

**TOLLING AGREEMENT**  
**BETWEEN THE CALIFORNIA DEPARTMENT OF FISH AND WILDLIFE, OFFICE OF SPILL PREVENTION**  
**AND RESPONSE AND THE SAN FRANCISCO PUBLIC UTILITIES COMMISSION**

This 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) (the "Tolling Party(ies)"). The undersigned representatives certify they are fully authorized to enter into the terms and conditions of this Agreement, and to execute and bind such Tolling Party to this Agreement.

The purpose of this Agreement is to facilitate settlement negotiations among the Tolling Parties within the time period provided by the Agreement, subject to the provisions set forth below.

Accordingly, the Tolling Parties, in consideration of the covenants set out herein, agree as follows:

1. CDFW/OSPR, as Trustee for fish and wildlife resources which may have been injured, contends that it presently has claims and causes of action against SFPUC for unauthorized releases or discharges of chlorinated water into San Mateo Creek located in San Mateo County, California. CDFW/OSPR also contends that it has claims and causes of action against SFPUC pursuant to California Fish and Game Code sections 2014, 2583, 5650, 5650.1, 1600 et seq., 12016, and 13013(c).

2. This Agreement does not constitute an admission of liability, or an admission any cause of action exists for any claim referred to in Paragraph 1.

3. This Agreement does not constitute any admission or acknowledgment by any of the Tolling Parties as to any applicable statute of limitations, or any statute of limitations at all applies.

4. The Tolling Parties enter into this Agreement in order to avoid the burden and expense of litigation, and to allow time for settlement negotiations with respect to claims referred to in Paragraph 1.

5. The Tolling Parties agree the time between October 3, 2015 and April 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 any 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.

6. Either Tolling Party to this Agreement may terminate its rights and obligations pursuant to this Agreement by providing a written notice by certified mail (return receipt requested) and by facsimile to the other Tolling Party to the Agreement. In that event, the Agreement will terminate sixty (60) days after the date written notice of termination has been faxed and mailed in the foregoing manner to all of the Tolling Parties to the Agreement. In the

event a Tolling Party terminates its rights and obligations to this Agreement, the time between October 3, 2015 and the date of termination of this Agreement, inclusive, will not be included in computing the time limited by any statute of limitations (if applicable) under the causes of action that may arise out of the claims referred to in Paragraph 1, nor will those respective time periods be considered on a defense of laches or similar defense concerning timeliness of commencing a civil action. Further, that Tolling Party shall not raise, assert, or plead in any fashion whether by answer, motion or otherwise any defense or avoidance based on the running of any statute of limitations during the aforementioned period, and any statute of limitations shall be tolled during and for that period.

7. This instrument contains the entire Agreement between the Tolling Parties and no statement, promise, or inducement made by either of the Tolling Parties or agents of the Tolling Parties not contained within this Agreement shall be valid or binding.

8. This Agreement may not be enlarged, modified, or altered except in writing signed by the Tolling Parties and endorsed herein.

9. This Agreement may be signed in counterparts and will be effective as of the date of the last signature.

DATED: \_\_\_\_\_, 2015

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

By: \_\_\_\_\_  
Wendy Johnson  
Staff Counsel III

**Contact and Address for Notice:**

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DATED: \_\_\_\_\_, 2015

**SAN FRANCISCO PUBLIC UTILITIES COMMISSION**

By: \_\_\_\_\_  
Joshua Milstein  
Deputy City Attorney  
San Francisco City Attorney

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