

1 BILL LOCKYER, Attorney General
of the State of California
2 THEODORA BERGER
Senior Assistant Attorney General
3 KEN ALEX
Supervising Deputy Attorney General
4 SUSAN S. FIERING, State Bar No. 121621
Deputy Attorney General
5 1515 Clay Street, Suite 2000
P.O. Box 70550
6 Oakland, CA 94612-0550
Telephone: (510) 622-2142
7 Fax: (510) 622-2270
Attorneys for People of the State of California, ex rel.
8 Maureen Gorsen, Director, Department of Toxic
Substances Control

9
10 SUPERIOR COURT OF CALIFORNIA

11 COUNTY OF SACRAMENTO

12
13 **PEOPLE OF THE STATE OF CALIFORNIA, ex**
rel. MAUREEN F. GORSEN, DIRECTOR,
14 **DEPARTMENT OF TOXIC SUBSTANCES**
CONTROL,

15
16 Plaintiffs,

17 v.

18 **MP ASSOCIATES, INC.,**

19 Defendant.
20

Case No.

CONSENT JUDGMENT

(Health & Saf. Code, §§ 25181,
25182, 25189 & 25189.2)

21 1. Introduction

22 On [date] plaintiff, the People of the State of California, ex rel. Maureen F. Gorsen,
23 Director, Department of Toxic Substances Control (hereinafter collectively "Department" or
24 "DTSC") filed a Complaint in the Sacramento County Superior Court against MP Associates,
25 Inc. ("MPA" or "Respondent"). The Department and MPA now settle that action on the terms
26 set forth in this Consent Judgment.

27 //

28 //

1 2. Complaint

2 2.1 The Complaint alleges that MPA violated provisions of the Hazardous Waste Control
3 Law, Cal. Health & Safety Code sections 25100 et seq. ("HWCL") and the implementing
4 regulations contained in California Code of Regulations, title 22, sections 66001 et seq. with
5 respect to the facility located at 6555 Jackson Valley Road, Ione, California 95640-
6 0546. ("Site"). The Department alleges the following violations:

7 a. Treatment of hazardous waste without permit or grant of authorization – Health &
8 Saf. Code § 25201; Cal. Code Regs., tit. 22, § 66270.1, subd. (c)

9 - Beginning in 1988, and continuing through September 10, 2002, MPA
10 treated explosive wastes by soaking them in red diesel to eliminate the explosive
11 characteristic of the waste and to remove the shock and friction sensitivity
12 characteristics of the waste streams. In addition, MPA treated the diesel-soaked
13 explosive waste in a concrete trough by burning it.

14 - Beginning in 1988 and continuing through September 10, 2002,
15 MPA rinsed containers, including drums and liners, containing hazardous
16 wastes, then treated them by evaporation to obtain a waste sludge. In
17 addition, the waste sludge was treated by burning in a concrete trough.

18 - Beginning in 1988 and continuing through September 10, 2002,
19 MPA treated faulty pyrotechnic devices by soaking them in water to remove
20 the explosive characteristic of the units. The pyrotechnic devices were
21 soaked in water for several months until the cardboard material containing
22 the pyrotechnic device disintegrated, exposing the pyrotechnic material. The
23 pyrotechnic material was then treated by burning in a concrete trough.

24 - Beginning in 1988 and continuing through September 10, 2002,
25 MPA treated reactive and explosive and ignitable hazardous waste and
26 plastic liners and rubber gloves contaminated with reactive and explosive
27 and ignitable hazardous wastes in an open burn unit.

28 //

1 b. Disposal of hazardous waste without permit or authorization – Health & Saf.
2 Code, § 25201; Cal. Code Regs., tit. 22, § 66270.1, subd. (c)

3 - Beginning in 1988 and continuing through September 10, 2002,
4 MPA disposed of toxic ash residues from the burning of pyrotechnic waste
5 and plastic liners and rubber gloves contaminated with pyrotechnic waste
6 onto the soil at the Site. The ash residues contained hazardous waste levels
7 of copper, lead, and antimony and hazardous waste levels of dioxins and
8 perchlorates.

