

1 SOMACH, SIMMONS & DUNN
A Professional Corporation
2 PAUL S. SIMMONS (SBN: 127920)
Email: psimmons@somachlaw.com
3 Kanwarjit S. Dua (SBN: 214591)
Email: kdua@somachlaw.com
4 500 Capitol Mall, Suite 1000
Sacramento, CA 95814
5 Telephone: (916) 446-7979
Facsimile: (916) 446-8199

6 Attorneys for DEFENDANT CITY OF
7 MODESTO

8 UNITED STATES DISTRICT COURT
9 EASTERN DISTRICT OF CALIFORNIA

10 CALIFORNIA SPORTFISHING PROTECTION
11 ALLIANCE, a non-profit corporation,

12 Plaintiff,

13 v.

14 CITY OF MODESTO, a municipality

15 Defendant.

CASE NO. 1:12-cv-02027-LJO-SKO

STIPULATION TO DISMISS
PLAINTIFF'S CLAIMS; ORDER
GRANTING DISMISSAL
[FRCP 41(a)(2)]

Judge: Lawrence J. O'Neill
U.S. District Judge

16
17 WHEREAS, on February 16, 2012, Plaintiff California Sportfishing Protection Alliance
18 ("CSPA") provided Defendant City of Modesto ("Modesto") with a Notice of Violations and
19 Intent to File Suit ("Notice") under Clean Water Act § 505, 33 U.S.C. § 1365 (Docket No. 1).

20 WHEREAS, on July 11, 2012, CSPA filed its Complaint against Modesto in this Court,
21 *California Sportfishing Protection Alliance v. City of Modesto*, Case No. 1:12-cv-02027-LJO-
22 SKO (Docket No. 1). Said Complaint incorporates by reference all of the allegations contained in
23 CSPA's Notice.

24 WHEREAS, CSPA and Modesto, through their authorized representatives and without
25 either adjudication of CSPA's claims or admission by Modesto of any alleged violation or other
26 wrongdoing, have chosen to resolve in full by way of settlement the allegations of CSPA as set
27 forth in the Notice and Complaint, thereby avoiding the costs and uncertainties of further
28 litigation. A copy of the Settlement Agreement and Mutual Release of Claims ("Settlement

1 Agreement”) entered into by and between CSPA and Modesto is attached hereto as Exhibit A and
2 incorporated by reference.

3 WHEREAS, the parties submitted the Settlement Agreement via certified mail, return
4 receipt requested, to the U.S. EPA and the U.S. Department of Justice and the 45-day review
5 period set forth at 40 C.F.R. § 135.5 has completed and the federal agencies have submitted
6 correspondence to the Court indicating that they have no objection to the terms of the Settlement
7 Agreement (Docket No. 24).

8 NOW THEREFORE, IT IS HEREBY STIPULATED and agreed to by and between the
9 parties that CSPA’s claims, as set forth in the Notice and Complaint, be dismissed. The parties
10 respectfully request an order from this Court dismissing such claims. In accordance with
11 paragraphs 25 and 8 of the Settlement Agreement, the parties also request that this Court maintain
12 jurisdiction over the parties through May 31, 2017, or through the conclusion of any proceeding
13 to enforce the Settlement Agreement, for the sole purpose of resolving any disputes between the
14 parties with respect to enforcement of any provision of the Settlement Agreement.

15
16 Dated: December 24, 2013

Respectfully submitted,

17 SOMACH SIMMONS & DUNN
18 A Professional Corporation

19 By: /s/ Kanwarjit S. Dua
20 Kanwarjit S. Dua
Attorneys for Defendant CITY OF MODESTO

21 LOZEAU DRURY LLP

22
23 By: /s/ Douglas J. Chermak (as authorized on 12/24/13)
24 Douglas J. Chermak
25 Attorneys for Plaintiff California Sportfishing Protection
26 Alliance
27
28

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

Good cause appearing, and the parties having stipulated and agreed,

IT IS HEREBY ORDERED that Plaintiff California Sportfishing Protection Alliance’s claims against Defendant City of Modesto, as set forth in the Notice and Complaint filed in Case No. 1:12-cv-020270-LJO-SKO, are hereby dismissed with prejudice.

IT IS FURTHER ORDERED that the Court shall retain jurisdiction over the parties through May 31, 2017, or through the conclusion of any proceeding to enforce the Settlement Agreement, for the sole purpose of enforcing compliance by the parties of the terms of the Settlement Agreement, attached to the parties’ Stipulation to Dismiss as Exhibit A.

The clerk is directed to close this action.

IT IS SO ORDERED.

Dated: December 27, 2013

/s/ Lawrence J. O’Neill
UNITED STATES DISTRICT JUDGE