

CALIFORNIA STATE WATER RESOURCES CONTROL BOARD

In the matter of:)	
)	
THE REYNOLDS GROUP;)	SETTLEMENT AGREEMENT AND
MOBI-DOS, INC.)	STIPULATION FOR ENTRY OF
)	ADMINISTRATIVE CIVIL LIABILITY
Alleged misrepresentations)	ORDER
submitted to the Underground)	
Storage Tank Cleanup Fund)	PROPOSED
)	ORDER
)	WQ 2022-XXXX-EXEC

Section I: INTRODUCTION

1. This Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order (Order or Stipulated Order) is entered into by and between the State Water Resources Control Board (State Water Board) Prosecution Team, on behalf of the Underground Storage Tank Cleanup Fund (UST Cleanup Fund), with The Reynolds Group, a California Corporation, (TRG), and Mobi Dos, Inc. (MDI), (collectively Settling Respondents), and is presented to the State Water Board, or its delegee, for adoption as an Order by settlement, pursuant to Government Code section 11415.60 and Health and Safety Code section 25299.80. The State Water Board Prosecution Team, the Settling Respondents, and their representatives are collectively referred to as the Parties. This Stipulated Order resolves the violations alleged herein by the imposition of administrative civil liability against the Settling Respondents in the amount of six hundred thousand dollars (**\$600,000.00**).

Section II: RECITALS

2. The TRG investigation arose when the Fraud, Waste and Abuse Prevention Unit (Fraud Prevention Unit) at the Office of Enforcement (OE) identified allegedly fraudulent invoicing regarding MDI, as well as allegedly concealed finance charges submitted by TRG for a third-party contractor. OE conducted a preliminary investigation regarding TRG and MDI invoicing and developed information leading to a referral to the California Department of Justice (DOJ) for a criminal investigation.
3. On August 2, 2018, DOJ and OE, in addition to technical support staff from the Department of Toxic Substances Control (DTSC) executed a search warrant at the business office for TRG and MDI. The businesses used the exact same office space, and many of the employees for MDI also worked for TRG.
4. Pursuant to the search warrant, DOJ seized numerous documents in both hard copy and electronic format, including the information contained on the local servers for TRG and MDI.
5. OE's Fraud Prevention Unit obtained copies of records from TRG and MDI that were seized during the execution of the search warrant. In addition to the search warrant records, the Fraud Prevention Unit examined relevant publicly available information, including information from GeoTracker and reimbursement requests submitted to the UST Cleanup Fund. The Fraud Prevention Unit also interviewed several employees during the execution of the search warrant.
6. After reviewing all the materials available, the Fraud Prevention Unit alleges the following misrepresentations:
 - a. Four hundred and fifty-three (453) instances of submitting reimbursement requests to the UST Cleanup Fund related to TRG seeking a markup on work performed by MDI, an affiliated company, thus causing the UST Cleanup Fund to pay for a markup to which TRG and MDI were not entitled.
 - b. Eighty-three (83) instances of seeking reimbursement from the UST Cleanup Fund for inflated third-party costs, thus causing the UST Cleanup Fund to pay costs that were not actually incurred for corrective action at the site.
 - c. One hundred and two (102) instances of seeking reimbursement for ineligible subcontractor costs to the UST Cleanup Fund.
 - d. Six (6) instances of seeking reimbursement for a subcontractor finance charge after modifying contractual arrangements with a subcontractor to conceal that charge, thus causing the UST Cleanup Fund to pay for a finance cost it would have otherwise determined was ineligible.

