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**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 9**

75 Hawthorne Street
San Francisco, California 94105

IN THE MATTER OF:)	DOCKET NO. UIC-09-2024-0031
)	
Elk Hills Power, LLC and)	
California Resources Corporation)	
Tupman, CA,)	CONSENT AGREEMENT
)	AND
Respondents.)	FINAL ORDER
)	
Proceedings under Sections 1423(c) of the)	
Safe Drinking Water Act,)	
<u>42 U.S.C. §§ 300h-2(c).</u>)	

CONSENT AGREEMENT

I. **AUTHORITIES AND PARTIES**

1. The United States Environmental Protection Agency, Region 9 (“EPA” or “Complainant”) and Elk Hills Power, LLC and California Resources Corporation (“Respondents”) (collectively the “Parties”) agree to settle this matter and consent to the entry of this Consent Agreement and Final Order (“CA/FO”). This CA/FO is an administrative action commenced and concluded under Section 1423(c)(1) of the Safe Drinking Water Act (“SDWA”), 42 U.S.C. § 300h-2(c)(1), and Sections 22.13(b), 22.18(b)(2) and (3), and 22.45 of the *Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits*, as codified at 40 C.F.R. Part 22.

2. Complainant is, by lawful delegation, the Director of the Enforcement and Compliance Assurance Division of EPA, Region 9. The Administrator of EPA delegated the authority to bring and settle this action under the SDWA to the Regional Administrator of EPA Region 9. In turn, the Regional Administrator further delegated the authority to bring this action and sign a consent agreement settling this action under the SDWA to the Director of the Enforcement and Compliance Assurance Division.

3. Respondents are the Elk Hills Power, LLC and the California Resources Corporation (“CRC”), who own or operate the Elk Hills Power Plant in Tupman, California. Elk Hills Power, LLC is a wholly-owned subsidiary of CRC. CRC’s headquarters is located at 1 World Trade Center #1500, Long Beach, CA 90802.

4. Where the Parties agree to settle one or more causes of action before the filing of a complaint, an administrative action may be commenced and concluded simultaneously by the issuance of a consent agreement and final order. *See* 40 C.F.R. § 22.13(b).

5. The Parties agree that settling this action without the filing of a complaint or the adjudication of any issue of fact or law is in their interest and in the public interest.

6. Respondents consent to the terms of this CA/FO, including the assessment of the civil penalty and the performance of the compliance requirements specified below.

II. JURISDICTION AND WAIVER OF RIGHT TO JUDICIAL REVIEW AND HEARING

7. Consistent with 40 C.F.R. § 22.18(b), for purposes of the proceeding, Respondents: admit the jurisdictional allegations of the CA/FO; neither admit nor deny specific factual allegations contained in the CA/FO; consent to the assessment of any stated civil penalty, and to any conditions specified in the Consent Agreement; and waive any right to contest the allegations and their right to appeal the proposed Final Order accompanying the Consent Agreement.

8. Respondents further waive any and all remedies, claims for relief, and otherwise available rights to judicial or administrative review that Respondents may have with respect to any issue of fact or law set forth in this CA/FO including, but not limited to, their right to request a hearing under 40 C.F.R. § 22.15(c) and Section 1423(c)(3) of the SDWA, 42 U.S.C. § 300h-2(c)(3); their right to seek federal judicial review of the CA/FO pursuant to Chapter 7 of the Administrative Procedure Act, 5 U.S.C. §§ 701-06; and their right to appeal this CA/FO under Section 1423(c)(6) of the SDWA, 42 U.S.C. § 300h-2(c)(6). Respondents also consent to the issuance of this CA/FO without further adjudication.

III. STATUTORY AND REGULATORY AUTHORITY

9. Section 1421 of the SDWA, 42 U.S.C. § 300h, requires the Administrator of EPA to promulgate regulations, which shall include permitting requirements as well as inspection, monitoring, recordkeeping, and reporting requirements, for state underground injection control (“UIC”) programs to prevent underground injection from endangering drinking water sources.

10. Section 1421(d)(1) of the SDWA, 42 U.S.C. § 300h(d)(1), defines “underground injection” as the subsurface emplacement of fluids by well injection and excludes the underground injection of natural gas for purposes of storage and the underground injection of fluids or propping agents (other than diesel fuels) pursuant to hydraulic fracturing operations related to oil, gas, or geothermal production activities.

11. Section 1421(d)(2) of SDWA, 42 U.S.C. § 300h(d)(2), provides that underground injection endangers drinking water sources if such injection may result in the presence in underground water which supplies or can reasonably be expected to supply any public water

system of any contaminant, and if the presence of such contaminant may result in such system not complying with any national primary drinking water regulation or may otherwise adversely affect the health of persons.

12. Section 1422(c) of SDWA, 42 U.S.C. § 300h-1(c), provides that the Administrator for EPA shall prescribe UIC programs applicable to those states that have not obtained primary enforcement responsibility of their UIC programs (a concept called “primacy”) or do not have primacy for all types of wells.

13. The State of California does not have primacy for Class V wells. Pursuant to Section 1422(c) of the SDWA, 42 U.S.C. § 300h-1(c), and 40 C.F.R. § 147.251, EPA administers the UIC program for Class V wells in the State of California.

14. Pursuant to Sections 1421 and 1422 of the SDWA, 42 U.S.C. §§ 300h and 300h-1, respectively, EPA has promulgated UIC regulations at 40 C.F.R. Parts 124, 144, 146, 147 (Subpart M), and 148.

15. 40 C.F.R. § 144.1(g) provides that the UIC programs regulate underground injection by six classes of wells, and all owners or operators of these injection wells must be authorized either by permit or rule.

