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 RICHARD W. WIEKING  
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**AUG 31 1994**

RICHARD W. WIEKING  
 CLERK, U.S. DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA

9 DANIEL E. LUNGREN, Attorney General  
 10 of the State of California  
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14 Attorneys for Plaintiffs

15 UNITED STATES DISTRICT COURT  
 16 NORTHERN DISTRICT OF CALIFORNIA

17 UNITED STATES OF AMERICA, )  
 18 Plaintiff, )  
 19 v. )  
 20 APEX OIL COMPANY, et al., )  
 21 Defendants. )  
 22 \_\_\_\_\_ )  
 23 STATE OF CALIFORNIA, )  
 Plaintiff, )  
 24 v. )  
 25 APEX OIL COMPANY, et al., )  
 26 \_\_\_\_\_ )  
 Defendants. )

CASE NUMBER:  
 NO. C 89-0246 WHO  
 CONSOLIDATED WITH  
 NO. C 89-0250 WHO  
 [proposed] Consent Decree  
 and Settlement Agreement

1 This Consent Decree and Settlement Agreement ("Decree")  
2 is entered into by Plaintiff United States of America ("United  
3 States"), Plaintiffs State of California Department of Fish and  
4 Game, California Regional Water Quality Control Board for the San  
5 Francisco Bay Region, and the Deputy Secretary for the California  
6 Resources Agency (collectively referred to as the "State") and  
7 Defendants G.N.P. Barge & Tank Co.; Apex Oil Company; Apex R. E.  
8 & T., Inc., d/b/a Apex Towing Company; Goldstein Oil Co.; Novelly  
9 Oil Co.; GNP Barge & Tanker Company; West of England Ship Owners  
10 Mutual Insurance Association (Luxembourg); Gary Parker, Samuel R.  
11 Goldstein; and Paul A. Novelly (collectively referred to as  
12 "Settling Defendants").

13 **BACKGROUND**

14 A. This action arose out of an oil spill off the  
15 coast of California alleged to have occurred sometime between  
16 January 28, 1986, and February 4, 1986. Plaintiffs, the United  
17 States and the State, alleged in this action that the oil was  
18 discharged from an oil transportation barge, the APEX HOUSTON,  
19 while that vessel was in transit from Martinez, California to  
20 Long Beach, California (the "Oil Spill").

21 B. Plaintiffs claimed in this action that, among  
22 other things, the alleged Oil Spill resulted in the mortality of  
23 numerous birds and other aquatic life in and around the coastal  
24 waters of Central California, and that the affected birds and  
25 aquatic life were natural resources of the United States and the  
26 State.

1 C. On January 27, 1989, the United States of America,  
2 on behalf of the United States Department of Commerce, the United  
3 States Department of the Interior, and the United States Coast  
4 Guard commenced an action in the United States District Court for  
5 the Northern District of California by filing a complaint naming  
6 as defendants, G.N.P. Barge & Tank Co.; Apex Oil Company; Apex R.  
7 E. & T., Inc., d/b/a Apex Towing Company; Goldstein Oil Co.;  
8 Novelly Oil Co.; GNP Barge & Tanker Company; and the West of  
9 England Ship Owners Mutual Insurance Association (Luxembourg).  
10 The United States' complaint alleged civil claims arising out of  
11 the Oil Spill against the named defendants pursuant to Section  
12 311(f) of the Clean Water Act, 33 U.S.C. § 1321(f), and Title III  
13 of the Marine Protection, Research, and Sanctuaries Act) (now the  
14 National Marine Sanctuaries Act), 16 U.S.C. § 1431 et seq. In  
15 its complaint, the United States asserted claims for  
16 (1) costs incurred by the United States in connection with the  
17 clean-up of the Oil Spill, (2) costs incurred in assessing the  
18 damages to natural resources under the trusteeship of the United  
19 States caused by the Oil Spill, (3) damages for injuries to the  
20 natural resources under the trusteeship of the United States that  
21 were adversely affected by the Oil Spill, and (4) a civil  
22 penalty. The United States' action was assigned Civil Action No.  
23 C 89-0246.