- e. Thirteen (13) instances of submitting reimbursement requests on claims for which costs did not accrue instead of claims for which the costs did accrue, thus causing the UST Cleanup Fund to pay costs for an ineligible claim from another claim account.
 - f. Twenty-six (26) instances of misrepresenting the actual hours worked at claims, thus causing the UST Cleanup Fund to pay for costs that were not actually incurred.
7. Other than as expressly admitted by a particular Settling Responding in any criminal court proceeding referenced at paragraphs 8 through 10, Settling Respondents expressly deny the allegations made by the Fraud Prevention Unit in paragraph 6 of this Agreement and Stipulation.
 8. On July 13, 2022, MDI pleaded guilty to one count of violating Health and Safety Code section 25299.80.5, to wit, knowingly making or causing to be made any false statement, material misrepresentation, or false certification in support of any claim to the UST Cleanup Fund. MDI was sentenced to a two-year term of probation which will terminate after one year unless a court finds that MDI has violated the terms of the probation.
 9. On July 13, 2022, TRG pleaded guilty to one misdemeanor count of violating Health and Safety Code section 25299.80.5, to wit, knowingly making or causing to be made any false statement, material misrepresentation, or false certification in support of any claim to the UST Cleanup Fund. The court agreed to defer sentencing for 1 year. Upon payment of \$50,000 in restitution and no further violations of law during that one-year period, the plea will be withdrawn, and the case dismissed.
 10. DOJ and the State Water Board Prosecution Team collectively worked with the Settling Respondents to come to a global resolution of the criminal liability and alleged violations of the Health and Safety Code within the State Water Board's administrative enforcement purview. The State Water Board component of the global resolution includes administrative civil liability and injunctive relief.
 11. On September 25, 2014, the Health and Safety Code was amended to add section 25299.80 providing for the imposition of administrative civil liability for misrepresentations made to the UST Cleanup Fund. (Stats. 2014, Ch. 547, Senate Bill 445 (Hill, 2014)). This provision of the Health and Safety Code authorizes the imposition of administrative civil liability for the alleged violations covered by this Stipulated Order.

12. The Parties have engaged in settlement negotiations regarding the administrative civil liability and agree to settle the alleged violations for **six hundred thousand dollars (\$600,000.00)** without administrative action or civil litigation and by presenting this Stipulation to the State Water Board, or its delegee; for adoption as an Order by settlement, pursuant to Government Code section 11415.60 and Health and Safety Code section 25299.80.

13. Health and Safety Code section 25299.80, subdivision (e), provides:

“In determining the amount of civil liability imposed under this section, the executive director of the board... shall take into account the nature, circumstance, extent, and gravity of the violation, the person’s ability to pay, any prior history of misrepresentations by the person to the board or local agency, any economic benefits or savings that resulted or would have resulted from the false statement, and other matters as justice may require.”

The conduct alleged in Paragraph 6 violates Health and Safety Code section 25299.80.5, to wit, knowingly making or causing to be made any false statement, material misrepresentation, or false certification in support of any claim to the UST Cleanup Fund and resulted in financial gain of over one hundred thousand dollars (\$100,000). The alleged violations present significant harm to the Fund, as well as to each of the claimants for the sites for which the fraudulent reimbursements were issued. Each instance of misrepresentation represents a significant liability to the Fund, not only as an additional expense unrelated to cleaning up contamination, but also as additional resources required to detect, deter, and recover fraudulent reimbursement. The administrative civil penalty recovers the estimated economic benefit and the Settling Respondents stipulate to the ability to pay their respective shares of the penalty.

14. The administrative civil liability in this Order constitutes six hundred thousand dollars (\$600,000.00), fifty thousand dollars (\$50,000.00) of which is restitution. The criminal judgment from the Orange County Superior Court for case number 22CF1353 compels TRG to pay an additional fifty thousand dollars (\$50,000.00) in restitution to the UST Cleanup Fund. The total restitution amount for the allegations is one hundred thousand dollars (\$100,000.00), which is fifty thousand dollars (\$50,000) paid through the criminal court process and fifty thousand dollars (\$50,000) through this Order.

15. The State Water Board Prosecution Team believes that the resolution of the alleged violations set forth herein is fair and reasonable and fulfills all of its enforcement objectives, that no further action, whether of a criminal, civil, or administrative nature against TRG or MDI or any individuals associated with these entities is warranted concerning Covered Matters in Paragraph 6 above, either directly or through claimants, except as provided in this Stipulated Order, and that this Stipulated Order is in the best interest of the public.

Section III: STIPULATIONS

The Parties stipulate to the following:

16. **Jurisdiction:** The Parties agree that the State Water Board has subject matter jurisdiction over the matters alleged in this action and personal jurisdiction of the Parties to this Stipulated Order.
17. **Administrative Civil Liability:** Settling Respondents hereby agree to the imposition of six hundred thousand dollars (\$600,000.00) in administrative civil liability to the State Water Board to resolve the violations alleged in this Stipulated Order. Settling Respondents agree to pay the following amounts:
 - a. **Three hundred thousand dollars (\$300,000.00)** shall be paid to the UST Cleanup Fund to be apportioned as follows: \$250,000 to be paid by TRG inclusive of \$50,000 of restitution, and \$50,000 to be paid by MDI. Payment shall be made no later than thirty (30) days after adoption of the order approving this Stipulated Order by the State Water Board, or its delegee, by check payable to the "UST Cleanup Fund." Settling Respondents shall indicate on the check the number of this Stipulated Order (WQ 2022-XXXX-EXEC). Settling Respondents shall send the original signed check to the State Water Resources Control Board, Accounting Office, Attn: ACL Payment, P.O. Box 1888, Sacramento, California 95812-1888. A copy of the check shall be sent to Nickolaus Knight, Attorney IV, State Water Resources Control Board, Office of Enforcement, 801 "K" Street, Suite 2300, Sacramento, California 95814.
 - b. **Three hundred thousand dollars (\$300,000.00)** shall be permanently suspended on the condition that Settling Respondent TRG expend three hundred thousand dollars (\$300,000.00) (SEP Amount or Suspended Liability) on completing the Supplemental Environmental Project (SEP) described in Attachment A of this Order, hereby incorporated by reference.

