

**SETTLEMENT AGREEMENT
AND
GENERAL RELEASE OF ALL CLAIMS**

This Settlement Agreement and General Release of All Claims ("Settlement and Release Agreement") is made and entered into between Plaintiff NORTHERN CALIFORNIA RIVER WATCH, a California non-profit corporation, on behalf of themselves ("PLAINTIFF") and Defendant MERCER FRASER COMPANY, INC., a California corporation ("MERCER FRASER" or "DEFENDANT"). To the fullest extent allowable under law, this Settlement and Release Agreement shall be binding, as set forth herein, on the PLAINTIFF and DEFENDANT (collectively "Parties") and on the Parties' past and present officers, owners, stockholders, partners, directors, agents, employees, successors, assigns, representatives, insurers, attorneys, parent corporations, divisions, and subsidiaries (including agents, directors, officers, employees, representatives and attorneys of such parent corporations, divisions, and subsidiaries and all other persons acting by, through, under, or in concert with any of them).

RECITALS

A. This Settlement Agreement and General Release constitutes an agreement to resolve all disputes among the Parties regarding DEFENDANT'S ownership and operation of seven aggregate mining operations and related construction material production sites at which gravel, sand, rock, and construction materials are produced and processed in Humboldt County, Mendocino County, and Trinity County, in the State of California. The locations of the seven facilities (collectively, "the Subject Properties") owned and operated by DEFENDANT are as follows:

Fortuna A Site
81 Riverwalk Drive
Fortuna, Humboldt Co.
California

Willow Creek Site
351 Highway 96
(0.5 miles north of Willow Creek)
Humboldt Co., California

Dinsmore Site
390 State Highway 36
(0.25 miles east of Humboldt/
Trinity Co. line), California

Cooks Valley Site
240 Cooks Valley Road
Piercy, Humboldt/Mendocino Cos.
California

Essex Site
Highway 29
Humboldt County, California

Trinidad Site
Highway 101
Humboldt County, California

Fortuna B Site
City of Fortuna, Humboldt
County, California

Each of the seven above-listed Subject Properties are identified in PLAINTIFF'S 60-Day Notices dated August 1, 2004 and October 25, 2005, which notices are incorporated by reference into PLAINTIFF'S First Amended Complaint, filed on November 30, 2005, as set forth herein.

B. The nature of the dispute and the Parties' respective positions are set forth in the pleadings and other filings in an action entitled Northern California River Watch v. Mercer Fraser Company, et al., United States District Court, Northern District of California (Case No. C 04 4620) ("the Action"). PLAINTIFF'S Action was filed on November 1, 2004. PLAINTIFF'S First Amended Complaint was filed on November 30, 2005. In the Action, PLAINTIFF, among other things, alleges that DEFENDANT has (1) failed to obtain a Clean Water Act Section 402(p) National Pollutant Discharge Elimination System ("NPDES") Permit; (2) failed to comply with the terms and conditions of California's General Industrial Storm Water Permit for Industrial Storm Water Discharges (WDID 228S003380); (3) discharged unpermitted contaminated storm water from its facilities; (4) discharged non-storm water pollutants from its facilities in violation of effluent limitations; and, (5) violated the procedural requirements of NPDES General Permit No. CAS000001 [State Water Resources Control Board] Water Quality Order No. 97-03-DWQ and Water Quality Order No. 91-13-DWQ (as amended by Water Quality Order 92-12-DWQ) issued pursuant to Clean Water Act Section 402(p), 33 U.S.C. Section 1342(p) ("General Permit"). DEFENDANT denies each and every of PLAINTIFF'S allegations in total and in part.

The merits of this Action were litigated and adjudicated in the context of a motion for summary judgment, brought by MERCER FRASER. On September 1, 2005, the Court filed an Order denying MERCER FRASER'S motion for summary judgment.

C. Although MERCER FRASER disputes the applicability of the regulatory program to its facilities, after MERCER FRASER'S receipt of PLAINTIFF'S August 1, 2004 "Sixty-Day Notice of Violations and Intent to File Suit" ("60-Day Notice") (a copy of which is attached as Exhibit A to PLAINTIFF'S Complaint herein), MERCER FRASER filed "Notices of Intent" for coverage under the General Permit for each of the four (4) facilities listed in said Notice. In connection with the filing of such "Notices of Intent," MERCER FRASER also prepared Stormwater Pollution Prevention Plans ("SWPPPs") for each of the four (4) facilities listed in said Notice.

