

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

UNITED STATES OF AMERICA and  
STATE OF TEXAS,

Plaintiffs,

v.

INTERCONTINENTAL TERMINALS  
COMPANY, LLC

Defendant.

CIVIL ACTION NO. 4:24-cv-01207

**NOTICE OF LODGING OF  
PROPOSED CONSENT DECREE**

PLEASE TAKE NOTICE that the United States of America (the “United States”) and the State of Texas (the “State”) (collectively, “Plaintiffs”) today are lodging with the Court a Consent Decree (“Decree”) (Attachment A hereto) resolving their claims against Defendant Intercontinental Terminals Company, LLC in the above-captioned action. Pursuant to United States Department of Justice policy and Texas law, the United States and the State of Texas will respectively publish a notice in the Federal Register and the Texas Register that the Decree has been lodged with the Court. For a period of 30 days from the date of publication of the notice, the public has an opportunity to submit comments on the proposed Decree. The parties agree and the Decree provides that the final approval and entry of the Decree is subject to this public notice and comment.

After the close of the public comment period, Plaintiffs will evaluate any comments received and will move the Court for entry of the Decree unless the comments disclose facts or

considerations that cause the United States and the State reconsider the terms of the Decree.

This procedure is set forth in Section XV of the Consent Decree.

**Accordingly, Plaintiffs respectfully requests that the Court not sign and enter the Consent Decree until such time as Plaintiffs file a motion for entry of the Decree.**

**FOR THE UNITED STATES OF AMERICA**

TODD KIM  
Assistant Attorney General  
Environment and Natural Resources Division  
United States Department of Justice

*/s/ Hannah L. Frazier*

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*/s/ Daniel David Hu*

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**FOR THE STATE OF TEXAS**

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**CERTIFICATE OF SERVICE**

I hereby certify that on April 2, 2024, the NOTICE OF LODGING OF PROPOSED CONSENT DECREE in the above-captioned case was filed and served through the Court's electronic case filing system. A copy was also provided to counsel for the defendant by separate email to the following:

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/s/ Hannah L. Frazier  
HANNAH L. FRAZIER

/s/ Daniel David Hu  
DANIEL DAVID HU

**Attachment A:**

*Consent Decree For Natural Resource Damages*

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
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UNITED STATES OF AMERICA and  
STATE OF TEXAS,

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CONSENT DECREE FOR  
NATURAL RESOURCE DAMAGES

TABLE OF CONTENTS

I.	BACKGROUND .....	3
II.	JURISDICTION AND VENUE .....	5
III.	PARTIES BOUND .....	6
IV.	DEFINITIONS.....	6
V.	STATEMENT OF PURPOSE .....	9
VI.	PAYMENT OF NATURAL RESOURCE DAMAGES .....	9
VII.	FAILURE TO MAKE TIMELY PAYMENT .....	11
VIII.	COVENANT NOT TO SUE BY PLAINTIFFS.....	12
IX.	RESERVATIONS OF RIGHTS .....	13
X.	COVENANT NOT TO SUE BY DEFENDANT .....	14
XI.	EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION .....	15
XII.	NOTICES AND SUBMISSIONS .....	16
XIII.	RETENTION OF JURISDICTION.....	18
XIV.	INTEGRATION/APPENDICES .....	18
XV.	LODGING AND OPPORTUNITY FOR PUBLIC COMMENT .....	18
XVI.	SIGNATORIES AND SERVICE.....	19
XVII.	MODIFICATION .....	19
XVIII.	FINAL JUDGMENT .....	20

## I. BACKGROUND

A. The United States of America, on behalf of the United States Department of the Interior (“DOI”), through the United States Fish and Wildlife Service (“FWS”), and the National Oceanic and Atmospheric Administration (“NOAA”) (collectively the “United States”), jointly with the State of Texas, appearing through the Office of the Texas Attorney General, on behalf of the Texas Commission on Environmental Quality (“TCEQ”), the Texas Parks and Wildlife Department (“TPWD”) and Texas General Land Office (“TGLO”) (collectively, the “State” or “State of Texas”), (collectively, “Plaintiffs”) and Intercontinental Terminals Company, LLC (“Settling Defendant”) hereby enter into this Consent Decree.