- c. **Eighteen thousand dollars (\$18,000.00)** shall be paid by Settling Respondent TRG to the State Water Pollution Cleanup and Abatement Account for SEP Oversight as described in Paragraph 20 below. Payment shall be made no later than thirty (30) days after adoption of the order approving this Stipulated Order by the State Water Board, or its delegee, by check payable to the “State Water Pollution Cleanup and Abatement Account.” Settling Respondent TRG shall indicate on the check the number of this Stipulated Order (WQ 2022-XXXX-EXEC – SEP Oversight). TRG shall send the original signed check to the State Water Resources Control Board, Accounting Office, Attn: ACL Payment, P.O. Box 1888, Sacramento, California 95812-1888. A copy of the check shall be sent to Nickolaus Knight, Attorney IV, State Water Resources Control Board, Office of Enforcement, 801 "K" Street, Suite 2300, Sacramento, California 95814.
18. **Reimbursement of Enforcement Costs for DTSC:** Settling Respondent TRG agrees to reimburse DTSC in the amount of ten thousand, two hundred twenty-nine dollars and thirty-four cents (\$10,229.34) for enforcement costs incurred in the collection of electronic evidence. The reimbursement payment shall be due thirty (30) days after adoption of the order approving this Stipulated Order by the State Water Board, or its delegee, by check payable to the “Department of Toxic Substances Control.” The payment should be sent to the Department of Toxic Substances Control, Attention: Salvin Verna, P.O. Box 806, Sacramento, California 95812. Copies of the payment check shall be provided to the contacts in Paragraph 24.
19. **Injunctive Relief/ Prohibitions:**
 - a. Settling Respondent MDI agrees that as of July 13, 2022, MDI is prohibited from performing any work for or in connection with any program administered, funded, or directed in any manner by the State Water Board. The prohibition in this paragraph includes, but is not limited to, any program, fund, or account authorized under division 20, chapters 6.75 and 6.76 of the Health and Safety Code.
 - b. MDI is specifically disqualified from participation in any fund or account authorized under division 20, chapter 6.75 of the Health and Safety Code pursuant to this Order and section 25299.71.
 - c. Settling Respondents agree that after August 19, 2022, any and all work performed by, supervised by, and/or directed by MDI that has not been submitted for reimbursement by the UST Cleanup Fund is not eligible reasonable and necessary costs and, therefore, not subject to reimbursement from the UST Cleanup Fund.

- d. Settling Respondent TRG will provide written notice to all clients of TRG and Settling Respondent MDI will provide written notice to all clients of MDI of this Order and the associated criminal pleas. Copies of the notice will be provided to the contacts provided in this Order.
20. **Supplemental Environmental Project (SEP):** The State Water Board Prosecution Team and TRG agree that the SEP Amount of three hundred thousand dollars (\$300,000.00) specified in Paragraph 16.b. will be used to fund a SEP. The SEP Amount shall be treated as a suspended administrative civil liability at the time of the SEP Completion Date for purposes of this Order. The State Water Board is entitled to recover any portion of the SEP Amount that is not expended in accordance with this Order.
- a. **Description of the SEP:** Juan Piche Residence Tetrachloroethylene Mitigation Project
- b. TRG proposes to implement, on behalf of the Settling Respondents, the Juan Piche Residence Tetrachloroethylene Mitigation Project located at 6421 South Broadway, Los Angeles, California 90003. TRG is the SEP Implementing Party for purposes of this Stipulated Order and agrees to implement remediation work totaling three hundred thousand dollars (\$300,000.00). The SEP involves the installation of a soil vapor extraction (SVE) system, including the installation of two SVE wells, soil vapor probes, and on-going operation of the SVE system.
- c. **SEP Oversight:** The Parties agree that the SEP will be overseen by the Department of Toxic Substances Control (DTSC).
- d. **Completion Deadlines:** TRG shall comply with the deadlines in the SEP proposal. The deadlines shall begin with the effective date of this Order.
- e. **Request for Extension of Final SEP Completion Deadline:** If TRG cannot meet the Final SEP Completion Deadline due to circumstances beyond its control, TRG shall notify the Assistant Deputy Director of the UST Cleanup Fund Branch of DFA in writing within thirty (30) days of the date the Settling Respondents first knew of the event or circumstances that caused or could cause a violation of this Stipulated Order. The notice shall describe the reason for the delay and specifically refer to this Paragraph. The notice shall describe the anticipated length of time the delay may persist, the cause or causes of the delay, the measures taken or to be taken by the Settling Respondents to prevent or minimize the delay, an updated schedule for implementation, and the anticipated date of compliance with this Stipulated Order. The Settling Respondents shall adopt all reasonable measures to avoid and minimize such delays.

