

SETTLEMENT AGREEMENT

I. PARTIES

This Settlement Agreement (“Settlement Agreement”) is entered into by and between the United States of America (“United States”), acting through the United States Attorney’s Office for the Eastern District of California, on behalf of the United States Department of Agriculture, Forest Service, and John “Jack” Welch (“Defendant”). The United States and the Defendant are collectively referred to herein as “the Parties,” and each is individually referred to as a “Party.”

II. PREAMBLE

As a preamble to this Settlement Agreement, the Parties agree to the following:

A. The United States alleges the following facts: On the afternoon of September 13, 2016, a U.S. Forest Service (USFS) lookout reported a fire within the boundaries of the Stanislaus National Forest (SNF), near the historic McCauley Ranch located off Old Yosemite Road in Mariposa County, California. The fire started on Defendant’s property and spread quickly, burning approximately 100 acres, including 95 acres of USFS lands administered by the SNF.

B. A subsequent investigation into the cause and origin by USFS investigators concluded that Defendant, the owner of McCauley Ranch, started the fire while using his chainsaw on his property. Fire investigators were able to establish the wildfire’s origin northeast of the Defendant’s home, in an open pasture near a standing oak snag.

C. The United States alleges that the USFS expended \$1,279,189.63 to suppress the Old Fire.

D. The United States’ claims and allegations against Defendants as set forth herein shall hereinafter be referred to as the “Covered Conduct.”

E. **Global Indemnity** is the Insurer/Payor of claims related to the Old Fire against Defendant, arising out of the Covered Conduct.

F. This Settlement Agreement is not an admission of any negligence, wrongful conduct or liability by Defendant, or a concession by the United States that its claims and allegations are not well-founded.

G. To avoid the delay, uncertainty, inconvenience, and expense of litigation, the Parties mutually desire to reach a full and final settlement of this matter, pursuant to the Terms and Conditions set forth below.

NOW, THEREFORE, in consideration of the mutual promises, covenants, conditions, terms, and obligations set forth in this Settlement Agreement, the Parties agree to settle this matter as follows:

III. TERMS AND CONDITIONS

1. In consideration of the obligations of the Parties set forth in this Settlement Agreement, Defendant agrees to cause the Insurer/Payor to pay on his behalf the total sum of Nine-Hundred Fifty-Thousand dollars (\$950,000.00) (the "Settlement Amount") to the United States. Insurer/Payor shall pay the full Settlement Amount to the United States by electronic funds transfer pursuant to written instructions to be provided by the United States Attorney's Office for the Eastern District of California no later than fifteen (15) days after the Effective Date of this Agreement as defined in Paragraph 21 below.

2. Subject to the exceptions in Paragraph 3 below concerning excluded claims, in consideration of the obligations of the Parties to this Settlement Agreement, and conditioned upon the full payment of the Settlement Amount by Insurer/Payor, the United States (on behalf of itself, its officers, agents, agencies, and departments) hereby fully and finally releases

Defendant and Insurer/Payor and their current and former officers, directors, members, partners, agents, attorneys, insurers, employees, shareholders, parent corporations, direct and indirect subsidiaries, divisions, affiliates, predecessors, successors and assigns, and any of them from any and all liability for any civil claims, demands, obligations, actions, causes of action, damages, costs, losses, attorneys' fees, interest, penalties, and expenses, including any claims for compensatory damages, statutory damages, multiplied damages or punitive damages, which the United States has or may have arising from or related to the Covered Conduct.

3. Notwithstanding any term of this Settlement Agreement, specifically reserved and excluded from the scope and terms of this Settlement Agreement as to any entity or person, including Defendant and Insurer/Payor, are the following potential claims of the United States:

- a. Any civil, criminal, or administrative liability arising under Title 26, United States Code (Internal Revenue Code);
- b. Any criminal liability;
- c. Any claim by the United States (or its agencies) not arising out of or related to the Covered Conduct; and
- d. Any liability based upon such obligations as are created by this Settlement Agreement.

4. In consideration of the obligations of the United States set forth in this Settlement Agreement, Defendant and Insurer/Payor hereby fully and finally release the United States and its employees, servants, agents, agencies, and departments from any and all liability for any claims, demands, obligations, actions, causes of action, damages, costs, losses, attorneys' fees, interest, and expenses, including any claims for compensatory or punitive damages, which the Defendant and/or Insurer/Payor have or may have with respect to the Covered Conduct,

including without limitation concerning the United States' investigation of the cause of the Old Fire and prosecution of its claims in any potential civil action.