B. The United States, and the State of Texas, jointly filed a Complaint in this Court alleging that Settling Defendant is liable to the United States and the State under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. § 9607, for damages for injury to, destruction of, and loss of Natural Resources and their services resulting from releases and threatened releases of a mixture of hazardous substances and oil at or from the “Site,” as defined herein, which includes the Intercontinental Terminals Company, LLC terminal facility in Deer Park, Harris County, Texas (the “Terminal”), including the costs of assessing the damages.

C. The Trustees for the Natural Resources alleged to be injured by releases and threatened releases at or from the Site include FWS and NOAA, on behalf of the United States, and TGLO, TCEQ, and TPWD, on behalf of the State (collectively “Trustees”). FWS and NOAA are designated as trustees pursuant to Subpart G of the National Oil and Hazardous Substances Pollution Contingency Plan (“NCP”) (40 C.F.R. §§ 300.600, *et seq.*) and Executive Order 12580 (3 C.F.R., 1987 Comp. p. 193, 52 Fed. Reg. 2923 (January 23, 1987) as amended by Executive Order 12777 (56 Fed. Reg. 54757 (October 19, 1991))). TGLO, TCEQ, and TPWD



are designated as trustees by the Governor of Texas pursuant to 40 C.F.R. § 300.605.

D. The Complaint alleges that Settling Defendant owned and operated the Terminal. On March 17, 2019, a fire ignited within the Terminal's 2nd 80's Tank Farm ("Tank Farm"), which houses large aboveground storage tanks containing petrochemicals and hazardous substances, including naphtha, xylene, toluene, pyrolysis gas, gasoline blendstock, and base oil. All the storage tanks in the Tank Farm were damaged, to varying degrees, during the course of the fire. The fire continued to burn until it was initially extinguished on March 20, 2019. On March 22, 2019, a breach of the secondary containment wall surrounding the Tank Farm released hundreds of thousands of barrels of a mixture of hazardous substances consisting of petrochemicals from the storage tanks, fire water, and firefighting foams into Tucker Bayou, Buffalo Bayou, the Houston Ship Channel and adjacent and surrounding marsh and riparian areas. The fire reignited following the breach and was extinguished the same afternoon. The fires and breach of the secondary containment wall are collectively referred to as the "Tank Fire."

E. The Trustees and Settling Defendant engaged in a cooperative natural resource damage assessment pursuant to a Memorandum of Agreement signed on March 5, 2020. The Trustees, in cooperation with Settling Defendant, gathered data and evaluated injuries to Natural Resources at and near the Site, including assessing impacts of contaminants on vegetation, riparian and stream sediments, aquatic organisms, and avian species. As part of that cooperative process, Settling Defendant previously reimbursed \$1,082,999 of the Trustees' costs incurred conducting the natural resource damage assessment.

F. Based on the Trustees' work to assess injuries in this case and experience with restoration efforts throughout the region, the Trustees believe the amount to be paid by the

Settling Defendant as set forth in this Consent Decree constitutes adequate and reasonable compensation for Natural Resource Damages arising from the release or threatened release at or from the Site.

G. Nothing contained in this Consent Decree shall be considered an admission by the Settling Defendant, or a finding of any fault, fact, wrongdoing, or liability by Settling Defendant.

H. Plaintiffs and Settling Defendant agree, and this Court by entering this Consent Decree finds, that this Consent Decree has been negotiated by the Parties in good faith, that settlement of this matter will avoid prolonged and complicated litigation between the Parties and expedite natural resource restoration actions to be performed by the Trustees, and that this Consent Decree is fair, reasonable, and in the public interest, consistent with the purposes of CERCLA.