9 - Beginning in 1988 and continuing through September 18, 2002,
10 MPA disposed of ash residues from the testing of pyrotechnic materials onto
11 the soil at the Site. The residues exceeded the hazardous waste criteria for
12 corrosivity, reactivity, and toxicity.

13 - Beginning in 1988 and continuing through September 10, 2002,
14 MPA disposed of reactive and explosive and ignitable hazardous waste
15 residues on equipment and in manufacturing areas by rinsing the residues and
16 depositing the rinsewater containing residues onto the ground at the Site.

17 c. Failure to maintain and operate facility to prevent or minimize the release of
18 hazardous wastes or hazardous constituents to the environment – Cal. Code Regs.,
19 tit. 22, § 66265.31

20 - Beginning in 1988 and continuing through September 10, 2002,
21 MPA burned reactive and explosive and ignitable hazardous wastes and
22 paper and plastic contaminated with reactive and explosive and ignitable
23 hazardous wastes in open burn devices. This burning released perchlorates,
24 copper, lead, and antimony into the air and soil, and generated dioxins and
25 polyaromatic hydrocarbons which were also released into the air and soil.

26 //

27 //

28 //

1 - Beginning in 1988 and continuing through September 10, 2002,
2 MPA disposed of reactive and explosive and ignitable waste residues on
3 equipment and in manufacturing areas by rinsing the reactive and ignitable
4 waste residues and depositing the rinsewater onto the ground at the Site. The
5 rinsewater contained hazardous waste constituents including antimony,
6 copper, barium, perchlorates, strontium, aluminum, magnesium and reactive
7 sulfides.

8 d. Failure to have hazardous waste labels on the containers of hazardous waste –
9 Cal. Code Regs., tit. 22, § 66262.34, subd. (f)

10 - On or about September 18 and 19, 2002, MPA stored at least thirty
11 5-gallon buckets of reactive hazardous waste throughout the Site. The 5-
12 gallon buckets were stored in wooden boxes or on the ground. Neither the
13 wooden boxes nor the 5-gallon buckets had any hazardous waste labels on
14 them as is required by California Code of Regulations, title 22,
15 section 66262.34, subdivision (f).

16 e. Failure to train employees in hazardous waste management procedures – Cal.
17 Code Regs, tit. 22, § 66265.16

18 - Beginning in 1988 and continuing through September 18, 2002,
19 MPA failed to train its employees in hazardous waste management
20 procedures and failed to have in place a program that provides classroom
21 instruction or on the job training that teaches workers how to perform their
22 duties in a way that ensures MPA's compliance with the HWCL and its
23 implementing regulations.

24 f. Failure to make hazardous waste determinations for waste streams – Cal. Code
25 Regs., tit. 22, § 66262.11

26 - Beginning in 1988 and continuing through September 18, 2002,
27 MPA did not make a hazardous waste determination for the following four
28 waste streams:

- 1 (1) ash residues from the testing of pyrotechnic residues,
2 (2) ash from the open burning of pyrotechnic waste,
3 (3) process waste waters from the rinsing and cleaning of manufacturing
4 equipment and manufacturing bays contaminated with pyrotechnic waste.
5 (4) rinsewaters from the rinsing of metal containers containing pyrotechnic
6 waste.

7 3. No Admission of Liability

8 3.1 MPA denies the violations alleged by the Department in the Complaint.

9 4. Jurisdiction

10 4.1 The Department and MPA agree that the Superior Court for the County of Sacramento
11 has subject matter jurisdiction over the matters alleged in the Complaint and personal jurisdiction
12 over the parties to this Consent Judgment.

13 5. Settlement of Disputed Claims

14 5.1 The Department and MPA enter into this Consent Judgment pursuant to a compromise
15 and settlement of disputed claims for the purpose of avoiding prolonged and complicated
16 litigation and furthering the public interest.

17 6. Compliance Schedule

18 6.1 Based on the specific facts that are presented in this matter, DTSC has determined that,
19 pursuant to Health & Safety Code section 25123.5, MPA may combine explosive waste with red
20 diesel or water solely for the purpose of accumulating the explosive waste for up to ninety (90)
21 days for the purpose of transportation, provided that MPA complies with the requirements of
22 section 25123.5(b)(2)(C).

