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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA
WESTERN DIVISION

UNITED STATES OF AMERICA AND THE
PEOPLE OF THE STATE OF CALIFORNIA, EX
REL. DEPARTMENT OF FISH AND
GAME, CALIFORNIA COASTAL
COMMISSION, AND STATE LANDS
COMMISSION,

Plaintiffs,

v.

TORCH ENERGY SERVICES, INC, formerly
known as TORCH OPERATING COMPANY;
NUEVO ENERGY COMPANY; and BLACK
HAWK OIL & GAS COMPANY

Defendants.

NO. CV

CONSENT DECREE

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3 Environment & Natural Resources Division
4 United States Department of Justice

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This Consent Decree is entered into between the United States, including on behalf of the United States Department of the Interior, Fish and Wildlife Service; United States Air Force, United States Coast Guard, National Pollution Funds Center and United States Environmental Protection Agency; and the People of the State of California *ex rel.* California Department of Fish and Game, Office of Spill Prevention and Response, the California State Lands Commission, and the California Coastal Commission, (“the State”), hereafter referred to collectively as “the Plaintiffs”; and Torch Energy Services, Inc., formerly known as Torch Operating Company (“Torch”), Nuevo Energy Company (“Nuevo”), and Black Hawk Oil & Gas Company (“Black Hawk”), “collectively referred to herein as “Defendants”.

INTRODUCTION

A. This action is for damages for injuries to natural resources, costs, civil penalties, damages for trespass, and other relief from Defendants, arising out the discharge into the ocean of petroleum, petroleum products, and other petroleum-related hazardous substances (“petroleum products”) from a rupture in an oil pipeline (the “Spill”), on or about September 28, 1997. The pipeline runs from Platform Irene to a processing facility onshore near Harris Road in the City of Lompoc in Santa Barbara County, California. The Spill released at least 163 barrels of petroleum products into the Pacific Ocean. As a result of the Spill, petroleum products came ashore at sandy beaches and rocky intertidal areas from Minuteman Beach to the Boathouse on Vandenberg Air Force Base and at least seventeen miles of coastline were impacted. The degree of oiling varied along the affected coastline, with the most heavily oiled area being Surf Beach, some stretches of the beach had greater than 50% of their surface area below the high tide line covered with oil and tides moved oil through the intertidal zone and along the coast. The estuaries at San Antonio Creek, Honda Creek and the Santa Ynez River were impacted. In addition, important habitat was impacted by the spill, in particular, rocky intertidal and sandy beach habitats. The Spill injured a number of animal species, including mussels and abalone. The Defendants neither admit nor deny these facts, and do not admit liability.

1 B. State and federal Plaintiffs seek damages for injuries to natural resources under the
2 Oil Pollution Act ("OPA"), 33 U.S.C. §§ 2701-2761. The California Department of Fish and Game
3 ("CDFG"), and the California State Lands Commission ("CSLC") as authorized under Section
4 311(f)(5) of the CWA, Section 1006 of OPA, and the Lempert-Keene Seastrand Oil Spill Prevention
5 and Response Act, Government Code §§ 8670.1, *et seq.*, the United States Department of the
6 Interior, Fish and Wildlife Service ("USFWS"), as authorized under Section 311(f)(5) of the Clean
7 Water Act ("CWA"), 33 U.S.C. § 1321(f)(5), and Section 1006 of the Oil Pollution Act of 1990
8 ("OPA"), 33 U.S.C. § 2706, and the United States Air Force ("USAF") as authorized under Section
9 1006 of the Oil Pollution Act of 1990 ("OPA"), 33 U.S.C. § 2706, are joint Trustees for natural
10 resources and are authorized to assess injuries to federal and state natural resources caused by
11 releases of oil and hazardous substances and to recover damages for those injuries and the costs of
12 assessing those injuries, to be used to restore, rehabilitate, replace, or acquire the equivalent of the
13 affected natural resources.

14 C. The involved federal and state agencies have estimated that the Spill impacted
15 between 635 and 815 birds, including western snowy plovers, which are listed as a threatened
16 species, and brown pelicans, which are an endangered species. 16 U.S.C. § 1533(c); Fish & Game
17 Code §§ 2050, *et seq.* In addition to causing seabird mortality and other injuries, the Spill impaired
18 habitat and human use along the coast of Santa Barbara County, including sandy beach and rocky
19 intertidal habitat. The Defendants neither admit nor deny these facts, and do not admit liability.