16. 40 C.F.R. § 144.11 prohibits any underground injection, except into a well authorized by rule or by permit issued under the UIC program.

17. 40 C.F.R. § 144.51(a) provides that any UIC permittee must comply with all conditions of its permit. Any permit noncompliance constitutes a violation of SDWA and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or for denial of a permit renewal application; except that the permittee need not

comply with the provisions of this permit to the extent and for the duration such noncompliance is authorized in an emergency permit under 40 C.F.R. § 144.34.

18. Section 1401(6) of the SDWA, 42 U.S.C. § 300f(6), and 40 C.F.R. § 144.3 define “contaminant” as any physical, chemical, biological, or radiological substance or matter in water.

19. 40 C.F.R. § 144.3 defines “fluid” as any material or substance which flows or moves whether in a semisolid, liquid, sludge, gas, or any other form or state.

20. 40 C.F.R. § 144.3 defines “well” as a bored, drilled, or driven shaft whose depth is greater than the largest surface dimension; or, a dug hole whose depth is greater than the largest surface dimension; or, an improved sinkhole; or, a subsurface fluid distribution system.

21. 40 C.F.R. § 144.3 defines “injection well” as a “well” into which “fluids” are being injected.

22. 40 C.F.R. § 144.3 defines “well injection” as the subsurface emplacement of fluids through a well.

23. 40 C.F.R. § 144.3 defines “permit” as an authorization, license, or equivalent control document issued by EPA or an approved State to implement the requirements of 40 C.F.R. Parts 144, 145, 146 and 124.

24. 40 C.F.R. § 144.3 defines “owner or operator” as the owner or operator of any “facility or activity” subject to regulation under the UIC program.

25. 40 C.F.R. § 144.3 defines “facility or activity” as any UIC “injection well” or another facility or activity that is subject to regulation under the UIC program.

26. Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), defines “person” as an individual, corporation, company, association, partnership, State, municipality, or Federal agency (and includes officers, employees, and agents of any corporation, company, association, State, municipality, or Federal agency). *See also* 40 C.F.R. § 144.3.

27. Pursuant to 40 C.F.R. § 144.82, the “owner or operator” of a Class V UIC well “must comply with Federal UIC requirements in 40 C.F.R. Parts 144 through 147,” and must also “comply with any other measures required by States or an EPA Regional Office UIC Program to protect [underground sources of drinking water].”

28. Section 1423(a)(2) of the SDWA, 42 U.S.C. § 300h-2(a)(2), provides that any person found to be in violation of any requirement of an applicable UIC program in a state that does not have primacy may be assessed a civil penalty and be subject to an order requiring compliance pursuant to Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1).

29. Under Section 1423(c)(1) of the SDWA, 42 U.S.C. § 300h-2(c)(1), and 40 C.F.R. §19.4, EPA may assess a civil penalty of not more than \$27,018 for each day of violation, up to a maximum administrative penalty of \$337,725, for violations occurring after November 2, 2015, where penalties are assessed after January 6, 2023 but before December 27, 2023, and issue an order requiring compliance.

IV. FACTUAL ALLEGATIONS AND ALLEGED VIOLATIONS

30. Respondent Elk Hills Power, LLC is a limited liability company and Respondent CRC is a corporation and thus each qualifies as a “person” within the meaning of Section 1401(12) of the SDWA, 42 U.S.C. § 300f(12), and 40 C.F.R. § 144.3.

31. At all times relevant to this CA/FO, Respondents owned and operated a natural gas-fired power plant in Tupman, California (“Facility”).

32. On February 21, 2001, EPA issued a Class I Non-Hazardous Waste Injection Well Permit, Permit No. CA200002, (hereafter, “2001 Permit”) which authorized the Facility to dispose of its non-hazardous wastewater through two Class I injection wells, 35-18G and 25-18G, in accordance with the terms of the 2001 Permit. The 2001 Permit was modified in 2003, to add injection wells 25A-18G and 35A-18G. Injection well 25-18G was subsequently plugged and abandoned in 2010. The 2001 Permit was in effect until the issuance of the permit referenced below.

33. In 2011, EPA received a timely application for renewal of a Class I UIC permit for the injection wells referenced in the Paragraph above. Upon review, EPA determined that, based on the status of the injection formation and the injectate constituents, the injection wells would be more appropriately regulated by EPA through a UIC Class V injection permit instead of a Class I UIC permit. Respondents subsequently applied for a Class V UIC non-hazardous waste injection well permit thereby administratively extending the 2001 Permit under 40 C.F.R. § 144.37(a).

34. On March 5, 2021, EPA issued a Class V UIC Non-Hazardous Waste Injection Well Permit, Permit No. R9UIC-CA5-FY20-3, (hereafter, the “2021 Permit”), which authorizes the Facility to dispose of its non-hazardous wastewater through three Class V injection wells, 25A-18G, 35A-18G, and 35-18G, in accordance with the terms of the 2021 Permit.

35. Under section II.D.2.a.ii. (“Continuous Monitoring Pressure”) of the 2021 Permit, the Respondents “shall continuously monitor and record the ... injection pressure ... of each

Existing Well. The average, maximum, and minimum monthly results shall be included in the next Quarterly Report submitted to EPA pursuant to [Permit] Section II.E.5.b...” *See also* Section II.C.1.a.iii. of the 2001 Permit.

36. Under section II.D.3. of the 2021 Permit (“Injection Pressure Limitation”), the “[m]aximum allowable injection pressure (MAIP) is set at 200 [pounds per square inch] psi.” Under the 2001 Permit, the maximum surface injection pressure was set to 200 psi in 2003 following a request for a modification to increase the maximum surface injection pressure.

