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17 Attorneys for Plaintiff
 18 CALIFORNIA SPORTFISHING
 19 PROTECTION ALLIANCE

20 **UNITED STATES DISTRICT COURT**
 21 **EASTERN DISTRICT OF CALIFORNIA**

22 CALIFORNIA SPORTFISHING
 23 PROTECTION ALLIANCE, a non-profit
 24 corporation,

25 Plaintiff,

26 vs.

27 USA WASTE OF CALIFORNIA, INC. a
 28 Delaware corporation, and MIKE
 DONOHUE, an individual,

Defendants.

Case No. 2:10-CV-01096-GEB-KJN

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

(Federal Water Pollution Control Act,
 33 U.S.C. §§ 1251 to 1387; and, California
 Health & Safety Code § 25249.5 *et seq.*)

29 **WHEREAS**, on or about March 4, 2010, Plaintiff California Sportfishing Protection
 30 Alliance ("CSPA") provided Defendants USA WASTE OF CALIFORNIA, INC., a Delaware
 31 corporation, and MIKE DONAHUE, an individual, ("Defendants") with a Notice of Violations
 32 and Intent to File Suit ("CWA Notice") under Clean Water Act §505, 33 U.S.C. §1365.

1 **WHEREAS**, on May 4, 2010, CSPA filed its Complaint against Defendants in this
2 Court, *California Sportfishing Protection Alliance v. Cook Concrete Products, Inc., et al.*,
3 (USDC, E.D. Cal., Case No. 2:10-cv-01083-JAM-DAD) and said Complaint incorporates by
4 reference all of the allegations contained in CSPA’s CWA Notice;

5 **WHEREAS**, on or about September 10, 2010, Plaintiff provided notice of USA
6 Waste’s alleged violations of California Health & Safety Code § 25249.5 *et seq.* (referred to as
7 “Proposition 65”) (“Proposition 65 Notice Letter”), and of its intention to file suit against USA
8 Waste to the Proposition 65 Enforcement Reporting section of the office of the California
9 Attorney General (“California Attorney General”); the District Attorney of each California
10 county containing sources of drinking water potentially impacted by USA Waste’s violations
11 of Proposition 65 as described in the Proposition 65 Notice Letter; and, to USA Waste, as
12 required by California Health & Safety Code Section 25249.5 *et seq.*;

13 **WHEREAS**, the Parties have stipulated to leave for Plaintiff to file a First Amended
14 Complaint upon the expiration of the September 10, 2010 Proposition 65 Notice Letter;

15 **WHEREAS**, CSPA and Defendants, through their authorized representatives and
16 without either adjudication of CSPA’s claims or admission by Defendant of any alleged
17 violation or other wrongdoing, have chosen to resolve in full by way of settlement the
18 allegations of CSPA as set forth in the CWA Notice and Complaint, thereby avoiding the costs
19 and uncertainties of further litigation. A copy of the agreement (“Settlement Agreement”)
20 entered into by and between CSPA and Defendants is attached hereto as **Exhibit A** and
21 incorporated by reference.

22 **WHEREAS**, the parties submitted the Settlement Agreement via certified mail, return
23 receipt requested, to the U.S. EPA and the U.S. Department of Justice and the 45-day review
24 period set forth at 40 C.F.R. § 135.5 has been completed without objection by the agencies.
25

26 **NOW THEREFORE, IT IS HEREBY STIPULATED** and agreed to by and between
27 the parties that CSPA’s claims, as set forth in the Notice and Complaint, be dismissed with
28

1 prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2). The parties respectfully
2 request an order from this Court dismissing such claims with prejudice. In accordance with
3 paragraphs 2 and 19 of the Settlement Agreement, the parties also request that this Court retain
4 and have jurisdiction over the Parties with respect to disputes arising under the Settlement
5 Agreement.

6 **SO STIPULATED AND ORDERED.**

7
8 Dated: December 28, 2010

LAW OFFICES OF ANDREW L. PACKARD

9 By: ___/s/_____
10 Andrew L. Packard
11 Attorneys for Plaintiff
12 CALIFORNIA SPORTFISHING PROTECTION
13 ALLIANCE

14
15 Dated: December 29, 2010

REED SMITH LLP

16 By: ___/s/_____
17 John Lynn Smith
18 (per authority of JLS, granted December 28, 2010)
19 Attorneys for Defendants
20 USA WASTE OF CALIFORNIA, INC.
21 and MIKE DONAHUE
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ORDER

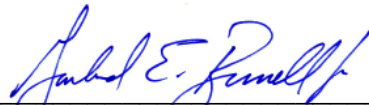
Since the parties having stipulated and agreed,

IT IS HEREBY ORDERED that Plaintiff California Sportfishing Protection Alliance's claims against USA WASTE OF CALIFORNIA, INC., a Delaware corporation, and MIKE DONAHUE, an individual, as set forth in the Notice and Complaint filed in Case No. 2: 10-CV-01096-GEB-KJN, are hereby dismissed with prejudice.

IT IS FURTHER ORDERED that the Court shall retain and have jurisdiction over the Parties with respect to disputes arising under the Consent Agreement attached to the parties' Stipulation to Dismiss as Exhibit A, filed on December 28, 2010.

IT IS SO ORDERED.

Date: 1/7/2011



GARLAND E. BURRELL, JR.
United States District Judge