20 D. The state and federal Trustees have investigated the impacts from the Spill to the
21 affected natural resources and propose to carry out projects to restore replace or acquire the
22 equivalent of resources and their services injured by the Spill. The Trustees intend to plan and
23 implement the necessary restoration projects, pursuant to the relevant statutory authorities and
24 regulations.

25 E. Plaintiffs also seek penalties for the Spill under the following statutes and regulations:
26 Endangered Species Act ("ESA"), 16 U.S.C. §§ 1531-1544; Oil Pollution Act ("OPA"), 33 U.S.C.
27 §§ 2701-2761; Outer Continental Shelf Lands Act ("OCSLA"); Federal Water Pollution Control Act
28 ("Clean Water Act"), 33 U.S.C. §§ 1251-1387; California Government Code §§ 8670.66(a)(3);

1 California Fish and Game Code § 5650.1, and California Public Resources Code § 30802(a)(1),
2 30802(b), and 30822. The State Lands Commission seeks damages for trespass, pursuant to
3 California Public Resources Code § 6224.1.

4 F. After the Spill, Plaintiffs and other state and federal agencies investigated the cause
5 and effects of the Spill. The claims asserted by Plaintiffs in the Complaint herein and referred to in
6 this Consent Decree constitute all of the claims arising from the Spill asserted by involved Plaintiff
7 agencies and as of the date of the lodging of the Consent Decree, none of the involved Plaintiff
8 agencies or their attorneys knows of the existence of any other claim of any other state or federal
9 agency arising out of the Spill.

10 G. The County of Santa Barbara sued Defendants in a separate action in state court, for
11 monetary and other relief arising out of the Spill, and that case has settled. As part of that settlement,
12 Defendants will fund a supplemental environmental project ("SEP"), namely, \$250,000 to provide
13 funds for an oiled bird rehabilitation center in the County of Santa Barbara. The State Plaintiffs in
14 this action and the County have agreed to share administration of that SEP. The State and Federal
15 Plaintiffs in this action have considered the funding of the SEP in agreeing to this Consent Decree,
16 and this Decree is expressly conditioned on the full funding of the SEP by Defendants in the amount
17 of \$250,000.

18 H. The Parties believe and this Court finds that this Decree has been negotiated by the
19 Parties in good faith and that it is fair, reasonable and in the public interest. The Trustees believe
20 that the Decree will expedite restoration, rehabilitation, replacement, or acquisition of the equivalent
21 of the natural resources that Plaintiffs assert have been injured, destroyed or lost and will avoid
22 potentially prolonged, difficult, expensive, and complicated litigation.

23 NOW, THEREFORE, before the taking of any testimony, before the adjudication of
24 the merits of this case, and without admission of any issue of law, fact, liability or responsibility by
25 any of the Defendants, it is hereby ORDERED, ADJUDGED, and DECREED as follows:

26 **JURISDICTION**

27 1. This Court has jurisdiction over the subject matter of the United States' claims in this
28 action under 28 U.S.C. §§ 1331 (Federal question), 1345 (United States as plaintiff), and 1355 (Fine,

1 penalty, or forfeiture); 33 U.S.C. §§ 1321(b)(7)(E) (CWA - Civil Penalty Action; jurisdiction) and
2 1321(n) (CWA - Jurisdiction); 33 U.S.C. § 2717(b) (OPA - Litigation, jurisdiction and venue); 16
3 U.S.C. § 1540(c) (ESA - Penalties and enforcement); and 43 U.S.C. § 1350 (OCSLA - Remedies
4 and penalties); and over the subject matter of the State's claims in this action under 28 U.S.C.
5 § 1367(a) (Supplemental jurisdiction) because the State's claims are so related to the United States'
6 claims that they form part of the same case or controversy, and over the subject matter of the State's
7 OPA claim under 33 U.S.C. § 2717(b) (OPA - Litigation, jurisdiction and venue). The Court has
8 personal jurisdiction over the Parties to this Consent Decree, and no Party contests venue or the
9 Court's jurisdiction for purposes of this Decree.

10 PARTIES BOUND

11 2. This Decree shall apply to and be binding upon the United States, the State, and upon
12 Defendants, their corporate successors by merger, acquisition, or other form of corporate succession,
13 and to each of the officers, directors, employees, and agents of Defendants acting in their capacity
14 as such.