THEREFORE, with the consent of the Parties to this Consent Decree, it is ORDERED, ADJUDGED, AND DECREED:

## II. JURISDICTION AND VENUE

1. This Court has jurisdiction over the subject matter of this action pursuant to 28 U.S.C. §§ 1331, 1345 and 1367, and 42 U.S.C. §§ 9607 and 9613(b). The Court has personal jurisdiction over the Settling Defendant in connection with this action. For the purposes of this Consent Decree and the underlying Complaint, Settling Defendant waives all objections and defenses that it may have to jurisdiction of the Court or to venue in this District. The Settling Defendant agrees that it will not challenge the terms of this Consent Decree or this Court's jurisdiction to enter and enforce this Consent Decree.

2. For the purposes of this Consent Decree, the Settling Defendant agrees that the

Complaint states claims upon which relief may be granted pursuant to Section 107 of CERCLA, 42 U.S.C. § 9607.

### III. PARTIES BOUND

3. This Consent Decree is binding upon the United States and the State of Texas, and upon Settling Defendant and its successors and assigns.

4. Any change in ownership or corporate or other legal status, including but not limited to any transfer of assets or real or personal property, will in no way alter the status or responsibilities of Settling Defendant under this Consent Decree. In any action to enforce this Consent Decree, the Settling Defendant shall not raise as a defense the failure by any of its officers, directors, employees, agents, or contractors to take any actions necessary to comply with the provisions of this Consent Decree.

### IV. DEFINITIONS

5. Unless otherwise expressly provided, terms used in this Consent Decree that are defined in CERCLA or in regulations promulgated under CERCLA have the meanings assigned to them in CERCLA or in such regulations. Whenever the terms listed below are used in this Consent Decree or in any attached appendix, the following definitions will apply:

a. “CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U S C. § 9601, *et seq.*

b. “Consent Decree” means this Consent Decree and all attached appendices. In the event of a conflict between this Consent Decree and any Appendix, the Consent Decree will control.

c. “Date of Lodging” means the date upon which a Notice of Lodging of this Consent Decree is recorded on the Court’s docket.

d. “Day” means a calendar day. In computing any period of time under this

Consent Decree, where the last day falls on a Saturday, Sunday, or Federal or State holiday, the period of time will run until the close of business of the next working day.

e. “Effective Date” means the date upon which the approval of this Consent Decree is recorded on the Court’s docket.

f. “Federal Trustees” means DOI, acting through FWS, and NOAA.

g. “Future Restoration Planning and Administrative Costs” shall mean costs the Trustees will incur in planning and oversight of restoration project implementation and monitoring to restore, replace, or acquire the equivalent of injured Natural Resources.

h. “Interest” means the rate specified for interest on investments of the EPA Hazardous Substances Superfund, compounded annually on October 1 of each year, in accordance with 42 U.S.C. § 9607(a). The applicable rate of interest shall be the rate in effect at the time the interest accrues. The rate of interest is subject to change in October of each year. Rates are available online at <https://www.epa.gov/superfund/superfund-interest-rates>.

i. “Natural Resources” means that definition as provided in 42 U.S.C. § 9601(16).

j. “Natural Resource Damages” means damages, including costs of damage assessment, recoverable under Sections 107 and 113 of CERCLA, 42 U.S.C. §§ 9607 and 9613; Section 311(f)(4) and (5) of the Clean Water Act, 33 U.S.C. § 1321(f)(4) and (5); Section 1002(b)(2)(A) of Oil Pollution Act, 33 U.S.C. § 2702(b)(2)(A); Texas Hazardous Substances Spill Prevention and Control Act, Texas Water Code Ch. 26, Subchapter G; and other applicable statutory or common law, for injury to, destruction of, or loss of Natural Resources and Natural Resource services resulting from the Tank Fire, including,

but not limited to: (i) the reasonable costs of assessing injury to, destruction of, loss of, or impairment to Natural Resources arising from or relating to the releases of hazardous substances; (ii) the costs of restoration, rehabilitation, or replacement of injured or lost Natural Resources or of acquisition of equivalent resources and/or their services; (iii) the costs of planning, overseeing, and monitoring such restoration activities; (iv) any other compensation for injury, destruction, loss, loss of use, or impairment of Natural Resources; and (v) each of the categories of recoverable damages described in 43 C.F.R. § 11.15.