- i. The determination as to whether the circumstances were beyond the reasonable control of TRG and its agents will be made by the Executive Director of the State Water Board (Executive Director). Where the Assistant Deputy Director concurs that compliance was or is impossible, despite the timely good faith efforts of TRG, due to circumstances beyond the control of the TRG that could not have been reasonably foreseen and prevented by the exercise of reasonable diligence by TRG, a new Final SEP Completion deadline shall be established and this Stipulated Order will be revised accordingly.
- f. **Annual Monitoring Reports:** TRG shall provide annual monitoring reports on the progress of the SEP thirty (30) days following the end of each calendar year beginning on the effective date of this Stipulated Order.
- g. **The SEP Completion Final Report** shall be submitted with the Certification of Completion, within ninety (90) days of the completion of the SEP. All funds must be expended on the SEP defined in this Order within thirty-six (36) months of the Order's adoption.
- h. **Site Inspections:** DTSC, Los Angeles Water Board and/or the State Water Board may inspect the SEP implementation location during normal business hours, as well as review any documents associated with SEP implementation at any time without notice.
- i. **Certification of Supplemental Environmental Project:**
 - i. Certification of Completion: Within ninety (90) days of completion of the SEP, TRG shall submit a certified statement of completion of the SEP (Certification of Completion). The Certification of Completion may be submitted with TRG's SEP Completion Final Report for the project. TRG's authorized representative shall submit the Certification of Completion under penalty of perjury to the Designated State Water Board contact listed below. The Certification of Completion shall include the following:
 - a. Certification of Expenditures: Certification documenting all expenditures by the Settling Respondents. The expenditures may include external payments to outside vendors or contractors implementing the SEP. In making such certification, the representative may rely upon normal company and project tracking systems that captures employee time expenditures and external payments to outside vendors such as environmental and information technology contractors or consultants. TRG shall provide any additional information requested by the State Water Board staff that is reasonably necessary to verify SEP expenditures. The certification need not address any costs incurred by DTSC for oversight.

- b. Certification of Performance of Work: Certification that the SEP has been completed in accordance with the terms of this Stipulated Order. Such documentation may include photographs, invoices, receipts, certifications, and other material reasonably necessary for the State Water Board to evaluate the completion of the SEP and the costs incurred by TRG.
- c. Certification that the SEP meets or exceeds the requirements of California Environmental Quality Act (CEQA) and/or other environmental laws. Unless TRG is exempted from compliance with CEQA, TRG shall, before the SEP implementation date, consult with other interested State Agencies regarding potential impacts of the SEP. To ensure compliance with CEQA where necessary, TRG shall provide the State Water Board with the following documents:
 - i. Categorical or statutory exemptions;
 - ii. Negative Declaration if there are no “significant” impacts;
 - iii. Mitigated Negative Declaration if there are potential “significant” impacts but revisions to the project have been made or may be made to avoid or mitigate those potential significant impacts; or,
 - iv. Environmental Impact Report if there are “significant” impacts.
- j. **Third Party Audit:** If the designated State Water Board contact obtains information that causes the representative to reasonably believe that TRG has not expended money in the amounts claimed, or has not adequately completed any of the work in the SEP, the designated State Water Board contact may require, and TRG shall submit, at its sole cost, a report prepared by an independent third party(ies), stating that in its professional opinion, that TRG has or has not expended money in the amounts claimed. TRG, with the State Water Board’s approval, shall choose the independent third-party auditor. In the event of such an audit, TRG agrees that it will provide the third-party auditor with access to all documents which the auditor requests. Such information shall also be provided to the designated State Water Board contact. The audit need not address any costs incurred by the State Water Board for oversight.