37. According to Quarterly Reports submitted by Respondents to the EPA pursuant to section II.E.5.b. of the 2021 Permit, the MAIP was exceeded at injection wells 25A-18G, 35A-18G, and 35-18G, at least 335, 137, and 382 times, respectively, between July 1, 2018 and June 30, 2023. A list of exceedances, by well, is detailed in Appendix 1 of this CA/FO.

38. Under 40 C.F.R. § 144.51(a) and section III.E.1. of the 2021 Permit, “any permit non-compliance [of the Permit] constitutes a violation of the SDWA and is grounds for enforcement action, permit termination, revocation and reissuance, or modification, or denial of a permit renewal application.”

39. EPA alleges that Respondents violated the 2001 and 2021 Permits and the SDWA by exceeding the MAIP, as described above.

V. SETTLEMENT TERMS

A. Civil Penalty

40. Section 1423(c)(4)(B) of the SDWA, 42 U.S.C. 300h-2(c)(4)(B), requires the Administrator to take into account the seriousness of the violation, the economic benefit (if any) resulting from the violation, any history of such violations, any good faith efforts to comply

with the applicable requirements, the economic impact of the penalty on the violator, and such other matters as justice may require, when assessing a civil penalty for violations of the SDWA.

41. Within thirty (30) days of the Effective Date of this CA/FO, Respondents must pay a **one hundred nine thousand dollars (\$109,000)** civil penalty by sending a check (mail or overnight delivery), wire transfer, automated clearing house, or online payment. Payment instructions are available at: <https://www.epa.gov/financial/makepayment>.

Payments made by a cashier's check or certified check must be payable to the order of "Treasurer, United States of America" and delivered to the following address:

U.S. Environmental Protection Agency
Fines and Penalties
Cincinnati Finance Center
P.O. Box 979078
St. Louis, Missouri 63197-9000

42. After payment, Respondents shall immediately provide proof of payment to the Regional Hearing Clerk at the following address:

Regional Hearing Clerk
U.S. Environmental Protection Agency, ORC-1
75 Hawthorne Street
San Francisco, CA 94105
r9HearingClerk@epa.gov

Respondents shall also send notice of payment and a transmittal letter via email to the EPA Region 9 Enforcement and Compliance Assurance Division's Enforcement Officer and the EPA Region 9 Office of Regional Counsel attorney identified in Paragraph 72.

43. This civil penalty represents an administrative civil penalty and shall not be deductible for purposes of federal taxes. 26 U.S.C. § 162(f).

44. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, in addition to any stipulated penalties due under Paragraphs 62 - 65, Respondents must pay the following on any penalty amount overdue under this CA/FO: interest accrued on any overdue amount from the date payment was due at a rate established by the Secretary of the Treasury pursuant to 26 U.S.C. § 6621(a)(2); the United States' enforcement expenses, including but not limited to attorneys' fees and costs incurred by the United States for collection proceedings; a \$15 handling charge fee each month that any portion of the penalty is more than thirty (30) days past due; and 6% per year penalty on any principal amount ninety (90) days past due.

45. If Respondents do not pay timely the civil penalty due under Paragraph 41 and/or any stipulated penalties due under Paragraphs 62 - 65, EPA may request the United States Department of Justice bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties, and the United States' enforcement expense for the collection action under Section 1423(c)(7) of the SDWA, 42 U.S.C. § 300h-2(c)(7). The validity, amount, and appropriateness of the civil penalty are not reviewable in a collection action.

B. Compliance Requirements

46. As required by Section 1423(c)(1) of the Act, 42 U.S.C. § 300h-2(c)(1), and consistent with the timeframes set forth below, Respondents shall:

- a. If the injection pressure of any injection well authorized under the Permit reaches 97.5% of the applicable MAIP during injection, Respondent shall lower the injection rate until the injection pressure decreases to below 95% of the

applicable MAIP.¹

- i. Respondents shall provide EPA with sufficient data to verify compliance with Paragraph 46.a. within seven (7) days of the requirements of Paragraph 46.a. being triggered. Sufficient data shall include thirty-second interval injection pressure data and thirty-second interval injection rate data.
- b. Cease injection of any fluids into any injection well authorized under the Permit for at least twenty-four (24) hours if the applicable MAIP under the Permit has been exceeded for that well during injection for more than thirty (30) consecutive minutes.² Respondents may only resume injection into the injection well whose MAIP has been exceeded upon notification to EPA, consistent with the notification requirements of Paragraph 72 of this CA/FO. As part of the notification to resume injection, Respondents must include a brief explanation of the factual basis, and include sufficient data, for why the injection is expected to be below the MAIP. Notwithstanding any notification to EPA, Respondents must comply with the requirements of Paragraph 46.a.i.
- c. Within thirty (30) days of the Effective Date of this CA/FO, submit to EPA for review and approval an Injection Well Compliance Plan (“Plan”) identifying the

¹ Under the current MAIP, 97.5% of the MAIP is 195 psi, and 95% of the MAIP is 190 psi. If the MAIP is revised by a modification to the 2021 Permit while this CA/FO is in effect, this Paragraph will continue to apply to the new numeric MAIP limit.

