

1 TORI VERBER SALAZAR (SBN 213636)  
District Attorney of San Joaquin County  
2 CELESTE KAISCH (SBN 234174)  
Deputy District Attorney  
3 222 E. Weber Ave., Rm. 202  
Stockton, CA 95202  
4 Phone: (209) 468-2400  
Facsimile: (209) 468-0314  
5 e-mail: celeste.kaisch@sjcda.org

6 Attorneys for Plaintiff

FILED  
2015 JAN 26 PM 12:26  
RITA JUNGUERO, CLERK  
BY CARA WATSON  
DEPUTY

7  
8 **SUPERIOR COURT OF CALIFORNIA, COUNTY OF SAN JOAQUIN**

9 PEOPLE OF THE STATE OF CALIFORNIA, )

10 Plaintiff, )

11 vs. )

12 MCLANE COMPANY, INC., a Texas  
Corporation, )

13 Defendant. )

Case No. 39-2014-00319887-CU-TT-STK

**NOTICE OF ENTRY OF JUDGMENT  
(H&S §25181, §118325, B&P §17203, etc.)**

14  
15 **TO ALL PARTIES APPEARING HEREIN AND THEIR ATTORNEYS:**

16 PLEASE TAKE NOTICE that a Stipulation For Entry Of Final Judgment And Permanent  
17 Injunction in the above action was entered by the San Joaquin County Superior Court Clerk's  
18 Office on January 5, 2015. A copy of this Stipulation For Entry Of Final Judgment And Permanent  
19 Injunction is attached to this Notice of Entry of Judgment.

20  
21 Dated: January 26, 2015

TORI VERBER SALAZAR  
DISTRICT ATTORNEY

22  
23 By: *Celeste Kaisch*  
24 CELESTE KAISCH  
25 Deputy District Attorney  
26 Environmental Prosecutions Unit  
27  
28

FILED  
SUPERIOR COURT - STOCKTON  
2015 JAN -5 PM 1:49  
ROSA JUNQUEIRO, CLERK  
BY CARA WATSON  
DEPUTY

1 JAMES P. WILLET  
2 District Attorney of San Joaquin County  
3 DAVID J. IREY, SBN 142864  
4 Special Deputy District Attorney  
5 CELESTE KAISCH, SBN 234174  
6 Deputy District Attorney  
7 222 E. Weber Ave., Room 202  
8 Stockton, CA 95202  
9 Telephone: (209) 468-2400  
10 Facsimile: (209) 468-0314

11 PAUL ZELLERBACH  
12 District Attorney of Riverside County  
13 DALE C.HOY II, SBN 226182  
14 Deputy District Attorney  
15 3960 Orange Street, First Floor  
16 Riverside, California 92501-3707  
17 Telephone: (951) 955-5400

18 TONY RACKAUCKAS  
19 District Attorney of Orange County  
20 JOSEPH P. D'AGOSTINO, SBN 115774  
21 Senior Assistant District Attorney  
22 WILLIAM G. FALLON, SBN 190986  
23 Deputy District Attorney  
24 401 Civil Center Drive West  
25 Santa Ana, CA 92701  
26 Telephone: (714) 834-3600

27 *Attorneys for Plaintiff,*  
28 *The People of the State of California*

*[Additional Plaintiff's Counsel Continued on Exhibit A]*

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN JOAQUIN

THE PEOPLE OF THE STATE OF CALIFORNIA,  
  
Plaintiff,  
  
v.  
  
MCLANE COMPANY, INC., a Texas Corporation,  
  
Defendant.