23 6.2 The requirement set forth in section 6.1 above is based on a determination made by
24 DTSC that is specific to the facts of this matter, and does not apply generally to any person other
25 than MPA or to any facts other than the specific facts of this matter.

26 6.3 Submittals: Except as otherwise noted, all submittals from MPA pursuant to this
27 Consent Judgment shall be sent to:

28 //

1 Antonia Becker
2 Senior Hazardous Substances Scientist
3 Department of Toxic Substances Control
4 700 Heinz Ave.
5 Berkeley, CA 94710

6 6.4 Communications: All approvals and decisions of the Department made regarding such
7 submittals and notifications shall be communicated to MPA in writing by a Branch Chief,
8 Department of Toxic Substances Control, or his/her designee. No informal advice, guidance,
9 suggestions, or comments by the Department regarding reports, plans, specifications, schedules,
10 or any other writings by MPA shall be construed to relieve MPA of its obligation to obtain such
11 formal approvals as may be required.

12 7. Liability

13 7.1 Nothing in this Consent Judgment shall constitute or be construed as a satisfaction or
14 release from liability for any conditions or claims arising as a result of past, current, or future
15 operations of Respondent, except as provided in this Consent Judgment. Notwithstanding
16 compliance with the terms of this Consent Judgment, MPA may be required to take further
17 actions as are necessary to protect public health or welfare or the environment.

18 8. Penalties for Noncompliance

19 8.1 Any violation by MPA of the terms of this Consent Judgment, including without
20 limitation, failure to comply with the provisions of section 6 above, shall subject MPA to costs,
21 penalties and/or other remedies as provided by Health & Safety Code section 25188 and other
22 applicable provisions of law.

23 9. Settlement Amount

24 9.1 Subject to the credit set forth in section 10 below, MPA agrees to pay \$1.5 million as a
25 penalty pursuant to Health & Safety Code section 25189.2(b).

26 9.2 The payment, if any, and as reduced by any hard costs pursuant to section 13.2 below,
27 shall be made by check, shall bear on its face the docket number of this proceeding, and shall be
28 mailed to:

//

//

1 Department of Toxic Substances Control
Accounting Office
2 P.O. Box 806
3 Sacramento, CA 95812-0806

4 A copy of the check shall be sent to:

5 Rick Robison
Task Force Investigations Support Branch
6 Department of Toxic Substances Control
700 Heinz Ave.
7 Berkeley, CA 94710

8 and to:

9 Orchid Kwei, Esq.
Office of Legal Counsel
10 Department of Toxic Substances Control
P.O. Box 806
11 Sacramento, CA 95812-0806

12 9.3 Each party to this Consent Judgment shall bear the attorneys' fees and other costs of
13 litigation it has incurred in connection with this Complaint and Consent Judgment.

14 10. Supplemental Environmental Project

15 10.1 As a Supplemental Environmental Project (SEP), MPA shall do the following:

16 a. MPA will provide the State Fire Marshall (SFM) with four "transportable"
17 thermal treatment units that can be used to treat seized consumer-type 1.4 pyrotechnics. The
18 term "transportable" means that the units can be transported with no more than a Class B driver's
19 license. The exact equipment will be determined by the final design of the units approved by
20 DTSC and the SFM. The parties anticipate that each thermal treatment unit will treat
21 approximately 200 pounds, but in any event, no less than 170 pounds of pyrotechnics per hour,
22 and will be capable of operating for eight hours per day on a daily basis. The four units must
23 treat the seized consumer-type 1.4 pyrotechnics in a manner that will be safe for the operators of
24 the units, will avoid unsafe stockpiling, will comply with all applicable laws and regulations, and
25 will be cost-effective. The units are intended to enable the SFM to treat the pyrotechnics without
26 having to send large quantities of waste or hazardous waste to a hazardous waste treatment
27 facility.