² Respondents may continue to inject fluids into injection wells where the Permit MAIP has not been exceeded for more than 30 consecutive minutes.

actions Respondents intend to take to ensure all injection wells authorized under the 2021 Permit will remain in compliance with the MAIP for the duration of the 2021 Permit. The Plan shall include:

- i. A detailed description and timeline of all actions (anticipated and contingent) that Respondents will take to ensure MAIP compliance of each injection well authorized under the 2021 Permit. The timeline of actions shall be organized into three phases: Immediate (0-6 months), Intermediate (6-12 months), and Long-Term (1 year until the effective date of the Facility's next UIC permit issued by EPA for any Class of injection well(s) or 3 years, whichever is earlier). The Plan must also identify all actions for which Respondents may seek governmental approvals, including EPA approval under the Permit.
- ii. A description of the alternate disposal method(s) that Respondents will utilize to dispose of the Facility's wastewater if the MAIP for an injection well(s) is exceeded. To the extent alternative disposal requires federal, state, or local authorization, include applicable approvals in the Plan.³
- iii. Upon written approval of the Plan (or revised Plan) by EPA, and subject to Respondent obtaining and maintaining the federal, state, or local authorizations or approvals described in Paragraph 46.c.ii above,

³ In the event an approval has not yet been issued, Respondents shall include the application(s) for approval and provide a description of the status of the requested approval(s) in the Plan. Upon receipt of the approval(s), Respondents shall provide a copy to EPA as a supplement to the Plan.

Respondents shall implement the Plan in accordance with the dates and requirements therein. If EPA disapproves the Plan, EPA will provide its rationale for disapproval and instructions on how to address any identified concerns, and Respondents shall resubmit a revised Plan within thirty (30) days of EPA's disapproval.

- iv. Any subsequent requests for amendment(s) by Respondents to the approved Plan (or approved revised Plan) shall be made as soon as practicable and will follow the approval and disapproval procedures specified in this Paragraph.

47. If Respondents fail to comply with the requirements set forth in Paragraph 46, above, EPA may request the United States Department of Justice bring an action to seek penalties for violating this CA/FO under Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b).

C. Supplemental Environmental Project

48. In response to the alleged violations of the SDWA and in settlement of this matter, although not required by the SDWA or any other federal, state or local law, Respondents agree to implement a supplemental environmental project ("SEP"), as described below in Paragraphs 49 – 58.

49. Respondents shall complete a Supplemental Environmental Project entailing three main components for the Buttonwillow County Water District: Plugging and abandonment of a standby drinking water well (well #3), demolition of a deteriorating 40,000-gallon metal tank which services well #3, and installation of a back-up generator and power supply at an active drinking water well (well #4). The SEP is described in more detail in

Attachment A which is incorporated herein by reference. If Respondent's implementation of the SEP as described in Attachment A does not expend the full amount set forth in Paragraph 50, Respondent shall complete an additional Supplemental Environmental Project, which will be the installation of a chlorination system at Buttonwillow County Water District's well #4 as described in Attachment A.

50. Respondents shall spend no less than **two hundred eighty-two thousand dollars (\$282,000)** on implementing the SEP. Respondents shall include documentation of the expenditures made in connection with the SEP as part of the SEP Completion Report.

51. Respondents shall complete the SEP within twenty-four (24) months after the effective date of the CA/FO.

52. Identification of SEP Recipient

a. SEP Recipient

i. Respondents have selected Buttonwillow County Water District as the SEP recipient.

ii. The EPA had no role in the selection of the SEP recipient, or specific equipment identified in the SEP, nor shall this CA/FO be construed to constitute EPA approval or endorsement of any SEP implementer, SEP recipient, or specific equipment identified in this CAFO.

53. SEP Reports:

a. Respondents shall submit a SEP Completion Report to EPA within sixty (60) days of completing the SEP. The SEP Completion Report shall contain the following information, with supporting documentation:

- i. A detailed description of the SEP, as implemented;
 - ii. A description of any operating problems encountered and the solutions thereto;
 - iii. Itemized costs;
 - iv. Certification that the SEP has been fully implemented pursuant to the provisions of this CA/FO;
 - v. A description of the environmental and public health benefits resulting from implementation of the SEP (with a quantification of the benefits and pollutant reductions, if feasible).
 - b. Periodic Reports: Respondent shall include updates on the SEP in the progress reports, required under Section V.D. of this CA/FO.
 - c. In itemizing its costs in the SEP Completion Report, Respondents shall clearly identify and provide acceptable documentation for all eligible SEP costs. Where the SEP Completion Report includes costs not eligible for SEP credit, those costs must be clearly identified as such. For purposes of this Paragraph, “acceptable documentation” includes invoices, purchase orders, or other documentation that specifically identifies and itemizes the individual costs of the goods and/or services for which payment is being made. Canceled drafts do not constitute acceptable documentation unless such drafts specifically identify and itemize the individual costs of the goods and/or services for which payment is being made.
54. The SEP will be deemed to be satisfactorily completed only when Respondents implemented the SEP as described in Paragraph 49 and Attachment A and submitted the SEP

Completion Report to EPA. The determination of whether the SEP has been satisfactorily completed (i.e., pursuant to the terms of this agreement) shall be reserved to the sole discretion of EPA. Respondents agree that failure to satisfactorily complete the SEP or submit the SEP Completion Report or any progress reports required by Section V.D. shall be deemed a violation of this CA/FO and Respondents shall become liable for stipulated penalties pursuant to Paragraphs 62 - 65 below.

55. The SEP is consistent with all applicable EPA policy and guidelines, specifically *U.S. Environmental Protection Agency Supplemental Environmental Projects Policy 2015 Update to the 1988 Supplemental Environmental Projects Policy (March 10, 2015)*.⁴ As described in Attachment A, the SEP advances at least one of the objectives of the SDWA and the UIC regulations cited above by protecting underground sources of drinking water from contamination, and promoting the reliable delivery of safe drinking water to surrounding communities. The SEP is not inconsistent with any provision of the SDWA. The SEP relates to the violations alleged in Section IV of this CA/FO, in that it is designed to ensure access to safe drinking water.