24 D. Also on January 27, 1989, the State, on behalf of  
25 the California Department of Fish and Game, the Regional Water  
26 Quality Control Board, San Francisco Bay Region, and the Deputy

1 Secretary for the California Resources Agency commenced a  
2 separate action in the United States District Court for the  
3 Northern District of California by filing a complaint against  
4 defendants G.N.P. Barge & Tank Co.; Apex Oil Company; Apex R. E.  
5 & T., Inc., d/b/a Apex Towing Company; Goldstein Oil Co.; Novelty  
6 Oil Co.; GNP Barge & Tanker Company; and the West of England Ship  
7 Owners Mutual Insurance Association (Luxembourg). The State's  
8 complaint alleged civil claims arising out of the Oil Spill  
9 against the named defendants pursuant to Section 311(f) of the  
10 Clean Water Act, 33 U.S.C. § 1321(f); California Water Code  
11 Sections 13350(a), (b) and (e), and 13385(b)(1); California  
12 Harbors and Navigation Code Sections 151 and 293; California Fish  
13 and Game Code Sections 2014, 5655, 12015, and 12016. In its  
14 complaint, the State asserted claims for (1) costs incurred by  
15 the State in connection with the clean-up of the Oil Spill, (2)  
16 costs incurred in assessing the damage to natural resources under  
17 the trusteeship of the State covered by the Oil Spill, (3)  
18 damages for injuries to the natural resources under the  
19 trusteeship of the State that were adversely affected by the Oil  
20 Spill, and (4) various civil penalties. The States' action was  
21 assigned Civil Action No. C. 89-0250.

22 E. On June 10, 1991, pursuant to an Order of this  
23 Court, both the United States and the State amended their  
24 complaints to add as defendants Gary Parker, Samuel R. Goldstein,  
25 and Paul A. Novelty.

1 F. Settling Defendants answered the complaints and  
2 amended complaints, and at all times disputed, and continue to  
3 dispute, the substantive claims and allegations made by  
4 Plaintiffs in their pleadings, including allegations related to  
5 fault, responsibility, liability, causation, and damages.

6 G. The Parties now agree that it is in their best  
7 interests to avoid the costs and risks of further litigation and  
8 believe that resolution of this dispute without further  
9 litigation is appropriate. The Plaintiffs have determined, and  
10 by entering this Decree the Court finds, that settlement of this  
11 matter as provided for in this Decree is fair, reasonable, and in  
12 the public interest.

13 H. During the pendency of this action, the United  
14 States and the State, through their designated Natural Resource  
15 Trustees, proposed certain projects to Restore Natural Resources  
16 alleged to have been injured as a direct result of the Oil Spill.  
17 The United States and the State agree that the proposed projects  
18 identified in Attachment No. 1 hereto are reasonable and  
19 appropriate measures to Restore the affected Natural Resources.  
20 To implement these Restoration Projects, the Natural Resource  
21 Trustees entered into a Memorandum of Understanding which became  
22 effective on July 29, 1994, the date it was signed by the  
23 California Department of Fish and Game (the "Memorandum of  
24 Understanding"). The United States and the State intend to  
25 implement these Restoration projects in accordance with this  
26 Decree, the Memorandum of Understanding, and all applicable laws.

1 If for any reason subsequent to the entry of this Decree the  
2 Trustees determine that either of the proposed restoration  
3 projects are not feasible, practicable, or in the public  
4 interest, then they may make such other use of the proceeds of  
5 this settlement as is consistent with the terms of this Decree,  
6 the Memorandum of Understanding, and as authorized by law. By  
7 entering into this Decree, Settling Defendants neither endorse,  
8 nor express any approval of, the Restoration projects  
9 contemplated, proposed, or selected by Plaintiffs. Despite the  
10 inclusion of a description of certain restoration projects in  
11 this Decree or its Attachments, Settling Defendants have had, and  
12 will have, no role in the selection or implementation of any  
13 Restoration project funded with proceeds from this settlement.  
14 Settling Defendants have had no role in the drafting of  
15 Attachment No. 1 or the Memorandum of Understanding.

