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13 **UNITED STATES DISTRICT COURT**  
 14 **EASTERN DISTRICT OF CALIFORNIA**

15 CALIFORNIA SPORTFISHING  
 PROTECTION ALLIANCE, a non-profit  
 16 corporation,

17 Plaintiff,

18 vs.

19 CONTECH CONSTRUCTION PRODUCTS  
 INC. an Ohio corporation, and DAN  
 20 MOODY, an individual

21 Defendants.

Case No. 2:10-CV-00902-LKK-EFB

**STIPULATION TO APPROVE  
 CONSENT AGREEMENT AND TO  
 DISMISS PLAINTIFF’S CLAIMS WITH  
 PREJUDICE; ORDER APPROVING  
 CONSENT AGREEMENT AND  
 GRANTING DISMISSAL WITH  
 PREJUDICE [FRCP 41(a)(2)]**

(Federal Water Pollution Control Act,  
 33 U.S.C. §§ 1251 to 1387)

22 TO THE COURT:

23 Plaintiff California Sportfishing Protection Alliance (“PLAINTIFF” or “CSPA”), and  
 24 Defendants Contech Construction Products Inc. (“CONTECH”) and Dan Moody (“MOODY”),<sup>1</sup>  
 25 (collectively, the “Parties”) stipulate as follows:

26 \_\_\_\_\_  
 27 <sup>1</sup> Unless otherwise noted, CONTECH and MOODY shall be referred to collectively herein as “DEFENDANTS.”

1           **WHEREAS**, on or about February 8, 2010, CSPA provided DEFENDANTS with a  
2 Notice of Violations and Intent to File Suit (“60-Day Notice Letter”) under Section 505 of the  
3 Federal Water Pollution Control Act (“Act” or “Clean Water Act”), 33 U.S.C. § 1365;

4           **WHEREAS**, on April 14, 2010, CSPA filed its Complaint against DEFENDANTS in  
5 this Court, *California Sportfishing Protection Alliance v. Contech Construction, Inc., et al.*,  
6 (USDC, E.D. Cal., Case No. 2:10-CV-00902-LKK-EFB) and said Complaint incorporated by  
7 reference all of the allegations contained in CSPA’s 60-Day Notice Letter dated February 8,  
8 2010;

9           **WHEREAS**, CSPA and DEFENDANTS, through their authorized representatives and  
10 without either adjudication of CSPA’s claims or admission by DEFENDANTS of any alleged  
11 violation or other wrongdoing, have chosen to avoid the costs and uncertainties of further  
12 litigation and to resolve the allegations of CSPA as set forth in the Clean Water Act Notice  
13 Letters and Complaint, in full by way of settlement. A copy of the agreement (“Consent  
14 Agreement”) entered into by CSPA and DEFENDANTS is attached hereto as **Exhibit A** and  
15 incorporated by this reference.

16           **WHEREAS**, the Parties submitted the Consent Agreement via certified mail, return  
17 receipt requested, to the U.S. EPA and the U.S. Department of Justice (“the agencies”) and the  
18 45-day review period set forth at 40 C.F.R. § 135.5 has been completed without objection by the  
19 agencies.

20           **NOW THEREFORE, IT IS HEREBY STIPULATED AND AGREED TO BY AND**  
21 **BETWEEN THE PARTIES:**

22           1.       That the Court be requested to approve the Consent Agreement attached hereto as  
23 Exhibit A and enter judgment in therewith.

24           2.       That CSPA’s claims, as set forth in the Clean Water Act Notice Letters and First  
25 Amended Complaint, be dismissed with prejudice pursuant to Federal Rule of Civil Procedure  
26 41(a)(2). The Parties respectfully request an order from this Court dismissing such claims with  
27 prejudice. In accordance with Paragraph 16 of the Consent Agreement, the Parties also request

1 that this Court retain and have jurisdiction over the Parties in accordance with Paragraph 13 of  
2 the Consent Agreement through May 30, 2014 (or May 30, 2015 if the term of the Consent  
3 Agreement is extended pursuant to the terms set out in Paragraph 2(e) of the Consent  
4 Agreement), for the sole purpose of resolving any disputes between the Parties with respect to  
5 enforcement of any provision of the Consent Agreement.

6  
7 DATED: February 10, 2011

JACKSON & TUERCK

8 /s/ Robert J. Tuerck  
9 Robert J. Tuerck  
10 Attorney for Plaintiff  
CALIFORNIA SPORTFISHING PROTECTION  
ALLIANCE

11 DATED: February 10, 2011

KEATING MUETHING & KLEKAMP PLL

12   
13 Jill A. Weller  
14 Attorney for Defendants  
15 CONTECH CONSTRUCTION PRODUCTS INC.  
16 DAN MOODY

1 **ORDER**

2 **WHEREAS**, the Parties have consented to entry of the foregoing Consent Agreement  
3 and requested the Court’s approval and entry thereof; and

4 **WHEREAS**, pursuant to 33 U.S.C. § 1365(c)(3), the Parties submitted the Consent  
5 Agreement to the United States Attorney General and the Administrator of the United States  
6 Environmental Protection Agency and the 45-day review period has been completed without  
7 objection by the agencies;

8 **WHEREAS**, the Court has reviewed the Consent Agreement and fully considered the  
9 Parties’ request to enter this Consent Agreement as an order; and

10 **WHEREAS**, the Court finds the Consent Agreement to be: (1) fair, adequate and  
11 reasonable; (2) consistent with applicable laws; and (3) protective of the public interest; and

12 **WHEREAS**, good cause appearing therefore,

13 1. THIS CONSENT AGREEMENT IS HEREBY APPROVED AND JUDGMENT  
14 IS ENTERED IN ACCORDANCE THEREWITH;

15 2. Plaintiff California Sportfishing Protection Alliance’s claims against Contech  
16 Construction Products Inc. and Dan Moody, an individual, as set forth in the Clean Water Act  
17 Notice Letters and Complaint filed in Case No. 2:10-CV-00902-LKK-EFB, are hereby  
18 dismissed with prejudice.

19 IT IS FURTHER ORDERED that the Court shall retain and have jurisdiction over the  
20 Parties with respect to disputes arising under the Consent Agreement attached to the Parties’  
21 Stipulation to Approve Consent Agreement and Dismiss as **Exhibit A**.

22 IT IS SO ORDERED.

23 UNITED STATES DISTRICT COURT FOR THE  
24 EASTERN DISTRICT COURT OF CALIFORNIA

25 Dated: February 16, 2011

26   
27 LAWRENCE K. KARLTON  
28 SENIOR JUDGE  
UNITED STATES DISTRICT COURT