56. For a period of five (5) years following the Effective Date of this CA/FO, Respondents shall maintain legible copies of all documentation relevant to the SEP or progress reports submitted to EPA pursuant to this CA/FO and shall provide such documentation or reports to EPA not more than seven (7) days after a request for such information.

57. Respondents certify the truth and accuracy of each of the following:

⁴See, <https://www.epa.gov/sites/default/files/2015-04/documents/sepupdatedpolicy15.pdf>.

- a. That all cost information provided to the EPA in connection with the EPA's approval of the SEP is complete and accurate and that the Respondents in good faith estimate that the cost to implement the SEP is a minimum of \$282,000. Respondents' good faith estimate was to the best of its knowledge based on qualified, external engineering estimates;
- b. That Respondents will not include administrative costs for employee oversight of the implementation of the SEP in the project costs;
- c. That, as of the date of executing this CA/FO, neither Respondents nor Buttonwillow County Water District are required to perform or develop the SEP by any federal, state, or local law or regulation and are not required to perform or develop the SEP by agreement, grant, or as injunctive relief awarded in any other action in any forum;
- d. That the SEP is not a project that Respondents were planning or intending to construct, perform, or implement other than in settlement of the claims resolved in this CA/FO;
- e. That Respondents have not received and will not have received credit for the SEP in any other enforcement action;
- f. That Respondents will not receive reimbursement for any portion of the SEP from another person or entity;
- g. That neither Respondents nor Buttonwillow County Water District are a party to any open federal financial assistance transaction that is funding or could fund the same activity as the SEP described in Paragraph 49; and

- h. That for federal income tax purposes, Respondents agree that it will neither capitalize into inventory or basis nor deduct any costs or expenditures incurred in performing the SEP.

58. Any public statement, oral or written, in print, film, or other media, made by Respondents or a representative of Respondents making reference to the SEP from the Effective Date of this CA/FO shall include the following language: “This project was undertaken in connection with the settlement of an enforcement action taken by the U.S. Environmental Protection Agency for alleged violations of the Safe Drinking Water Act.”

D. Reporting Requirements

59. Respondents shall submit progress reports to the EPA Region 9 Compliance Officer on a quarterly basis, with the first report (covering the preceding quarter) due on the first business day of the next quarter following the Effective Date of this CA/FO. Subsequent reports shall be due on the first business day of each following quarter, until all actions in the Injection Well Compliance Plan have been completed and the SEP Completion Report has been submitted. Each progress report shall detail, at a minimum, Respondents’ work during the preceding quarter towards meeting all applicable compliance deadlines and attach all relevant records, including any records regarding the alternative disposal of wastewater under Paragraph 46.c.ii..

60. Each progress report must be accompanied with a certification, as described in Paragraph 73, from Respondents’ authorized representative.

E. Stipulated Penalties

61. Respondents shall pay stipulated penalties in accordance with this Section for any violations of this CA/FO.

62. If Respondents fail to make the payment specified in Section V.A. or fail to comply with the requirements specified in Section V.B., Respondents agree to pay in addition to the assessed penalty, a stipulated penalty of \$300 per day per violation for each day the Respondents are late meeting the applicable requirements.

63. Except as provided in Paragraph 64 below, if Respondents fail to satisfactorily complete the requirements regarding the SEP specified in Section V.C. by the deadline in Paragraph 51, Respondents agree to pay, in addition to the civil penalty in Paragraph 41, \$300 per day per violation stipulated penalty for each day the Respondents are late meeting the applicable SEP requirement.

64. If Respondents do not satisfactorily complete the SEP as described in Section V.C., including spending the minimum amount on the SEP set forth in Paragraph 50 above, Respondents shall pay a stipulated penalty to the United States in the amount of \$282,000 “Satisfactory completion” of the SEP is defined as substantial compliance with the required described in Section V.C. above. The determination of whether the SEP has been satisfactorily completed shall be in the sole discretion of EPA.

65. If Respondents fail to timely submit any reports in accordance with the timelines set forth in this CA/FO, Respondent agrees to pay a stipulated penalty of \$100 for each day after the report was due until Respondents submit the report in its entirety.

66. Respondents agree to pay any stipulated penalties within thirty (30) days of receipt of EPA’s written demand for such penalties. All penalties shall begin to accrue on the

first date of noncompliance and shall continue to accrue through the date of completion of the delinquent CA/FO requirement. Respondents will use the method of payment specified in Paragraph 41 and agrees to pay interest, handling charges and penalties that accrue for late payment of the stipulated penalty in the same manner as set forth in Paragraph 41.

67. Neither the demand for, nor payment of, a stipulated penalty relieves Respondents of their obligation to comply with any requirement of this CA/FO or modifies or waives any deadlines set forth in this CA/FO.

68. EPA may, at its sole discretion, elect to pursue any other administrative or judicial remedies for violations of this CA/FO in addition to or in lieu of assessing stipulated penalties and/or reduce or waive stipulated penalties due under this CA/FO.

F. Force Majeure

69. For purposes of this CA/FO, Force Majeure is defined as any event arising from causes that are beyond the control of Respondents, any entity controlled by Respondents, or Respondents' contractors, which delays or prevents the performance of any obligation under this CA/FO despite Respondents' reasonable best efforts to fulfill the obligation. The requirement that Respondents exercise "reasonable best efforts to fulfill the obligation" includes using reasonable best efforts to anticipate any potential Force Majeure event and reasonable best efforts to address the effects of any such event (a) as it is occurring and (b) after it has occurred to prevent or minimize any resulting delay to the greatest extent possible. Examples of Force Majeure events include, but are not limited to, unforeseeable environmental, geological, or archaeological conditions; or pandemics, epidemics, or disease.