28 //

1 b. MPA will provide appropriate training to SFM personnel who will initially
2 operate and maintain the units to treat the consumer-type 1.4 pyrotechnics. MPA will also
3 provide training and operational manuals to the SFM to be used by the SFM for training of future
4 operators.

5 c. MPA will provide the SFM with vehicles and equipment necessary to transport
6 each unit, which will be determined by the SFM as the project progresses.

7 d. Once the SFM determines where it intends to use the device(s), MPA shall ensure
8 that the emissions from the units meet the requirements of the Air Pollution Control Districts
9 (“APCD”) or Air Quality Management Districts (“AQMD”) within the State in which the SFM
10 determines the units will be used.

11 10.2 The units must also meet the following requirements or specifications:

12 a. The units shall be constructed so as to provide that use by qualified and trained
13 SFM operators and the SFM’s designees can meet all applicable federal, state and local laws,
14 regulations and requirements.

15 b. The throughput rate of approximately 200 pounds, but in any event no less than
16 170 pounds, per hour, as noted in section 10.1.a. above will include the time for loading,
17 treatment, cooling, and unloading.

18 c. The units shall be constructed so that use by qualified and trained SFM operators
19 and the SFM’s designees will facilitate loading of the subject fireworks items, and unloading of
20 ash and other treatment residuals, either by hand or with the use of appropriate equipment.

21 d. Each unit shall include adequate process monitoring equipment that allows for
22 monitoring of key process parameters as applicable to the design and operation of the unit, (e.g.,
23 temperature, pressure, carbon monoxide/dioxide, oxygen) to ensure that these parameters are
24 maintained within an acceptable range that ensures optimal performance of the unit.

25 e. MPA shall do all of the following:

26 i. In addition to the ordinary research and testing that MPA will complete during
27 the design and development of any unit, MPA shall test at least one full or scale unit to failure, or
28 to a point approaching operational failure sufficiently in excess of the unit's operational capacity

1 for the purpose of identifying and recommending safe operating thresholds and specifications for
2 the units.

3 ii. MPA shall contract with a U.S. EPA Certified Source Test contractor to
4 conduct at least three source tests or trial burns with one of the units, using consumer-type 1.4
5 pyrotechnics, to be provided by the SFM, as the test material. As long as all units are identical,
6 including the identical pollution control equipment, and will handle the identical type and
7 amount of material, testing need only be done on one of the units. The source tests or trial burns
8 must test the unit at the maximum intended throughput (i.e. loading rate in pounds per hour)
9 under the range of operating conditions and control parameters that the unit is intended to be
10 operated. In effect, these tests shall determine the range of operating conditions, including
11 optimal operating conditions under which that unit can achieve most effective treatment. During
12 the test, samples must be taken of the air emissions to allow analyses of criteria pollutants and
13 any other contaminants for which data will be needed to determine if operation of the unit will
14 achieve results that will allow the unit to be operated in any Air Pollution Control District or Air
15 Quality Management District in which it will be used as determined by the SFM. The Certified
16 Source Test contractor shall provide to the SFM and to DTSC all the laboratory data from these
17 samples.

18 iii. MPA shall collect, or make arrangements for a contractor to collect, three
19 samples of the ash and residual materials resulting from the source testing described in section
20 10.2.e.ii. The samples must be analyzed by an independent state-certified laboratory for total
21 metals, WET metals, semi-volatile organics, and dioxins, using DTSC approved methods. MPA
22 shall provide to DTSC all the appropriate laboratory data from these samples within seven days
23 of obtaining the data..

24 iv. If the results of the sampling and testing required in sections 10.2.e.i-iii
25 demonstrate that the air emissions from each of the units will achieve the results necessary to
26 allow the units to be operated in any APCD/AQMD in which it will be used, and the units
27 functioned properly during the source tests/trial burns, MPA shall provide this information to the
28 SFM and DTSC within seven days of obtaining the information.

