

1 LINDA M. DARDARIAN, CA Bar No. 131001  
2 GOLDSTEIN, DEMCHAK, BALLER,  
3 BORGEN & DARDARIAN  
4 300 Lakeside Drive, Suite 1000  
5 Oakland, CA 94612  
6 (510) 763-9800  
7 (510) 835-1417 (fax)  
8 [ldar@gdblegal.com](mailto:ldar@gdblegal.com)

9 MICHAEL R. LOZEAU, CA Bar No. 142893  
10 LAW OFFICES OF MICHAEL R. LOZEAU  
11 1516 Oak Street, Suite 216  
12 Alameda, CA 94501  
13 (510) 749-9102  
14 (510) 749-9103 (fax)  
15 [mrlozeau@lozeaulaw.com](mailto:mrlozeau@lozeaulaw.com)

16 Attorneys for Plaintiff CALIFORNIA  
17 SPORTFISHING PROTECTION ALLIANCE

18 PAUL P. "SKIP" SPAULDING, III, CA Bar No. 83922  
19 DAVID J. LAZERWITZ, CA Bar No. 221349  
20 FARELLA BRAUN & MARTEL, LLP  
21 235 Montgomery Street  
22 San Francisco, CA 94104  
23 (415) 954-4400  
24 (415) 954-4480 (fax)  
25 [sspaulding@fbm.com](mailto:sspaulding@fbm.com)  
26 [dlazerwitz@fbm.com](mailto:dlazerwitz@fbm.com)

27 Attorneys for Defendant  
28 MERIDIAN GOLD COMPANY, INC.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

21 CALIFORNIA SPORTFISHING PROTECTION )  
22 ALLIANCE, a non-profit corporation, )  
23 Plaintiff, )  
24 vs. )  
25 MERIDIAN GOLD COMPANY, a corporation )  
26 Defendant. )

Case No.: 1:06-cv-00023-REC-LJO

**STIPULATION AND ORDER AMENDING  
PARAGRAPH 16 OF CONSENT  
AGREEMENT AND ORDER ENTERED  
JUNE 8, 2006**

1           **WHEREAS**, on June 1, 2005, California Sportfishing Protection Alliance (“CSPA”) provided  
2 to Meridian Gold Company, Inc. and its related or affiliated entities, including Meridian Beartrack  
3 Company (collectively “Meridian”), a written notice of, among other things, alleged violations of the  
4 California Safe Drinking Water and Toxic Enforcement Act of 1986 (“Proposition 65”), which  
5 prohibits businesses from knowingly discharging or releasing listed chemicals into water or onto land  
6 where it passes or probably will pass into a source of drinking water. Cal. Health & Safety Code §  
7 25249.5. The CSPA Notice Letter was sent to the Executive Officer of the Regional Water Quality  
8 Control Board, Central Valley Region (“Regional Board”); and to Meridian, pursuant to Cal. Health &  
9 Safety Code § 25249.7(d)(1). A true and correct copy of the CSPA Notice Letter is attached as Exhibit  
10 B to the Consent Agreement and Order, entered by this Court on June 8, 2006.

11           **WHEREAS**, on January 6, 2006, CSPA filed a Complaint against Meridian in the United  
12 States District Court, Eastern District of California, alleging, among other things, violations of  
13 Proposition 65. CSPA filed a First Amended Complaint (“Complaint”) against Meridian on April 6,  
14 2006. CSPA served a copy of the First Amended Complaint upon the Attorney General of the State of  
15 California on April 11, 2006.

16           **WHEREAS**, Meridian denies CSPA’s allegations, including that it has violated Proposition 65,  
17 and denies that it has any liability whatsoever to CSPA.

18           **WHEREAS**, the Parties entered into a Consent Agreement on April 11, 2006, to resolve all  
19 issues raised in the First Amended Complaint, including CSPA’s claim under Proposition 65, and to  
20 avoid prolonged and costly litigation of the claims raised therein.

21           **WHEREAS**, pursuant to California Health & Safety Code § 25249.7(f)(3), on April 13, 2006,  
22 CSPA submitted to the California Attorney General a reporting form enclosing the Consent Agreement  
23 as specified therein.

24           **WHEREAS**, pursuant to California Health & Safety Code § 25249.7(f)(4), on April 28, 2006,  
25 CSPA submitted the Consent Agreement to this Court upon noticed motion for approval.

26           **WHEREAS**, on June 8, 2006, the Court issued an order approving the Consent Agreement,  
27 after specifically finding, for purposes of California Health & Safety Code §§ 25249.5 and 25249.7(f),  
28 that: (1) the mitigation payments in lieu of penalties in Paragraph 16 of the Consent Agreement are

1 reasonable and appropriate in light of the statutory criteria set forth in § 25249.7(b)(2); and (2) the  
2 attorneys' fee award payment in Paragraph 19 of the Consent Agreement is reasonable under  
3 California law. Also on June 8, 2006, the Court entered judgment in accordance with its approval  
4 order and ordered this case closed.

5 **WHEREAS**, pursuant to oral comments received from the Office of the California Attorney  
6 General on June 16, 2006, the parties seek to modify the Consent Agreement to clarify the description  
7 of the portion of the Proposition 65 mitigation payment CSPA is to receive pursuant to Paragraph 16 of  
8 the Consent Agreement, consistent with 11 Cal. Code Regs. § 3203(b).