Examples of events that are not Force Majeure include increased costs or expenses of any work to be performed under this CA/FO and normal inclement weather.

70. Respondents shall exercise their best efforts to avoid or minimize any delay and any effects of a delay. If any event occurs which causes or may cause delays meeting the deadlines set forth in this CA/FO, Respondents or their attorney(s) shall, within seventy-two (72) hours of the delay or within seventy-two (72) hours of Respondents' knowledge of the anticipated delay, whichever is earlier, notify EPA points of contact in Paragraph 72 by email. Within fifteen (15) days thereafter, Respondents shall provide in writing the reasons for the delay, the anticipated duration of the delay, the measures taken or to be taken to prevent or minimize the delay, and a timetable by which those measures will be implemented. Failure to comply with the notice requirement of this Paragraph shall preclude Respondents from asserting any claim of Force Majeure.

71. If EPA agrees in writing that the delay or anticipated delay in compliance with this CA/FO has been or will be caused by circumstances beyond the control of Respondents, the time for performance may be extended for the period of the delay resulting from the circumstances causing the delay. In such event, EPA will grant in writing an extension of time. An extension of the time for performing an obligation granted by EPA pursuant to this Paragraph shall not, of itself, extend the time for performing a subsequent obligation.

VI. SUBMISSIONS REQUIREMENTS

72. All reports, notifications, documentation, submissions, and other correspondence required to be submitted by this Order must be submitted to EPA electronically, to the extent possible. If electronic submittal is not possible, submissions may be

made by certified mail (return receipt requested). The subject line of all email correspondence must include the facility name, docket number, and subject of the deliverable. All electronically submitted materials must be in final and searchable format, such as Portable Document Format (PDF) with Optical Character Recognition (OCR) applied. Electronic or mailed submissions shall be sent to the individuals identified below:

EPA Region 9 Enforcement and Compliance Assurance Division's Enforcement Officer:

Adam Howell
U.S. Environmental Protection Agency, ECAD-3-1
75 Hawthorne Street
San Francisco, CA 94105
howell.adam@epa.gov

and

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73. All reports, notifications, documentation, and submissions must be signed by a duly authorized representative of Respondents and shall include the following statement consistent with 40 C.F.R. § 144.32(d):

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that the qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

74. If Respondents find at any time after submitting information that any portion of that information is false or incorrect, the signee must notify EPA immediately. Knowingly submitting false information to EPA in response to this CA/FO may subject Respondents to criminal prosecution under Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b), as well as 18 U.S.C. §§ 1001 and 1341.

75. Submissions required by this CA/FO shall be deemed submitted on the date they are sent electronically or on the date postmarked if sent by U.S. mail.

76. EPA may use any information submitted in accordance with this CA/FO in support of an administrative, civil, or criminal action against Respondents.

77. The information required to be submitted pursuant to this CA/FO is not subject to the approval requirements of the Paperwork Reduction Act of 1995, 44 U.S.C. § 3501 *et seq.*

VII. GENERAL PROVISIONS

78. Full payment of the penalty as described in Section V.A., above, and full compliance with this CA/FO as described in Section V.B. shall only resolve Respondents' liability for federal civil penalties for the violations and facts alleged in Section IV of this CA/FO. Violation of this CA/FO shall be deemed a violation of the SDWA for purposes of Section 1423(b) of the SDWA, 42 U.S.C. § 300h-2(b).

79. The parties consent to service of this CA/FO by e-mail at the following valid e-mail addresses: ravenborg.daron@epa.gov (for Complainant) and kate.tyler@crc.com (for Respondents).

80. This CA/FO, inclusive of all exhibits, appendices, and attachments, is the entire agreement between the Parties.

81. The provisions of this CA/FO shall apply to and be binding upon Respondents and their officers, directors, employees, and successors or assigns. Action or inaction of any persons, firms, contractors, employees, agents, or corporations acting under, through, or for Respondents shall not excuse any failure of Respondents to fully perform its obligations under this CA/FO except for extensions of time to complete such obligations provided by EPA pursuant to Paragraph 71.

82. Full compliance with this CA/FO does not in any manner affect the right of EPA or the United States to pursue appropriate injunctive relief or other equitable relief or criminal sanctions for any violation of law, except with respect to the claims described in Section IV that have been specifically resolved by this CA/FO.

83. This CA/FO is not a permit or modification of a permit and does not affect Respondents' obligations to comply with all federal, state, local laws, ordinances, regulations, permits, and orders. Issuance of, or compliance with, this CA/FO does not waive, extinguish, satisfy, or otherwise affect Respondents' obligation to comply with all applicable requirements of the SDWA, regulations promulgated thereunder, or any order or permit issued thereunder, except as specifically set forth herein.

84. EPA reserves any and all legal and equitable remedies available to enforce this CA/FO, as well as the right to seek recovery of any costs and attorneys' fees incurred by EPA in any actions against Respondents for noncompliance with this CA/FO.

85. Unless otherwise specified, the parties shall each bear its own costs and attorney fees in this action.

86. This CA/FO may be executed and transmitted by facsimile, email, or other electronic means, and in multiple counterparts, each of which shall be deemed an original, but allof which shall constitute an instrument. If any portion of this CA/FO is determined to be unenforceable by a competent court or tribunal, the Parties agree that the remaining portions shall remain in full force and effect.

