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7 Attorneys for Defendant

8 UNITED STATES DISTRICT COURT
 9 NORTHERN DISTRICT OF CALIFORNIA
 10 SAN FRANCISCO DIVISION

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|----|--|---|--|
| 12 | CENTER ON RACE, POVERTY & THE ENVIRONMENT, |) | Case No. C 12-5074 LB |
| 13 | |) | |
| 14 | Plaintiff, |) | STIPULATION OF SETTLEMENT AND DISMISSAL WITH PREJUDICE |
| 15 | |) | ORDER |
| 16 | v. |) | |
| 17 | UNITED STATES ENVIRONMENTAL PROTECTION AGENCY, et al., |) | |
| 18 | Defendants. |) | |

19
 20 Defendant United States Environmental Protection Agency (“Defendant” or “EPA”) and Plaintiff
 21 Center on Race, Poverty & the Environment (“Plaintiff” or “CRPE”), by and through their respective
 22 counsel, hereby stipulate and agree, as follows:

23 WHEREAS, on September 28, 2012, Plaintiff filed its Complaint for Declaratory and Injunctive
 24 Relief (“Complaint”), alleging violations of the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552,
 25 *et seq.*, regarding its *Angelita C. and Padres* FOIA Requests (“FOIA Requests”).

26 WHEREAS, the FOIA requests upon which this suit is based sought records related to (1) EPA’s
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1 Office of Civil Rights' investigation and resolution of the Title VI Complaint *Angelita C. v. California*
2 *Department of Pesticide Regulation* Complaint #16R-99R9 ("Angelita C"), and (2) EPA's Office of
3 Civil Rights' investigation of the Title VI complaint *Padres Hacia Una Vida Mejor v. California*
4 *Department of Toxic Substances Control*, Complaint #01R-95-R9 ("Padres");

5 WHEREAS, after completing its production of responsive records, EPA completed its
6 representative sampling process and timely produced *Vaughn* indices for records that were partially and
7 fully withheld as well as agreeing to an *in camera* review of withheld records by Magistrate Beeler;

8 WHEREAS, the parties participated in a settlement conference with Magistrate Judge Beeler on
9 May 18, 2015; Defendant participated in a further settlement conference with Magistrate Judge Beeler
10 on May 28, 2015; the parties continued to discuss settlement with each other and Magistrate Judge
11 Beeler thereafter; and said settlement discussions resulted in a complete settlement of this action;

12 WHEREAS, Plaintiffs and Defendant wish to avoid any further litigation and controversy and to
13 settle and compromise fully any and all claims and issues that have been raised, or could have been
14 raised in this action, which have transpired prior to the execution of this Stipulation of Settlement and
15 Dismissal with Prejudice ("Stipulation");

16 NOW, THEREFORE, in consideration of the mutual promises contained in this Stipulation, and
17 other good and valuable consideration, receipt of which is hereby anticipated, the parties agree as
18 follows:

19 1. The parties do hereby agree to settle and compromise each and every claim of any kind,
20 whether known or unknown, arising directly or indirectly from the acts or omissions that gave rise to the
21 above-captioned action under the terms and conditions set forth in this Stipulation.

22 2. Defendant produced to Plaintiff the eighteen documents selected by Plaintiff that
23 Magistrate Judge Beeler reviewed *in camera* at said settlement conferences, in full compliance with
24 Magistrate Judge Beeler's document by document recommendations. Defendant represents that it
25 faithfully complied with all of Magistrate Judge Beeler's recommendations.

26 3. Defendant further agrees to pay the sum of \$140,000.00 ("Settlement Amount") to
27 Plaintiff's counsel for Plaintiff's reasonable attorney's fees and costs, which sum shall be in full and

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1 final satisfaction of all of Plaintiff's rights and claims in this case, including but not limited to those for
2 attorney's fees, costs and other litigation expenses, including interest, and Defendant shall have no
3 further liability for any further amounts. Defense counsel shall promptly request the settlement check or
4 electronic funds transfer after notification of the entry of this Stipulation onto the Court's docket.

5 Defense counsel has advised Plaintiff's counsel that issuance of the settlement check could take up to
6 sixty days. Plaintiff and Plaintiff's counsel agree to cooperate with Defendant's counsel in promptly
7 providing additional reasonable information needed for requesting payment and transmission of funds.