9 **WHEREAS**, on June 16, 2006, CSPA provided the California Attorney General with notice of  
10 this amendment to the Consent Agreement along with the motion for judicial approval and supporting  
11 papers, and accordingly requests that the Court withhold approval of this Stipulation and Order  
12 Amending Paragraph 16 of the Consent Agreement until the Attorney General has 45 days from June  
13 16, 2006 (or until July 30, 2006) to review and comment upon this amendment.

14 **WHEREAS**, on June 23, 2006, CSPA provided the United States Department of Justice ("US-  
15 DOJ") and Environmental Protection Agency ("EPA") with notice of this amendment to paragraph 16  
16 of the Consent Agreement. On that date, the US-DOJ and EPA responded orally to CSPA that they  
17 have no objection to this amendment, and they orally waived the forty-five day notice period for the  
18 Court's entering the amendment under 33 U.S.C. § 1365(c)(3).

19 **NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED BY AND**  
20 **BETWEEN THE PARTIES TO THIS ACTION, THAT:**

21 1. This case is reopened for the purpose of filing and approving the stipulated amendment  
22 to paragraph 16 of the Consent Agreement previously approved and entered on June 8, 2006; and

23 2. The last sentence of Paragraph 16 of the Parties' Consent Agreement, approved June 8,  
24 2006, located at lines 23-24 of page 9, which reads "The remaining 25 percent (\$44,375) of the  
25 payment shall be paid to CSPA consistent with Health and Safety Code § 25249.12(d)" shall be  
26 amended to provide as follows: "The remaining 25 percent (\$44,375) of the payment shall be paid to  
27 CSPA to fund water quality related projects in the Littlejohns Creek watershed, the lower San Joaquin  
28 River or its tributaries, or the Sacramento-San Joaquin River Delta estuary."

1 Dated: July 15, 2006 California Sportfishing Protection Alliance

2  
3 By: /s/ Bill Jennings  
4 Bill Jennings  
Executive Director

5 Dated: July 3, 2006 Meridian Gold Company, Inc.

6  
7 By: /s/ Edgar A. Smith  
8 Edgar A. Smith  
Vice President Operations

9 APPROVED AS TO FORM:

10 Dated: June 30, 2006 GOLDSTEIN, DEMCHAK, BALLER, BORGAN &  
11 DARDARIAN

12 By: /s/ Linda M. Dardarian  
13 Linda M. Dardarian  
14 Attorneys for California Sportfishing Protection Alliance

15 Dated: August 1, 2006 Law Offices Of Michael R. Lozeau

16 By: /s/ Michael R. Lozeau  
17 Michael R. Lozeau  
18 Attorney for California Sportfishing Protection Alliance

19 Dated: July 3, 2006 Farella, Braun & Martel LLP

20 By: /s/ David J. Lazerwitz  
21 Paul P. "Skip" Spaulding, III  
22 David J. Lazerwitz  
23 Attorneys for Meridian Gold Company, Inc.

24 **ORDER**

25 **WHEREAS**, on June 8, 2006, this Court found the Agreement, which the parties filed with the  
26 Court on April 28, 2006, to be: (1) fair, adequate and reasonable; (2) consistent with applicable laws;  
27 and (3) protective of the public interest; and specifically found, for purposes of California Health &  
28 Safety Code §§ 25249.5 and 25249.7(f), that: (1) the mitigation payments in lieu of penalties in

1 Paragraphs 15 and 16 of the Consent Agreement are reasonable and appropriate in light of the statutory  
2 criteria set forth in § 25249.7(b)(2); and (2) the attorneys’ fee award payment in Paragraph 19 of the  
3 Consent Agreement is reasonable under California law;

4 **WHEREAS**, in accordance with these findings, on June 8, 2006, the Court issued an Order  
5 approving the Consent Agreement and entered judgment thereon;

6 **WHEREAS**, the provisions of the foregoing stipulation are hereby approved;

7 **WHEREAS**, the Parties have consented to the foregoing amendment to Paragraph 16 of the  
8 Consent Agreement previously approved and entered by the Court;

9 **WHEREAS**, at least 45 days have elapsed since the Attorney General of the State of California  
10 was served on June 16, 2006 with a copy of this Stipulation and Proposed Order Amending Paragraph  
11 16 of the Consent Agreement;

12 **WHEREAS**, the Court further specifically finds, for purposes of California Health & Safety  
13 Code §§ 25249.5 and 25249.7(f), that: (1) the mitigation payments in lieu of penalties in Paragraph 16  
14 of the Consent Agreement, as amended above, are reasonable and appropriate in light of the statutory  
15 criteria set forth in § 25249.7(b)(2); and

16 **WHEREAS**, good cause appearing therefor,

17 1. THIS CASE IS REOPENED FOR THE PURPOSE OF FILING AND APPROVING  
18 THE STIPULATED AMENDMENT TO PARAGRAPH 16 OF THE CONSENT AGREEMENT  
19 PREVIOUSLY APPROVED AND ENTERED ON JUNE 8, 2006;

20 2. THE AMENDMENT TO PARAGRAPH 16 OF THE CONSENT AGREEMENT AND  
21 ORDER, stating that “The remaining 25 percent (\$44,375) of the payment shall be paid to CSPA to  
22 fund water quality related projects in the Littlejohns Creek watershed, the lower San Joaquin River or  
23 its tributaries, or the Sacramento-San Joaquin River Delta estuary,” IS HEREBY APPROVED AND  
24 JUDGMENT IS ENTERED IN ACCORDANCE THEREWITH; and

25 ///

26 ///

27 ///

28 ///