87. The undersigned representative of each party certifies that he or she is duly and fully authorized to enter into and ratify this CA/FO.

88. For purposes of the identification requirement of Section 162(f)(2)(A)(ii) of the Internal Revenue Code, 26 U.S.C. § 162(f)(2)(A)(ii), performance of Section V.B. is restitution or required to come into compliance with law.

89. Pursuant to 26 U.S.C. § 6050X and 26 C.F.R. § 1.6050X-1, EPA is required to send to the Internal Revenue Service (“IRS”) annually, a completed IRS Form 1098-F (“Fines, Penalties, and Other Amounts”) with respect to any court order or settlement agreement (including administrative settlements), that require a payor to pay an aggregate amount that EPA reasonably believes will be equal to, or in excess of, \$50,000 for the payor’s violation of any law or the investigation or inquiry into the payor’s potential violation of any law, including amounts paid for “restitution or remediation of property” or to come “into compliance with a law.” EPA is further required to furnish a written statement, which provides the same information provided to the IRS, to each payor (i.e., a copy of IRS Form 1098-F). Failure to comply with providing IRS Form W-9 or Tax Identification Number (“TIN”), as described below, may subject Respondent to a penalty, per 26 U.S.C. § 6723, 26 U.S.C. § 6724(d)(3), and 26 C.F.R.

§ 301.6723-1. In order to provide EPA with sufficient information to enable it to fulfill these obligations, EPA herein requires, and Respondent herein agrees, that:

- a. Respondent shall complete an IRS Form W-9 (“Request for Taxpayer Identification Number and Certification”), which is available at <https://www.irs.gov/pub/irs-pdf/fw9.pdf>;
- b. Respondent shall therein certify that its completed IRS Form W-9 includes Respondent’s correct TIN or that Respondent has applied and is waiting for issuance of a TIN; and
- c. Respondent shall email its completed Form W-9 to EPA’s Cincinnati Finance Center at sherrer.dana@epa.gov, within 30 days after the Final Order ratifying this Agreement is filed, and EPA recommends encrypting IRS Form W-9 email correspondence.

VIII. TERMINATION OF THE CA/FO

90. Within thirty (30) calendar days after Respondents have fully completed and implemented the actions required by Section V of this CA/FO, Respondents shall submit for the EPA’s review and approval a request to terminate the CA/FO that includes a description and timeline of all of actions which have been taken toward achieving compliance with this CA/FO and the SDWA.

91. If the EPA determines that all the requirements of this CA/FO have been completed and implemented in accordance with this CA/FO, the EPA will provide notice to Respondent and this CA/FO shall be deemed terminated.

92. If the EPA determines that any requirement has not been completed and implemented in accordance with this CA/FO, the EPA will notify Respondents, provide a list of deficiencies, and require Respondents modify their actions as appropriate to correct such deficiencies. If so required, Respondents shall implement the modified requirement(s) and submit a new request for termination.

IX. EFFECTIVE DATE

93. Pursuant to 40 C.F.R. § 22.45, this CA/FO will be subject to public notice and comment at least forty (40) days prior to it becoming effective through the issuance of the final order by the Regional Judicial Officer.

94. The Parties acknowledge and agree that final approval by EPA of this CA/FO is subject to 40 C.F.R. § 22.45(c)(4), which sets forth requirements under which a person not a party to this proceeding may petition to set aside a consent agreement and final order on the basis that material evidence was not considered.

95. In accordance with 40 C.F.R. §§ 22.18(b)(3) and 22.31(b), this CA/FO shall be effective on the date that the final order contained in this CA/FO, having been approved and issued by either the Regional Judicial Officer or Regional Administrator, is filed with the Regional Hearing Clerk.

Attachment A: Supplemental Environmental Project (SEP) Details

In the Matter of: Elk Hills Power, LLC and California Resources Corporation
Proceedings under Sections 1423(c) of the Safe Drinking Water Act, 42 U.S.C. §§ 300h-2(c).

I. Project Summary

Respondents are submitting this Supplemental Environmental Project (SEP) proposal as part of a Consent Agreement and Final Order (CA/FO) with the U.S. Environmental Protection Agency Region 9 (EPA) to settle an enforcement action under the Safe Drinking Water Act's (SDWA) Underground Injection Control (UIC) program, in which Respondents are alleged to have exceeded the maximum allowable injection pressure in violation of their Class V permits at the Elk Hills Power facility in Tupman, California. The SEP will entail two projects to support the Buttonwillow County Water District (BCWD or District), a community water supply system located in Kern County. Buttonwillow is a small, rural, disadvantaged community, about eight miles north of Elk Hills Power, where the majority of the population is low-income and Latino with over 35% of people living below the poverty line. In addition to describing the two projects CRC commits to completing as part of the SEP, it will also outline one additional project that CRC commits to undertake if it does not spend the minimum required amount on the initial two projects as set forth in the CA/FO with EPA.

The District is in need of infrastructure improvements to increase the reliability and continue to ensure the quality of drinking water it supplies to the community and to reduce the potential of pollution in the groundwater supply. Specifically, the District requires infrastructure improvements for an active BCWD well (Well #4) to improve reliability in the delivery of water to the community. In addition, BCWD has a standby well (Well #3) that must be properly plugged and abandoned to minimize potential conduits for contaminants to enter the community ground water supply. Respondents will install a generator at Well #4 as a back-up power source, and will destroy standby Well #3 in partnership with BCWD to benefit the small at-risk community water system. By improving water quality and reliability for BCWD and preventing potential pollution, the community will realize benefits in the forms of enhanced public health, improved infrastructure, environmental justice, economic opportunities, agricultural productivity, education, environmental sustainability, social equity, and community engagement. These outcomes will collectively contribute to the overall well-being and development of the Buttonwillow community.

