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CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE

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

CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE, a non-profit
corporation,

Plaintiff,

vs.

NORTHSTATE RECYCLING, a California
corporation, and WILLIAM SHORT, an
individual

Defendants.

Case No. 2:10-CV-01688-WBS -EFB

**STIPULATION TO APPROVE
CONSENT AGREEMENT AND TO
DISMISS PLAINTIFF'S CLAIMS WITH
PREJUDICE; [~~PROPOSED~~] 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)

TO THE COURT:

Plaintiff California Sportfishing Protection Alliance ("PLAINTIFF" or "CSPA"), and Defendants Northstate Recycling ("NORTHSTATE") and William Short ("SHORT"),¹ (collectively, the "Parties") stipulate as follows:

¹ Unless otherwise noted, NORTHSTATE and SHORT shall be referred to collectively herein as "DEFENDANTS."

WHEREAS, on or about April 28, 2010, CSPA provided DEFENDANTS with a Notice of Violations and Intent to File Suit (“60-Day Notice Letter”) under Section 505 of the Federal Water Pollution Control Act (“Act” or “Clean Water Act”), 33 U.S.C. § 1365;

WHEREAS, on July 1, 2010, CSPA filed its Complaint against DEFENDANTS in this Court, *California Sportfishing Protection Alliance v. Northstate Recycling, et al.*, (USDC, E.D. Cal., Case No. 2:10–CV–01688–WBS –EFB) and said Complaint incorporated by reference all of the allegations contained in CSPA’s 60-Day Notice Letter dated April 29, 2010;

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

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

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

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

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

the Consent Agreement, the Parties also request that this Court retain and have jurisdiction over the Parties in accordance with Paragraph 18 of the Consent agreement through September 30, 2014, for the sole purpose of resolving any disputes between the Parties with respect to enforcement of any provision of the Consent Agreement.

DATED: May 4, 2011

JACKSON & TUERCK

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

DATED: May 4, 2011

WELLS, SMALL, FLEHARTY & WEIL

/s/Bartley S. Fleharty
Bartley S. Fleharty
Attorney for Defendants
NORTHSTATE RECYCLING AND
WILLIAM SHORT

ORDER

WHEREAS, the Parties have consented to entry of the foregoing Consent Agreement and requested the Court's approval and entry thereof; and

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

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

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

WHEREAS, good cause appearing therefore,

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

2. Plaintiff California Sportfishing Protection Alliance's claims against Northstate Recycling and William Short as set forth in the Clean Water Act Notice Letters and Complaint filed in Case No. 2:10-CV-01688-WBS-EFB, 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 Approve Consent Agreement and Dismiss as **Exhibit A**.

IT IS SO ORDERED.

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

Dated: May 5, 2011



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE