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12 CALIFORNIA MATERIALS, INC.

13
14 **UNITED STATES DISTRICT COURT**

15 **EASTERN DISTRICT OF CALIFORNIA**

16
17 CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE, a
18 California non-profit
corporation;

19
20 Plaintiff,
vs.

21 CALIFORNIA MATERIALS, INC., a
22 California corporation,
23 Defendant.

Civil Case No. 2:17-cv-01397-JAM-CKD

Hon. John A. Mendez

**STIPULATED REQUEST FOR LEAVE TO FILE
[PROPOSED]FIRST AMENDED COMPLAINT;
ORDER GRANTING LEAVE TO AMEND**

Civil Local Rule 137(c)

1 Plaintiff California Sportfishing Protection Alliance and
2 Defendant California Materials, Inc. (collectively the "Parties") in
3 the above-entitled action submit this Stipulation Re: First Amended
4 Complaint and [Proposed] Order.

5 **WHEREAS**, on July 7, 2017, Plaintiff California Sportsfishing
6 Protection Alliance ("Plaintiff" or "CSPA") filed a Complaint against
7 California Materials, Inc. ("Defendant") alleging it is the owner and
8 operator of the facility located at 3535 Pearlman Drive, in Stockton,
9 California (the "Facility") (see Dkt. No. 1);

10 **WHEREAS**, the Complaint alleges Defendant's violations of
11 California's General Permit for Discharges of Storm Water Associated
12 with Industrial Activities (National Pollution Discharge Elimination
13 System ("NPDES") General Permit No. CAS000001, Water Quality Order
14 No. 92-12-DWQ, as amended by Order No. 97-03-DWQ, as amended by Order
15 No. 2014-0057-DWQ) (hereinafter "Storm Water Permit") and the Clean
16 Water Act at the Facility;

17 **WHEREAS**, on August 14, 2017, Defendant filed its Answer to the
18 Complaint (see Dkt. No. 6);

19 **WHEREAS**, Defendant's response to discovery propounded by
20 Plaintiff states, in part, that it is not the owner or operator of
21 the Facility, and that an affiliated entity, CMAT Mobile Crushing,
22 Inc. has been and is the owner and operator of the Facility;

23 **WHEREAS**, based, in part, on information publicly available to
24 Plaintiff including documents submitted by Defendant pursuant to the
25 Storm Water Permit, Plaintiff is informed and believes and thereon
26 alleges in the [Proposed] First Amended Complaint that E.J. Rogers II
27 is an owner and/or operator of the Facility;

28 **WHEREAS**, based, in part, on representations made by Defendant,

1 on December 5, 2017, CSPA sent a Supplemental Notice Letter
2 ("Supplemental Notice Letter") to Defendant California Materials,
3 Inc., and CMAT Mobile Crushing, Inc., and E.J. Rogers II
4 (collectively "Proposed Defendants") informing them of alleged their
5 violations of the Storm Water Permit as owners and/or operators of
6 the Facility;

7 **WHEREAS**, more than sixty (60) days have passed since the
8 Supplemental Notice Letter was served on Proposed Defendants and the
9 State and Federal agencies. See Section 505(b) of the CWA, 33 U.S.C.
10 § 1365(b)(1)(A);

11 **WHEREAS**, on March 12, 2018, Plaintiff, Defendant, and the
12 Proposed Defendants conducted a settlement conference before the
13 Honorable Magistrate Judge Carolyn Delaney (see Dkt. No 13);

14 **WHEREAS**, the Parties reached a settlement of the action (see
15 Dkt. No 18);

16 **WHEREAS**, the settlement includes all parties named in
17 Plaintiff's Supplemental Notice Letter, California Materials, Inc.,
18 CMAT Mobile Crushing, Inc., and E.J. Rogers II, as well as a
19 stipulated dismissal of the claims alleged in Plaintiff's
20 Supplemental Notice Letter and [Proposed] First Amended Complaint
21 ("Stipulated Dismissal and Settlement Agreement");

22 **WHEREAS**, on March 13, 2018, Plaintiff served copies of the
23 Stipulated Dismissal and Settlement Agreement via U.S. Certified Mail
24 to the U.S. Department of Justice and the U.S. Environmental
25 Protection Agency (collectively "Federal Agencies") for the 45-day
26 review period set out in 40 C.F.R. § 135.5(a);

27 **WHEREAS**, pursuant to the Court's September 13, 2017, Status
28 (Pre-trial Scheduling) Order (Dkt. No. 9), leave of court with good