16 I. The United States and State Natural Resource  
17 Trustees are co-equal joint trustees over some or all of the  
18 resources affected by the Oil Spill. The United States and the  
19 State have agreed to resolve their respective claims to the  
20 proceeds of this settlement in the manner set forth in this  
21 Decree, and in accordance with the Memorandum of Understanding.

22 J. The Parties recognize that this Decree is a  
23 settlement of a contested matter. Participation in the  
24 settlement, including but not limited to the payment or  
25 acceptance of any consideration, does not constitute or represent  
26 an admission of law or fact by any Party regarding fault,

1 responsibility, liability, causation, or damages asserted by any  
2 Party. There are no findings of fact or conclusions of law  
3 express or implied in this Decree and nothing in this Decree  
4 shall be construed to be, or to represent, an adjudication of any  
5 claim or an admission of liability. This Decree is without  
6 prejudice to the rights and defenses of the Parties hereto to any  
7 claims or causes of action against Non-Settling Parties.

8 NOW, THEREFORE, it is hereby ORDERED, ADJUDGED, and  
9 DECREED as follows:

10 I. JURISDICTION

11 1. This Court has jurisdiction over the subject  
12 matter and over the parties to this action pursuant to 28 U.S.C.  
13 §§ 1331, 1333, 1345, 1367, and 33 U.S.C. §§ 1319 and 1321; and 16  
14 U.S.C. § 1443(c). Venue is proper in this Court pursuant to 28  
15 U.S.C. § 1391(b). The complaints and the amended complaints  
16 herein allege claims upon which relief may be granted.

17 II. PARTIES BOUND

18 2. This Decree shall apply to and be binding upon and  
19 inure to the benefit of the United States, the State, and the  
20 Settling Defendants, and as applicable, their present and former  
21 officers, directors, employees, and agents.

22 III. DEFINITIONS

23 3. Whenever the following terms are used in this  
24 Decree, they shall have the following meanings:

25 (a) "Natural Resource" and "Natural Resources" mean  
26 land, fish, wildlife, biota, air, water, ground water,

1 drinking water supplies, and other such resources belonging  
2 to, managed by, held in trust by, appertaining to, or  
3 otherwise controlled by the United States (including the  
4 resources of the fishery conservation zone established by  
5 the Magnuson Fishery Conservation and Management Act of  
6 1976, 16 U.S.C. §§ 1801 et seq. and resources of the Gulf of  
7 the Farallons National Marine Sanctuary) and the State of  
8 California.

9 (b) "Natural Resource Trustees" or "Trustees" means  
10 those federal and state agencies designated or authorized  
11 pursuant to the Clean Water Act, the Marine Protection,  
12 Research and Sanctuaries Act, and state law to act as  
13 Trustees for the natural resources owned by the public.  
14 Specifically, as used in this Decree the Trustees are the  
15 United States Department of the Interior, Fish and Wildlife  
16 Service, the United States Department of Commerce, National  
17 Oceanic and Atmospheric Administration, and the State of  
18 California Resources Agency, Department of Fish and Game.

19 (c) "Non-Settling Parties" means all persons and  
20 entities who are not Parties to this Decree.

21 (d) "Party" or "Parties" mean the Settling Defendants,  
22 and each of them, the United States, including its  
23 Departments, Agencies, and subdivisions, and the State.

24 (e) "Restore" or "Restoration" mean any action to  
25 restore to its pre-spill condition any Natural Resource  
26 injured, lost, or destroyed as a result of the Oil Spill and



1 the services provided by that Natural Resource, or which  
2 restores, replaces, rehabilitates, or acquires the  
3 equivalent of, the injured, lost, or destroyed Natural  
4 Resource and affected services.

5 (f) "Settling Defendants" means Apex Oil Company, Apex  
6 R. E. & T., Inc. dba Apex Towing Company, Novelty Oil Co.,  
7 Goldstein Oil Co., G.N.P. Barge & Tank Co., Gary Parker,  
8 Samuel R. Goldstein, Paul A. Novelty, GNP Barge & Tanker  
9 Company, and West of England Ship Owners Mutual Insurance  
10 Association (Luxembourg).