k. “NRDAR Fund” means DOI’s Natural Resource Damage Assessment and Restoration Fund established pursuant to 42 U.S.C. §§ 1474b and 1474b-1.

l. “Parties” mean the Plaintiffs and Settling Defendant, collectively.

m. “Plaintiffs” means the United States and the State of Texas.

n. “Settling Defendant” means Intercontinental Terminals Company, LLC.

o. “State of Texas” or “State” means the State of Texas, including all of its departments, agencies, and instrumentalities.

p. “State Trustees” means TGLO, TCEQ, and TPWD.

q. “Site” means the Intercontinental Terminals Company terminal facility located in Deer Park, Harris County, Texas, and anywhere hazardous substances released at or from this facility as a result of the Tank Fire came to be located, including but not limited to Tucker Bayou, Buffalo Bayou, and the Houston Ship Channel.

r. “Trustees” means, collectively, the Federal Trustees and the State Trustees.

s. “United States” means the United States, including all of its departments,

agencies, and instrumentalities.

V. STATEMENT OF PURPOSE

6. The mutual objectives of the Parties in entering into this Consent Decree are: (i) to contribute to the restoration, replacement, or acquisition of the equivalent of the Natural Resources allegedly injured, destroyed, or lost as a result of hazardous substance releases at and from the Site, including Future Restoration Planning and Administrative Costs; (ii) to reimburse reasonable natural resource damage assessment costs incurred by the Trustees; (iii) to resolve the Settling Defendant's liability for Natural Resource Damages as provided herein; and (iv) to avoid potentially costly and time-consuming litigation.

VI. PAYMENT OF NATURAL RESOURCE DAMAGES

7. Within 30 days after the Effective Date, ITC shall pay to the Trustees a total of \$6,645,000. Of the total amount to be paid under this Paragraph 7:

a. \$ 6,617,175.20 shall be deposited into a segregated, case-specific sub-account (the "ITC Deer Park" sub-account) within the NRDAR Fund to be managed for the joint benefit of the Federal Trustees and the State Trustees and to be used only for restoration, replacement, rehabilitation, and/or acquisition of the equivalent of Natural Resources and their services injured by the release of hazardous substances; Future Restoration Planning and Administrative Costs the Trustees will incur in planning and oversight of restoration project implementation and monitoring to restore, replace, or acquire the equivalent of injured Natural Resources; and any unpaid assessment costs incurred after March 31, 2023.

b. DOI's Past Assessment Costs. \$4,807.69, as reimbursement of past assessment costs shall be deposited in the NRDAR Fund to be applied toward unpaid Natural Resource Damage assessment costs incurred by DOI through March 31, 2023,

subject to the deduction required by the 1994 CJS Appropriations Act.

c. NOAA's Past Assessment Costs. \$23,017.11, as reimbursement for past assessment costs incurred by NOAA, shall be deposited in the NOAA Damage Assessment, Remediation, and Restoration Fund to be applied toward unpaid Natural Resource Damage assessment costs through March 31, 2023, subject to the deduction required by the 1994 CJS Appropriations Act.

8. Payment Instructions. The payment required by Paragraph 7 shall be made by FedWire Electronic Funds Transfer ("EFT") to the DOJ account, in accordance with instructions provided to Settling Defendant by the Financial Litigation Unit ("FLU") of the United States Attorney's Office for the Southern District of Texas after the Effective Date. The payment instructions provided by the FLU will include a Consolidated Debt Collection System ("CDCS") number, which Settling Defendant shall, along with DOJ Case Number 90-11-3-12213, use to identify all payments required to be made in accordance with this Consent Decree. The FLU will provide payment instructions to: Jim Goolsby, General Counsel, Intercontinental Terminals Company, LLC, 1943 Independence Parkway S., La Porte, TX 77571, [jgoolsby@iterm.com](mailto:jgoolsby@iterm.com), (281) 884-0279; with a copy to Baker Botts, Paulina Williams, [paulina.williams@bakerbotts.com](mailto:paulina.williams@bakerbotts.com).

