alifornia Sp	ortfishing Protection Alliance v. California Materials, Ir	nc. [Ъ
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14	UNITED STATES DISTRICT COURT		
15	EASTERN DISTRICT OF CALIFORNIA		
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17	CALIFORNIA SPORTFISHING PROTECTION ALLIANCE, a	Civil Case No. 2:17-cv-01397-JAM-CKI)
18	California non-profit	Hon. John A. Mendez	
19	corporation;		
20	Plaintiff, vs.	STIPULATED REQUEST FOR LEAVE TO FILE [PROPOSED]FIRST AMENDED COMPLAINT;	3
21	CALIFORNIA MATERIALS, INC., a	ORDER GRANTING LEAVE TO AMEND	
22	California corporation,		
23	Defendant.	Civil Local Rule 137(c)	
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Plaintiff California Sportfishing Protection Alliance and
 Defendant California Materials, Inc. (collectively the "Parties") in
 the above-entitled action submit this Stipulation Re: First Amended
 Complaint and [Proposed] Order.

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

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

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

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

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

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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 allegedtheir 5 violations of the Storm Water Permit as owners and/or operators of 6 the Facility;

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

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

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

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

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

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

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cause showing is required for the joinder of CMAT Mobile Crushing,
 Inc. and E.J. Rogers II as defendants in this matter;

WHEREAS, good cause exists for the requested amendment because the Parties seek leave to amend to add CMAT Mobile Crushing, Inc. and E.J. Rogers II as defendants in this matter via the [Proposed] First Amended Complaint to ensure a full and final settlement, as these additional corporate entities are parties to the Stipulated Dismissal and Settlement Agreement;

9 WHEREAS, Plaintiff's [Proposed] First Amended Complaint is
10 attached hereto as Exhibit A;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and among the Parties that the Court grant Plaintiff leave to amend its Complaint and permit Plaintiff to file the [Proposed] First Amended Complaint, the form of which attached hereto as Exhibit A, within three (3) days of the Court's entry of the [Proposed] Order Granting Leave to Amend filed concurrently herewith.

Respectfully submitted,

18 Dated: March 14, 2018

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LAWYERS FOR CLEAN WATER, INC. <u>/s/Layne Friedrich</u> Layne Friedrich Attorney for Plaintiff

²² Dated: March 14, 2018

CANNATA, O'TOOLE, FICKES & ALMAZAN LLP

/s/Kimberly A. Almazan (authorized on 3/14/2018 Kimberly A. Almazan Attorney for Defendant and Proposed Defendants

1	ORDER GRANTING LEAVE TO AMEND	
2	Based on the above stipulation of the Parties, and good cause	
3	showing:	
4	IT IS HEREBY ORDERED that Plaintiff is granted leave to amend	
5	its Complaint to add CMAT Mobile Crushing, Inc. and E.J. Rogers II as	
6	defendants in this matter;	
7	IT IS FURTHER HEREBY ORDERED that Plaintiff shall file the	
8	[Proposed] First Amended Complaint attached as Exhibit A to the	
9	Parties' Stipulated Request for Leave to File [Proposed] First	
10	Amended Complaint within three (3) days of entry of this order.	
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12	IT IS SO ORDERED.	
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15	Dated: 3/15/2018 /s/ John A. Mendez JOHN A. MENDEZ	
16	United States District Court Judge Eastern District of California	
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	[Proposed] Order Granting Leave to Amend 5 Case No. 2:17-cv-01397-JAM-CKD	