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 20 MCWANE, INC.

21 **UNITED STATES DISTRICT COURT**
 22 **NORTHERN DISTRICT OF CALIFORNIA**

23 GLOBAL COMMUNITY MONITOR, a
 24 non-profit corporation,

25 Plaintiff,

26 vs.

27 MCWANE, INC., a corporation,

28 Defendant.

Case No. 3:13-CV-02014-SC

NOTICE OF SETTLEMENT; STIPULATION
 AND ~~PROPOSED~~ ORDER STAYING
 PROCEEDINGS AND VACATING
 EXISTING DEADLINES

Judge: Hon. Samuel Conti

Case Management Conference: January 24,
 2014

PLEASE TAKE NOTICE that the parties have reached a settlement resolving all claims in this action. The settlement is contingent upon the expiration of the federal agencies' 45-day review period required by the Federal Water Pollution Control Act, 33 U.S.C. § 1365(c)(2).¹

¹ Title 33 of the United States Code, Section 1365(c)(2) provides that "[n]o consent judgment shall be entered in an action in which the United States is not a party prior to 45-days following the receipt of a copy of the proposed consent judgment by the Attorney General and the Administrator."

1 **PLEASE TAKE FURTHER NOTICE** that, in accordance with federal law, no judgment
2 disposing of this action may be entered prior to 45 days following the receipt of the proposed
3 settlement agreement by the United States Department of Justice and the national and Region IX
4 offices of the United States Environmental Protection Agency. *See* 40 C.F.R. § 135.5 (requiring the
5 parties to provide notice to the court of the 45-day agency review period under 33 U.S.C. § 1365(c)).
6 Such notice was mailed to the agencies on January 8, 2014. The regulatory agencies' review period
7 will end by approximately March 3, 2014 (allowing forty-five days for agency review and
8 approximately nine days for mailing time). If any of the reviewing agencies object to the proposed
9 Settlement Agreement, the parties would require additional time to meet and confer and attempt to
10 resolve the agencies' concerns. At the end of the 45-day review period, the parties will file either a
11 Stipulation for Approval of Settlement Agreement and Dismissal With Prejudice of Plaintiff's
12 Claims or a notice that the agencies objected to the proposed Settlement Agreement.

13 In light of the settlement agreement entered into by the parties and the need to await the
14 conclusion of the agencies' 45-day review period, Plaintiff Global Community Monitor ("GCM")
15 and Defendant McWane, Inc. ("McWane"), through their respective counsel, stipulate and agree as
16 follows:

17 **WHEREAS**, on May 1, 2013, GCM filed its complaint in this action;

18 **WHEREAS**, GCM and McWane have been diligently engaged in settlement discussions
19 since prior to the filing of the complaint;

20 **WHEREAS**, the parties successfully completed and executed a Settlement Agreement on
21 January 7, 2014.

22 **WHEREAS**, on January 8, 2014, the parties submitted the Settlement Agreement via
23 certified mail, return receipt requested, to the U.S. EPA and the U.S. Department of Justice and must
24 now await the completion of the 45-day review period set forth at 40 C.F.R. § 135.5 and 33 U.S.C. §
25 1365(c)(2);
26
27

1 **WHEREAS**, in the interests of efficiency and judicial economy, the parties wish to preserve
2 costs incurred in this matter pending the agencies review of the executed settlement agreement;

3 **WHEREAS**, a case management conference is scheduled for January 24, 2014;

4 **WHEREAS**, the deadline for Defendant to respond to Plaintiff's complaint is January 9,
5 2014;

6 **WHEREAS**, in light of the parties' entering into the settlement agreement and the need to
7 allow the federal agencies 45 days to review the Settlement Agreement, the parties further request
8 that the Court immediately stay all proceedings in this action until March 3, 2014, by which date the
9 parties expect to have filed a Stipulation for Approval of Settlement Agreement and Dismissal With
10 Prejudice of Plaintiff's Claims with the Court.

11 **THEREFORE, IT IS HEREBY STIPULATED** by and between GCM and McWane,
12 through their respective counsel of record, that the Court stay all proceedings in this action until
13 March 3, 2014, and, with the exception of this Stipulation, vacate all deadlines and dates currently
14 scheduled by the Court.

15
16 January 8, 2014

Respectfully submitted,

/s/ Douglas J. Chermak
Douglas J. Chermak
Attorneys for Plaintiff GLOBAL
COMMUNITY MONITOR



/s/ Ruben A. Castellon
(as authorized on 1/8/14)
Ruben A. Castellon
Attorney for Defendant MCWANE, INC.