11 **IV. SETTLEMENT PAYMENT BY SETTLING DEFENDANTS**

12 4. The Settling Defendants shall pay to the  
13 Plaintiffs jointly the total sum of \$6,400,000 (the "Settlement  
14 Amount") in the manner set forth in Paragraphs 5, 6, and 7 of  
15 this Decree. The allocation of the Settlement Amount set forth  
16 below was determined solely by Plaintiffs.

17 **V. DISTRIBUTION OF SETTLEMENT PROCEEDS**

18 5. Within 15 days of the entry of this Decree by the  
19 Court Settling Defendants shall tender the following payments to  
20 each of the entities identified below in the amount and manner  
21 specified. All payments under this Paragraph and Paragraphs 6  
22 and 7 shall be accompanied by correspondence referencing this  
23 action and this Consent Decree, and notice of such payments shall  
24 be given to the United States and the State in accordance with  
25 Section XI (Notices) by sending a copy of the correspondence that  
26 accompanies each tendered payment.

1 (a) The Department of the Interior the sum of \$97,500 (as  
2 reimbursement for damage assessment costs). Payment  
3 shall be made by certified check made payable to  
4 Secretary of the Interior and delivered to Chief,  
5 Division of Finance, U.S. Fish and Wildlife Service,  
6 4401 North Fairfax Drive, Room 380, Arlington, VA  
7 22203. The check shall reflect that it is a payment to  
8 the "Natural Resource Damage Assessment and Restoration  
9 Fund, Account No. 14X5198 -- Assessment Cost  
10 Reimbursement" and reference the "Apex Houston Oil  
11 Spill."

12 (b) The National Oceanic and Atmospheric Administration the  
13 sum of \$450,570 (as reimbursement for damage assessment  
14 costs and payment into the MPRSA response and damage  
15 assessment fund pursuant to 16 U.S.C. § 1443(d)).  
16 Payment shall be made by certified check made payable  
17 to NOAA, Department of Commerce. The check shall  
18 indicate that the payment is for "reimbursement of  
19 damage assessment costs for the Apex Houston Case."  
20 The check shall be delivered to Chief, Damage  
21 Assessment Center, NOS, NOAA, Room 10218, 1305 East  
22 West Highway, Silver Spring, MD 20910.

23 (c) The United States Coast Guard the sum of \$41,500  
24 (\$36,500 as reimbursement for cleanup costs and \$5,000  
25 as a civil penalty under federal law). Payment shall  
26 be made by certified or cashier's check made payable to  
27

1 the United States Department of Justice, Civil Division  
2 and delivered to Jeanne M. Franken, U.S. Department of  
3 Justice, Civil Division, Torts Branch, P.O. Box 36028,  
4 San Francisco, CA 94102-3463.

5 (d) The State of California Department of Fish and Game the  
6 sum of \$144,000 (as reimbursement for damage assessment  
7 and cleanup costs). Payment shall be made by certified  
8 check made payable to "The Fish and Wildlife Pollution  
9 Cleanup Abatement Account, Fish and Game Preservation  
10 Fund" and delivered to Stephen L. Sawyer, Staff  
11 Counsel, Office of Oil Spill Prevention and Response,  
12 1700 K Street, Suite 250, Sacramento, California 95814.

13 (e) The Regional Water Quality Control Board for the San  
14 Francisco Bay Region the sum of \$250,000 (as a civil  
15 penalty under the California Water Code). Payment  
16 shall be made through two separate certified checks,  
17 one check in the amount of \$200,000 made payable to  
18 "California Department of Justice, Pilarcitos Creek  
19 Restoration Fund," and a second check in the amount of  
20 \$50,000 made payable to "State Water Pollution Cleanup  
21 and Abatement Account." Both checks shall be delivered  
22 to Michael W. Neville, Deputy Attorney General,  
23 Attorney General's Office, 455 Golden Gate Avenue,  
24 Suite 6200, San Francisco, CA 94102-3658.