5. Defendant and Insurer/Payor understand and acknowledge that the facts and/or potential claims or defenses with respect to liability or damages regarding the matters released herein may be different from the facts, claims, and/or defenses now believed to be true or available. Defendant and Insurer/Payor expressly accept and assume the risks of such possible difference in facts and/or potential claims or defenses; intend to waive and forego any potential future benefit from, or future reliance on, any unknown facts, claims, or defenses; and agree that this Settlement Agreement shall remain effective notwithstanding any unknown facts, claims, or defenses. In addition, Defendant and Insurer/Payor intend by this Settlement Agreement, and the releases contained herein, to release fully, finally and forever all unknown claims that arise out of or relate to the Covered Conduct and the Old Fire ("Unknown Claims"). Accordingly, this Settlement Agreement, and the releases contained herein, shall remain in full force as a complete release of such Unknown Claims notwithstanding the discovery or existence of any such additional or different claims and/or facts before or after the date of this Settlement Agreement. Defendant and Insurer/Payor hereby expressly waive all rights they may have by virtue of Section 1542 of the Civil Code of the State of California, or any comparable provision under the law of any state, territory or country. Section 1542 of the California Civil Code provides that:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

6. Each of the Parties warrants and represents that it freely and voluntarily enters into this Settlement Agreement without any degree of duress or compulsion whatsoever, after

having been apprised of all relevant information and data by its legal counsel. Each of the Parties further warrants and represents that no other Party or its representative has made any promise, representation or warranty, express or implied, except as expressly set forth in this Settlement Agreement, and that no Party has relied on any inducements, promises, or representations made by any Party to this Settlement Agreement, or its representatives, or any other person, except as expressly set forth herein.

7. Each Party to this Settlement Agreement shall bear its own costs, attorneys' fees, and other expenses incurred in any manner in connection with the investigation, litigation, and resolution of this matter, including the preparation and performance of this Settlement Agreement.

8. Except as provided in paragraphs 2 and 4, this Settlement Agreement is intended to be for the sole benefit of the Parties only. The Parties do not release any claims against any other person or entity not expressly released by this Settlement Agreement.

9. Each individual signing this Settlement Agreement on behalf of the Defendant and Insurer/Payor represents and warrants that he or she has the power, consent, and authorization of the Party on whose behalf he or she is signing to execute this Settlement Agreement.

10. The individual signing on behalf of the United States represents that they are signing this Settlement Agreement in their official capacity and that they are authorized to execute this Settlement Agreement.

11. Each Party represents and warrants that it has not transferred anything being released under this Settlement Agreement, and is not aware of any such transfer, and that the

Party is not aware of any prohibition of any type that prevents the Party from performing the terms of this Settlement Agreement.

12. Nothing in this Settlement Agreement constitutes an agreement by the United States concerning the characterization of the Settlement Amount for purposes of Title 26, United States Code (Internal Revenue Code).

13. This Settlement Agreement is binding on Defendant and Insurer/Payor's successors in interest, transferees, and assigns.

14. Each Party warrants that it has been represented by, and has sought and obtained the advice of, independent legal counsel with regard to the nature, purpose, and effect of this Settlement Agreement. The Settlement Agreement was negotiated by the Parties and their respective counsel, each of whom had the opportunity to participate in the drafting thereof. The Parties hereby declare that the terms of this Settlement Agreement have been completely read, fully understood, and voluntarily accepted following opportunity for review by legal counsel of their choice.

15. For purposes of construction, this Settlement Agreement shall be deemed to have been drafted by all Parties to this Settlement Agreement. The words of this Settlement Agreement shall not, therefore, be construed against any Party for that reason in any subsequent dispute, but shall be construed so as to effect their fair meaning, the Parties having waived the benefit of California Civil Code § 1654 and similar laws.

16. The Parties consent to the public disclosure of this Settlement Agreement, and of information about the Action and this Settlement Agreement.

17. This Settlement Agreement constitutes the complete agreement between the Parties, and supersedes and replaces all prior negotiations and agreements, whether written or

oral, regarding the resolution of the claims between the Parties with respect to the subject matter hereof.

18. This Settlement Agreement may be executed in counterparts, each of which constitutes an original and all of which taken together shall constitute one valid and binding Settlement Agreement between the Parties.

19. This Settlement Agreement may not be altered, amended, or modified, except by a writing duly executed by authorized representatives of all Parties.

20. This Settlement Agreement is governed by the laws of the United States. The Parties agree that, should any judicial action be required to enforce or interpret this Settlement Agreement, or to resolve any dispute hereunder, the exclusive jurisdiction and venue for such action shall be in the United States District Court for the Eastern District of California.

21. This Settlement Agreement is effective, final, and binding as of the date of signature of the last signatory to the Settlement Agreement ("Effective Date"). Transmittal and receipt of facsimiles or PDF versions of signatures shall constitute acceptable, binding signatures for purposes of this Settlement Agreement.

22. All Parties agree to cooperate fully and to execute any and all supplementary documents and to take all additional actions that may be necessary or appropriate to give full force and effect to the terms and intent of this Settlement Agreement.

///
///
///

23. The statements set forth in Sections I and II of this Settlement Agreement are incorporated by reference herein as if set forth in full.

THE UNITED STATES

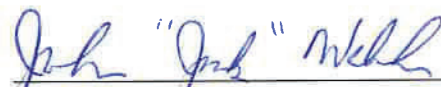
Dated: 4/20/2021

McGREGOR W. SCOTT PHIL A. TALBERT
United States Attorney Acting United States Attorney

By: 
GEOFFREY D. WILSON
Assistant United States Attorney

DEFENDANT/INSURER/PAYOR

Dated: 04-13-2021


JOHN "JACK" WELCH

Dated: 4/20/21


GLOBAL INDEMNITY
By:
Its:

Dated: 4/20/21


ROB PHILLIPS, ESQ.
Phillips Spallas & Angstadt LLP
Attorneys for Defendant and Insurer/Payor