Case No. **39-2014-00319887-CU-TT-STK**  
  
**STIPULATION FOR ENTRY OF FINAL JUDGMENT AND PERMANENT INJUNCTION**  
  
Action Filed: **December 23, 2014**  
Judge: **Honorable Barbara A. Kronlund**  
Department: **11**

1 WHEREAS, this Stipulation for Entry of Final Judgment and Permanent Injunction (“Final  
2 Judgment”) is entered into by Plaintiff, the People of the State of California (“People”) and Defendant  
3 McLane Company, Inc. (“Defendant” or “McLane”) by their respective attorneys. The People and  
4 Defendant shall be referred to collectively as “Parties.” The Parties have stipulated and consented to the  
5 entry of this Final Judgment prior to trial. The Parties have agreed to settle the above captioned matter  
6 without further litigation, as set forth below.

7 AND WHEREAS, the Court finds that the settlement between the Parties is fair and in the public  
8 interest;

9 NOW THEREFORE, upon the consent of the Parties, it is hereby ORDERED, ADJUDGED,  
10 AND DECREED:

11 **FINAL JUDGMENT AND PERMANENT INJUNCTION ON CONSENT**

12 **1. JURISDICTION**

13 The Parties stipulate and agree that the Superior Court of California, County of San Joaquin, has  
14 subject matter jurisdiction over the matters alleged in this action and personal jurisdiction over the Parties  
15 to this Final Judgment.

16 **2. SETTLEMENT OF DISPUTED CLAIMS**

17 This Final Judgment is not an admission or denial by Defendant regarding any issue of law or fact  
18 in the above-captioned matter or any violation of any law. The Parties enter into this Final Judgment  
19 pursuant to a compromise and settlement of disputed claims, as set forth in the Complaint filed in this  
20 action for the purpose of furthering the public interest. The People believe that the resolution embodied  
21 in this Final Judgment is fair and reasonable and fulfills the People’s enforcement objectives; and that  
22 except as provided in this Final Judgment, no further action is warranted concerning the allegations  
23 contained in the Complaint. Defendant agrees that this Final Judgment is a fair and reasonable resolution  
24 of the matters alleged in the Complaint.

25 All Parties have stipulated and consented to the entry of this Final Judgment prior to the taking of  
26 any proof, and without trial or adjudication of any fact or law herein. The Parties also waive their right to  
27 appeal.  
28

1                   3.    DEFINITIONS

2                   Except where otherwise expressly defined in this Final Judgment, all terms shall be interpreted  
3 consistent with the Hazardous Waste Control Law, Health and Safety Code Sections 25100-25258.2; and  
4 the Medical Waste Management Act, Health and Safety Code sections 117600-118360; and the  
5 regulations promulgated under these sections.

6                   “McLane Operations” means any facility including, but not limited to the twelve (12) distribution  
7 centers (hereinafter “Facilities”) which service retail stores, restaurants and other third party distribution  
8 and food service customers, as well as the tractor trailers owned, operated, or leased by Defendant and  
9 used to transport products and materials to and from such Facilities, that as of July 15, 2014, are owned,  
10 operated, licensed, leased or serviced by Defendant or its subsidiaries. The distribution centers are:

- 11                   a. Meadowbrook Meat Company: 500 Burning Tree Lane, Fullerton, California
- 12                   b. Meadowbrook Meat Company: 800 Mellon Avenue, Manteca, California
- 13                   c. Meadowbrook Meat Company: 1051 North Wineville Avenue, Ontario, California
- 14                   d. Meadowbrook Meat Company: 5675 Sunol Boulevard, Pleasanton, California
- 15                   e. Meadowbrook Meat Company: 9408 Richmond Pl., Rancho Cucamonga, California
- 16                   f. Meadowbrook Meat Company: 1495 Columbia Avenue, Riverside, California
- 17                   g. Meadowbrook Meat Company: 1050 Palmyrita Avenue, Riverside, California
- 18                   h. Meadowbrook Meat Company: 6300 Sycamore Canyon, Riverside, California
- 19                   i. McLane Tracy: 800 E. Pescadero Drive, Tracy, California
- 20                   j. McLane Pacific: 3876 E. Childs Ave., Merced, California;
- 21                   k. McLane Southern California: 4472 Georgia Blvd., San Bernardino, California; and
- 22                   l. McLane Riverside: 14813 Meridian Parkway, Riverside, California.

