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8 EXXONMOBIL OIL CORPORATION

9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA
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12 EXXONMOBIL OIL CORPORATION,

13 Plaintiff,

14 v.

15 NICOLETTI OIL, INC. *et al.*,

16 Defendants.
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No. 1:09-cv-01498-AWI-DLB

**STIPULATION AND ORDER
SUBSTITUTING PERSONAL
REPRESENTATIVE FOR
DEFENDANT DINO J. NICOLETTI,
DECEASED**

Judge: Hon. Anthony W. Ishii
Trial Date: Nov. 14, 2012

1 The parties to this action, by and through their counsel, stipulate and agree as follows:

2 (1) Defendant Dino J. Nicoletti died during the pendency of this action;

3 (2) To the extent Plaintiff's first claim for relief under RCRA or sixth claim for
4 declaratory relief survive the death of defendant Dino Nicoletti, Floretta Nicoletti, personal
5 representative of defendant Dino J. Nicoletti, deceased, may be substituted as a defendant in this
6 action in place of defendant Dino J. Nicoletti. This stipulation explicitly reserves, and is not
7 intended to waive, any argument by Defendants that neither Plaintiff's first claim against Dino
8 Nicoletti nor Plaintiff's sixth claim against Dino Nicoletti survive the death of defendant Dino
9 Nicoletti; and

10 (3) Floretta Nicoletti, personal representative of defendant Dino J. Nicoletti, deceased,
11 hereby acknowledges actual notice of this suit and subjects herself to the jurisdiction of this court
12 in this action.

13 DATED: September 27, 2012

BINGHAM MCCUTCHEN LLP

14
15 By: /s/ Berj K. Parseghian

16 Berj K. Parseghian
17 Attorneys for Plaintiff
ExxonMobil Oil Corporation

18 TATRO TEKOSKY SADWICK LLP

19
20 By: /s/ Steven R. Tekosky (as authorized
on September 27, 2012)

21 Steven R. Tekosky
22 Attorney for Defendants
Nicoletti Oil, Inc., Dino J. Nicoletti, and John A
23 Nicoletti

24 IT IS SO ORDERED.

25 Dated: October 9, 2012

/s/ Dennis L. Beck

26 UNITED STATES MAGISTRATE JUDGE