8 4. Plaintiff hereby agrees to accept production of the documents described in Paragraph 2 of
9 this Stipulation and the Settlement Amount in full settlement and satisfaction of all claims, and hereby
10 releases and forever discharges Defendant, its successors, the United States of America, and any
11 department, agency, or establishment of the United States, and any officers, employees, agents,
12 successors or assigns of such department, agency or establishment, from any and all claims and causes
13 of action that Plaintiffs assert or could have asserted in this litigation, or which hereafter could be
14 asserted by reason of, or with respect to, or in connection with, or which arise out of, the FOIA Requests
15 on which this action is based or any other matter alleged in the Complaint, including but not limited to
16 all past, present or future claims for attorneys' fees or costs, or litigation expenses in connection with the
17 above-captioned litigation. This Stipulation is understood not to preclude or prevent Plaintiffs from
18 seeking through FOIA or other means records not sought in the FOIA Requests that gave rise to this
19 action.

20 5. This Stipulation shall represent full and complete satisfaction of all claims arising from
21 the allegations set forth in the Complaint, including the full and complete satisfaction of all claims for
22 costs, attorney's fees, search, review or processing fees that have been or could be, made in this case in
23 connection with Plaintiff's FOIA claims. In particular, this Stipulation shall resolve all claims for
24 attorney's fees and costs, as well as search, review and processing fees incurred by both Plaintiff and
25 Defendant in connection with the administrative FOIA process, the District Court litigation process, and
26 any other proceedings involving the claims raised in this action.

27 6. This Stipulation shall not constitute an admission of liability or fault on the part of the

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1 Defendant or the United States or their agents, servants, or employees, and is entered into by both parties
2 for the sole purpose of compromising disputed claims and avoiding the expenses and risks of further
3 litigation.

4 7. The parties agree that this Stipulation shall not be used as evidence or otherwise in any
5 pending or future civil or administrative action against Defendant or the United States, or any agency or
6 instrumentality of the United States, except in the event of an action brought by any party hereto to
7 enforce this Stipulation.

8 8. This Stipulation shall be binding on and inure to the benefit of the parties hereto and their
9 respective successors and assigns.

10 9. Execution of this Stipulation by counsel for the parties shall constitute a dismissal of all
11 claims in this action with prejudice, effective upon entry of this stipulation onto the Court's docket,
12 pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii).

13 10. The persons signing this Agreement warrant and represent that they possess full authority
14 to bind the persons on whose behalf they are signing to the terms of the settlement.

15 11. The provisions of California Civil Code Section 1542 are set forth below:

16 "A general release does not extend to claims which the creditor does not know or suspect to exist
17 in his or her favor at the time of executing the release, which if known by him or her must have
18 materially affected his or her settlement with the debtor."

19 Plaintiff, having been apprised of the statutory language of Civil Code Section 1542, and fully
20 understanding the same, nevertheless elects to waive the benefits of any and all rights he may have
21 pursuant to the provision of that statute and any similar provision of federal law. Plaintiff understands
22 that, if the facts concerning Plaintiff's claim and the liability of the government for damages pertaining
23 thereto are found hereinafter to be other than or different from the facts now believed by them to be true,
24 the Stipulation shall be and remain effective notwithstanding such material difference.

25 12. If any withholding or income tax liability is imposed upon Plaintiff based on the
26 Settlement Amount or any other term of this Stipulation, Plaintiff shall be solely responsible for paying
27 any such determined liability from any government agency. Nothing in this Stipulation constitutes an

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1 agreement by Defendant concerning the characterization of the Settlement Amount for the purposes of
2 the Internal Revenue Code, Title 26 of the United States Code.

3 13. If any provision of this Stipulation shall be invalid, illegal, or unenforceable, the validity,
4 legality, and enforceability of the remaining provision shall not in any way be affected or impaired
5 thereby.

6 14. This Stipulation shall constitute the entire agreement between the parties, and it is
7 expressly understood and agreed that this Stipulation has been freely and voluntarily entered into by the
8 parties hereto. The parties further acknowledge that no warranties or representations have been made on
9 any subject other than as set forth in this Stipulation.

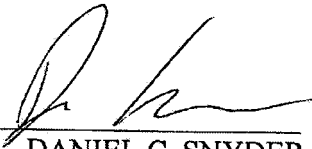
10 15. This Stipulation may not be altered, modified, or otherwise changed in any respect except
11 in writing, duly executed by all parties or their authorized representatives.

12 16. This Stipulation may be executed in counterparts and is effective on the date by which
13 both parties have executed the Stipulation.

14 17. The Court shall retain jurisdiction for the purposes of enforcing and interpreting this
15 Stipulation.

16 IT IS SO STIPULATED.

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18 DATED: July 6, 2015

19 By: 
DANIEL C. SNYDER
Attorney for Plaintiff CRPE

20
21 DATED: July 6, 2015

MELINDA HAAG
United States Attorney

22
23 By: 
JAMES F. SCHARF
Assistant United States Attorney
Attorneys for Defendant EPA

24
25 Dated: July 8, 2015

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