

1 MICHAEL E. VINDING (State Bar No. 178359)  
 Brady & Vinding  
 2 400 Capitol Mall, Suite 2640  
 Sacramento, CA 95814  
 3 Tel: (916) 446-3400  
 Fax: (916) 446-7159  
 4 mvinding@bradyvinding.com  
 [Proposed] Counsel for Defendants

5 ANDREW L. PACKARD (State Bar No. 168690)  
 6 LAURIE A. MIKKELSEN (State Bar No. 260313)  
 Law Offices of Andrew L. Packard  
 7 100 Petaluma Blvd. N., Suite 301  
 Petaluma, CA 94952  
 8 Tel: (707) 763-7227  
 Fax: (707) 763-9227  
 9 Andrew@packardlawoffices.com  
 Counsel for Plaintiff

10  
 11 **UNITED STATES DISTRICT COURT**  
 12 **EASTERN DISTRICT OF CALIFORNIA**

13  
 14 CALIFORNIA SPORTFISHING  
 PROTECTION ALLIANCE, a non-profit  
 15 corporation,  
 Plaintiff,

16 vs.

17 GUSTAFSON AUTO WRECKING AND  
 TOWING, INC., a California corporation,  
 18 DALE GUSTAFSON, an individual, and  
 DAN GUSTAFSON, an individual,  
 19 Defendants.

Case No. 2:10-CV-01408-JAM-EFB

**STIPULATED CONDITIONAL  
 REQUEST TO SUBSTITUTE COUNSEL  
 AND TO STAY CIVIL PENALTY AND  
 ORDER**

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

20  
 21 Defendants Gustafson Auto Wrecking and Towing, Inc., Dale Gustafson and Dan  
 22 Gustafson (“GAW”) hereby conditionally request that the Court allow Michael E. Vinding of the  
 23 firm of Brady & Vinding (“Vinding”) to substitute as counsel of record for Defendants, replacing  
 24 Jeffory J. Scharff of the Law Offices of Jeffory J. Scharff (“Scharff”).<sup>1</sup> A true and correct copy of  
 25 the Substitution of Attorney and Proposed Order Approving Substitution (“Substitution”) authored  
 26 and signed by Scharff is attached to the Declaration of Vinding as Exhibit 1. (Although no

27  
 28 <sup>1</sup> Scharff was previously a partner in the Brady & Vinding firm. As such, Vinding is readily familiar with the parties, the underlying facts and dispute, and the issues associated with the final resolution of this case.

1 signature line was provided for Vinding, as noted in the Vinding Declaration, Vinding  
2 conditionally joins in the substitution request.)

3 Plaintiff California Sportfishing Protection Alliance (hereinafter “CSPA” or “Plaintiff”)  
4 hereby stipulates and joins in the request.

5 Vinding’s request as proposed new counsel is conditioned on the following:

6 The Parties jointly request that the Court stay enforcement of the civil penalty of \$37,500  
7 awarded by the Court on May 31, 2013 until January 1, 2014.<sup>2</sup> If Defendants do not fully comply  
8 with the terms stated below the Court shall reinstate the award. If Defendants comply with the  
9 terms stated below, the Parties request that the Court vacate the civil penalty entirely, following  
10 notice by Plaintiff’s counsel.

11 The terms are as follows:

12 1. The primary consideration offered by Defendants is to cease all operations and  
13 remove all cars<sup>3</sup> and car parts, to Plaintiff’s good faith satisfaction in order to avoid any future  
14 violations of Federal Water Pollution Control Act (3 U.S.C. §§ 1251-1387), on the uncovered  
15 portions of the approximately nine-acre vehicle dismantling facility located at 19748 Collyer  
16 Drive, in Redding, California (the “Facility”) not later than December 31, 2013 and thereafter list  
17 the Facility property for sale.