9. Decisions regarding the use of funds in the ITC Deer Park sub-account shall be made jointly by the Trustees. The Trustees commit to the expenditure of all funds in the ITC Deer Park sub-account (not otherwise used to reimburse the Trustees for costs, as described in paragraph 7) for the design, implementation, permitting (as necessary), monitoring, and oversight of restoration projects and for the costs of complying with the requirements of the law to conduct a restoration planning and implementation process. The allocation of funds for

specific projects or categories of projects will be contained in a Restoration Plan prepared and implemented jointly by the Trustees, for which public notice, opportunity for public input, and consideration of public comment will be provided. The Trustees jointly retain the ultimate authority and responsibility to use the funds in the segregated sub-account to restore natural resources in accordance with applicable law, this Consent Decree, and any memorandum or other agreement among them. Settling Defendant shall not be entitled to dispute, pursuant to this Consent Decree or in any other forum or proceeding, any decision relating to the use of funds in the ITC Deer Park sub-account.

VII. FAILURE TO MAKE TIMELY PAYMENT

10. Stipulated Penalties:

a. If any payment required by Paragraph 7 is not made by the required due date, Settling Defendant shall pay, in addition to the Interest accrued under the preceding subparagraph, stipulated penalties in the following amounts for each additional day the payment remains unpaid:

<u>Daily Penalty</u>	<u>Period of Non-Payment</u>
\$1,000	1 <sup>st</sup> through 14 <sup>th</sup> Day
\$1,500	15 <sup>th</sup> through 30 <sup>th</sup> Day
\$2,000	31 <sup>st</sup> Day and Beyond

b. Stipulated penalties are due and payable within 30 days of the date of the Settling Defendant’s receipt of written demand for payment of the penalties by any Trustee(s). Payment shall be made to the United States Treasury in accordance with Paragraph 8. The Trustee(s) making demand for payment of stipulated penalties shall simultaneously send a copy of the demand to the other Trustee(s). Stipulated penalties shall accrue as provided in this Section regardless of whether the Trustees have notified



Settling Defendant of the violation or made a demand for payment, but stipulated penalties need only be paid upon demand.

c. Enforcement Costs. If any Plaintiff brings an action to enforce this Consent Decree, Settling Defendant will reimburse Plaintiff(s) for the reasonable costs of such action, including but not limited to costs of attorney time.

d. Additional Interest on Late Payments. If Settling Defendant fails to make the payments required by Paragraph 7 or a stipulated penalty payment required by Paragraph 10 by the required due date, Interest will accrue on the unpaid balance beginning on the applicable due date through the date on which payment is made. Any Interest payments under this Paragraph shall be paid in the same manner as the overdue principal amount and shall be directed to the same account as the overdue principal amount.

e. Nothing in this Paragraph shall be construed to limit the United States or the State from seeking any remedy otherwise provided by law for Settling Defendant's failure to comply with any requirement of this Consent Decree.

#### VIII. COVENANT NOT TO SUE BY PLAINTIFFS

11. Except as specifically provided in Section IX (Reservations of Rights) below, Plaintiffs covenant not to sue or to take administrative action against Settling Defendant to recover Natural Resource Damages. This covenant not to sue will take effect upon receipt by all Trustees of the payments required by Paragraph 7 and is conditioned upon the satisfactory performance by Settling Defendant of all payment and notice obligations under this Consent Decree. This covenant not to sue extends only to Settling Defendant and its successors, and assigns, and does not extend to any other person.

IX. RESERVATIONS OF RIGHTS

12. General Reservations. Plaintiffs reserve, and this Consent Decree is without prejudice to, all rights against Settling Defendant with respect to all matters not expressly included within the Covenant Not to Sue by Plaintiffs in Paragraph 10. Notwithstanding any other provision of this Consent Decree, Plaintiffs reserve, and this Consent Decree is without prejudice to, all rights against Settling Defendant with respect to:

a. Claims based on a failure by Settling Defendant to meet a requirement of this Consent Decree;

b. Liability for injunctive relief or administrative order enforcement under CERCLA Section 106, 42 U.S.C. § 9606;

