

1 JAMES R. ARNOLD (SBN 56262)
 JOHN A. BEARD (SBN 301405)
 2 THE ARNOLD LAW PRACTICE (East Bay Office)
 3685 Mt. Diablo Blvd., Suite 331
 3 Lafayette, CA 94549
 Telephone: (925) 284-8887
 4 Facsimile: (925) 284-1387
 Email: jarnold@arnoldlp.com
 5 jbeard@arnoldlp.com

6 Attorneys for Defendant
 RICHARD DAPELO
 7 dba QUALITY STAINLESS TANKS

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

10 CALIFORNIA SPORTFISHING
 11 PROTECTION ALLIANCE, etc.,

12 Plaintiff,

13 v.

14 RICHARD DAPELO, etc., et al.,

15 Defendants.

Case No. 3:17-cv-00321-EMC

**STIPULATION TO DISMISS
 PLAINTIFF'S CLAIMS WITH
 PREJUDICE; AND**

~~**[PROPOSED] ORDER**~~

Fed. R. Civ. Pro. 41(a)(2)

16 Plaintiff California Sportfishing Protection Alliance and Defendant Richard Dapelo
 17 respectfully submit this stipulation and proposed order as follows:

18 WHEREAS, on November 21, 2016, Plaintiff provided Defendant with a Notice of
 19 Violations and Intent to File Suit ("Notice") under Clean Water Act § 505, 33 U.S.C. § 1365.

20 WHEREAS, on January 23, 2017, Plaintiff filed its Complaint against Defendant in this
 21 Court. Said Complaint incorporates by reference all of the allegations contained in Defendant's
 22 Notice.

23 WHEREAS, the settling parties, through their authorized representatives and without
 24 either adjudication of Plaintiff's claims, or admission by Defendant of any alleged violation or

1 other wrongdoing, have chosen to resolve in full by way of settlement Plaintiff's allegations as
2 set forth in the Notice and Complaint, thereby avoiding the costs and uncertainties of further
3 litigation.

4 WHEREAS, Plaintiff submitted the settling parties' agreement ("Consent Decree") to the
5 U.S. EPA and the U.S. Department of Justice (the "federal agencies") for a 45-day statutory
6 review period, consistent with 33 U.S.C. § 1365(c) and 40 C.F.R. § 135.5, and that review period
7 has completed. The federal agencies were provided with the Consent Decree on September 14,
8 2017. On November 6, 2017, the federal agencies submitted correspondence to the Court
9 indicating that they have no objection to the terms of the Consent Decree. (ECF no. 37.)

10 WHEREAS, on November 9, 2017, this Court entered the Consent Decree. (ECF no. 39.)

11 NOW THEREFORE, IT IS HEREBY STIPULATED and agreed to that the settling
12 parties request an order from this Court (1) dismissing with prejudice Plaintiff's claims as to
13 Defendant, as set forth in the Notice and Complaint, and (2) concurrently retaining jurisdiction
14 over the settling parties through September 1, 2019, or as otherwise indicated in Paragraph 4 of
15 the Consent Decree, for the purpose of resolving any disputes between the settling parties with
16 respect to enforcement of the Consent Decree.

17 Respectfully submitted,

18
19 DATED: November 16, 2017

THE ARNOLD LAW PRACTICE

20
21 By: /s/ James R. Arnold
22 JAMES R. ARNOLD
23 Counsel for Defendant
24 RICHARD DAPELO

1 DATED: November 16, 2017

AQUA TERRA AERIS LAW GROUP LLP

2
3 By: /s/ Anthony M. Barnes

4 ANTHONY M. BARNES
5 Attorneys for Plaintiff
6 CALIFORNIA SPORTFISHING
7 PROTECTION ALLIANCE

8 **ATTESTATION FOR E-FILING**

9 I hereby attest pursuant to Civil L.R. 5-1(i)(3) that I have obtained concurrence in the
10 filing of this document from the signatories prior to filing.

11 DATED: November 16, 2017

12 By: /s/ John A. Beard

13 **[~~PROPOSED~~] ORDER**

14 Pursuant to the Parties' stipulation, IT IS SO ORDERED. Pursuant to Federal Rule of
15 Civil Procedure 41(a)(2), California Sportfishing Protection Alliance's claims as to Richard
16 Dapelo, as set forth in the Notice and Complaint, are dismissed with prejudice, and the Court
17 shall retain jurisdiction over the parties with respect to disputes arising under the Consent Decree
18 until September 1, 2019, or as otherwise indicated in Paragraph 4 of the Consent Decree.
19

20 DATED: 11/20/17