1 v. If the results of the sampling and testing required in sections 10.2.e.i-iii
2 demonstrate that the air emissions from each of the units will not achieve the results necessary to
3 allow the units to be operated in any APCD/AQMD in which it will be used, despite the units
4 functioning properly during the tests/trial burns, MPA shall provide this information to the SFM
5 and to DTSC within seven days of obtaining the information. Immediately upon the request of
6 the SFM or DTSC, MPA shall then supply, or make arrangements for a contractor to supply, air
7 pollution control devices that will result in the air emissions from the units achieving the results
8 necessary to allow a unit to be operated in any APCD/AQMD in which it will be used, as
9 determined by another round of source testing or trial burn. MPA shall provide this information
10 to the SFM and DTSC within seven days of obtaining the information.

11 f. If any unit or equipment that MPA builds in satisfaction of the SEP becomes
12 inoperable due to MPA's manufacturing or design defect, MPA will repair or replace the
13 defective equipment for a period up to five (5) years following the effective date of this Consent
14 Judgment. MPA shall assign to SFM any warranty or warranties accompanying commercially
15 available equipment that it uses or provides to SFM in satisfaction of the SEP. This Section
16 10.2(f) shall not obligate MPA to repair or replace any equipment that becomes inoperable if the
17 equipment is used, intentionally or unintentionally, for any purpose or in any manner inconsistent
18 with the purpose, instructions, specifications, thresholds, and/or standards outlined in the safety
19 and operational manuals that MPA will provide to the SFM pursuant to section 10.2(b). MPA
20 makes no other warranties whatsoever, implied or express, except as specifically stated in this
21 Consent Judgment.

22 g. MPA shall meet with the SFM on a regular basis, to be determined by the
23 SFM, to consult on the development of the units, in order to ensure that the units meet the SFM's
24 needs. MPA shall meet with DTSC at least every six months after the date of entry of this
25 Consent Judgment to provide a report on the progress of the development of the units.

26 10.3 The SEP will be conducted by MPA for the benefit of the People of the State of
27 California. MPA will work under the direction of DTSC and the SFM throughout the project, to
28 ensure the end result meets the SFM's needs. DTSC will use reasonable efforts to assist the SFM

1 and MPA in obtaining any permits which may be required by the project. DTSC shall provide
2 input concerning issues within its jurisdiction such as the emissions levels and the handling of
3 any hazardous waste that results from the operation of the units.

4 10.4 DTSC shall have the authority to determine whether MPA has complied with the
5 terms of the SEP as set forth in this section 10. If the SFM determines that the units are
6 satisfactory for the treatment of seized consumer-type 1.4 pyrotechnics in a manner that will be
7 safe for the operators of the units, will avoid unsafe stockpiling, and will be cost-effective, and if
8 DTSC determines that the units meet all applicable laws and regulations, and were delivered
9 within the time-frame set forth below, or any agreed upon extension, then DTSC shall determine
10 that MPA has complied with the terms of the SEP. DTSC shall not unreasonably withhold a
11 determination that MPA has complied with the terms of the SEP.

12 11. Time for Completion of SEP

13 11.1 DTSC requires that the SEP be completed within twelve (12) months from the
14 date of entry of the Consent Judgment. At the end of twelve (12) months from the date of entry
15 of the Consent Judgment, if MPA has demonstrated substantial progress toward delivery of the
16 SEP and/or there have been unexpected delays beyond the control of MPA, MPA may request
17 that DTSC approve a reasonable extension of time for completion of the project, but in no event
18 more than an additional twelve (12) months. Justification for requesting an extension shall
19 include, but not be limited to, any delay by a governmental entity in providing information or
20 approvals necessary to the completion of the project or any event arising from causes beyond the
21 control of MPA that delays or prevents the performance of any obligation under the Consent
22 Judgment despite MPA's best efforts to fulfill the obligation. DTSC shall not unreasonably
23 withhold its approval of such an extension.

