

1 ANDREW L. PACKARD (State Bar No. 168690)
2 ERIK M. ROPER (State Bar No. 259756)
3 HALLIE B. ALBERT (State Bar No. 258737)
4 Law Offices of Andrew L. Packard
5 100 Petaluma Blvd. N., Suite 301
6 Petaluma, CA 94952
7 Tel: (707) 763-7227
8 Fax: (707) 763-9227
9 E-mail: Andrew@packardlawoffices.com
10 Erik@packardlawoffices.com

11 ROBERT J. TUERCK (State Bar No. 255741)
12 Jackson & Tuerck
13 P.O. Box 148
14 429 W. Main Street, Suite C
15 Quincy, California 95971
16 Tel: (530) 283-0406
17 E-mail: bob@jacksontuerck.com

18 Attorneys for Plaintiff

19 CALIFORNIA SPORTFISHING 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 PARADISE READY MIX, INC. a California
28 corporation, WILLIAM CALLAWAY, an
individual, and BRIAN HARRISON, an
individual,

Defendants.

Case No. 2:10-CV-01801-GEB-GGH

STIPULATION FOR LEAVE TO FILE FIRST
AMENDED COMPLAINT; [PROPOSED]
ORDER THEREON

Magistrate Judge: Hon. Gregory G. Hollows

WHEREAS, Plaintiff California Sportfishing Protection Alliance ("Plaintiff" or "CSPA")
filed its Complaint in this action on July 13, 2010;

WHEREAS, on December 10, 2010, in its Order Discharging OSC, the Court acknowledged
that Paradise Ready Mix is not a corporation;

1 WHEREAS, Plaintiff and Defendant William Callaway ("Callaway") acknowledge that
2 Callaway operates the ready mix concrete facility at issue in this action ("Facility") as a sole
3 proprietorship under the business name, Paradise Ready Mix;

4 WHEREAS, Plaintiff acknowledges that Defendant Paradise Ready Mix, Inc. is a non-
5 existent corporate entity;

6 WHEREAS, on May 18, 2011, Defendant Brian Harrison caused to be filed a declaration
7 signed under penalty of perjury representing that he is merely an employee of Callaway and in that
8 capacity he neither operates the Facility, nor is he responsible for maintenance or management of the
9 Facility;

10 WHEREAS, given the foregoing facts, Plaintiff acknowledges that Defendants Paradise
11 Ready Mix, Inc. and Brian Harrison should not be named defendants in this action;

12 WHEREAS, given the foregoing facts, Plaintiff has agreed to dismiss all claims against
13 Defendants Paradise Ready Mix, Inc. and Brian Harrison with prejudice;

14 WHEREAS, Plaintiff has provided Callaway herein a proposed First Amended Complaint
15 (attached herein as Exhibit A) which merely removes Defendants Paradise Ready Mix, Inc. and
16 Brian Harrison as named defendants;

17 WHEREAS, Plaintiff's proposed First Amended Complaint neither adds new claims, nor
18 does it remove any of the claims for relief contained in its original Complaint.

19 THEREFORE, IT IS HEREBY STIPULATED by and among Plaintiff and Defendants, in
20 the interest of judicial economy:

21 A. That Plaintiff shall be permitted to file its proposed First Amended Complaint on May
22 20, 2011, or as soon thereafter as may be convenient for Plaintiff;

23 B. That Defendant Callaway's response to the First Amended Complaint shall be filed not
24 later than sixty (60) days after Plaintiff files its First Amended Complaint; and,
25
26
27
28

1 C. That Plaintiff and Defendants hereby stipulate, pursuant to Rule 41(a)(1)(A)(ii) of the
2 Federal Rules of Civil Procedure, that Plaintiff hereby dismisses all claims against Defendants
3 Paradise Ready Mix, Inc. and Brian Harrison with prejudice.
4

5 Respectfully submitted,

6
7 Dated: May 20, 2011

LAW OFFICES OF ANDREW L. PACKARD

8
9 By: /s/ Erik Roper

Erik M. Roper

10 Attorneys for Plaintiff

11 California Sportfishing Protection Alliance

12 Dated: May 20, 2011

William Callaway

13
14 By: /s/ William Callaway

William Callaway, Defendant in *Propria Persona*

15 (Electronically signed pursuant to Local Rule 131(f);

16 original signature retained by attorney Erik Roper)

17 Dated: May 20, 2011

Brian Harrison

18
19 By: /s/ Brian Harrison

Brian Harrison, Defendant in *Propria Persona*

20 (Electronically signed pursuant to Local Rule 131(f);

21 original signature retained by attorney Erik Roper)

ORDER

Pursuant to Stipulation, and good cause appearing, it is ORDERED that Plaintiff California Sportfishing Protection Alliance shall be permitted to file its proposed First Amended Complaint on June 20, 2011, or as soon thereafter as may be convenient for Plaintiff. Further, it is ORDERED that Defendant William Callaway's response to the First Amended Complaint shall be filed not later than sixty (60) days after Plaintiff files its First Amended Complaint. Finally, it is ORDERED that Plaintiff California Sportfishing Protection Alliance's claims against Defendants Paradise Ready Mix, Inc. and Brian Harrison as set forth in Plaintiff's Clean Water Act Notice Letter and the Complaint filed in Case No. 2:10-CV-01801-GEB-GGH, are hereby dismissed with prejudice.

IT IS SO ORDERED.

UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

Dated: June 20, 2011

/s/ Gregory G. Hollows

UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

EXHIBIT A