15 DEFINITIONS

16 3. Whenever the following terms are used in this Decree, they shall have the meanings
17 set forth below:

18 (a) "Natural Resource" and "Natural Resources" mean land, fish, wildlife, biota,
19 air, water, ground water, drinking water supplies, and other such resources belonging to, managed
20 by, held in trust by, appertaining to, or otherwise controlled by the United States and/or the State of
21 California and/or the services provided by such resources to other resources and/or humans.

22 (b) "Natural Resource Trustees" or "Trustees" mean those federal and state
23 agencies and/or officials designated or authorized pursuant to OPA and/or state law to act as Trustees
24 for the Natural Resources managed by, controlled by, or appertaining to the United States and/or the
25 State of California. Specifically, as used in this Decree, the Trustees are USFWS, USAF, CDFG,
26 and CSLC.

27 (c) "Restore" or "Restoration" means any action or combination of actions to
28 restore, rehabilitate, replace, or acquire the equivalent of any Natural Resource or its services injured,

1 lost, or destroyed as a result of the Spill.

2 (d) "Lodging of the Decree" shall mean the date that this Decree is lodged with
3 the Court.

4 (e) "Notice of Entry of this Decree" shall mean the date on which notice of entry
5 of this Decree is served on the Parties pursuant to FRCP Rule 5.

6 (f) "Interest" shall mean interest at the rate established by the Secretary of the
7 Treasury pursuant to 28 U.S.C. § 1961, and will begin to accrue on the 15th day after the Lodging
8 of this Decree and shall continue to accrue until the payments specified in paragraph 4 are made.

9 **SETTLEMENT PAYMENTS BY DEFENDANT**

10 4. If the Decree is entered by the District Court, Defendants shall, within 10 days after
11 Notice of the Entry of this Decree, pay to the Plaintiffs the following amounts:

12 (a) \$2,397,000 together with accrued Interest to the Department of the Interior,
13 on behalf of the state and federal Trustees for the purposes set forth in Subparagraphs (iii) and (iv),
14 below, by Electronic Funds Transfer ("EFT") in accordance with instructions to be provided to
15 Defendants by the Department of Interior after Lodging of this Decree. A transmittal letter
16 indicating that the EFT has occurred shall be sent to the Parties in accordance with Paragraph 17
17 ("Notices") and to:

18 Carolyn A. Lown
19 Assistant Field Solicitor
20 Office of the Field Solicitor
21 U.S. Department of the Interior
22 Office of the Field Solicitor
23 San Francisco Field Office
24 1111 Jackson Street, Suite 735
25 Oakland, CA 94607

26 and

27 Bruce Nessler
28 DOI Restoration Fund Manager
1849 "C" Street, N.W.
Mail Stop 4449
Washington, D.C. 20240

The EFT and transmittal letter shall reflect that the payment is being made to the "Natural Resources
Damage Assessment and Restoration Fund, Account No.14X5198 – Torch Oil Spill." The

1 Department of the Interior will assign these funds a special project number to allow the funds to be
2 maintained as a segregated account within the Department of the Interior Natural Resource Damage
3 Assessment and Restoration Fund, Account No. 14X5198 (the "Torch NRD Account").

4 (i) The Department of the Interior shall, in accordance with law, manage
5 and invest funds in the Torch NRD Account and any return on investments
6 or interest accrued on the Account for use by the Natural Resources Trustees
7 in connection with Restoration of Natural Resources impacted by the Spill.
8 The Department of the Interior shall not make any charge against the Torch
9 NRD Account for any investment or management services provided.

10 (ii) The Department of the Interior shall hold all funds in the Torch NRD
11 Account, including return on investments or accrued interest, subject to the
12 provisions of this Decree and any Memorandum of Understanding ("MOU")
13 entered into by the Natural Resource Trustees.

14 (iii) The Natural Resources Trustees commit to the expenditure of the
15 funds set forth in this subpart "(a)" for the design, implementation, permitting
16 (as necessary), monitoring, and oversight of Restoration projects, and for the
17 costs of complying with the requirements of the law to conduct a restoration
18 planning and implementation process.