23  
24                   The Facilities shall not be to the exclusion of any locations that may have been inadvertently omitted,  
25 where the Parties agree in writing that an omitted location should be included. As to any locations that  
26 have been omitted, Defendant shall provide the following to the People within thirty (30) days after the  
27 omission comes to the attention of Defendant: (a) written notice of such additional locations; and (b) to  
28 the best of Defendant’s knowledge and belief, copies of any notices of violation and/or governmental

1 inspection reports applicable to such locations that have been received by that location since May 2,  
2 2007, to the date of entry of this Final Judgment. If after the People have had sufficient time within  
3 which to review the alleged reason for the omission and after Defendant has established to the  
4 satisfaction of the People that the omission was inadvertent, the Parties shall agree in writing that the  
5 additional location(s) be included in the Final Judgment.

6 “Certified Unified Program Agency” or “CUPA” is an agency certified by the California  
7 Environmental Protection Agency pursuant to the requirements of Chapter 6.11 of the Health and Safety  
8 Code and California Code of Regulations, Title 27, Sections 15100-16150 to implement certain state  
9 environmental programs within the local agency’s jurisdiction.

10 “Participating Agency” means an agency that has been designated by the CUPA to administer one  
11 or more state environmental programs on behalf of the CUPA.

12 “Hazardous Item” means any product that would have to be managed as a hazardous waste, as  
13 defined by Health and Safety Code Section 25117, if discarded as defined by California Code of  
14 Regulations, Title 22, section 66261.2.

15 **4. INJUNCTIVE RELIEF**

16 Pursuant to the provisions of Health and Safety Code sections 25181 and 118325, and Business  
17 and Professions Code section 17203, and subject to Paragraph 23 below, Defendant shall comply with  
18 the Hazardous Waste Control Law, Health and Safety Code Sections 25100-25258.2; the Medical Waste  
19 Management Act, Health and Safety Code Sections 117600-118360; and the applicable regulations  
20 promulgated under these chapters, to the extent that these provisions apply to McLane’s business  
21 operations at its Facilities. Failure to comply with this injunction or any of the specific additional  
22 injunctive provisions that follow, may subject Defendant to sanctions, including, but not limited to,  
23 contempt and/or additional penalties. Paragraph 15, below, applies to any application or motion for  
24 failure to comply with the injunctive provisions of this Final Judgment.

25 **4.1 Specific Injunctive Provisions**

26 Defendant shall comply with each of the following provisions at and from the Facilities to the  
27 extent that these provisions apply to McLane’s business operations at its Facilities:

28 4.1.a. Defendant shall not dispose, or cause the disposal of, any hazardous waste at a point not

1 authorized or permitted by the Department of Toxic Substances Control (“DTSC”), in violation of Health  
2 & Safety Code section 25189, including, without limitation, to any trash compactor, dumpster, drain,  
3 sink, or toilet at any of the Facilities, or onto the surface or subsurface of the ground at any unauthorized  
4 location, or at a landfill or transfer station not authorized to receive hazardous waste.

5 4.1.b. Defendant shall not transport, transfer custody of, or cause to be transported, any  
6 hazardous waste unless the transporter is properly licensed and registered to do so, as required by Health  
7 & Safety Code section 25163. This prohibition includes, without limitation, the transportation of any  
8 hazardous waste by a person that is not properly licensed and registered to transport hazardous waste on a  
9 tractor and/or trailer owned or operated by Defendant.

10 4.1.c. Defendant shall not transport, or cause to be transported, any hazardous waste to an  
11 unauthorized location, in violation of Health & Safety Code section 25189.5. Notwithstanding this  
12 specific injunctive provision, Defendant may lawfully transport products and packages that contain  
13 hazardous materials which have spilled or leaked during the course of transportation, and which have  
14 been mitigated to contain such spill or leak, to the McLane Facility from which the tractor trailer  
15 transporting such hazardous material originated.

