

FIRST AMENDMENT TO TOLLING AGREEMENT
Between the California Department of Fish and Wildlife, Office of Spill Prevention and Response, and the San Francisco Public Utilities Commission

This First Amendment to the Tolling Agreement dated October 16, 2015 (Original Tolling Agreement) is entered into between the California Department of Fish and Wildlife, Office of Spill Prevention and Response (CDFW/OSPR), and the San Francisco Public Utilities Commission (SFPUC), a department of the City and County of San Francisco (the Tolling Parties). The Tolling Parties agree as follows:

1. Paragraph 5 of the Original Tolling Agreement is replaced in its entirety with the following new section 5:

The Tolling Parties agree the time between October 3, 2015 and October 3, 2016, inclusive, will not be included in computing the time limited by any statute of limitations under the causes of action that may arise out of the claims and contentions referred to in Paragraph 1, if any statute of limitations is applicable. Nor will those respective time periods be considered on a defense of laches or similar defense concerning timeliness of commencing a civil action. Further, SFPUC shall not assert, plead or raise in any fashion, whether by answer, motion or otherwise, any defense or avoidance based on the running of the statute of limitations during the aforementioned period, and any statute of limitations shall be tolled during and for that period. Nothing in this Agreement shall revive a claim that, prior to October 3, 2015, was barred by any applicable statute of limitations.


2. Effective Date. The modification to section 5 of the Original Tolling Agreement set forth in Section 2 shall be effective on and after the date of this First Amendment following approval by the San Francisco Board of Supervisors.

3. Legal Effect. Except as expressly modified by this First Amendment, all of the terms and conditions of the Original Tolling Agreement shall remain unchanged and in full force and effect.

DATED: 4/29, 2016

CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE
OFFICE OF SPILL PREVENTION AND RESPONSE

By:


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