenants not to sue or to take administrative action against PSI and Astro pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a), and Section 7003 of RCRA, 42 U.S.C. § 6973, relating to the B.F. Goodrich Site, including but not limited to the 2010 ROD Response Costs and all response costs incurred or that will be incurred in connection with the B.F. Goodrich Site. With respect to present and future liability, these covenants shall take effect upon receipt by Plaintiffs of all amounts required by Paragraphs 5 a.i.– iv. and 5 b.i. – iv. and any Interest or stipulated penalties due thereon under Section VII (Failure to Comply with Payment Obligations). These covenants are conditioned upon the satisfactory performance by PSI and Astro of their obligations under this Consent Decree, including but not limited to, payment of all amounts due under Section VI (Settlement of Response Costs), and any Interest or stipulated penalties due thereon under Section VII (Failure to Comply with Payment Obligations). These covenants are also conditioned upon the veracity and completeness of the Financial Information and the Insurance Information provided to EPA by Pyro Spectaculars, Inc., the Insurance Information provided to EPA by Astro, the financial, insurance, and indemnity certifications made by Pyro Spectaculars, Inc., and the insurance

certification made by Astro, as described in Paragraphs 37 and 38. If the Financial Information or the Insurance Information provided by Pyro Spectaculars, Inc. or Astro, or the financial, insurance, or indemnity certification made by Pyro Spectaculars, Inc. or Astro in Paragraphs 37 and 38, is subsequently determined by EPA to be materially false or, in any material respect, inaccurate, such Settling Defendant shall forfeit all payments made pursuant to this Consent Decree and these covenants and the contribution and other protections in Paragraphs 28 - 31 shall be null and void as to such Settling Defendant. Such forfeiture shall not constitute liquidated damages and shall not in any way foreclose the United States' right to pursue any other causes of action arising from such Settling Defendant's materially false or materially inaccurate information. These covenants extend only to PSI and Astro and do not extend to any other person.

b. Non-Ability to Pay Parties. Except as specifically provided in Section IX (Reservation of Rights by Plaintiffs) and subparagraphs 15 c. – e., the United States covenants not to sue or to take administrative action against Trojan, the Peters Parties, and Stonehurst pursuant to Sections 106 and 107(a) of CERCLA, 42 U.S.C. §§ 9606 and 9607(a) and Section 7003 of RCRA, 42 U.S.C. § 6973, relating to the B.F. Goodrich Site, including but not limited to the 2010 ROD Response Costs and all response costs incurred or that will be incurred in connection with the B.F. Goodrich Site. With respect to present and future response costs, these covenants shall take effect upon receipt by Plaintiffs of all amounts required by Paragraphs 5 a.i. – iv. and 5 b.i. – iv. and any Interest or stipulated penalties due thereon under Section VII (Failure to Comply with Payment Obligations). These covenants are conditioned upon the satisfactory performance by Trojan, the Peters Parties, and Stonehurst of their obligations under this Consent Decree, including but not limited to, payment of all amounts due under Section VI (Settlement of Response Costs), and any Interest or

stipulated penalties due thereon under Section VII (Failure to Comply with Payment Obligations). These covenants extend only to Trojan, the Peters Parties, and Stonehurst and do not extend to any other person.

c. United States' Pre-certification Reservations for Non-Ability to Pay Parties. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order, seeking to compel Trojan, the Peters Parties, and Stonehurst

1) to perform further response actions relating to the B.F. Goodrich Site; or

2) to reimburse the United States for additional costs of response if, prior to Certification of Completion of the Final Remedial Action for the B.F. Goodrich Site:

i. conditions at the B.F. Goodrich Site, previously unknown to EPA, are discovered, or

ii. information, previously unknown to EPA, is received, in whole or in part,

and EPA determines that these previously unknown conditions or information together with any other relevant information indicates that the B.F. Goodrich Site Final Remedial Action is not protective of human health or the environment.

d. United States' Post-certification Reservations for Non-Ability to Pay Parties. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to institute proceedings in this action or in a new action, or to issue an administrative order, seeking to compel Trojan, the Peters Parties, and Stonehurst

1) to perform further response actions relating to the B.F. Goodrich Site; or

2) to reimburse the United States for additional costs of response if, subsequent to Certification of Completion of the Final Remedial Action for the B.F. Goodrich Site:

i. conditions at the B.F. Goodrich Site, previously unknown to EPA, are discovered, or

ii. information, previously unknown to EPA, is received, in whole or in part,

and EPA determines that these previously unknown conditions or information together with any other relevant information indicates that the B.F. Goodrich Site Final Remedial Action is not protective of human health or the environment.

e. For purposes of Paragraph 15 c., the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date the Final Record of Decision is signed and set forth in the Final Record of Decision and the administrative record supporting the Final Record of Decision. For purposes of Paragraph 15 d., the information and the conditions known to EPA shall include only that information and those conditions known to EPA as of the date of Certification of Completion of the Final Remedial Action and set forth in the Final Record of Decision, the administrative record supporting the Final Record of Decision, the post-Final Record of Decision administrative record, or in any information required to be submitted to EPA during the conduct of the remedial design and remedial action, prior to the Certification of Completion of the Final Remedial Action.

f. Except as specifically provided in Section IX (Reservation of Rights by Plaintiffs) and to the same extent as set forth in Paragraphs 20 and 24 (Covenants By Settling Defendants And Reservation Of Rights), Federal Defendants release, covenant not to sue and agree not to assert any claims or causes of action against the Settling Defendants with respect to the RABSP Site,

and this Consent Decree, including but not limited to:

1) any claim pursuant to Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law, in connection with the RABSP Site; or

2) any claim, whether express or deemed by court order, in the Consolidated Federal Action, in connection with the RABSP Site.

g. Federal Defendants specifically reserve, and this Consent Decree is without prejudice to, all rights against the Settling Defendants with respect to claims for contribution whether based on federal or state statutes or common law arising out of: (a) claims in the *City of Riverside v. Black & Decker (U.S), Inc., et al.,* Case No. BC410878, or (b) claims asserted by any person or entity that is not or was not a party to the Consolidated Federal Action as of August 24, 2012; or (c) claims for natural resource damages.