25 6. Within 15 days of the entry of this Decree  
26 Settling Defendants shall tender to the Department of the  
27

1 Interior, Fish and Wildlife Service a certified check in the  
2 amount of \$4,916,430. The check shall be made payable to  
3 Secretary of the Interior and be delivered to Chief, Division of  
4 Finance Division, United States Fish and Wildlife Service, 4401  
5 North Fairfax Drive, Room 380, Arlington, VA, 22203 (phone (703)  
6 358-1742). The check shall reflect that it is a payment to the  
7 "Natural Resource Damage Assessment and Restoration Fund, Account  
8 No. 14X5198 -- Murre Recolonization Project" and reference the  
9 "Apex Houston Oil Spill." The Department of the Interior will  
10 assign these funds a special project number to allow the funds to  
11 be maintained as a segregated account within the Department of  
12 the Interior Natural Resource Damage Assessment and Restoration  
13 Fund, Account No. 14X5198 (the "Recolonization Account"). The  
14 Department of the Interior shall, in accordance with law, manage  
15 and invest funds in the Recolonization Account, and segregate in  
16 the Recolonization Account any return on investments or interest  
17 accrued for use by the Natural Resource Trustees in connection  
18 with Restoration projects connected to the Oil Spill. The  
19 Department of the Interior shall not make any charge against the  
20 Recolonization Account for any investment or management services  
21 provided. The Department of the Interior shall hold all funds in  
22 the Murre Recolonization Account, including return on investments  
23 or accrued interest, subject to the provisions of this Decree and  
24 the Memorandum of Understanding.

25 7. Within 15 days of the later of entry of this Decree  
26 or receipt of written instructions specified in this Paragraph,

1 Settling Defendants shall (a) establish with The National Fish  
2 and Wildlife Foundation a trust agreement in the form of the  
3 Habitat Acquisition Trust attached hereto as Attachment 2 and,  
4 (b) transfer into the Habitat Acquisition Trust \$500,000.  
5 Transfer of funds to the Habitat Acquisition Trust shall be made  
6 in accordance with written instructions provided by Plaintiffs to  
7 Settling Defendants. Settling Defendants shall not have, nor be  
8 held responsible for, any duties or liabilities arising from or  
9 associated with the existence, establishment, funding, or  
10 management of the Habitat Acquisition Trust beyond those duties  
11 stated in this paragraph. Upon transfer of funds to the Trustee  
12 of the Habitat Acquisition Trust as provided in this paragraph,  
13 Settling Defendants shall have no further obligations, fiduciary,  
14 financial or otherwise, with respect to the Trust. The Habitat  
15 Acquisition Trust shall be used to implement "Habitat Acquisition  
16 Project" described in Attachment No. 1.

17 **VI. TRUSTEE USE OF FUNDS**

18 8. If subsequent to the entry of this Decree, the Trustees  
19 unanimously determine that the Recolonization Project is  
20 infeasible, impractical or otherwise not in the public interest,  
21 the Trustees may, by unanimous consent (1) consistent with law,  
22 transfer the money in the Murre Recolonization Account to the  
23 Habitat Acquisition Trust, or (2) use the money for any other  
24 restoration project(s) that addresses the injuries caused by the  
25 Oil Spill alleged in this action or otherwise meets the  
26 requirements of 16 U.S.C. § 1443(d)(2) and applicable state law.

1           9. If, after two years from the date of entry of this  
2 Decree, the Trustees determine that it is infeasible or  
3 impractical to acquire or obtain protection for appropriate  
4 Marbled Murrelet habitat near the areas affected by the Oil Spill  
5 alleged in this action, then the Trustees may by unanimous  
6 consent use money in the Habitat Acquisition Trust (1) to  
7 purchase or improve other seabird habitat (including buffer  
8 zones), or (2) for any other restoration project(s) or habitat  
9 acquisition, provided that any expenditure of money shall address  
10 injuries caused by the Oil Spill alleged in this action or  
11 otherwise meet the requirements of 16 U.S.C. § 1443(d)(2) and  
12 applicable state law..