II. Description of Project

a. Plug and Abandon Standby Well #3

The District's Well #3 is a standby well which has not been in active service in recent years but remains available to return to active service should the need arise. Idle or inactive wells that are not properly closed can pose risks to groundwater quality. The District desires to plug and abandon Well #3 as a preventative measure to reduce the potential for this aging infrastructure to contribute to contamination of drinking water. As part of this project, Respondents will also remove an associated deteriorating 40,000 gallon metal storage tank that services the well, in order to prevent the risk of metals leaching into the water and surrounding environment. The destruction of Well #3, along with the associated tank removal, will be performed consistent with the water well destruction procedures established by the Kern County Public Health Services Department.

By plugging and abandoning the standby well, and removing the metal storage tank, this project will help ensure Well #3 does not serve as a conduit for surface or subsurface pollution to contaminate

groundwater supplies and ensure that water extracted from nearby wells remains safe for consumption. This work will help protect against the risk of waterborne diseases and health issues associated with contaminated drinking water. By removing an unused or improperly abandoned well, the project also helps eliminate cross-connections, which occur when contaminants from other water sources, such as irrigation or industrial wells, flow back into the drinking water supply. Lastly, as an additional benefit, plugging Well #3 will mitigate potential hazards. Abandoned or improperly secured wells can pose physical hazards, especially to children or unsuspecting individuals who may fall into them. By plugging the well, the risk of accidents and injuries related to open wells is eliminated, promoting public safety.

b. Install Generator at Well #4

Respondents will install a back-up generator to active Well #4 to enable the District to ensure it can continue to reliably provide a sustainable safe water flow to customers. Installation of a temporary generator for back-up power supply will ensure consistent supply of well water to the community, even in the event of planned power outages, which are an increasingly common tool for wildfire prevention in California.

Enhancing water reliability in at-risk communities also contributes to social equity and environmental justice. It ensures that marginalized communities have equal access to basic necessities, addressing disparities and promoting fairness in resource distribution.

c. [If Respondents do not spend minimum required amount on projects described in (a) and (b)] Install Chlorination System at Well #4

In the event that Respondents do not expend the required funds on the SEP by completing subparts a. and b. above, it proposes to install a chlorination system at Well #4 in order to promote delivery of uncontaminated water to the community. The chlorination system project would entail purchase and installation of the chlorination pump and piping, a storage shed and concrete foundation for the system, and electrical work to install the system. The chlorination pump will reduce contaminants in the well water being delivered to the Buttonwillow community, contributing to the quality of drinking water.

III. Nexus to Alleged Violation

The projects described above are consistent with the requirements and guidelines in EPA's SEP Policy. They all have a clear nexus to either the Safe Drinking Water Act broadly and/or the Class V UIC program specifically. The District is located only eight miles from where the violation occurred at Elk Hills Power (well within the 50-mile radius recommended by EPA) so Respondents are directly supporting surrounding communities which could be impacted by the alleged violations. The project proposing to plug and abandon Well #3 has a clear nexus with the UIC program, which is designed to protect underground sources of drinking water. Wells that are not currently active which are not closed can allow migration of contaminants into underground sources of drinking water. The 40,000 gallon metal tank, which Respondents will remove in conjunction with the well destruction, has unknown surface materials and potential contaminants that have collected due to degradation and erosion. Metals and other contaminants could leach from the tank into drinking water sources. The project also relates to the underlying violation at issue because the adverse impact to public health resulting from exceeding Class V permit limits similarly affect the safety and quality of drinking water sources in the area. Therefore, this project will reduce the overall risk to public health in the surrounding community.

The installation of a back-up generator, as well as the potential installation of a chlorination system, at Well #4 has a nexus to the purpose of the Safe Drinking Water Act more broadly. The aims of the SDWA are to protect both drinking water quality and access. These upgrades go to both the quality of

the drinking water for protecting the public from contaminants, and to the reliable provision of drinking water to communities consistent with the requirements of the SDWA.

IV. Proposed Project Scope and Details

a. Work Schedule and Milestones

Well #3 Plug and Abandon & Tank Demolition: to be completed within 12 months of the effective date of the CA/FO.

- Within 180 days of the effective date of the CA/FO: complete well #3 plug & abandon
- Within 12 months of the effective date of the CA/FO: complete tank demolition

Well #4 Back-Up Power Supply: to be completed within 24 months of receipt of Authority to Construct from Air District.

- Within 60 days of the effective date of the CA/FO: Respondents will apply to the Air District for an Authority to Construct Permit for an emergency generator for the back-up power supply. Based on Respondents' engagement with the Air District, it is the current expectation that the Authority to Construct Permit from Air District is expected to be issued within 6-9 months of application submittal.
- Within 180 days of the effective date of the CA/FO: Respondents will submit material purchase order to third party for delivery of generator and associated components and submit to EPA a receipt of purchase order.
- Within 12 months of the receipt of Authority to Construct from the Air District: Respondents will ensure all other ministerial permits (e.g., building, electrical), engineering drawings, installation plans, materials, and contractor are obtained.
- Within 24 months of the receipt of Authority to Construct from the Air District: Respondents will complete installation of the generator.

Well #4 Chlorination System: to be completed within 180 days of written agreement between Respondents and EPA that the project is necessary to be undertaken to reach the required minimum cost of the SEP as set forth in Paragraph 50 of the CA/FO.