16. Local Government Entities' Covenants and Releases

Except as specifically provided herein and in Section IX (Reservation of Rights by Plaintiffs), each of the Local Government Entities and the County Related Parties releases and covenants not to sue or take administrative action against any of the Settling Defendants, pursuant to Sections 107(a) or 113 of CERCLA, 42 U.S.C. §§ 9607(a) and 9613, Section 7002 of RCRA, 42 U.S.C. § 6972, or any state or federal statute or state or federal common law with respect to all claims of any kind, known and unknown, against Settling Defendants in connection with the alleged release or threatened release of any of the Basin Contaminants at, on, or under the RABSP Site. With respect to present and future liability, these covenants and releases shall take effect upon receipt by Plaintiffs of all amounts required by Paragraphs 5 a.i.– iv. and 5 b.i. – iv. and any Interest or stipulated penalties due thereon under Section VII (Failure to Comply with Payment Obligations). These covenants and releases are also conditioned upon the

satisfactory performance by Settling Defendants of their obligations under this Consent Decree, and the veracity and completeness of the Financial Information and the Insurance Information provided to EPA by Pyro Spectaculars, Inc., the Insurance Information provided to EPA by Astro, the financial, insurance, and indemnity certifications made by Pyro Spectaculars, Inc., and the insurance certification made by Astro, as described in Paragraphs 37 and 38. If the Financial Information or the Insurance Information provided by Pyro Spectaculars, Inc. or Astro, or the financial, insurance, or indemnity certification made by Pyro Spectaculars, Inc. or Astro in Paragraphs 37 and 38, is subsequently determined by EPA to be materially false or, in any material respect, inaccurate, such Settling Defendant shall forfeit all payments made pursuant to this Consent Decree and these covenants and the contribution and other protections in Paragraphs 28 – 31 shall be null and void as to such Settling Defendant.

In releasing all unknown claims, each of the Local Government Entities and the County Related Parties expressly waive the provisions of Section 1542 of the California Civil Code, which provides:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

IX. RESERVATION OF RIGHTS BY PLAINTIFFS

17. The United States reserves, and this Consent Decree is without prejudice to, all rights against Settling Defendants with respect to all matters not expressly included within the Covenants by the United States in Paragraph 15. Notwithstanding any other provision of this Consent Decree, the United States reserves all rights against Settling Defendants with respect to:

a. liability for failure of any Settling Defendant to meet a

requirement of this Consent Decree;

b. criminal liability;

c. liability for damages for injury to, destruction of, or loss of natural resources, and for the costs of any natural resource damage assessments;

d. liability based on the ownership or operation of any portion of the B.F. Goodrich Site by a Settling Defendant when such ownership or operation commences after signature of this Consent Decree by such Settling Defendant and there is a new release on or related to such property;

e. liability based on a Settling Defendant's transportation, treatment, storage, or disposal, or arrangement for transportation, treatment, storage, or disposal of a Waste Material at or in connection with the B.F. Goodrich Site, after signature of this Consent Decree by such Settling Defendant;

f. liability arising from the past, present, or future disposal, release or threat of release of a Waste Material outside of the B.F. Goodrich Site; and

g. liability for costs incurred by EPA, if any, with respect to the West Side Site.

For purposes of subparagraphs d. – e. above, migration of previously released Waste Material is not a new release or disposal of Waste Material.

18. Notwithstanding any other provision of this Consent Decree, the United States reserves, and this Consent Decree is without prejudice to, the right to reinstitute or reopen this action, or to commence a new action seeking relief other than as provided in this Consent Decree, if the Financial Information or the Insurance Information provided by Pyro Spectaculars, Inc. and Astro, or the financial, insurance, or indemnity certification made by Pyro Spectaculars, Inc. and Astro in Paragraphs 37 and 38, is materially false or, in any material respect, inaccurate. This Paragraph only applies to PSI and Astro.

19. Each of the Local Government Entities and the County Related Parties reserves, and this Consent Decree is without prejudice to, all rights against the Settling Defendants with respect to:

a. liability for failure of any Settling Defendant to meet a requirement of this Consent Decree;

b. criminal liability;

c. liability based on the ownership or operation of any portion of the RABSP Site by a Settling Defendant when such ownership or operation commences after signature of this Consent Decree by such Settling Defendant and there is a new release on or related to such property;

d. liability based on a Settling Defendant's transportation, treatment, storage, or disposal, or arrangement for transportation, treatment, storage, or disposal of a Waste Material at or in connection with the RABSP Site, after signature of this Consent Decree by such Settling Defendant;

e. liability arising from the past, present, or future disposal, release or threat of release of a Waste Material outside of the RABSP Site;

f. liability arising from past, present or future releases or threatened releases at the RABSP Site, where the Waste Material at issue is not a Basin Contaminant;