24 11.2 MPA may request extensions beyond the twelve-month limit set forth in section
25 11.1 if a delay or anticipated delay of the performance of the Consent Judgment is attributable to
26 one or more force majeure events; in this case, the time for performance of the obligations under
27 the Consent Judgment will be extended by DTSC for such time as is necessary to complete those
28 obligations, but in no event shall such extensions of time be for more than an additional six (6)

1 months total. "Force majeure," for purposes of this Consent Judgment, is defined as any event
2 arising from causes beyond the control of MPA that delays or prevents the performance of any
3 obligation under this Consent Judgment despite MPA's best efforts to fulfill the obligation. The
4 requirement that MPA exercise "best efforts to fulfill the obligation" includes using best efforts
5 to anticipate any potential force majeure event and best efforts to address the effects of any
6 potential force majeure event (1) as it is occurring and (2) following the potential force majeure
7 event, such that the delay is minimized to the greatest extent possible. "Force Majeure" does not
8 include financial inability to perform the work or comply with the requirements of this Consent
9 Judgment or a failure to attain the standards or specifications set forth in section 10 above.

10 11.3 In the event that MPA seeks an extension to complete the SEP for causes that are
11 not set forth in section 11.1 or 11.2 above, DTSC shall have the sole discretion to grant or deny
12 the extension request, and the exercise of such discretion shall not be subject to challenge or
13 dispute by MPA.

14 11.4 If any event occurs or has occurred that may delay the performance of any
15 obligation under this Consent Judgment and MPA seeks an extension of the time for completing
16 the SEP, whether or not caused by a force majeure event, MPA shall notify DTSC within
17 fourteen (14) days of when MPA first knew that the event might cause a delay. Within ten (10)
18 days thereafter, MPA shall provide in writing to DTSC an explanation and description of the
19 reasons for the delay; the anticipated duration of the delay; all actions taken or to be taken to
20 prevent or minimize the delay; a schedule for implementation of any measures to be taken to
21 prevent or mitigate the delay or the effect of the delay; MPA's rationale for attributing such delay
22 to a force majeure event if it intends to assert such a claim; and a statement as to whether, in the
23 opinion of MPA, such event may cause or contribute to an endangerment to public health,
24 welfare or the environment. MPA shall include with any notice all available documentation
25 supporting its claim that the delay was attributable to a force majeure. Failure to comply with the
26 above requirements shall preclude MPA from asserting any claim of force majeure for that event
27 for the period of time of such failure to comply, and for any additional delay caused by such
28 failure. MPA shall be deemed to know of any circumstances of which MPA knew or should

1 have known.

2 11.5 In the event that MPA does not complete the SEP within the time period set forth
3 above, including any applicable extensions, MPA shall be liable for the penalty amount
4 calculated pursuant to sections 9 above and 13 below.

5 12. Stipulated Penalties

6 12.1 In the event that DTSC, in its discretion, grants an extension of time to complete
7 the SEP pursuant to section 11.3 above, MPA shall pay stipulated penalties in the amount of one
8 thousand dollars (\$1,000) per day for the first thirty (30) days and two thousand five hundred
9 dollars (\$2,500) per day thereafter for each such day of extension. DTSC may, in its sole
10 discretion, waive such stipulated penalties.

11 13. Reduction of Penalty Amount

12 13.1 If DTSC determines that MPA has complied with the terms of the agreement set
13 forth in section 10 above, subject to any extension pursuant to section 11 above, then the penalty
14 amount set forth in section 9 above shall be reduced to zero (0).

15 13.2 If DTSC determines that MPA has not complied with the terms of the SEP set
16 forth in section 10 above, subject to any extension pursuant to section 11 above, then MPA shall
17 pay the penalty amount set forth in section 9 above, reduced by the amount of "hard costs"
18 incurred by MPA in its efforts to develop the units. Hard costs shall mean actual costs paid by
19 MPA to third parties who are not employees of MPA for contracted items, including but not
20 limited to, equipment costs, materials costs, contracted research costs, contracted experiment
21 costs. In no event shall the amount of hard costs used to reduce the penalty amount exceed five
22 hundred thousand dollars (\$500,000). MPA shall maintain and shall provide to DTSC all
23 invoices and receipts in order to verify payment of hard costs that it seeks to use to reduce the
24 amount of the penalty.