Although MERCER FRASER disputes the applicability of the regulatory program to the Subject Properties, after MERCER FRASER'S receipt of

PLAINTIFF'S October 25, 2005 "Sixty-Day Notice of Violations and Intent to File Suit" ("60-Day Notice") (a copy of which is attached as Exhibit B to PLAINTIFF'S First Amended Complaint herein), MERCER FRASER undertook to file "Notices of Intent" for coverage under the General Permit for each of the three (3) additional facilities listed in said Notice. MERCER FRASER also undertook to prepared Stormwater Pollution Prevention Plans ("SWPPPs") for each of the additional three (3) facilities listed in said Notice.

D. On November 17, 2005, in a Settlement Conference before the Hon. James Larson, Chief Magistrate Judge for the United States District Court, Northern District of California, the Parties reached an agreement, as set forth herein, to settle all of their disputes and the Action, the terms of which are set forth below.

AGREEMENT

1. The above Recitals are incorporated into this Settlement and Release Agreement.

2. For and in consideration of the respective commitments made by each of the Parties to this Settlement and Release Agreement, the Parties agree as follows:

a. PLAINTIFF, in consideration for MERCER FRASER'S actions set forth below, does hereby irrevocably and unconditionally release, acquit, and forever discharge DEFENDANT from any and all claims, charges, complaints, rights, demands, actions, causes of action, administrative actions, obligations, liabilities, promises, agreements, controversies, damages, suits, costs, losses, debts, and expenses (including attorneys' fees and costs actually incurred) of any and every kind, nature and character whatsoever, arising out of and relating to the Action or to any state or federal law, constitution, judicial decision, order, or regulation which PLAINTIFF ever had, now has, or may have, whether known or unknown, and whether asserted, or which could have been asserted in the Action, including, but not limited to compliance issues related to California Regional Water Quality Control Board, North Coast Region, Order No. R1-2005-0011, General Waste Discharge Requirements and Water Quality Certification for Discharges Related to Sand and Gravel Mining, Evacuation, and Process Activities, Including Asphalt and Concrete Operations.

b. Concurrent with PLAINTIFF'S execution of this Settlement and Release Agreement, PLAINTIFF shall stipulate to the court's entry of an Order of Judgment dismissing, with prejudice, PLAINTIFF'S Action filed herein, said dismissal constituting full and complete res judicata and collateral estoppel effect as to all the matters alleged and asserted, or which could have been alleged and asserted, in the Actions and in this Settlement and Release Agreement as set forth herein.

c. PLAINTIFF further agrees to not initiate, bring, file, or support any other lawsuits, actions, claims, complaints, protests, grievances, or oppositions (including non-judicial actions such as administrative claims or protests) based on, arising out of and relating to the Action or to any state or federal law, constitution, judicial decision, order, or regulation which PLAINTIFF ever had, now has, or may have, whether known or unknown, and whether asserted, or which could have been asserted in the Action, including, but not limited to compliance issues related to California Regional Water Quality Control Board, North Coast Region, Order No. R1-2005-0011, General Waste Discharge Requirements and Water Quality Certification for Discharges Related to Sand and Gravel Mining, Evacuation, and Process Activities, Including Asphalt and Concrete Operations, with regard to any of the Subject Properties named herein.

d. In consideration for PLAINTIFF'S actions listed above, DEFENDANT agrees as follows:

(1) While DEFENDANT does not admit any liability whatsoever, DEFENDANT agrees to pay PLAINTIFF the sum of \$50,000.00 for PLAINTIFF'S attorneys' fees and costs within 15 days of the execution of this Settlement and Release Agreement. While DEFENDANT does not admit any liability whatsoever, DEFENDANT agrees to pay PLAINTIFF a penalty (to be used for a Supplemental Environmental Program (SEP) as PLAINTIFF wishes) in the amount of \$30,000.00, said sum to be paid within 15 days of the execution of this Settlement and Release Agreement.