g. liability of a Settling Defendant arising from a new release, threat of release, or disposal of a Waste Material either within or outside of the RABSP Site, where such release, threat of release, or disposal occurs after signature of this Consent Decree by such Settling Defendant;

h. liability related to bodily injury;

i. claims for contribution whether based on federal or state statutes or common law arising out of: (a) claims in *City of Riverside v. Black & Decker (U.S.), Inc., et al.*, Case No. BC410878; (b) claims asserted by any person

or entity that is not or was not a party to the Consolidated Federal Action as of August 24, 2012; or, (c) claims for natural resource damages;

j. any rights of the Local Governmental Entities to enforce the land use covenant on the Stonehurst Property, pursuant to the terms of that document;

k. any rights of Rialto that arise from the exercise and enforcement of its municipal police power regulatory authority over persons, entities, properties and business transactions within the jurisdiction of Rialto. However, nothing in the foregoing sentence of this subparagraph k. reserves Rialto's rights under any federal, state, or local law to seek enforcement against the Settling Defendants to remediate soil or groundwater for existing Waste Material unless such right is reserved in other subparagraphs of this Paragraph 19; and

l. the right of the County, which is hereby acknowledged, to compel Settling Defendants to install a basic asphalt cap on the Stonehurst Property as approved by the California Regional Water Quality Control Board (Santa Ana Region), and record a land use covenant approved by both the California Regional Water Quality Control Board (Santa Ana Region) and the County if, within twenty-four (24) months after the Effective Date, Settling Defendants have not installed such cap or recorded such land use covenant for maintenance of that cap. This reserved right shall be enforceable by the County and subject to the continuing jurisdiction of this Court through this Consent Decree.

For purposes of subparagraphs c., d., and g., above, migration of existing Waste Material is not a new release or disposal of Waste Material into soil, groundwater or atmosphere.

X. COVENANTS BY SETTLING DEFENDANTS AND RESERVATION OF RIGHTS

20. Except as provided in Paragraphs 24 and 25, each of the Settling Defendants releases, covenants not to sue and agrees not to assert any claims or causes of action against the United States, or its contractors or employees, with respect to the B.F. Goodrich Site and this Consent Decree; and against the Federal Defendants and the Local Government Entities, County Related Parties, or their contractors or employees, with respect to the RABSP Site, and this Consent Decree, including but not limited to:

a. any direct or indirect claim for reimbursement from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, 42 U.S.C. §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law;

b. any claim arising out of response actions at or in connection with the B.F. Goodrich Site relating to the United States, and in connection with the B.F. Goodrich Site and the RABSP relating to the Federal Defendants, the Local Government Entities, and County Related Parties, including any claim under the United States Constitution, the Tucker Act, 28 U.S.C. § 1491, the Equal Access to Justice Act, 28 U.S.C. § 2412, as amended, or at common law; or

c. any claim pursuant to Sections 107 or 113 of CERCLA, 42 U.S.C. §§ 9607 or 9613, Section 7002(a) of RCRA, 42 U.S.C. § 6972(a), or state law, in connection with the B.F. Goodrich Site relating to the United States, and in connection with the RABSP Site relating to the Federal Defendants, the Local Government Entities, and County Related Parties; or

d. any claim, whether express or deemed by court order, in the Consolidated Federal Action.

21. Except as provided in Paragraph 24, each of the Settling Defendants releases and covenants not to sue or take administrative action against any of the Local Government Entities or County Related Parties, pursuant to Sections 107(a) or 113 of CERCLA, 42 U.S.C. §§ 9607(a) and 9613, Section 7002 of RCRA, 42 U.S.C. § 6972, or any other state or federal statute or state or federal common law with respect to all claims of any kind, known and unknown, against the Local Government Entities or County Related Parties in connection with the alleged release or threatened release of any of the Basin Contaminants at, on, or under the RABSP Site. With respect to present and future liability, these covenants and releases shall take effect upon receipt by Plaintiffs of all amounts required by Paragraphs 5 a.i.– iv. and 5 b.i. – iv. and any Interest or stipulated penalties due thereon under Section VII (Failure to Comply with Payment Obligations).

In releasing all unknown claims, each of the Settling Defendants waives the provisions of Section 1542 of the California Civil Code which provides:

> A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.

22. These covenants and releases shall not apply to the United States in the event the United States brings a cause of action or issues an order pursuant to any of the reservations set forth in Section IX (Reservations of Rights by Plaintiffs), other than in Paragraph 17 a. (liability for failure to meet a requirement of the Consent Decree) or 17 b. (criminal liability), but only to the extent that Settling Defendants' claims arise from the same response action, response costs, or damages that the United States is seeking pursuant to the applicable reservation.

23. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization of a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. §300.700(d).

24. Each of the Settling Defendants reserves, and this Consent Decree is without prejudice to, all rights against the Local Government Entities and County Related Parties with respect to:

a. liability based on the ownership of any portion of the RABSP Site by Local Government Entities or County Related Parties when such ownership commences after signature of this Consent Decree by such Local Government Entities or County Related Parties and there is a new release on or related to such property;

b. liability based on Local Government Entities' or County Related Parties' transportation, treatment, storage, or disposal, or arrangement for transportation, treatment, storage, or disposal of a Waste Material at or in connection with the RABSP Site, after signature of this Consent Decree by such Local Government Entities or County Related Parties;

c. liability arising from the past, present, or future disposal, release or threat of release of a Waste Material outside of the RABSP Site;

d. liability arising from past, present or future releases or threatened releases at the RABSP Site, where the Waste Material at issue is not a Basin Contaminant;

e. liability of Local Government Entities or County Related Parties arising from a new release, threat of release, or disposal of a Waste Material either within or outside of the RABSP Site, where such release, threat of release, or disposal occurs after signature of this Consent Decree by such Local Government Entities or County Related Parties;

f. liability related to bodily injury; and

g. claims for contribution whether based on federal or state statutes or common law arising out of: (a) claims in *City of Riverside v. Black & Decker (U.S.), Inc., et al.*, Case No. BC410878; (b) claims asserted by any person

or entity that is not or was not a party to the Consolidated Federal Action as of August 24, 2012; or, (c) claims for natural resource damages.

For purposes of this subparagraphs a., b., and e. above, migration of existing Waste Material is not a new release or disposal of Waste Material into soil, groundwater or atmosphere.

25. Each of the Settling Defendants reserves, and this Consent Decree is without prejudice to, all rights against the Federal Defendants with respect to claims for contribution whether based on federal or state statutes or common law arising out of: (a) claims in *City of Riverside v. Black & Decker (U.S.), Inc., et al.*, Case No. BC410878; (b) claims asserted by any person or entity that is not or was not a party to the Consolidated Federal Action as of August 24, 2012; or, (3) claims for natural resource damages.

26. Settling Defendants agree not to assert any claims and to waive all claims or causes of action (including but not limited to claims or causes of action under Sections 107(a) and 113 of CERCLA) or any other federal or state law that they may have for response costs relating to the RABSP Site against each other or any other person who is or was a party in the Consolidated Federal Action. This waiver shall not apply with respect to any defense, claim, or cause of action that a Settling Defendant may have against any person if such person asserts a claim or cause of action relating to the RABSP Site against such Settling Defendant, after lodging of this Consent Decree.

27. PSI and Astro shall terminate their appeals before the Ninth Circuit in *Astro Pyrotechnics, Inc. et al., v. Zambelli Fireworks Manufacturing Co., et al.*, No. 11-56104, *Emhart Industries, Inc. v. County of San Bernardino, et al.*, No. 12-55083, and *Astro Pyrotechnics, Inc. et al., v. County of San Bernardino, et al.*, No. 12-55411, including each case subject to the Amended Order Consolidating Appeals filed on April 16, 2012 (Dkt 12) within thirty (30) days after the Effective

Date, and thereafter shall not participate or assist in those appeals. In the event that this Consent Decree is voided by one or more of the Parties pursuant to Paragraph 43, the Parties agree that they will be bound by the final decision in the aforementioned appeals.

XI. EFFECT OF SETTLEMENT/CONTRIBUTION

28. Except as provided in Paragraph 26, nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. Except as provided in Section X (Covenants by Settling Defendants), each of the Parties expressly reserves any and all rights (including, but not limited to, under Section 113 of CERCLA, 42 U.S.C. § 9613), defenses, claims, demands, and causes of action which it may have with respect to any matter, transaction, or occurrence relating in any way to the RABSP Site against any person not a Party hereto. Nothing in this Consent Decree diminishes the right of the United States, pursuant to Section 113(f)(2) and (3) of CERCLA, 42 U.S.C. § 9613(f)(2)-(3), to pursue any such persons to obtain additional response costs or response action and to enter into settlements that give rise to contribution protection pursuant to Section 113(f)(2).

29. The Parties agree, and by entering this Consent Decree this Court finds, that this settlement constitutes a judicially-approved settlement for purposes of Section 113(f)(2) of CERCLA, 42 U.S.C. § 9613(f)(2), and that the Settling Defendants are entitled, as of the Effective Date, to protection from contribution actions or claims as provided by Section 113(f)(2) of CERCLA, or as may be otherwise provided by law, for "matters addressed" in this Consent Decree. The "matters addressed" in this Consent Decree are all response actions taken or to be taken and all response costs incurred or to be incurred at or in connection with the B.F. Goodrich Site or the West Side Site by the United States or any other person,

except for the State, including the 2010 ROD Response Costs; provided however, that if the United States, Local Government Entities, or County Related Parties exercise rights under the reservations in Section IX (Reservations of Rights by Plaintiffs), other than in Paragraphs 17 a. or 19 a. (liability for failure to meet a requirement of Consent Decree) or 17 b. or 19 b. (criminal liability), or Paragraph 18 with respect to the United States, the "matters addressed" in this Consent Decree will no longer include those future response costs or response actions that are within the scope of the exercised reservation.

30. The Parties further agree, and by entering this Consent Decree this Court further finds, that the payments and obligations provided for in this Consent Decree represent a good faith compromise of disputed claims and that the compromise represents a fair, reasonable, and equitable resolution. With regard to any claims for costs, damages, or other claims against the Parties, the Parties agree and this Court finds that the Settling Defendants are entitled to contribution protection pursuant to the California Code of Civil Procedure §§ 877 and 877.6, and any other applicable provision of federal or state law, whether by statute or common law.

31. The Parties intend the broadest possible protection from contribution actions provided by law for "matters addressed" in this Consent Decree.

32. Each Settling Defendant shall, with respect to any suit or claim brought by it for matters related to this Consent Decree after the date the Consent Decree is lodged with the Court, notify EPA and DOJ in writing no later than sixty (60) days prior to the initiation of such suit or claim. Each Settling Defendant also shall, with respect to any suit or claim brought against it for matters related to this Consent Decree, notify EPA and DOJ in writing within ten (10) days after service of the complaint or claim upon it. In addition, each Settling Defendant shall notify EPA and DOJ within ten (10) days after service or receipt of any motion for

summary judgment, and within ten (10) days after receipt of any order from a court setting a case for trial, for matters related to this Consent Decree.

33. In any subsequent administrative or judicial proceeding initiated by the United States for injunctive relief, recovery of response costs, or other relief relating to the B.F. Goodrich Site, Settling Defendants shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the United States in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the Covenants by Plaintiffs set forth in Section VIII (Covenants by Plaintiffs).

XII. ACCESS

34. For any part of the B.F. Goodrich Site that is owned or controlled by any of Settling Defendants: such Settling Defendant(s) shall, commencing on the date of lodging of the Consent Decree, provide the United States and their representatives, contractors, and subcontractors, with access at reasonable times to the B.F. Goodrich Site, or such other real property, to conduct any activity regarding the B.F. Goodrich Site or Consent Decree including, but not limited to, the following activities:

a. verifying any data or information submitted to the United States;

b. conducting investigations regarding contamination at or near the B.F. Goodrich Site;

c. obtaining samples;

d. assessing the need for, planning, or implementing additional response actions at or near the B.F. Goodrich Site;

e. assessing implementation of quality assurance and quality control practices;

f. implementing the B.F. Goodrich Site work; and

g. inspecting and copying records, operating logs, contracts, or other documents maintained or generated by Settling Defendants or their agents.

XIII. CERTIFICATION

35. By signing this Consent Decree the Settling Defendants hereby severally certify that they have as of February 29, 2012, produced in the Consolidated Federal Action all non-identical and non-privileged copies of records, reports, or information in their possession or control (if any) that relate in any manner to response actions taken at the B.F. Goodrich Site or the liability of any person under CERCLA with respect to the B.F. Goodrich Site. Except for those documents that have been produced in the Consolidated Federal Action as described in the preceding sentence, until ten (10) years after the entry of this Consent Decree, each Settling Defendant shall preserve and retain all non-identical copies of records, reports, or information (hereinafter referred to as "Records") now in its possession or control, or that come into its possession or control, that relate in any manner to response actions taken at the B.F. Goodrich Site, RABSP Site, or the liability of any person under CERCLA with respect to the B.F. Goodrich Site, or RABSP Site regardless of any corporate retention policy to the contrary.

36. After the conclusion of the document retention period in the preceding Paragraph, each Settling Defendant shall notify EPA and DOJ and the Local Government Entities at least ninety (90) days prior to the destruction of any such Records, and, upon request by EPA or DOJ, each Settling Defendant shall deliver any such Records to EPA. Each Settling Defendant may assert that certain

Records are privileged under the attorney-client privilege or any other privilege recognized by federal law. If a Settling Defendant asserts such a privilege in lieu of providing Records, it shall provide Plaintiffs with the following: (a) the title of the Record; (b) the date of the Record; (c) the name, title, affiliation (e.g., company or firm), and address of the author of the Record; (d) the name and title of each addressee and recipient; (e) a description of the subject of the Record; and (f) the privilege asserted. If a claim of privilege applies only to a portion of a Record, the Record shall be provided to the United States in redacted form to mask the privileged portion only. Such Settling Defendant shall retain all Records that it claims to be privileged until the United States has had a reasonable opportunity to dispute the privilege claim and any such dispute has been resolved in such Settling Defendant's favor. However, no Records created or generated pursuant to the requirements of this or any other settlement with EPA pertaining to the RABSP Site shall be withheld from the United States on the grounds that they are privileged or confidential.

37. Pyro Spectaculars, Inc. certifies that, to the best of its knowledge and belief, after thorough inquiry, it has:

a. not altered, mutilated, discarded, destroyed or otherwise disposed of any Records (other than identical copies) relating to its potential liability regarding the B.F. Goodrich Site since the earlier of notification of potential liability by the United States or the State or the filing of suit against it regarding the B.F. Goodrich Site, and that it has fully complied with any and all EPA requests for information regarding the B.F. Goodrich Site and such Settling Defendant's financial circumstances, including but not limited to insurance and indemnity information, pursuant to Sections 104(e) and 122(e) of CERCLA, 42 U.S.C. §§ 9604(e) and 9622(e), and Section 3007 of RCRA, 42 U.S.C. § 6927;

b. submitted to EPA financial information that fairly, accurately,

and materially sets forth its financial circumstances, and that those circumstances have not materially changed between the time the financial information was submitted to EPA and the time such Settling Defendant executes this Consent Decree; and

c. fully disclosed any information regarding the existence of any insurance policies or indemnity agreements that may cover claims relating to cleanup of the B. F. Goodrich Site and/or other locations in the RABSP Site, and submitted to EPA and the Local Governmental Entities upon request such insurance policies, indemnity agreements, and information.

38. Astro certifies that, to the best of its knowledge and belief, after thorough inquiry, it has fully disclosed any information regarding the existence of any insurance policies that may cover claims relating to cleanup of the B.F. Goodrich Site and/or other locations in the RABSP Site, and submitted to EPA and/or the Local Governmental Entities upon request such insurance policies and information.

XIV. NOTICES AND SUBMISSIONS

39. Whenever, under the terms of this Consent Decree, notice is required to be given or a document is required to be sent by one party to another, it shall be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified in this Section shall constitute complete satisfaction of any written notice requirement of the Consent Decree with respect to EPA, DOJ, each of the Local Government Entities and County Related Parties, and each Settling Defendant, respectively.

