

1 ROBERT J. TUERCK (Bar No. 255741)
 Jackson & Tuerck
 2 P.O. Box 148
 429 W. Main Street, Suite C
 3 Quincy, CA 95971
 Tel: (530) 283-0406
 4 E-mail: bob@jacksontuerck.com

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

11 Attorneys for Plaintiff
 CALIFORNIA SPORTFISHING
 12 PROTECTION ALLIANCE

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 BUTTE COUNTY DEPARTMENT OF
 PUBLIC WORKS, *et. al.*

20 Defendants.

Case No. 2:10-CV-03203-LKK-CKD

**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 Butte County Department of Public Works (hereinafter “DPW”), Mike Crump, and
 25 Shawn H. O’Brien,¹ (collectively, the “Parties”) stipulate as follows:

26 _____
 27 ¹ Unless otherwise noted, DPW, Mike Crump, and Shawn O’Brien shall be referred to collectively herein as
 “DEFENDANTS.”

1 **WHEREAS**, on or about September 29, 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 November 29, 2010, CSPA filed its Complaint (“Complaint”) against
5 DEFENDANTS in this Court, and said Complaint incorporated by reference all of the allegations
6 contained in CSPA’s 60-Day Notice Letter dated September 29, 2010;

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

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

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

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

22 2. That CSPA’s claims, as set forth in the Clean Water Act Notice Letters and
23 Complaint, be dismissed with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(2).
24 The Parties respectfully request an order from this Court dismissing such claims with prejudice.
25 In accordance with Paragraphs 13 and 16 of the Consent Agreement, the Parties also request that
26 this Court retain and have jurisdiction over the Parties through September 30, 2014 (or
27 September 30, 2015 if the term of the Consent Agreement is extended by one year pursuant to

1 paragraph 18 of the Agreement), for the sole purpose of resolving any disputes between the
2 Parties with respect to enforcement of any provision of the Consent Agreement.

3
4
5 DATED: September 29, 2011

JACKSON & TUERCK

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

11
12 DATED: September 30, 2011

BRUCE S. ALPERT
COUNTY COUNSEL

13 /s/ Kathleen Kehoe Greeson
14 By: Kathleen Kehoe Greeson, Deputy County
15 Counsel
16 Attorney for Defendants
17 BUTTE COUNTY DEPARTMENT OF PUBLIC
18 WORKS, MIKE CRUMP, AND SHAWN H.
19 O'BRIEN
20
21
22
23
24
25
26
27
28

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 Defendants
16 Butte County Department of Public Works, Mike Crump and Shawn H. O’Brien as set forth in
17 the Clean Water Act Notice Letters and Complaint filed in Case No. 2:10-CV-03203-LKK-CKD,
18 are hereby 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: November 3, 2011

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