(2) DEFENDANT agrees to hire, at its sole cost and expense, a qualified stormwater runoff expert to review the SWPPPs prepared for the seven Subject Properties set forth herein. DEFENDANT agrees to disclose said expert's qualifications to PLAINTIFF'S counsel, although PLAINTIFF has no approval or veto rights over MERCER FRASER'S selection. In addition to reviewing DEFENDANT'S site SWPPPs for compliance, the expert will conduct bi-annual inspections (monitoring and testing as the expert deems appropriate) over two calendar years, beginning in 2006, as follows: Two inspections per year (one in dry season and one in rainy season). PLAINTIFF shall receive 10 days notice of said inspections during that two-year period, and during that time, a representative from PLAINTIFF may elect to attend and observe said inspections.

e. Other than as set forth herein, each party shall bear its own costs and expenses, including attorneys' fees.

3. This Settlement and Release Agreement shall be incorporated into an Order of Judgment of Dismissal, dismissing this Action with prejudice and such dismissal shall constitute final and complete

resolution of all the issues, causes of action, contentions, and allegations set forth by and related to the Action. It is the intent of the parties that the Order for dismissal with prejudice and this Settlement and Release Agreement incorporated therein has full and complete res judicata and collateral estoppel effect as to all the matters alleged and asserted in the Action and in this Settlement and Release Agreement, or which could have been alleged and asserted in this Action, including, but not limited to compliance issues related to California Regional Water Quality Control Board, North Coast Region, Order No. R1-2005-0011, General Waste Discharge Requirements and Water Quality Certification for Discharges Related to Sand and Gravel Mining, Evacuation, and Process Activities, Including Asphalt and Concrete Operations.

4. To effect a full and complete release as described in paragraph 2.a., hereinabove, PLAINTIFF expressly waives and relinquishes all rights and benefits afforded it by section 1542 of the Civil Code of the State of California, and in doing so, understands and acknowledges the significance and consequence of such specific waiver of section 1542. Section 1542 of the Civil Code of the State of California states as follows:

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

Thus, notwithstanding the provisions of section 1542, and for the purpose of implementing a full and complete release and discharge of DEFENDANT, PLAINTIFF expressly acknowledges that this Settlement and Release Agreement is intended to include in its effect, without limitation, all claims not known or suspected to exist in PLAINTIFF'S favor at the time of signing this document relating to the Action and that this Settlement and Release Agreement contemplates the extinguishment of any such claim or claims relating to the Action, including, but not limited to compliance issues related to California Regional Water Quality Control Board, North Coast Region, Order No. R1-2005-0011, General Waste Discharge Requirements and Water Quality Certification for Discharges Related to Sand and Gravel Mining, Evacuation, and Process Activities, Including Asphalt and Concrete Operations, with regard to any of the Subject Properties named herein. The Parties know of no actions at law, or in equity, or administrative proceedings currently pending (other than the Action) that concerns allegations based on or related to PLAINTIFF'S Action. PLAINTIFF warrants that it has read this Agreement, including this waiver of California Civil Code section 1542, that PLAINTIFF has consulted counsel about this Settlement and Release Agreement and specifically about the waiver of section 1542, that PLAINTIFF understands the agreement and the section 1542 waiver, and so freely and knowingly enter into this Settlement and Release Agreement. PLAINTIFF acknowledges that it may hereafter discover facts different from or in addition to those it now knows or

believes to be true regarding the matters released or described in this agreement, and PLAINTIFF agrees that the releases and agreements contained in this Settlement and Release Agreement shall be and will remain effective in all respects notwithstanding any later discovery of any such different or additional facts.

PLAINTIFF agrees and understands that this is a full and final release covering all known and unknown and anticipated and unanticipated injuries, debts, claims, or damages which may have arisen, or which may arise, connected with all matters from the beginning of time to the date hereof, as well as those injuries, debts, claims, or damages now known or disclosed which may have arisen, or which may arise, from PLAINTIFF'S claim relating to the Action and compliance issues related to California Regional Water Quality Control Board, North Coast Region, Order No. R1-2005-0011, as described above.