16 4.1.d. Defendant shall not transport, or cause to be transported, any item that would be  
17 considered hazardous in California pursuant to Chapter 11 of Title 22, Division 4.5 of the California  
18 Code of Regulations, as part of its “reverse logistics” process to centralize the management of returned  
19 items at distribution centers owned by Defendant and/or consolidation facilities owned by a third party,  
20 unless pursuant to a contractual agreement expressly providing for the return of the item to the item’s  
21 manufacturer or the manufacturer’s designated agent (so long as the item is in sufficiently good condition  
22 that it may be donated, resold, reused, or recycled in a manner that does not constitute discard, pursuant  
23 to California Code of Regulations, Title 22, section 66261.2), or unless the item is in sufficiently good  
24 condition that it may be donated, resold, reused, or recycled in a manner that does not constitute discard,  
25 pursuant to California Code of Regulations, Title 22, section 66261.2.

26 4.1.e. Defendant shall comply with the California Medical Waste Management Act, Health and  
27 Safety Code section 117600, et seq  
28

1           4.2 Reverse Distribution of Pharmaceuticals:

2           4.2.a. Beginning three (3) months after entry of this Final Judgment, Defendant shall initiate  
3 work with appropriate stakeholders from business and government, including the U.S. Environmental  
4 Protection Agency, the U.S. Food and Drug Administration, DTSC, and California Department of Public  
5 Health, and thereafter either directly or through trade associations or informal coalitions of interested  
6 parties, undertake to promote federal regulatory reform regarding the proper management of non-  
7 dispensable pharmaceuticals, including over-the-counter medications, through reverse distribution. Such  
8 work shall include coordination and communication with national retail trade associations. Progress on  
9 such work shall be included in the status reports required by Paragraph 22 below.

10           4.2.b. During the term of this Final Judgment, the People shall only pursue a violation of this  
11 Final Judgment or applicable law regarding the reverse distribution of such non-dispensable  
12 pharmaceuticals if Defendant has failed to demonstrate reasonable diligence in performing work on the  
13 federal regulatory reform described in subparagraph 4.2.a above. Nothing herein shall prevent the People  
14 from pursuing appropriate enforcement of this Final Judgment or applicable law regarding the reverse  
15 distribution of:

16           1. Non-dispensable pharmaceuticals for acts or omissions occurring on or after ninety  
17 (90) days following receipt by Defendant of written notice as provided by Paragraph 8 of their  
18 intent to do so, or;

19           2. Non-dispensable over-the-counter drugs for acts or omissions occurring on or after  
20 one hundred eighty (180) days following receipt by Defendant of written notice as provided by  
21 Paragraph 8 of the People's intent to do so.

22           The Parties shall attempt to resolve any such dispute by means of good faith informal  
23 negotiations.

24           5. CIVIL PENALTIES, SUPPLEMENTAL ENVIRONMENTAL PROJECTS, COSTS,  
25 AND ENHANCED ENVIRONMENTAL COMPLIANCE EFFORTS

26           Defendant shall, in accordance with this Final Judgment, pay Civil Penalties, fund the  
27 Supplemental Environmental Projects provided for in this Final Judgment, and pay costs, in the total  
28 amount of **THREE HUNDRED AND THIRTY-FIVE THOUSAND DOLLARS (\$335,000.00)**. Said

1 payments may be made by business or cashier's check and shall be made as set forth in paragraphs 5.1,  
2 5.2, and 5.4 below. On entry of this Final Judgment, Defendant shall deliver all required payments to the  
3 District Attorney's Office for the County of San Joaquin, attention: David J. Irej, Special Deputy District  
4 Attorney, for distribution pursuant to the terms of this Final Judgment.

5 **5.1 Civil Penalties**

6 Defendant shall pay **ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000.00)**  
7 as civil penalties pursuant to Business and Professions Code section 17206, to the prosecuting  
8 agencies/regulatory agencies identified in, and in accordance with the terms of, **Exhibit B**, attached.