c. Liability for costs incurred or to be incurred by the Plaintiffs that are not within the definition of Natural Resource Damages, including but not limited to liability for response costs under Section 107 of CERCLA, 42 U.S.C. §9607;

d. Criminal liability to the United States or State;

e. Liability for injury to, destruction of, or loss of natural resources resulting from releases or threatened releases of hazardous substances outside the Site;

f. Liability arising from any release(s) or threat(s) of release of hazardous substances at the Site by Settling Defendant first occurring after the Date of Lodging of this Consent Decree; and

g. Liability for damages from the Tank Fire in March, April, and May of 2019 related to the San Jacinto Battleground Historical Site asserted under Texas Parks and Wildlife Code § 12.308 and the Texas Civil Practices and Remedies Code.

13. Special Reservations Regarding Natural Resource Damages. Notwithstanding any other provision of this Consent Decree, each Plaintiff reserves, and this Consent Decree is

without prejudice to, the right to institute proceedings against the Settling Defendant in this action or in a new action seeking recovery of Natural Resource Damages, based on: (i) conditions with respect to the Site, unknown to the Trustee(s) as of the Date of Lodging, that result in releases of hazardous substances that contribute to new or additional injury to, destruction of, or loss of Natural Resources; or (ii) information that previously was unknown to the Trustees is received by the Trustees after the Date of Lodging that indicates that releases of hazardous substances at the Site have resulted in new or additional injury to, destruction of, or loss of Natural Resources and their services. For purposes of this Paragraph, information and conditions known to a Trustee as of the Date of Lodging relating to the Site shall include only the information and conditions set forth in such Trustee's files for the Site, or otherwise in the possession of, any one of the individual Trustees, or their contractors or consultants who worked on the Trustees' natural resource damages assessment and liability allocation projects, including submissions made by Settling Defendant's consultants and counsel to any Trustee in connection with the Tank Fire, as of the Date of Lodging.

X. COVENANT NOT TO SUE BY DEFENDANT

14. Settling Defendant covenants not to sue and agrees not to assert any claims or causes of action against the United States and the State or their contractors or employees, for any civil claims or causes of action relating to Natural Resource Damages, including but not limited to:

a. any direct or indirect claim for reimbursement of any payment for Natural Resource Damages from the Hazardous Substance Superfund based on Sections 106(b)(2), 107, 111, 112, or 113 of CERCLA, §§ 9606(b)(2), 9607, 9611, 9612, or 9613, or any other provision of law; and

b. any claim against the United States or the State Trustees pursuant to Sections 107 and 113 of CERCLA 42 U.S.C. §§ 9607 and 9613, relating to Natural Resource Damages.

c. claims based on the Trustees' decision relating to the use of funds in the ITC Deer Park sub-account.

15. Except as provided in Paragraph 20, the covenants in Section X shall not apply if the United States or the State brings a cause of action or issues an order pursuant to any of the reservations in Section IX (Reservation of Rights by the United States and the State), other than claims for failure to meet a requirement of this Consent Decree, but only to the extent that Settling Defendant's claims arise from the same response action, response costs, or damages that the United States or the State is seeking pursuant to the applicable reservation.

16. Nothing in this Consent Decree shall be deemed to constitute approval or preauthorization for a claim within the meaning of Section 111 of CERCLA, 42 U.S.C. § 9611, or 40 C.F.R. 300.700(d).

#### XI. EFFECT OF SETTLEMENT/CONTRIBUTION PROTECTION

17. Nothing in this Consent Decree shall be construed to create any rights in, or grant any cause of action to, any person not a Party to this Consent Decree. Each of the Parties expressly reserves any and all rights (including, but not limited to, any right to contribution), defenses, claims, demands, and causes of action they each may have with respect to any matter, transaction, or occurrence relating in any way to the Site against any person not a Party hereto.

18. The Parties agree, and by entering this Consent Decree this Court finds, that the Settling Defendant is entitled, as of the Effective Date of this Consent Decree, to protection from contribution actions or claims as provided by CERCLA Section 113(f)(2), 42 U.S.C. § 9613(f)(2), or as otherwise may be provided by law, for Natural Resource Damages.

