

# **Exhibit 9**

First Amendment to Consent Decree

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
ROCK HILL DIVISION

|                           |   |                             |
|---------------------------|---|-----------------------------|
| _____                     | ) |                             |
| UNITED STATES OF AMERICA, | ) |                             |
|                           | ) |                             |
| Plaintiff,                | ) |                             |
|                           | ) |                             |
| v.                        | ) |                             |
|                           | ) | Civil No. 0:21-cv-02053-SAL |
| NEW INDY CATAWBA LLC,     | ) |                             |
|                           | ) |                             |
| Defendant.                | ) |                             |
| _____                     | ) |                             |

**FIRST AMENDMENT TO CONSENT DECREE**

WHEREAS, the United States of America, on behalf of the United States Environmental Protection Agency (“EPA”) and New Indy Catawba, LLC (“New Indy”) are parties to a Consent Decree lodged in this Court on December 29, 2021 (hereinafter the "Consent Decree").

WHEREAS, the Consent Decree is subject to 28 C.F.R. § 50.7, which requires a public comment period on that settlement.

WHEREAS, Notice of the proposed Consent Decree was published in the Federal Register, 87 Fed. Reg. 1,186 (January 10, 2022), and public comments were solicited in accordance with Department of Justice policy, 28 C.F.R. § 50.7, and Paragraph 81 of the Consent Decree (Dkt. No. 27-1 at 29 of 44). Upon request, the Department extended the comment period by 30 days. 87 Fed. Reg. 7,208 (February 8, 2002)

WHEREAS, the EPA and New Indy wish to modify Appendix A of the Consent Decree to: a) revise the minimum detection limit required for the monitors and b) correct the typo in the cross-reference in Paragraph VI.a.i.;

WHEREAS, Paragraph 76 of the Consent Decree states: “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 Consent Decree, it shall be effective only upon approval by the Court.”

WHEREAS, the following agreed upon modifications to the Consent Decree do not constitute material changes to the Consent Decree:

NOW THEREFORE: The EPA and New Indy hereby agree that upon entry of the Consent Decree by the Court, the Consent Decree shall be amended as follows:

1. Paragraph II.a. of Appendix A of the Consent Decree is hereby amended and restated as follows:

By the Effective Date, Defendant shall maintain and operate continuous hydrogen sulfide fence-line monitors at the three locations identified in Appendix B (Fence Line Monitor Locations) in accordance with the June 25, 2021 EPA-approved Quality Assurance Project Plan, and any subsequent EPA-approved versions. The monitors shall have a minimum detection limit of 0.4 parts per billion (ppb) by volume (ppbV) or lower, shall have a span range up to 1,000 ppbV or higher, and shall be operated in accordance with the manufacturer’s recommendations. The monitors shall also be equipped with wind speed and wind direction monitors.

2. Paragraph VI.a.i. of Appendix A of the Consent Decree is hereby amended and restated as follows:

The foul condensate monitoring and treatment requirements in Paragraphs I.a. and I.b., except that the State shall be substituted for EPA as the entity to which New Indy must provide notice, records, and or reports.

FOR THE UNITED STATES OF AMERICA:

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UNITED STATES ATTORNEY

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FOR THE U.S. ENVIRONMENTAL PROTECTION  
AGENCY:

LEIF  
PALMER

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Leif Palmer  
Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region 4

FOR NEW-INDY CATAWBA LLC:

9/30/22

Date



Scott Conant, President

New-Indy Catawba LLC