9 **5.2 Supplemental Environmental Projects**

10 Defendant shall pay **ONE HUNDRED AND FIFTY THOUSAND DOLLARS (\$150,000.00)**  
11 for supplemental environmental projects identified in, and in accordance with the terms of, **Exhibit C**,  
12 attached.

13 **5.3 Enhanced Environmental Compliance Efforts**

14 As part of its "reverse logistics" system, Defendant routes certain products from its McLane  
15 Southern California and Pacific facilities to a third-party consolidator that manages those products in  
16 conformance with a "disposition code" established by the product's manufacturer and contained in a  
17 contract between a manufacturer and the Defendant. Beginning one (1) month after entry of this Final  
18 Judgment, Defendant will review on a monthly basis the disposition codes for all items it handles that  
19 would be considered hazardous in California pursuant to Chapter 11 of Title 22, Division 4.5 of the  
20 California Code of Regulations. The purpose of this review is to ensure that a disposition code does not  
21 instruct the third-party consolidator to destroy or discard a hazardous item such that the product would  
22 have to be managed as hazardous waste pursuant to Health and Safety Code sections 25100-25258.2. To  
23 the extent that Defendant's review discovers a disposition code that instructs a consolidator to destroy or  
24 discard a hazardous item (even if that item is not damaged or leaking and is able to be used for its  
25 intended purposes), Defendant, after consultation with the item's manufacturer, will determine an  
26 alternative disposition. This alternative disposition will be to either return the hazardous item to the  
27 manufacturer (if it is not damaged or leaking) or to recycle, resell or reuse it in a manner that does not  
28 constitute discard, pursuant to California Code of Regulations, Title 22, section 66261.2. For those



1 hazardous items already in the possession of the third-party consolidator, Defendant will instruct the  
2 third-party consolidator not to destroy those items until an alternative disposition is determined. If an  
3 alternative disposition is determined within 45 days, Defendant will instruct the third-party consolidator  
4 to manage all hazardous items in conformance with that determination. If an alternative disposition is  
5 not determined within 45 days, Defendant will instruct the third-party consolidator to manage those  
6 hazardous items as hazardous waste. Until that alternative disposition is determined and that  
7 determination is communicated to the third-party consolidator, Defendant must manage each item  
8 currently at its Facilities as a hazardous waste.

9 Defendant is currently working on a computer system that will automate this audit process and  
10 review the disposition codes for each hazardous item on a more periodic basis. Once this automated  
11 process is in place, a hazardous item with a "destroy-only" or "discard-only" disposition will be  
12 automatically flagged and McLane will promptly and aggressively work with the manufacturer to change  
13 its disposition or manage the item as a hazardous waste as described in the previous paragraph. When  
14 Defendant implements a fully functioning computer system that performs this automated review,  
15 Defendant will inform the People in a status reports, defined in Paragraph 22. Defendant and the People  
16 agree that when this automated process is implemented and when the Defendant informs the People,  
17 Defendant will no longer be required to perform the monthly review described in the previous paragraph.

18 In addition to reviewing disposition codes, McLane also agrees to conduct semi-annual internal  
19 audits of the Damages and Returns Areas in each of its Facilities to verify that its employees are  
20 complying with Injunctive Relief provisions included herein.

#### 21 **5.4 Reimbursement of Partial Costs of Investigation and Enforcement**

22 Defendant shall pay THIRTY FIVE THOUSAND DOLLARS (\$35,000.00) for reimbursement of  
23 attorney's fees, costs of investigation, and other costs of enforcement, to the entities identified in, and in  
24 accordance with the terms of, **Exhibits D-1 and D-2**, attached.

#### 25 **6. ENFORCEMENT OF FINAL JUDGMENT AND PENALTIES**

26 The People may move this Court for additional relief for any violation of any provision of this  
27 Final Judgment including, but not limited to, contempt, additional injunctive provisions, or additional  
28 penalties consistent with the provisions of this Final Judgment. Unless otherwise set forth herein, nothing