- k. **State Water Board Acceptance of Completed SEP:** Upon TRG's completion of the SEP and satisfaction of their obligations under this Stipulated Order, TRG shall request that the State Water Board, or its delegee, issue a statement indicating that the SEP has been completed in satisfaction of the terms of this Stipulated Order and Attachment A and that the corresponding liability be permanently suspended. The issuance of the statement shall terminate any further obligation of the TRG under this Stipulated Order.
- l. **Failure to Expend All Suspended Administrative Civil Liability Funds on the Approved SEP:** In the event that TRG is not able to demonstrate through the submission of the SEP Completion Final Report or Certification of Expenditures that the entire SEP Amount pursuant to Paragraph 17.b. and Attachment A, TRG shall pay the difference between the SEP Amount and the amount that TRG can demonstrate was actually spent on the SEP, as an administrative civil liability to the UST Cleanup Fund in the same manner as described in Paragraph 17.a. above.
- m. **Failure to Complete the SEP:** If the SEP is not completed by the SEP Completion Date, unless extended pursuant to Paragraph 20.e., or if there has been a material failure by TRG to satisfy a project milestone, the Assistant Deputy Director shall issue to TRG a "Notice of Failure to Complete SEP." The amount owed shall be determined via a Motion for Payment of Suspended Liability before the State Water Board's delegee. TRG shall be liable to pay the entire SEP Amount, or, if shown by TRG, some portion thereof less the value of any completed milestones as stipulated to by the Parties in writing, or as determined by the Motion for Payment of Suspended Liability. The Discharger shall not be entitled to any credit, offset, or reimbursement from the State Water Board for expenditures made on the SEP prior to the issuance date of the Notice. Within thirty (30) days of the State Water Board's or its delegee's determination of the Suspended Liability amount assessed for TRG to pay, TRG shall submit payment by check payable to the *UST Cleanup Fund* and shall indicate this Order number on the check. TRG shall send the original signed check to the following address:
- State Water Resources Control Board
DAS Accounting Office
ATTN: ACL Payment
P.O. Box 1888
Sacramento, California 95812-1888
- n. A copy of the check shall be sent to the Prosecution Team Party Contact at the address listed in Paragraph 25. Payment of the assessed amount upon SEP completion failure shall satisfy TRG's obligations to implement the SEP.

21. **State Water Board Not Liable:** Neither the State Water Board members nor the State Water Board staff, attorneys, or representatives shall be liable for any injury or damage to person or property resulting from acts or omissions by the Settling Respondents (or the SEP Implementing Party), its directors, officers, employees, agents, representatives, or contractors in carrying out activities pursuant to this Stipulated Order, nor shall the State Water Board, its members or staff be held as parties to or guarantors of any contract entered into by the Settling Respondents, its directors, officers, employees, agents, representatives or contractors in carrying out activities pursuant to this Stipulated Order.
22. **Covenant Not to Sue:** The Settling Respondents and its contractor(s) covenant not to sue or pursue any administrative or civil claim or claims against any State Agency or the State of California, or their officers, employees, representatives, agents, or attorneys arising out of or relating to any matter expressly addressed by this Stipulated Order or the SEP. This provision does not preclude the Settling Respondents from opposing a Notice of Failure to Complete SEP or Motion brought under Paragraph 20.m.
23. **Compliance with Applicable Laws and Regulatory Changes:** The Settling Respondents understand that payment of an administrative civil liability in accordance with the terms of this Stipulated Order and/or compliance with the terms of this Stipulated Order is not a substitute for compliance with applicable laws, and that additional violations of the type alleged may subject it to further enforcement, including additional administrative civil liability. Nothing in this Stipulated Order shall excuse the Settling Respondents from meeting any more stringent requirements which may be imposed hereafter by changes in applicable and legally binding legislation or regulations.
24. **Covered Matters:** Upon approval by the Settling Respondents, adoption by the State Water Board, or its delegate, as an Order, this Stipulated Order represents a final and binding resolution and settlement of all claims, violations, or causes of action alleged in relation to the conduct described in Paragraph 6, which could have been asserted under Health and Safety Code section 25299.80, based on the facts alleged against the Settling Respondents. The provisions of this paragraph are expressly conditioned on Settling Respondents' full payment of their respective Administrative Civil Liability.