5. PLAINTIFF promises and agrees that it will not actively, materially and knowingly participate in, assist in, aid, support, encourage, or instigate the filing of any lawsuits, protests, actions, complaints, or charges by any other person or party in any state or federal court or any proceedings of any kind before any local, state, or federal agency, relating to presently known or unknown claims related to this Action and compliance issues related to California Regional Water Quality Control Board, North Coast Region, Order No. R1-2005-0011, as described above.

6. PLAINTIFF agrees and understands that this Settlement and Release Agreement constitutes a resolution of PLAINTIFF'S claims. The furnishing of the consideration for this Settlement and Release Agreement shall not at any time or for any purpose be deemed or construed by PLAINTIFF as an admission of liability or responsibility by DEFENDANT for any acts alleged in the Actions or at all. Any liability for any and all Claims relating to, or tending to relate to, the Actions is expressly denied and disclaimed by DEFENDANT.

7. The Parties represent and agree that they have carefully read this Settlement and Release Agreement and that they have had the opportunity to consult with their attorneys regarding all aspects of this Settlement and Release Agreement. The Parties further represent and agree that they understand all of the provisions of this Settlement and Release Agreement and voluntarily and of their own free will enter into this Settlement and Release Agreement.

8. PLAINTIFF represents that they have not heretofore assigned or transferred, or purported to assign or transfer, to any person or entity, any claim against DEFENDANT related to this Action or any portion thereof or any interest therein.

9. This Settlement and Release Agreement is made and entered into in the State of California, and shall in all respects be interpreted, enforced, and governed under the laws of this State.

10. This Settlement and Release Agreement sets forth the entire agreement between the Parties hereto and fully supersedes any and all prior agreements or understandings between the Parties hereto. No promises, inducements, or representations regarding the subject matter of this Settlement Agreement and General Release have been made by any party other than those set forth in this document or incorporated by reference herein. Any modification or amendment to this Settlement Agreement and General Release must be in writing and must be signed and dated by the Parties, and must explicitly state that it is intended to be an amendment to or modification of this Settlement Agreement and General Release.

11. Counsel for the respective Parties have reviewed and participated in the drafting of this Settlement and Release Agreement. Consequently, the normal rule of construction that ambiguities shall be resolved against the drafter shall not be used or applied in the interpretation of this document.

12. In the event that a Party to this Agreement initiates legal proceeding to enforce the terms of the Settlement and Release Agreement, the prevailing party in such litigation shall be entitled to reasonable attorneys' fees and costs.

13. This Settlement and Release Agreement shall be binding upon each party to it and upon each of such party's heirs, administrators, representatives, executors, successors, and assigns, and shall inure to the benefit of DEFENDANT, and each of them, and to DEFENDANTS' heirs, administrators, representatives, executors, successors, and assigns. Any party may record this Agreement.

14. This Settlement and Release Agreement may be executed in any number of counterparts, or in different counterparts, any of which shall be deemed an original, but all of which together shall constitute one and the same agreement.

PLEASE READ CAREFULLY. THIS SETTLEMENT AGREEMENT AND GENERAL RELEASE INCLUDES A RELEASE OF ALL KNOWN AND UNKNOWN CLAIMS. YOU GIVE UP ANY RIGHT TO SUE FOR ANY REASON, EVEN REASONS YOU DO NOT KNOW ABOUT, BY SIGNING THIS AGREEMENT.

Dated: _____, 2005

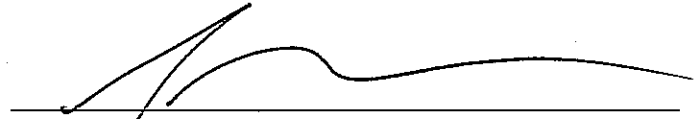
Defendant MERCER FRASER COMPANY,
INC., a California corporation

Dated: _____, 2005

Plaintiff NORTHERN CALIFORNIA RIVER
WATCH

APPROVED AS TO FORM:

Dated: December 13, 2005



Jeffrey L. Anderson
Attorney for Defendant
MERCER FRASER COMPANY, INC., a
California corporation

Dated: _____, 2005

Jack Silver
Attorney for Plaintiff
Northern California River Watch, a
California non-profit corporation