19 (iv) The details for specific projects will be contained in a Restoration
20 plan proposal or proposals to be developed jointly by the Natural Resource
21 Trustees. In allocating monies for Restoration projects, the Trustees shall
22 take into consideration their investigation of the injuries caused by the Spill.
23 The Trustees have determined that sandy beach and rocky intertidal habitat
24 has been damaged by the Spill and that seabirds, including common murre,
25 cormorants, and western snowy plovers, sandy beach habitat, mussels, and
26 abalone suffered the greatest injury as a result of the Spill. As a result, the
27 Restoration money will primarily be used in projects to compensate for the
28 loss of these resources. The final Restoration plan will be prepared and

1 implemented jointly by the Trustees, after providing public notice,
2 opportunity for public input, and consideration of any public comment. The
3 Trustees jointly retain the ultimate authority and responsibility to use the
4 funds in the Torch NRD Account to Restore Natural Resources in accordance
5 with applicable law, this Decree, and any MOU entered into by the Trustees.
6 All written materials, signs, pamphlets and similar writings concerning
7 projects undertaken and paid out of the Torch NRD Account shall
8 acknowledge the SLC and CCC as co-sponsors for their efforts and actions
9 which made the NRD settlement viable. CCC and SLC shall incur no
10 financial or administrative burdens due to co-sponsorship status.

11 (b) \$60,000, together with accrued Interest, by trust check, certified check, or
12 money order payable to the Department of Fish and Game for civil penalties under the Third Claim
13 for Relief of the Complaint. The check or money order shall be sent by certified mail to:

14 The Department of Fish and Game
15 Office of Spill Prevention and Response
16 ATTN: Stephen Sawyer and Katherine Verrue-Slater, Staff Counsels
17 1700 "K" Street, Suite 250
18 Sacramento, California 95814.

17 The check shall reflect that it is a payment to the Fish and Wildlife Pollution Account created
18 pursuant to Fish and Game Code section 13010.

19 (c) \$60,000, together with accrued Interest, by trust check, certified check, or
20 money order payable to the Department of Fish and Game for civil penalties under the Fourth Claim
21 for Relief of the Complaint. The check or money order shall be sent by certified mail to:

22 The Department of Fish and Game
23 Office of Spill Prevention and Response
24 ATTN: Stephen Sawyer and Katherine Verrue-Slater, Staff Counsels
25 1700 "K" Street, Suite 250
26 Sacramento, California 95814.

25 The check shall reflect that it is a payment to the Environmental Enhancement Fund pursuant to
26 Government Code section 8670.70.

27 (d) \$119,000, together with accrued Interest, by trust check, certified check, or
28 money order payable to the California Coastal Commission for deposit in the Violation Remediation

1 Account for penalties under the California Coastal Act. The check or money order shall be sent by
2 certified mail to

3 Amy Roach
4 Staff Counsel, Legal Division
5 Statewide Enforcement Unit
6 California Coastal Commission
7 45 Fremont Street, Suite 2000
8 San Francisco, Ca 94105

9 (e) \$60,000, together with accrued Interest, by trust check, certified check, or
10 money order payable to the California State Lands Commission, Trustee for the Kapiloff Land Bank
11 Fund, to be deposited in the Land Bank Fund, Fund 0943 in the State Treasury, as compensation for
12 trespass damages. The check or money order shall be sent by certified mail to:

13 The California State Lands Commission
14 100 Howe Avenue, Suite 100-South
15 Sacramento, California 95825.

16 (f) \$25,000, together with accrued Interest, to the United States, for a civil
17 penalty, for the claims alleged by the United States in the Eighth Claim for the Relief in the
18 Complaint (Penalties for violations of ESA). The payment shall be made by certified check or
19 money order payable to the U.S. Fish and Wildlife Service and shall be sent by certified mail to:

20 Carolyn A. Lown
21 Assistant Field Solicitor
22 Office of the Field Solicitor
23 U.S. Department of the Interior
24 Office of the Field Solicitor
25 San Francisco Field Office
26 1111 Jackson Street, Suite 735
27 Oakland, CA 94607

28 (g) \$100,000, together with accrued Interest to the United States, for a civil
penalty, for the claims alleged by the United States in the Ninth Claim for the Relief in the
Complaint (Penalties for violations of OCSLA). Defendants shall pay the civil penalty referenced
in this Section by Electronic Funds Transfer (EFT). The payment shall be sent to the United States
Department of Justice lockbox, referencing DOJ No. 90-11-3-06140 and the United States
Attorney's Office file number, in accordance with the EFT instructions that shall be provided by the
United States Attorney's office after Lodging of this Decree. Any EFT received at the United States

1 Department of Justice lockbox after 4:00 p.m. (Eastern Time) will be credited on the next business
2 day. Defendants shall simultaneously deliver copies of the EFT transmittal notice to the Docket
3 Clerk, Region IX, U.S. Environmental Protection Agency, and to the Chief, Environmental
4 Enforcement Section, U.S. Department of Justice, P.O. Box 7611, Washington, D.C. 20044, Attn:
5 DOJ No. 90-11-3-06140.

6 (h) \$179,300, together with accrued interest to the United States, for a civil
7 penalty, for the claims alleged by the United States in the Seventh Claim for the Relief in the
8 Complaint (Penalties for Violations of CWA). Defendants shall pay the civil penalty referenced in
9 this Section by Electronic Funds Transfer (EFT) in accordance with the instructions provided in
10 section (g) above.

11 5. Defendants shall continue to pay any unpaid expenses and costs incurred by
12 Plaintiffs prior to entry of this Consent Decree and authorized by (i) law, ii) that certain Joint
13 Cooperative Assessment Agreement among the parties hereto dated July 30, 1998, or iii) that certain
14 Interim Stipulated Agreement for Lost Human Use Resulting From the Torch/Platform Irene
15 Pipeline Oil Spill among the parties hereto dated September 18, 1998, including but not limited to
16 the costs of assessing damages to natural resources (including, but not limited to, the reasonable
17 costs of the mediation of issues involved in the natural resources damage assessment). Plaintiffs
18 shall provide reasonable back up documentation for such unpaid costs and expenses at the time final
19 bills are submitted. Examples of such back up documentation may include copies of agency
20 personnel time sheets, travel claims, and receipts. Plaintiffs shall submit final bills for these unpaid
21 expenses and costs within 90 days after receipt of the Notice of Entry of the Decree, and Defendants
22 shall pay within 90 days of submission.

23 EFFECT OF SETTLEMENT

24 6. Entry of this Consent Decree shall constitute full settlement and satisfaction and
25 release of all claims of the State and United States alleged in the complaint or referred to in
26 paragraphs B and E of the Introduction or in Paragraph 4 of the body of this Consent Decree. The
27 benefits of this Paragraph extend to Defendants and each of them, their corporate successors by
28 merger, acquisition, or other form of corporate succession, and to each of their officers, directors,

1 agents, employees, representatives, attorneys and insurers acting in their capacity as such. This
2 settlement is entered into for the sole purpose of settling the matters described herein. None of the
3 parties shall be deemed to have approved, accepted or consented to any concept, scientific method,
4 theory, principle, or statutory or regulatory interpretation underlying, or supposedly underlying, any
5 of the matters agreed to herein or raised in connection with the claims settled herein. This settlement
6 shall have no binding precedential effect in any other matter and shall not be binding on any Party
7 as to any issues other than those addressed herein.

8 7. Defendants and their officers, directors, agents, employees, representatives,
9 successors, and assigns hereby covenant not to sue and agree not to assert any claims or causes of
10 action against the State and United States, and release all claims that they have or may have against
11 the State or United States, including their employees, and agents under federal, state, or local law,
12 arising out of or relating to this Decree or to the Spill.

13 RESERVATION OF RIGHTS

14 8. Notwithstanding any other provision of this Consent Decree, the United States and
15 the State retain all authority and reserve all rights to take any and all response actions authorized by
16 law, or any future enforcement actions for any violations occurring after the entry of this Decree.

17 9. Subject to the express provisions of Paragraph 6 and 7 of this Decree, each Party
18 reserves against any person not a Party to this Decree all rights, claims, or defenses available to it
19 arising from or relating to the Spill. Nothing in this Decree creates, nor shall it be construed as
20 creating, any admission of fact or law, or any claim in favor of any person not a Party to this Decree.

21 10. The resolution of claims pursuant to this Decree shall not apply to claims for criminal
22 liability brought by the State or United States, or for claims based on a failure by Defendants to meet
23 a requirement of this Consent Decree.

24 COMPLIANCE PROGRAM

25 11. For the period of two (2) years after the Notice of Entry of this Consent Decree,
26 Defendants are hereby enjoined from failing to comply with each of the following:

27 A. Leak Detection

28 In the event of an unintended low pressure shutdown of the 20" emulsion

1 pipeline from Platform Irene, no fluids shall be reintroduced into the pipeline
2 until all of the following occur:

- 3 i) The cause of the low pressure shutdown is determined. If the cause
4 cannot be positively determined, the surface of the ocean above the
5 pipeline and the surface of the ground above the pipeline shall be
6 inspected for evidence of a leak;
7 ii) The platform Foreman or acting Foreman shall be consulted prior to
8 restart; and
9 iii) The Production Superintendent or acting Production Superintendent
10 shall be consulted prior to restart.

11 These procedures were put in place after the Spill and in August 2001 were
12 reemphasized in writing to all Platform Irene operating personnel by Torch's
13 ranking California executive and Nuevo's ranking California executive.
14 Within one (1) year after Notice of Entry of this Consent Decree, a meeting
15 shall be held with all Platform Irene operations personnel and Production
16 Superintendent to further discuss the importance of these procedures.
17 Written notice shall be provided to the Minerals Management Service
18 verifying compliance with this meeting requirement. The notice shall be
19 directed to Phil Schroeder, Santa Maria District Supervisor, Minerals
20 Management Service, 222 W. Carmen Lane, Suite 201, Santa Maria, CA
21 93458.

22 B. **Computer Training**

23 A written Platform Irene computer operating system training program shall
24 be developed and implemented within sixty (60) days after Notice of Entry
25 of this Consent Decree. The program shall be developed in consultation with
26 the Minerals Management Service. The program shall be designed to train
27 all personnel actively involved with the computer system to fully understand
28 its functions, with special emphasis on the leak detection features of the

1 system. The program shall provide for initial training of all such personnel
2 and for refresher training thereafter, at least annually. Written notice shall be
3 provided to the Minerals Management Service verifying compliance with
4 these requirements. The notice shall be directed to Phil Schroeder, Santa
5 Maria District Supervisor, Minerals Management Service, 222 W. Carmen
6 Lane, Suite 201, Santa Maria, CA 93458.

7
8 A record shall be maintained of each employee trained initially or given
9 refresher courses under the Computer Training provisions of this Consent
10 Decree, which shall include the name, employee classification (job
11 description) date of training and subject matter of training. These records
12 shall be maintained as long as the employee remains employed by any of the
13 Defendants or their affiliates on Platform Irene.

14 C. **Oil Spill Response Plan**

15 Within 30 days after Notice of Entry of this Consent decree, the provisions
16 of this Compliance Program shall be included in the *Oil Spill Response Plan*
17 *("Plan") for Operations on Torch Operating Platform Irene and Point*
18 *Pedernales 20-inch Wet Oil Pipeline*. The Plan shall also include a statement
19 that these provisions shall not be modified without the prior consent of
20 Minerals Management Service.

21 D. **Applicability**

22 This injunction shall only apply to a Defendant while such Defendant is the
23 designated operator of Platform Irene (pursuant to Minerals Management
24 Service regulations), or owns an interest in said platform.

25 **STIPULATED PENALTIES**

26 12. Defendants shall pay a stipulated penalty of \$3,000 per day for each failure to timely
27 make a payment or comply with any deadline set forth in the Compliance Program required by this
28 Consent Decree. Penalties for late payment shall begin to accrue on the day after payment is due and

1 shall continue to accrue through the date of payment. Stipulated penalties shall accrue as provided
2 in this section regardless of whether the United States or the State has notified Defendants of a
3 violation. Penalties for failure to comply with a Compliance Program deadline shall accrue ten days
4 after the deadline. Nothing in this paragraph shall be construed as limiting the ability of Plaintiffs
5 to seek any other remedies or sanctions available by virtue of Defendants' violation of this Consent
6 Decree or any laws.

7 13. The payment of a stipulated penalty shall not affect Defendant's obligation to satisfy
8 the requirements of this Consent Decree, except for the obligation to pay the stipulated penalty.

9 14. The stipulated penalty is due and payable within 30 days of the date of demand. In
10 the event that any penalty is not paid when due, interest shall continue to accrue on the unpaid
11 balance to the date of payment.

12 15. Defendants' obligation to pay stipulated penalties shall be deferred or excused to the
13 extent and for the duration that the Defendants prove that any delay in compliance or payment
14 required by this Consent Decree is caused by an event or set of circumstances beyond the control of
15 Defendants and that the event or set of circumstances could not have been prevented by due
16 diligence.

17 16. A Defendant shall have no liability for any stipulated penalty payable on account of
18 a failure to comply with a deadline set forth in the Compliance Program if, at the time of the failure
19 to comply, such Defendant was neither the designated operator of Platform Irene (pursuant to
20 Minerals Management Service regulations), nor owned any interest in said platform.