25. **Party Contacts for Communications related to this Stipulation and Order:**

For the UST Cleanup Fund:

Nickolaus Knight, Senior Counsel
State Water Resources Control Board
Office of Enforcement
801 "K" Street, Suite 2300
Sacramento, California 95814
nickolaus.knight@waterboards.ca.gov
916.327.0169

For Settling Respondent TRG:

Mark Mermelstein, Esq.
Holmes Taylor, Athey Cowan
Mermelstein & Jones, LLP
811 Wilshire Blvd, Suite 1460
Los Angeles, California 90017
mmermelstein@holmestaylor.com
310.428.3004

For Settling Respondent MDI:

David Vaughn, Esq.
Vaughn Law Offices
350 S. Grand Ave., Suite 3550
Los Angeles, California 90071
DavidVaughn@VaughnLawOffices.com
213.973.9175

26. **Attorney's Fees and Costs:** Except as otherwise provided herein, each Party shall bear all attorneys' fees and costs arising from the Party's own counsel in connection with the matters set forth herein.

27. **Public Notice:** The Parties understand that this Stipulated Order will be noticed for a thirty (30)-day public review period prior to consideration by the State Water Board or its delegee. If significant new information is received that reasonably affects the propriety of presenting this Stipulated Order to the State Water Board or its delegee for adoption, the Assistant Deputy Director of the Division of Financial Assistance may unilaterally declare this Stipulated Order void and decide not to present it to the State Water Board. The Settling Respondents agree that they may not rescind or otherwise withdraw their approval of this proposed Stipulated Order.

28. **Addressing Objections Raised During Public Comment Period:** The Parties agree that the procedure contemplated for adopting the Order by the State Water Board, or its delegee, and review of this Stipulation by the public is lawful and adequate. In the event procedural objections are raised prior to the Order becoming effective, the Parties agree to meet and confer concerning any such objections, and may agree to revise or adjust the procedure as necessary or advisable under the circumstances.

29. **No Waiver of Right to Enforce:** The failure of the State Water Board Prosecution Team to enforce any provision of this Stipulated Order shall in no way be deemed a waiver of such provision, or in any way affect the validity of this Stipulated Order. The failure to enforce any such provision shall not preclude it from later enforcing the same or any other provision of this Stipulated Order. No oral advice, guidance, suggestions, or comments by employees or officials of any Party regarding matters covered under this Stipulated Order shall be construed to relieve any Party regarding matters covered in this Stipulated Order. The State Water Board reserves all rights to take additional enforcement actions, including without limitation, the issuance of administrative civil liability complaints or orders for violations other than those addressed by this Order.
30. **Interpretation:** This Stipulated Order shall not be construed against the Party preparing it, but shall be construed as if the Parties prepared it jointly. Any uncertainty or ambiguity shall not be interpreted against any one Party. The Parties were represented by counsel in this matter.
31. **Modification:** This Stipulated Order shall not be modified by any of the Parties by oral representation made before or after its execution. All modifications must be in writing and approved by the State Water Board or its delegee.
32. **Severability:** This Stipulation and Order are severable; should any provision be found invalid the remainder shall remain in full force and effect.
33. **If the Order Does Not Take Effect:** The Settling Respondents obligation under this Stipulated order is contingent upon the entry of the Order by the State Water Board as proposed. In the event that this Stipulated Order does not take effect because it is not approved by the State Water Board, or its delegee, or is vacated in whole or in part by the State Water Board or a court, the Parties acknowledge that they expect to proceed to a contested evidentiary hearing before the State Water Board to determine whether to assess administrative civil liabilities for the underlying alleged violations, or may continue to pursue settlement. The Parties agree that all oral and written statements and agreements made during the course of settlement discussions will not be admissible as evidence in any subsequent administrative or judicial proceeding or hearing and will be fully protected by California Evidence Code sections 1152 and 1154, California Government Code section 11415.60, rule 408 of the Federal Rules of Evidence, and any other applicable privilege under federal and/or state law. The Parties agree to waive any and all objections related to their efforts to settle this matter, including, but not limited to:

- a. Objections related to prejudice or bias of any of the State Water Board members or their advisors and any other objections that are premised in whole or in part on the fact that the Water Board members or their advisors were exposed to some of the material facts and the Parties' settlement positions as a consequence of reviewing the Stipulation and/or the Order, and therefore may have formed impressions or conclusions prior to any contested evidentiary hearing on the Complaint in this matter; or,
 - b. Laches or delay or other equitable defenses based on the time period for administrative or judicial review of the alleged violations to the extent this period has been extended by these settlement proceedings.
34. **Waiver of Hearing:** The Settling Respondents have been informed of the rights provided by Health and Safety Code section 25299.80, subdivision (c), and Water Code section 13323, subdivision (b), and, if the settlement is adopted by the State Water Board, hereby waives its right to a hearing before the State Water Board prior to the Stipulated Order's adoption. However, should the settlement not be adopted, and should the matter proceed to the State Water Board for hearing, the Settling Respondents do not waive the right to a hearing before an order is imposed.
35. **Waiver of Right to Petition or Appeal:** Except in the instance where the settlement is not adopted by the State Water Board or its delegee, the Settling Respondents hereby waive their rights to petition for writ of administrative mandate in the California Superior Court or to appeal to a California Superior Court and/or any California appellate level Court.
36. **Authority to Bind:** Each person executing this Stipulated Order in a representative capacity represents and warrants that he or she is authorized to execute this Stipulated Order on behalf of and to bind the entity on whose behalf he or she executes the Stipulated Order.
37. **No Third-Party Beneficiaries:** This Stipulated Order is not intended to confer any rights or obligations on any third party or parties, or claimants, and no third party or parties shall have any right of action under this Stipulated Order for any cause whatsoever.
38. **Counterpart Signatures; Facsimile and Electronic Signature:** This Stipulation may be executed and delivered in any number of counterparts, each of which when executed and delivered shall be deemed to be an original, but such counterparts shall together constitute one document. Further, this Stipulation may be executed by facsimile or electronic signature, and any such facsimile or electronic signature by any Party hereto shall be deemed to be an original signature and shall be binding on such Party to the same extent as if such facsimile or electronic signature were an original signature.

39. **Effective Date:** This Stipulated Order shall be effective and binding on the Parties upon the date the State Water Board, or its delegee, enters the Order incorporating the terms of this Stipulated Order.

IT IS SO STIPULATED.

Date: 10/28/2022

original signed version is available
upon request

Diane Barclay
UST Cleanup Fund Manager
Assistant Deputy Director

Settling Respondents

Date: 10/09/2022

original signed version is available
upon request

The Reynolds Group
By: F. Edward Reynolds, Jr.

Date: 10/04/2022

original signed version is available
upon request

Mobi Dos, Inc.
By: Dwayne C. Zeigler

**FINDINGS AND ORDER OF THE
STATE WATER RESOURCES CONTROL BOARD**

Having considered the allegations and the Parties' stipulations, the State Water Board finds that:

1. This Order incorporates Paragraphs 1 through 39 by reference as if set forth fully herein.
2. In accepting this settlement, the State Water Board has considered, where applicable, the factors prescribed in Health and Safety Code section 25299.80, subdivision (e).
3. This is an action to enforce the laws and regulations administered by the State Water Board. The State Water Board finds that issuance of this Order is exempt from the provisions of the California Environmental Quality Act (CEQA) (Public Resources Code section 21000 et seq.), in accordance with section 15321(a)(2), title 14, of the California Code of Regulations.
4. Fulfillment of the Settling Respondents' obligations under the Order constitutes full and final satisfaction of any and all liability for Covered Matters in accordance with the terms of the Order.
5. The State Water Board is authorized to refer this matter directly to the Attorney General for enforcement if the Settling Respondents fails to perform any of its obligations under the Stipulated Order.
6. The Settlement Agreement and Stipulation for Entry of Administrative Civil Liability Order between the State Water Board Prosecution Team and the Settling Respondents is approved pursuant to Health and Safety Code section 25299.80 and Government Code section 11415.60 and is incorporated by reference into this Order.

IT IS HEREBY ORDERED on behalf of the State Water Resources Control Board.

Date: _____

Joe Karkoski
Deputy Director
Division of Financial Assistance

Attachment A

Supplemental Environmental Project

1. **Project Name**: Juan Piche Residence Tetrachloroethylene Mitigation Project
2. **Project Amount**: \$ 300,000
3. **Project Lead**: The Reynolds Group
4. **Contacts**: F. Edward Reynolds, Jr., Project Manager, The Reynolds Group, (714) 920-9310, reynolds@reynolds-group.com_
5. **Project Description**:
 - a. The Reynolds Group (TRG) proposes to implement the Juan Piche Residence Tetrachloroethylene Mitigation Project located at 6421 South Broadway, Los Angeles, California 90003 (site). The site is a California Environmental Protection Agency (CalEPA) SB-535 disadvantaged community in South-Central Los Angeles.
 - b. A dry-cleaning facility formerly located at the site used tetrachloroethene (PCE) from at least 1951 to approximately 1990. TRG proposes to use soil vapor extraction (SVE) technology in order to control vapor intrusion through the floor affecting ambient indoor air with chlorinated compounds at concentrations above regulatory screening levels.
 - c. TRG will install and operate one SVE system to address the vapor intrusion pathway, which includes the installation of three dual nested SVE wells, on-going operation of the SVE system, and soil vapor probes. See Attachment B and C “Vapor Intrusion Mitigation Plan” and “Amendment to Vapor Intrusion Mitigation Plan.” (collectively “VIMP”).