As to DOJ:

Chief, Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Re: DJ # 90-11-2-09952

As to EPA:

Remedial Project Manager, B.F. Goodrich Site
Attn: Wayne Praskins
U.S. Environmental Protection Agency, Region IX
75 Hawthorne St.
San Francisco, California 94105

As to the County of San Bernardino:

County of San Bernardino County Counsel
385 North Arrowhead Avenue, 4th Floor
San Bernardino, California 92415-0140

-and-

Gallagher & Gallagher, P.C.
1925 Century Park East, Suite 950
Los Angeles, California 90067

As to Colton:

City Manager
Attn: Rod Foster
City of Colton
650 North La Cadena Dr.
Colton, California 92324

-and-

City Attorney
Attn: Dean Derleth
Best Best & Krieger LLP
3500 Porsche Way, Suite 200
Ontario, California 91764

As to Rialto:

City Attorney for City of Rialto
Attn: Jimmy Gutierrez
12616 Central Avenue
Chino, California 91710

As to PSI and Astro:

Gary Brown
General Counsel
Pyro Spectaculars, Inc.
P.O. Box 2329
Rialto, California 92377

-and-

Brian L. Zagon, Esq.
Hunsucker Goodstein
3717 Mt. Diablo Boulevard, Suite 200
Lafayette, California 94549

As to Thomas O. Peters, The 1996 Thomas O. Peters and Kathleen S. Peters Revocable Trust, and Stonehurst Site LLC:

John E. Van Vlear, Esq.
Voss, Cook & Thel LLP
895 Dove Street, Suite 450
Newport Beach, California 92660

As to Trojan Fireworks Company:

Steven J. Renshaw, Esq. LL.M
Renshaw & Associates, A Professional Law Corporation
5700 Ralston St.
Ventura, California 93003

As to Robertson's Ready Mix, Inc.:

Rob Binam
Robertson's Ready Mix
200 South Main Street
Corona, California 92882

As to the Schulz Parties:

John Callagy
c/o Asage Financial LLC
1910 Olympic Blvd., Suite 330
Walnut Creek, California 90017

-and-

Elizabeth Rodriguez; Linda Frederiksen; Edward Stout; Mary Callagy; Stephen Calagy; Jeanine Elizie; and, Michelle Ferris
c/o William W. Funderburk, Jr.
Castellón & Funderburk LLP
811 Wilshire Boulevard, Suite 1025
Los Angeles, California 90017

As to the Zambelli Parties:

David Acker, Esq.
For Zambelli Fireworks Manufacturing Company, Inc.
25 North Mill Street
First Merit Plaza, Suite 500
New Castle, Pennsylvania 16101

-and-

Jad Davis, Esq
Kutak Rock LLP
5 Park Plaza, Suite 1500
Irvine, California 92614

XV. RETENTION OF JURISDICTION

40. This Court shall retain jurisdiction over this matter for the purpose of interpreting and enforcing the terms of this Consent Decree.

XVI. INTEGRATION/APPENDICES

41. This Consent Decree and its appendices constitute the final, complete and exclusive agreement and understanding between the Parties with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree. The following appendices are attached to and incorporated into this Consent Decree:

"Appendix A" is the map of the RABSP, including the 160-Acre Area, the Stonehurst Property, and the County Property;

"Appendix B" is a list of the insurance documents submitted to EPA by Astro;

"Appendix C" is a list of the financial documents submitted to EPA by Pyro Spectaculars, Inc.; and

"Appendix D" is a list of the insurance documents submitted to EPA by Pyro Spectaculars, Inc.

XVII. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

42. This Consent Decree shall be lodged with the Court for a period of not less than thirty (30) days for public notice and comment. The United States reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations that indicate that this Consent Decree is inappropriate, improper, or inadequate. Settling Defendants consent to the entry of this Consent Decree without further notice.

43. If for any reason this Court's entry of the Consent Decree is reversed on appeal, in whole or material part, this Consent Decree is voidable at the sole discretion of any Party and the terms of the Consent Decree may not be used as evidence in any litigation between the Parties.

XVIII. TERMINATION

44. This Consent Decree shall be terminated when the United States and the Local Government Entities determine that Settling Defendants have satisfactorily completed performance of their obligations required by this Consent Decree. Upon such termination, the parties shall file with the Court an appropriate stipulation reciting that the requirements of the Consent Decree have been met. Termination of this Consent Decree shall not affect any remaining obligations

under this Consent Decree including, but not limited to, those obligations described in Section VIII (Covenants by Plaintiffs), Section IX (Reservation of Rights by Plaintiffs), Section X (Covenants by Settling Defendants), Section XI (Effect of Settlement/Contribution), Section XII (Access), and Section XIII (Certification).

XIX. FINAL JUDGMENT

45. The United States, the Local Government Entities, the County Related Parties, and Settling Defendants agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties, and that this Consent Decree is fair, reasonable, and in the public interest.

46. The Court finds that there is no just reason for delay of entry of this Consent Decree, and therefore enters this judgment as a final judgment under Fed. R. Civ. P. 54 and 58.

SO ORDERED THIS 19th DAY OF March, 2012.

HONORABLE PHILIP S. GUTIERREZ
United States District Judge

FOR THE UNITED STATES OF AMERICA:

Dated: 10/8/12

By: _____
IGNACIA S. MORENO
Assistant Attorney General
Environment and Natural Resources Division
United States Department of Justice

Dated: 10/10/12

By: _____
BRADLEY R. O'BRIEN
Senior Attorney
United States Department of Justice

FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:

Dated: 10/3/12

By: _____
for JANE DIAMOND
Director, Superfund Division, Region IX
U.S. Environmental Protection Agency
75 Hawthorne St.
San Francisco, CA 94105

Dated: 10/3/12

By: _____
SARAH MUELLER
Assistant Regional Counsel
U.S. Environmental Protection Agency
Region IX
75 Hawthorne St.
San Francisco, CA 94105

FOR THE COUNTY OF SAN BERNARDINO:

Dated: October 10, 2012

By: _____
for TIMOTHY V.P. GALLAGHER
THOMAS A. BLOOMFIELD
Gallagher & Gallagher

FOR THE CITY OF COLTON:

Dated: 10.4.2012 By: _____
ROD FOSTER
CITY MANAGER

Dated: 10.8.12 By: Gene Tanaka
GENE TANAKA
DANIELLE G. SAKAI
Best Best & Krieger LLP

FOR THE CITY OF RIALTO:

Dated: Oct 3, 2012 By: _____
MAYOR PRO TEM

FOR PYRO SPECTACULARS, INC.:

Dated: 10/10/12

By: _____
BRIAN L. ZAGON
Hunsucker Goodstein

FOR ASTRO PYROTECHNICS, INC:

Dated: 10/10/12

By: _____
BRIAN L. ZAGON
Hunsucker Goodstein

FOR THOMAS O. PETERS:

Dated: Oct. 10, 2012

By: _____
JOHN E. VAN VLEAR
Voss, Cook & Thel LLP

FOR THE 1996 THOMAS O. PETERS AND KATHLEEN S. PETERS REVOCABLE TRUST:

Dated: Oct. 10, 2012

By: _____
JOHN E. VAN VLEAR
Voss, Cook & Thel LLP

FOR STONEHURST SITE LLC:

Dated: Oct. 10, 2012

By: _____
JOHN E. VAN VLEAR
Voss, Cook & Thel LLP

FOR TROJAN FIREWORKS COMPANY:

Dated: 10/16/12

By: _____
STEVEN J. RENSHAW
Renshaw & Associates

FOR ROBERTSON'S READY MIX, INC.:

Dated: October 10, 2012

By: _____
For THOMAS N. JACOBSON
Law Offices of Thomas N. Jacobson

FOR THE SCHULZ PARTIES:

Dated: October 10, 2012

By: _____
for WILLIAM W. FUNDERBURK, JR.
Castellón & Funderburk LLP

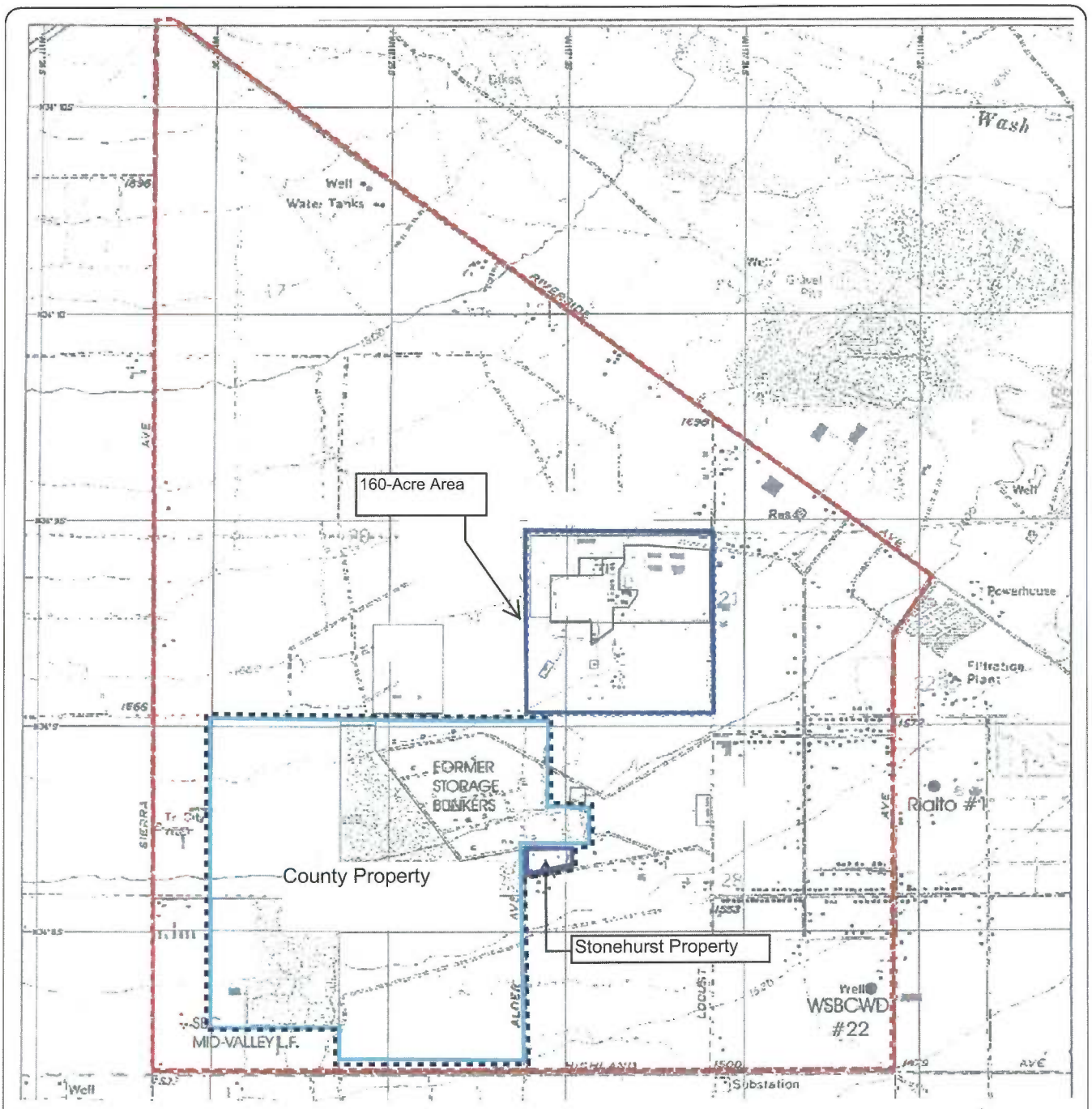
FOR THE ZAMBELLI PARTIES:

Dated: 10/10/2012

By: _____
JAD T. DAVIS
Kutak Rock LLP

Appendix A

APPENDIX A



LEGEND

N

West Side Area

Rialto Ammunition Backup Storage Point ("RABSP")

NOT TO SCALE

Appendix B

APPENDIX B

1. Royale Belge, CGL RBG003538, 3/1/1979-12/1/1979
2. Royale Belge, CGL RBG003599, 12/1/1979-12/1/1980
3. Royale Belge, CGL RBG003673, 12/1/1980-12/1/1981
4. Royale Belge, CGL RBG003740, 12/1/1981-12/1/1982
5. Royale Belge, CGL RBG003814, 12/1/1982-12/1/1984
6. Royale Belge, CGL RBG004081, 12/1/1984-12/1/1985
7. Pacific Employers, XCC 002106, 12/1/1980-12/1/1981
8. Pacific Employers, XCC 002111, 12/1/1981-12/1/1982
9. Pacific Employers, XCC 002112, 12/1/1982-12/1/1983
10. Pacific Employers, XCC 002116, 12/1/1983-12/1/1985

Appendix C

APPENDIX C

Letters from Brian L. Zagon to Michele Benson, dated June 8, 2008, November 7, 2011
Letters from Brian L. Zagon to Kate Taylor, dated June 11, 2008, August 20, 2008, December 23, 2008, May 4, 2009, April 15, 2010, June 1, 2010
IRS Form 1120, U.S. Corporation Income Tax Returns for 2002 (for fiscal year ending October 31, 2003) through 2009 (for fiscal year ending October 31, 2010)
Pyro Spectaculars, Inc. Financial Statements for years ending November 1, 2002 through October 31, 2007
Pyro Spectaculars, Inc. Financial Statements for month ending January 31, 2008 through October 31, 2009
Pyro Spectaculars, Inc. Financial Statements for month ending January 31, 2009
Pyro Spectaculars, Inc. Financial Statements for fiscal years ending October 31, 2009 and October 31, 2010
Pyro Spectaculars Industries Inc. Financial Statements for year ending October 31, 2008
Email from Brian L. Zagon to Michele Benson and Deborah Gitin, dated November 16, 2011, with attached Pyro Spectaculars, Inc. 7 Year Summary of Historic Reinvestment of Cash Flow in Depreciable Property
EPA Financial Statement for Businesses completed by Pyro Spectaculars, Inc. and signed 6/8/2008
Security Bank of California business checking account, statements dated 01/31/07 through 12/31/07
Bank of America checking account, monthly statements ending 01/31/07 through 12/31/07
Pyro Spectaculars, Inc. 7 Year Summary of Historic Reinvestment of Cash
Pyro Spectaculars, Inc. 2009 and 2010 Confidential Business Forecast
Business Loan Documents: Business Loan Agreement, Commercial Guaranty, Commercial Security Agreement, Promissory Note
Copies of certain Security Bank of California checks with descriptions
Security Bank of California Change in Terms Agreement (for revolving credit line)
Security Bank of California Corporate Resolution to Borrow/Grant Collateral
Security Bank of California Disbursement Request and Authorization
Rental agreements: 3196 N. Locust, Rialto, California; March Air Force Base; McClellan Air Force Base; San Diego; Madera

Appendix D

APPENDIX D

1. Royal Belge Ins. Co., CGL RBG 00 35 85, 10/15/79 - 04/01/80
2. Northbrook Excess and Surplus Ins., CGL 22-3087, 04/01/80 - 09/30/81
3. Illinois Employers of Wausau, CGL GA 14 631, 8/22/81 - 9/30/82
4. Transcontinental, CGL CCP 00 839 18 31, 09/30/82 - 09/30/83
5. Industrial Underwriters, CGL JP 867 9073, 10/01/83 - 10/01/84
6. Balboa Ins. Co., CGL 84B2582, 10/01/84 - 11/01/85
7. California Union Ins. Co., Umbrella ZCU 00 09 47, 10/15/79 - 10/15/80
8. California Union Ins. Co., Umbrella ZCU 00 14 05, 10/15/80-09/30/81
9. Transport Indemnity, Umbrella TUL675353, 09/30/81 - 10/01/83
10. Transport Indemnity, Umbrella TUL675446, 09/30/83 - 09/30/84
11. Transcontinental, Upper Level Excess RDX 282 04 65, 09/30/82 - 09/30/83
12. Integrity Ins. Co., Excess XL208938, 10/12/84 - 10/12/85