19. Settling Defendant agrees that it will notify the Plaintiffs in writing no later than

60 days before bringing a suit or claim for contribution for Natural Resource Damages. Settling Defendant also agrees that it will notify the Plaintiffs in writing within 10 days of service of a complaint or claim upon it relating to a suit or claim for contribution for Natural Resource Damages. In addition, Settling Defendant will notify the Plaintiffs within 10 days of service or receipt of any Motion for Summary Judgment and within 10 days of receipt of any order from a court setting a case for trial for matters related to enforcement of this Decree or seeking contribution for Natural Resource Damages.

20. In any subsequent administrative or judicial proceeding initiated by the Plaintiffs for injunctive relief, recovery of response costs, or other appropriate relief other than Natural Resource Damages, Settling Defendant shall not assert, and may not maintain, any defense or claim based upon the principles of waiver, res judicata, collateral estoppel, issue preclusion, claim-splitting, or other defenses based upon any contention that the claims raised by the Plaintiffs in the subsequent proceeding were or should have been brought in the instant case; provided, however, that nothing in this Paragraph affects the enforceability of the covenant not to sue set forth in Paragraph 11.

## XII. NOTICES AND SUBMISSIONS

21. Whenever notice is required to be given or a document is required to be sent by one Party to another under the terms of this Consent Decree, it will be directed to the individuals at the addresses specified below, unless those individuals or their successors give notice of a change to the other Parties in writing. Written notice as specified constitutes complete satisfaction of any written notice requirement of the Consent Decree for Plaintiffs and Settling Defendant.

### **As to the United States:**

Chief, Environmental Enforcement Section Environment and Natural Resources

Division  
U.S. Department of Justice  
P.O. Box 7611  
Washington, D.C. 20044-7611  
(DJ # 90-11-3-12213)  
[ENRD-EESCaseManagement@ENRD.USDOJ.GOV](mailto:ENRD-EESCaseManagement@ENRD.USDOJ.GOV)

**As to the United States Department of the Interior:**

Amy Horner Hanley  
Office of the Solicitor - U.S. Dept. of the Interior Environmental Restoration  
Branch/NRD  
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Washington, DC 20240  
[amy.hanley@sol.doi.gov](mailto:amy.hanley@sol.doi.gov)

**As to the United States Department of Commerce:**

Christopher Plaisted  
NOAA Office of the General Counsel, Natural Resources Section  
501 W. Ocean Blvd., Suite 4470  
Long Beach, CA 90802  
[Christopher.plaisted@noaa.gov](mailto:Christopher.plaisted@noaa.gov)

**As to the State:**

Katie B. Hobson  
Assistant Attorney General  
  
Office of the Attorney General  
Environmental Protection Division  
P.O. Box 12548, MC-066  
Austin, Texas 78711-2548

**As to the Texas Commission on Environmental Quality**

Michael Cave  
Natural Resource Trustee Program  
Texas Commission on Environmental Quality  
MC-136  
P.O. Box 13087  
Austin, TX 78711-3087

**As to the Texas Parks and Wildlife Department**

Angela Schrift  
Texas Parks and Wildlife Department  
4200 Smith School Road Austin, Texas 78744

**As to the Texas General Land Office**

Allison Fisher  
Texas General Land Office  
P.O. Box 12873  
Austin, Texas 78711-2873

**As to Settling Defendant:**

Jim Goolsby  
General Counsel  
Intercontinental Terminals Company, LLC  
1943 Independence Parkway S.  
La Porte, TX 77571

**XIII. RETENTION OF JURISDICTION**

22. This Court will retain jurisdiction over this matter for the purpose of resolving disputes arising under this Consent Decree or entering orders modifying this Consent Decree, pursuant to Section XVII, or otherwise interpreting and enforcing the terms of this Consent Decree.

**XIV. INTEGRATION/APPENDICES**

23. This Consent Decree constitutes the final, complete, and exclusive agreement and understanding with respect to the settlement embodied in this Consent Decree. The Parties acknowledge that there are no representations, agreements, or understandings relating to the settlement other than those expressly contained in this Consent Decree.