13                           **VII. RELEASES AND COVENANTS NOT TO SUE**

14           10. Effective upon entry of the Decree, the  
15 establishment of the Habitat Acquisition Trust, and the receipt  
16 of Settling Defendants' payments as specified in Paragraphs 5, 6,  
17 and 7 of this Decree, the United States and the State release the  
18 Settling Defendants from (a) any and all civil claims raised by  
19 the complaints or amended complaints filed in this action,  
20 (b) all claims for damages to Natural Resources, known or  
21 unknown, arising out of the Oil Spill, and (c) all claims arising  
22 out of the Oil Spill advanced in the bankruptcy proceedings  
23 styled In Re Apex Oil Company, et al., United States Bankruptcy  
24 Court, Eastern District of Missouri, Docket No. 87-03804-BKC-BSS.  
25 Except as provided in Section X (Reservation of Rights), the  
26 United States and the State covenant not to take or pursue any

1 judicial or administrative actions against Settling Defendants  
2 (including Settling Defendants' present and former partners,  
3 directors, officers and/or employees) for any civil claims  
4 arising out of the Oil Spill. The United States and the State  
5 will notify Settling Defendants when all payments referenced in  
6 Paragraphs 5, 6, and 7 have been received.

7 11. Effective upon Entry of this Decree, Settling  
8 Defendants release the United States and the State from any and  
9 all claims arising out of the Oil Spill or this litigation,  
10 including but not limited to all claims for attorneys' fees and  
11 costs. For the purposes of this paragraph, "United States" and  
12 "State" includes present and former employees.

13 **VIII. DISMISSAL OF ACTIONS AND CLAIMS**

14 12. Upon entry of this Consent Decree as an Order of  
15 the Court this Decree shall become effective and constitute a  
16 final judgment between and among the United States and the State,  
17 on the one hand, and Settling Defendants, on the other hand.  
18 Upon Settling Defendants' satisfaction of all requirements under  
19 this Decree and the receipt of all payments required by  
20 Paragraphs 5, 6, and 7, each of the claims for relief brought by  
21 the United States and the State against each of the Settling  
22 Defendants in this action shall be dismissed with prejudice,  
23 without an award of costs or attorneys' fees to any Party. The  
24 United States and the State agree to execute necessary documents  
25 reasonably requested to withdraw claims arising out of the Oil  
26 Spill advanced in the bankruptcy proceedings styled In Re Apex

1 Oil Company, et al., United States Bankruptcy Court, Eastern  
2 District of Missouri, Docket No. 87 03804 -BKC-BSS.

3 **IX. THIRD PARTY LITIGATION**

4 13. The Parties agree that they will not tender each  
5 other to any third party as direct defendants in any action  
6 relating to or arising from the Oil Spill pursuant to Rule 14 of  
7 the Federal Rules of Civil Procedure.

8 **X. RESERVATION OF RIGHTS**

9 14. Except as expressly stated in this Decree, each  
10 Party reserves against any person not a Party to this Decree all  
11 rights, claims, or defenses available to it arising from or  
12 relating to the Oil Spill.

13 15. Nothing in this Decree creates, nor shall it be  
14 construed as creating, any claim in favor of any person not a  
15 Party to this Decree. Nothing in this Decree shall be construed  
16 as limiting, barring, or otherwise prejudicing claims for  
17 contribution and indemnification arising from this settlement  
18 against any person not a Party to this Decree.

19 16. The covenants not to sue, releases, and  
20 dismissals in Paragraphs 10 through 12 above shall apply only to  
21 civil claims arising out of the Oil Spill as alleged in the  
22 complaints and amended complaints of the United States and the  
23 State or this litigation, and shall not apply to claims based on  
24 a failure of a Party to satisfy the requirements of this Decree.





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3 Oakland, CA 94612

4 Michael W. Neville  
California Attorney General's Office  
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6 San Francisco, CA 94102-3658

7 Notice to Settling Defendants

8 John D. Giffin  
Eric Swett  
9 Keesal, Young & Logan  
Four Embarcadero Center  
10 San Francisco, CA 94111

11 Eugene J. O'Connor, Jr.  
Freenill, Hogan & Mahar  
12 80 Pine Street  
New York, New York 10005

13 Neil Miller  
14 General Counsel  
Apex Oil Company  
15 8182 Maryland Ave.  
St. Louis, MO 63105-3721  
16

17 **XII. REPRESENTATIVES**

18 18. Each undersigned representative of the Settling  
19 Defendants certifies that he or she is fully authorized to enter  
20 into the terms and conditions of this Decree and to execute and  
21 legally bind her or his respective Parties to this Decree.

22 **XIII. MODIFICATION**

23 19. Minor modifications not materially altering this  
24 Decree may be effected by the written agreement of the Parties.  
25 No other modifications of this Decree may be made unless the  
26 Parties agree in writing to the modification and the Court  
27 approves of the requested modification. Notwithstanding the

1 foregoing, the Settling Defendants and their attorneys have no  
2 obligations with respect to this Decree and the settlement of  
3 this case beyond those explicitly set forth herein.

4 XIV. CONTINUING JURISDICTION

5 20. The Court retains jurisdiction to enforce the  
6 terms of this Decree and Settlement Agreement and to supervise  
7 and enforce the Habitat Acquisition Trust. Notwithstanding the  
8 foregoing, participation by one or more of the Settling  
9 Defendants in the present settlement and in the establishment or  
10 funding of the Habitat Acquisition Trust shall not be deemed to  
11 subject Settling Defendants to in personam jurisdiction, or to  
12 create subject matter jurisdiction, for any other claim or any  
13 other action against Settling Defendants.

14 XV. MISCELLANEOUS

15 21. The Parties agree that this Decree may be  
16 executed in counterpart.

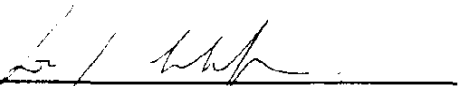
17  
18 Dated and entered this \_\_\_\_\_ day of AUG 31 1994, 1994.

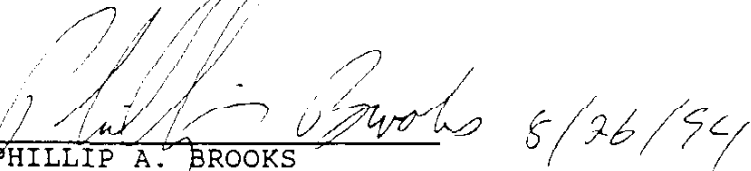
19  
20  
21 WILLIAM H. ORRICK  
22 HONORABLE WILLIAM H. ORRICK  
23 UNITED STATES DISTRICT JUDGE  
24  
25  
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27  
28

1 WE HEREBY CONSENT to the entry of this Decree:

2 FOR THE UNITED STATES OF AMERICA:

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By:   
LOIS J. SCHIFFER  
Acting Assistant Attorney General  
Environment and Natural Resources Division  
United States Department of Justice

BY:  8/26/94  
PHILLIP A. BROOKS  
JAMES L. NICOLL, Jr.  
ROBERT R. KLOTZ  
JAMES R. MacAYEAL  
Attorneys  
United States Department of Justice  
Environment and Natural Resources Division  
Environmental Enforcement Section  
Ben Franklin Station, P.O. Box 7611  
Washington, D.C. 20044  
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1 FOR THE UNITED STATES OF AMERICA CONTINUED:  
2

3  
4 BY: 

5 FRANK W. HUNGER  
6 Assistant Attorney General  
7 Civil Division  
8 United States Department of Justice

9  
10 BY: 

11 PHILIP A. BERNS  
12 Attorney in Charge  
13 JEANNE FRANKEN  
14 U.S. Department of Justice  
15 Torts Branch, Civil Division  
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1 FOR THE STATE OF CALIFORNIA DEPARTMENT OF FISH AND GAME,  
2 CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD FOR THE SAN  
3 FRANCISCO BAY REGION, AND THE DEPUTY SECRETARY FOR THE  
4 CALIFORNIA RESOURCES AGENCY


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1 FOR THE SETTLING DEFENDANTS:

2 Apex Oil Company, Apex R. E. & T., Inc. dba Apex Towing Company,  
3 Novelly Oil Co., Goldstein Oil Co., and G.N.P. Barge  
& Tank Co.

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27  
28 Consent Decree and  
Settlement Agreement

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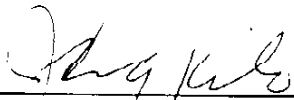
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