6. **Compliance with SEP Criteria:** A SEP must be environmentally beneficial, which means a SEP must improve, protect, or reduce risks to public health or the environment. While in some cases a SEP may provide the settling party with an incidental benefit, there must be no doubt that the project primarily benefits public health and/or the environment. This project meets this SEP criterion by addressing VOC impact to soil vapor in an area where the depth to groundwater is reported at 90 feet below ground surface (ft bgs) and where the vertical extent of VOCs impacting the subsurface has not been determined. Hydrogeologically, the site lies within the La Brea Plain of the Central Groundwater Basin. Water bearing sediments in the Central Basin extend to a maximum depth of 2,200 feet. In an area roughly 800 feet northwest of the site, groundwater was reported at between approximately 70 and 85 feet bgs when last measured in 2010. The extent of secondary source PCE and its by-products is also currently unknown. This SEP is projected to reduce the indoor air concentrations of pollutants, thus reducing the health risks to the residents at the site.
7. **Above and Beyond Obligations:** The Reynolds Group is under no obligation to perform the elements of this SEP, and is undertaking this mitigation voluntarily in order to suspend a portion of administrative civil liability in Order WQ 2022-XXXX-EXEC.
8. **No Benefit to the Water Board Functions, Members, or Staff:** This SEP provides no direct fiscal benefit to the State Water Board, its members, its staff, or family members of staff.
9. **Nexus to the Nature or Location of Violations:** A nexus to an alleged violation exists if the SEP meets one of the following criteria: (1) It reduces the likelihood that similar violations will occur in the future, or (2) It reduces the adverse impact, including cumulative impacts, to public health or the environment to which the violation being resolved contributes. In this case, the allegations impacted the funding for cleanup of petroleum pollution impacting groundwater. The performance of this SEP will mitigate potential impacts to groundwater and public health, forming a close nexus with the impacts from the alleged violations.
10. **Project Phases and Budget:** Table 6 of the attached VIMP lists the primary project tasks and phases. Table 4 includes a breakdown of the projected costs associated with each task and phase of implementation of the VIMP.

11. **Final Post-Project Accounting of Expenditures**: Within ninety (90) days of completion of the SEP, TRG shall submit a certified statement of completion of the SEP (Certification of Completion). This will include a certification of expenditures documenting all expenditures on the SEP. The expenditures may include external payments to outside vendors or contractors implementing the SEP. In making such certification, the representative may rely upon normal company and project tracking systems that captures employee time expenditures and external payments to outside vendors such as environmental and information technology contractors or consultants. TRG shall provide any additional information requested by the State Water Board staff that is reasonably necessary to verify SEP expenditures. The certification need not address any costs incurred by DTSC for oversight.
12. **Extension if Necessary**: The SEP Completion Date is the due date of the final report, unless the Assistant Deputy Director approves an extension. If an extension is granted, it shall apply also to the required reports. If an extension is necessary, TRG shall submit a written request for such extension to the Assistant Deputy Director and shall provide the justification for the delay as required by Stipulated Order paragraph 20(e).
13. **Project Performance Measures**: The SEP must achieve all of the following performance measures per the VIMP to be deemed complete:
 - a. Task 1a: SVE Well Installation (including site characterization described in the “Amendment to Vapor Intrusion Mitigation Plan.”)
 - b. Task 1b: SV Probe Installation
 - c. Task 2a: Permitting
 - d. Task 2b: System Construction
 - e. Task 3: System Installation
 - f. Task 4: System Start-up
 - g. Task 5: Workplans, Reports and Project Management
 - h. Task 6: Public Participation
 - i. Task 7: Professional Consulting
 - j. Task 8: Monthly Operations & Maintenance (each month for 6 months)
 - k. Task 9: System Status Reports (One Report)

I. Task 10: Indoor Air Sampling (One Round)

14. **Reports to DTSC:** TRG shall provide monitoring reports on the progress of the SEP thirty (30) days following the end of each calendar year beginning on the effective date of the Stipulated Order. The SEP Completion final report shall be submitted with the Certification of Completion, within ninety (90) days of the completion of the SEP. Reports on the progress of SEP completion will be submitted on a quarterly basis, at a minimum, to the appropriate agency.

1 State Water Resources Control Board Policy on Supplement Environmental Projects, Dec. 5, 2017