18  
19 <sup>2</sup> The only remaining money due is the civil penalty. As noted in the Vinding Declaration, Vinding was contacted  
20 by Erik Gustafson, the son of Defendant Dale Gustafson, approximately two weeks ago and asked to substitute  
21 into this case. Vinding advised Erik Gustafson and Plaintiff’s counsel that he (Vinding) would only substitute in  
22 as counsel if he could assist in resolving the case in its entirety. At Vinding’s suggestion:

- 23 a. Defendants have made all payments required under the Consent Agreement (Docket No. 50) including the  
24 \$40,000 owed to Plaintiff’s counsel as well as the \$20,000 mitigation payment to the Rose Foundation.  
25 b. Defendants paid the costs and fees sanctions awarded in the amount of \$8,589.35 pursuant to this Court’s  
26 Order of May 31, 2013 (Docket No. 58).  
27 c. The only money remaining due is the civil penalty of \$37,500 (Docket No. 58). If the Court is not inclined  
28 to stay the civil penalty and, if/when all terms are satisfied, vacate the award, there is no reason for Vinding  
to substitute in this case if he cannot be of assistance in resolving this matter.  
d. All BMPs under the Consent Agreement have been installed.

29 <sup>3</sup> Under paragraph 3(b), GAW, Inc. was allowed to designate a portion of the Facility to store vehicles privately  
owned by the individual defendants or other family members. Arguably, all remaining vehicles could be  
transferred from GAW, Inc., to the individuals and thereby allow the vehicles to remain on site. Under the  
proposed modification, no vehicles will be on site after December 31, 2013.

1           2. Defendants shall publicly declare their intent to terminate regulation of the Facility  
2 under the General Permit by filing a Notice of Termination (“NOT”) with the Regional Board at its  
3 office in Redding, California, no later than December 1, 2013.

4           Plaintiff and Defendants anticipate that this request will be unopposed by Scharff as he has  
5 signed a substitution of attorney form. (A true and correct copy is attached as Exhibit 1 to the  
6 Declaration of Vinding.)

7           The Parties represent to the Court that substantial progress has been made in the removal of  
8 cars and parts from the Facility, particularly in the last two weeks. For comparison purposes, a  
9 photograph of the Facility at the time of the Consent Agreement (May, 2011) is attached as  
10 Exhibit 2 to the Declaration of Vinding. A photograph of the Facility taken last week is attached  
11 as Exhibit 3 to the Declaration of Vinding. Exhibits 2 and 3 demonstrate that the number of  
12 vehicles has been reduced from approximately 1,000 to approximately 60.

13           This Stipulation is conditioned on the fact that Vinding, as proposed new counsel, has no  
14 desire or intention by this substitution to take on any liability associated with the final sentence of  
15 the Court’s May 31, 2013 order [“Defendant’s failure to make this payment within 30 days of this  
16 Order will result in further sanctions to Defendant’s counsel.”].

17  
18 Dated: September 10, 2013

LAW OFFICES OF ANDREW L. PACKARD

19 By: /s/Andrew L. Packard  
20 Andrew L. Packard  
21 (As authorized on 9/10/13–L.R. 131(e))  
22 Attorneys for Plaintiff California Sportfishing  
23 Protection Alliance

24  
25 Dated: September 10, 2013

BRADY & VINDING

26 By: /s/Michael E. Vinding  
27 Michael E. Vinding  
28 [Proposed] Attorneys for Defendants  
Gustafson Auto Wrecking and Towing, Inc.,  
Dan Gustafson and Dale Gustafson

///

///

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

**NOW, THEREFORE, IT IS HEREBY STIPULATED AND ORDERED AND  
DECREED BY THE COURT, AS FOLLOWS:**

The Court hereby stays enforcement of the civil penalty of \$37,500 awarded by the Court on May 31, 2013 (Docket No. 58) until January 1, 2014. If Defendants do not fully and timely comply with the terms below, the Court shall reinstate the award upon receipt of notice of non-compliance with those terms from Plaintiff’s counsel. If Defendants comply with the terms set forth below, the Court will vacate the civil penalty.

The terms are as follows:

1. Defendants shall cease all operations and remove all vehicles and vehicle parts to Plaintiff’s good faith satisfaction in order to avoid any future violations of the Federal Water Pollution Control Act (3 U.S.C. §§ 1251-1387), on the uncovered portions of the approximately nine-acre vehicle dismantling facility located at 19748 Collyer Drive, in Redding, California (the “Facility”) not later than December 31, 2013 and thereafter list the Facility property for sale.

2. Defendants shall publicly declare their intent to permanently terminate operations at the Facility and regulation of the Facility under the General Permit by filing a Notice of Termination (“NOT”) with the Regional Board at its office in Redding, California, no later than December 1, 2013.

**IT IS SO ORDERED.**

Dated: September 10, 2013

/s/ John A. Mendez  
HON. JOHN A. MENDEZ  
U.S. DISTRICT COURT JUDGE