21 NOTICES

22 17. If written notice is required to be given by one Party to another for any reason, it shall
23 be directed to the individuals and addresses specified below, unless the individuals specified or their
24 successors give notice, in writing, to the other Parties that notices should be directed to a different
25 individual or address. All notices shall reference the civil action settled through this Decree, and the
26 United States Department of Justice file number, ENRD 90-11-3-06140.

1 Notice to the United States:

2 Chief, Environmental Enforcement Section
3 Environment and Natural Resources Division
4 United States Department of Justice
P.O. Box 7611 Ben Franklin Station
Washington, D.C. 20044-7611

5 Glen K. Richardson
6 United States Air Force
7 Vandenberg Air Force Base
747 Nebraska Ave., Ste. C-108,
Vandenberg AFB, CA 93455

8 Christopher Sproul
9 United States Environmental Protection Agency, Region 9
10 Office of the Regional Counsel, ORC-2
75 Hawthorne Street
San Francisco, VA 94105

11 Notice to the State:

12 Kathy Verrue-Slater
13 Staff Counsel III
14 California Office of
15 Spill Prevention and Response
1700 "K" Street, Suite 250
Sacramento, California 95814

16 Executive Officer
17 California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, California 95825

18 Amy Roach
19 Staff Counsel, Legal Division
20 Statewide Enforcement Unit
21 California Coastal Commission
45 Fremont Street, Suite 2000
San Francisco, Ca 94105

22 Brian Hembacher
23 Deputy Attorney General
24 California Attorney General's Office
300 South Spring Street
Los Angeles, California 90013

25 Notice to Defendants:

26 Joseph A Walsh, Esq.
27 KEESAL, YOUNG & LOGAN
28 400 Oceangate
P.O. Box 1730
Long Beach, CA 90801-1730

1 Steven Evans Kirby, Esq.
2 HOLLISTER & BRACE
3 P.O. Box 630
4 Santa Barbara, CA 93012

5 Mark Pollock, Esq.
6 P.O. Box 760
7 1207 Coombs Street
8 Napa, CA 94559-0760

9 Bruce Murchison, Esq.
10 NUEVO ENERGY COMPANY
11 1021 Main Street, Suite 2100
12 Houston, Texas 77002

13 Willard I. Boss Jr., Esq.
14 TORCH ENERGY ADVISORS, INC.
15 1221 Lamar Street, Suite 1600
16 Houston, Texas, 77010

17 REPRESENTATIVES

18 18. Each undersigned representative of a Party certifies that he or she is fully authorized
19 to enter into the terms and conditions of this Decree and to execute and legally bind such Party to
20 this Decree. The Parties agree that this Decree may be executed in counterparts.

21 MODIFICATION

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

25 LODGING AND OPPORTUNITY FOR PUBLIC COMMENT

26 20. This Consent Decree shall be lodged with the Court for a period of thirty days for
27 public notice and comment consistent with the procedures set forth in 28 C.F.R. § 50.7. Final
28 approval of this Consent Decree by the United States and the State will be subject to public notice
and comment. The United States and the State reserve the right to withdraw or withhold their
consent to the entry of the Decree if public comments establish, in the view of either, that entry of
this Consent Decree would be inappropriate, improper, or inadequate. The Defendants agree to the
entry of this Consent Decree without further notice and agree not to withdraw their consent to entry
of the Decree pending consideration of public comments and approval by the Court. Should the
United States or the State withdraw its consent to the entry of this Consent Decree, the Decree shall

1 be null and void.

2 21. If for any reason this Consent Decree is not entered in the form presented, within one
3 (1) year of the Date of Lodging of this Decree, this agreement is voidable at the sole discretion of
4 any party and neither the terms of the agreement nor the fact that it was entered into may be used as
5 evidence in any litigation.

6 **CONTINUING JURISDICTION**

7 22. The Court retains jurisdiction to enforce the terms of this Consent Decree and to
8 resolve any disputes arising hereunder.

9 **ENTIRE AGREEMENT**

10 23. This Consent Decree contains the entire agreement of the parties hereto with respect
11 to the subject matter hereof and supersedes all prior agreements and understandings, whether oral
12 or written.

13 **COSTS**

14 24. Each Party shall bear its own attorneys fees and costs in this action.

15 **FINAL JUDGMENT**

16 THE FOREGOING Consent Decree among Plaintiffs United States and State of
17 California, and Defendants is hereby APPROVED and ORDERED.

18 There being no just reason for delay, this Court expressly directs, pursuant to Federal
19 Rules of Civil Procedure 54 and 58, ENTRY OF FINAL JUDGMENT in accordance with the terms
20 of this Decree.

21
22 IT IS SO ORDERED:

23
24
25 Dated: _____

26 UNITED STATES DISTRICT JUDGE

1 WE HEREBY CONSENT to the entry of this Decree (subject to the public comment
2 provisions of Paragraph 20 of this Decree):
3

4 **FOR THE UNITED STATES OF AMERICA:**
5

6 By: Tom Sansonetti
7 THOMAS L. SANSONETTI
8 Assistant Attorney General
9 Environment and Natural Resources Division
10 United States Department of Justice
11 Washington, D.C. 20530
12

13 Dated: 4.26.02
14

15 By: _____
16 STEVEN O'ROURKE
17 Environmental Enforcement Section
18 Environment and Natural Resources Division
19 United States Department of Justice
20 P.O. Box 7611
21 Washington, D.C., 20044
22 (202) 514-2779
23

24 Dated: _____
25
26
27
28

1 WE HEREBY CONSENT to the entry of this Decree (subject to the public comment
2 provisions of Paragraph 20 of this Decree):

3
4 **FOR THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY:**

5
6 By: _____

7
8 United States Environmental Protection Agency
9 Region 9
10 75 Hawthorne Street
11 San Francisco, CA 94105

12 Dated: _____
13
14
15
16
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1 WE HEREBY CONSENT to the entry of this Decree (subject to the public comment
2 provisions of Paragraph 20 of this Decree):

3
4 **FOR THE STATE OF CALIFORNIA DEPARTMENT OF FISH AND GAME**

5
6 By: 

7 HARLAN HENDERSON

8 Office of Spill Prevention and Response
California Department of Fish and Game

9
10 Dated: 1/10/02

11
12 Of Counsel:

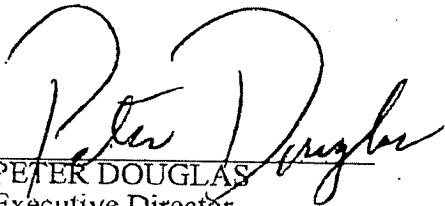
13 BRIAN HEMBACHER
14 Deputy Attorney General
15 Los Angeles, California

16 Stephen Sawyer, Esq.
17 Katherine Verrue-Slater, Esq.
18 California Department of Fish and Game
Office of Spill Prevention and Response
19 Sacramento, California
20
21
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28

1 WE HEREBY CONSENT to the entry of this Decree (subject to the public comment
2 provisions of Paragraph 20 of this Decree):

3
4 **FOR THE CALIFORNIA COASTAL COMMISSION**

5
6 By:

7 
8 PETER DOUGLAS
Executive Director

9 Dated: 1/17/02

10
11
12 Of Counsel:
13 G.R. Overton
14 Deputy Attorney General
Los Angeles, California

1 WE HEREBY CONSENT to the entry of this Decree (subject to the public comment
2 provisions of Paragraph 20 of this Decree):

3
4 **FOR THE CALIFORNIA STATE LANDS COMMISSION**

5
6 By:



7 PAUL THAYER
8 Executive Officer
9 California State Lands Commission
100 Howe Avenue, Suite 100-South
Sacramento, California 95825

11 Dated: JAN. 14, 2002

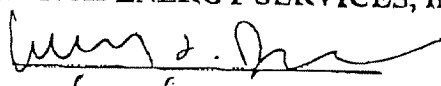
12 Of Counsel:

13 G.R. Overton
14 Deputy Attorney General
Los Angeles, California

15 Mark Meier
16 Staff Counsel
California State Lands Commission
17 Sacramento, California
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1 WE HEREBY CONSENT to the entry of this Decree:

2
3 FOR TORCH ENERGY SERVICES, INC.:

4 By: 

5 Dated: 1/30/02

6
7 FOR NUEVO ENERGY COMPANY:

8 By: _____

9 Dated: _____

10
11 FOR BLACK HAWK OIL & GAS COMPANY:

12 By: 

13 Dated: 1/30/02

1 WE HEREBY CONSENT to the entry of this Decree:

2 FOR TORCH ENERGY SERVICES, INC.:

3 By: _____

4 Dated: _____

6
7 FOR NUEVO ENERGY COMPANY:

8 By: Bruce K. Morrison

9 Dated: 1-15-02

10
11 FOR BLACK HAWK OIL & GAS COMPANY:

12 By: _____

13 Dated: _____

