

1 Michael R. Lozeau (State Bar No. 142893)
2 Douglas J. Chermak (State Bar No. 233382)
3 LOZEAU DRURY LLP
4 410 12th Street, Suite 250
5 Oakland, CA 94607
6 Tel: (510) 836-4200
7 Fax: (510) 836-4203 (fax)
8 E-mail: michael@lozeaudrury.com
9 doug@lozeaudrury.com

10 Attorneys for Plaintiff
11 CALIFORNIA SPORTFISHING
12 PROTECTION ALLIANCE

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE, a non-profit
corporation,

Plaintiff,

vs.

SUN GRO HORTICULTURE
PROCESSING, a Delaware corporation,

Defendant.

Case No. 2:16-cv-02247-WHO

**STIPULATION TO DISMISS
PLAINTIFF'S CLAIMS; [PROPOSED]
ORDER GRANTING DISMISSAL
[FRCP 41(a)(1)]**

WHEREAS, on June 28, 2016, Plaintiff California Sportfishing Protection Alliance ("CSPA") provided Defendant Sun Gro Horticulture Processing ("Sun Gro") with a Notice of Violations and Intent to File Suit ("Notice") under Clean Water Act § 505, 33 U.S.C. § 1365.

WHEREAS, on September 22, 2016, CSPA filed its Complaint against Sun Gro in this Court, *California Sportfishing Protection Alliance v. Sun Gro Horticulture Processing*, Case No. 2:16-cv-02247-WHO. Said Complaint incorporates by reference all of the allegations contained in CSPA's Notice.

WHEREAS, CSPA and Sun Gro, through their authorized representatives and without either adjudication of CSPA's claims or admission by Sun Gro of any alleged violation or other wrongdoing, have chosen to resolve in full by way of settlement the allegations of CSPA as set forth

1 in the Notice and Complaint, thereby avoiding the costs and uncertainties of further litigation. A
2 copy of the Settlement Agreement and Mutual Release of Claims ("Settlement Agreement") entered
3 into by and between CSPA and Sun Gro is attached hereto as Exhibit 1 and incorporated by
4 reference.

5 WHEREAS, the parties submitted the Settlement Agreement via certified mail, return receipt
6 requested, to the U.S. EPA and the U.S. Department of Justice and the 45-day review period set forth
7 at 40 C.F.R. § 135.5 has completed and the federal agencies have submitted correspondence to the
8 Court indicating that they have no objection to the terms of the Settlement Agreement.

9 NOW THEREFORE, IT IS HEREBY STIPULATED and agreed to by and between the
10 parties that CSPA's claims, as set forth in the Notice and Complaint, be dismissed with prejudice.
11 The parties respectfully request an order from this Court dismissing such claims and the Complaint
12 with prejudice. In accordance with paragraph 2 of the Settlement Agreement, the parties also request
13 that this Court maintain jurisdiction over the parties through December 20, 2019, for the sole
14 purpose of resolving any disputes between the parties with respect to enforcement of any provision
15 of the Settlement Agreement, or through the conclusion of any proceeding to enforce the Settlement
16 Agreement initiated prior to December 20, 2019, or until the completion of any payment or
17 affirmative duty required by the Settlement Agreement.

18 This Dismissal may be pled as a full and complete defense to, and may be used as the basis
19 for an injunction against any lawsuit which may be filed in breach of the Settlement Agreement.

20 Dated: May 17, 2017

Respectfully submitted,

21 LOZEAU DRURY LLP

22 By: /s/ Douglas J. Chermak
23 Douglas J. Chermak
24 Attorneys for Plaintiff California Sportfishing
Protection Alliance

25 GARVEY SCHUBERT BARER

26 By: Sara P. Sandford (as authorized on 5/17/17)
27 Sara P. Sandford
28 Attorneys for Defendant
Sun Gro Horticulture Processing

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

ORDER

Good cause appearing, and the parties having stipulated and agreed,

IT IS HEREBY ORDERED that the Complaint, and all of Plaintiff California Sportfishing Protection Alliance’s claims against Defendant Sun Gro Horticulture Processing as set forth in the Notice and in the Complaint, are hereby dismissed with prejudice.

IT IS FURTHER ORDERED that the Court shall retain jurisdiction over the parties through December 20, 2019, for the sole purpose of resolving any disputes between the parties with respect to any provision of the Settlement Agreement, or through the conclusion of any proceeding to enforce the Settlement Agreement initiated prior to December 20, 2019, or until the completion of any payment or affirmative duty required by the Settlement Agreement.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: May 19, 2017



Judge William H. Orrick
United States District Judge