25 13.3 MPA shall pay the full penalty amount that remains after it has been reduced by
26 the hard costs, as set forth in section 13.2 above. The payment shall be made pursuant to the
27 terms of section 9, within thirty days after notification by DTSC that it has determined that MPA
28 did not comply with the terms of the SEP, as set forth in section 10 above. MPA reserves the

1 right to dispute a determination that it has not complied with the terms of the SEP, as set forth in
2 section 10 above.

3 14. Matters Covered by This Consent Judgment

4 14.1 This Consent Judgment settles all violations alleged in section 2.1 of the
5 Complaint and in the Investigation Report issued by the Department in this matter dated
6 December 2, 2002, as modified by the revised Investigation Report dated January 13, 2003 and
7 the "Addendum to MPA Investigation Report Dated December 2, 2002," dated April 11, 2003.
8 The provisions of this section are expressly conditioned on performance by MPA of its
9 obligations under this Consent Judgment.

10 15. Matters Not Covered by the Consent Judgment

11 15.1 Except as expressly provided in this Consent Judgment, nothing in this Consent
12 Judgment is intended, nor shall it be construed, to preclude the Department from exercising its
13 authority under any law, statute or regulation. This Consent Judgment does not settle, conclude,
14 or affect any claim which may be made by the Department against MPA other than those
15 specified in section 14.1 above.

16 15.2 Except as expressly provided in this Consent Judgment, nothing in this Consent
17 Judgment is intended nor shall it be construed to preclude any agency, department, board or
18 entity of the State of California from exercising its authority under any law, statute, or regulation.

19 16. Application of Consent Judgment

20 16.1 This Consent Judgment shall apply to and be binding upon the Department and its
21 successor agency, and Respondent, and its directors, officers, employees, agents, successors and
22 assignees.

23 17. Enforcement of Consent Judgment

24 17.1 The Department and MPA agree that the Superior Court for Sacramento County
25 shall retain jurisdiction of this Consent Judgment and shall have jurisdiction to implement and
26 enforce its terms and conditions.

27 //

28 //

1 18. Modification of Consent Judgment

2 18.1 This Consent Judgment may only be modified upon written approval of the parties
3 hereto and by order of the Court. In the event that any final and non-appealable judicial decision,
4 legislative action or executive rulemaking changes the requirements pursuant to the HWCL and
5 the MPA implementing regulations, either party may move the Court for a modification to the
6 Consent Judgment to conform the provisions of the Consent Judgment to the requirements of the
7 HWCL and the implementing regulations.

8 19. Authority to Enter Consent Judgment

9 19.1 Each signatory to this Consent Judgment certifies that he or she is fully authorized
10 by the party he or she represents to enter into this Consent Judgment, to execute it on behalf of
11 the party represented and legally to bind that party.

12 20. Integration

13 20.1 This Consent Judgment constitutes the entire agreement between the parties and
14 may not be amended or supplemented except as provided for in the Consent Judgment.

15
16 IT IS SO STIPULATED:

17
18 Dated: _____

CALIFORNIA DEPARTMENT OF TOXIC
SUBSTANCES CONTROL

19
20
21 By: _____

TIMOTHY J. SWICKARD
Chief Counsel
Department of Toxic Substances Control

22
23
24 Dated: _____

MP ASSOCIATES, Inc.

25
26 By: _____

THAINE MORRIS
President

1 APPROVED AS TO FORM:

2

3 Dated: _____

4

5

6

7

8

9

10

11

12

13 Dated: _____

14

15

16

17

18

19 IT IS SO ORDERED:

20

21 Dated: _____

22

23

24

25

26

27

28

BILL LOCKYER
Attorney General of the State of California
THEODORA BERGER
Senior Assistant Attorney General
KEN ALEX
Supervising Deputy Attorney General
SUSAN S. FIERING
Deputy Attorney General

By: _____
SUSAN S. FIERING
Attorneys for the People of the State of
California ex rel. Maureen Gorsen, Director,
Department of Toxic Substances Control

HANSON BRIDGETT MARCUS
VLACHOS & RUDY LLP

By: _____
MICHAEL L.F. BUCK, Esq.
Attorneys for MP Associates, Inc.

JUDGE, SUPERIOR COURT