**XV. LODGING AND OPPORTUNITY FOR PUBLIC COMMENT**

24. This Consent Decree will be lodged with the Court for a period of not less than 30 days for public notice and comment in accordance with 28 C.F.R. § 50.7. Each Plaintiff reserves the right to withdraw or withhold its consent if the comments regarding the Consent Decree disclose facts or considerations that indicate this Consent Decree is inappropriate, improper, or

inadequate. Settling Defendant consents to entry of this Consent Decree without further notice and agrees not to withdraw from or oppose entry of this Consent Decree by the Court or to challenge any provision of the Decree, unless the United States has notified Defendant in writing that it no longer supports entry of the Decree.

25. If for any reason the Court should decline to approve this Consent Decree in the form presented, this agreement is voidable at the sole discretion of any Party and the terms of the agreement may not be used as evidence in any litigation between the Parties.

#### XVI. SIGNATORIES AND SERVICE

26. Each undersigned representative of the United States, the State of Texas, and Settling Defendant certifies that he or she is authorized to enter into the terms and conditions of this Consent Decree and to execute and bind legally the Party that he or she represents to this document.

27. The Settling Defendant will identify on the attached signature page the name and address of an agent who is authorized to accept service of process by mail on behalf of it with respect to all matters relating to this Consent Decree. Settling Defendant agrees to accept service in that manner and to waive the formal service requirements set forth in Rule 4 of the Federal Rules of Civil Procedure and any applicable local rules of this Court, including but not limited to service of a summons. Settling Defendant shall not be required to file an answer to the complaint in this action unless and until the Court expressly declines to enter this Consent Decree.

#### XVII. MODIFICATION

28. The terms of this Consent Decree, including any attached appendices, may be modified only by a subsequent written agreement signed by all the Parties. Where the modification constitutes a material change to this Decree, it shall be effective only upon approval



by the Court.

29. Economic hardship or changed financial circumstances of Settling Defendant shall not serve as a basis for modification of this Consent Decree.

XVIII. FINAL JUDGMENT

30. Upon approval and entry of this Consent Decree by the Court, this Consent Decree will constitute the final judgment between and among the United States, the State, and Settling Defendant.

SO ORDERED THIS \_\_ DAY OF \_\_\_\_\_, 2024.

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United States District Judge

THE UNDERSIGNED PARTIES enter into this Consent Decree in *United States and State of Texas v. Intercontinental Terminals Company, LLC*. (S.D. Tx.):

FOR THE UNITED STATES OF AMERICA:

TODD KIM  
Assistant Attorney General  
Environment and Natural Resources  
Division



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ALAMDAR S. HAMDANI  
United States Attorney  
Southern District of Texas

/s/ Daniel David Hu  
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/s/ Chauncey Kelly  
CHAUNCEY KELLY  
Section Chief  
NOAA, Office of the General Counsel  
Natural Resources Section  
[chauncey.kelly@noaa.gov](mailto:chauncey.kelly@noaa.gov)

THE UNDERSIGNED PARTIES enter into this Consent Decree in *United States and State of Texas v. Intercontinental Terminals Company, LLC*. (S.D. Tx.):

FOR THE STATE OF TEXAS:

KEN PAXTON  
Attorney General of Texas

BRENT WEBSTER  
First Assistant Attorney General

JAMES LLOYD  
Deputy Attorney General

KELLIE BILLINGS-RAY  
Chief, Environmental Protection Division



KATIE B. HOBSON  
Assistant Attorney General  
Texas State Bar No. 24082680

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Environmental Protection Division  
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Facsimile: (512) 457-4616  
Katie.hobson@oag.texas.gov

THE UNDERSIGNED PARTIES enter into this Consent Decree in *United States and State of Texas v. Intercontinental Terminals Company, LLC*. (S.D. Tx.):

FOR INTERCONTINENTAL TERMINALS COMPANY, LLC:

Date: 2/2/2024

/s/ 

Brent Weber  
President and Chief Executive Officer  
1943 Independence Parkway S.  
LaPorte, TX 77571  
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bweber@iterm.com