

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Michael R. Lozeau (State Bar No. 142893)  
Richard T. Drury (State Bar No. 163559)  
Douglas J. Chermak (State Bar No. 233382)  
LOZEAU DRURY LLP  
410 12<sup>th</sup> Street, Suite 250  
Oakland, CA 94607  
Tel: (510) 836-4200  
Fax: (510) 836-4205 (fax)  
E-mail: michael@lozeaudrury.com  
doug@lozeaudrury.com

Attorneys for Plaintiffs  
NORTHERN CALIFORNIA RIVER WATCH,  
TEAMSTERS LOCAL 70, and EAST BAY  
ALLIANCE FOR A SUSTAINABLE ECONOMY

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

NORTHERN CALIFORNIA RIVER WATCH,  
a non-profit corporation; TEAMSTERS  
LOCAL 70, a labor organization; and EAST  
BAY ALLIANCE FOR SUSTAINABLE  
ECONOMY, a non-profit organization,

Plaintiffs,

v.

OAKLAND MARITIME SUPPORT  
SERVICES, INC., a corporation; WILLIAM  
ABOUDI, an individual; and JORGE  
GONZALEZ RIVERA d.b.a. CHRISTIAN  
BROTHERS TRUCK SERVICES, an  
individual; and REDEVELOPMENT AGENCY  
OF THE CITY OF OAKLAND, a local public  
agency;

Defendants.

Case No.: 4:10-cv-3912 CW-JSC

**STIPULATION REGARDING RULE 34  
REQUEST FOR ENTRY UPON LAND  
FOR INSPECTION AND STIPULATED  
PROTECTIVE ORDER**

**WHEREAS**, On March 23, 2011, Plaintiffs served upon Defendant OAKLAND  
MARITIME SUPPORT SERVICES, INC. (“OMSS”) and WILLIAM ABOUDI (“Aboudi”) a  
Request for Entry Upon Land for Inspection and Other Purposes pursuant to Rule 34 of the  
Federal Rules of Civil Procedure. Specifically, Plaintiffs seek to enter the premises at 11 Burma  
Road in Oakland, California (“the Facility”) to inspect, measure, survey, photograph, test,

1 videotape, or sample soil, materials, product, or runoff that may contribute pollutants to storm  
2 drains on or adjacent to the Facility.

3 **NOW THEREFORE**, the parties hereto, in order to facilitate discovery in this case,  
4 hereby stipulate to the following:

5 1. OMSS and Aboudi will agree to Plaintiffs' request for an inspection. Such  
6 inspection shall take place during the next two weeks or soon thereafter as can be scheduled by  
7 the parties. The parties, including OMSS and City of Oakland Redevelopment Agency will be  
8 given split samples of any runoff taken during the inspection; and OMSS may take photographs  
9 and video tape the inspections performed pursuant to this request.

10 2. The parties agree to exchange the results of any testing performed during the  
11 inspection, along with all photographs or videotapes, 30 (thirty) days prior to the submission of  
12 the written reports required pursuant to Fed. Rule Civ. Pro. 26(a)(2) and the Court's case  
13 management order dated March 8, 2011, or any subsequent modifications of that deadline that  
14 the Court should order.

15 3. This Stipulation and Order shall not be construed as a waiver by any party of any  
16 objections which might be raised as to the admissibility of any evidentiary material.

17 **FURTHER**, subject to the approval of this Court, the parties hereby stipulate to the  
18 following interim protective order regarding the inspection as follows:

19 4. Defendant contends that all information and material collected as a result of  
20 inspection and testing at the Facility are proprietary in nature and constitute trade secrets. As a  
21 result, the parties agree, subject to the limitations and procedures set forth below, that such  
22 information, material, and documentation shall be maintained in confidence, shall be used only  
23 in connection with this litigation, and not for any commercial or business purpose, and shall not  
24 be shared with any third parties except for persons retained or specially employed for trial  
25 preparation purposes as required by Rule 26.

26 5. This stipulated interim protective order shall expire as of the date of service of the  
27 written reports prepared for this litigation pursuant to Fed. Rule Civ. Pro. 26(a)(2) including  
28 information and material collected during the site inspection. Within 14 (fourteen) days of

1 receipt of the photographs or video obtained by plaintiff during the site inspection pursuant to  
2 Paragraph 4 above, Defendants shall specify which, if any, photographs or video it believes  
3 qualifies as a protected trade secret or proprietary material that should be subject to any  
4 protective order and provide Defendants' rationale that a protective order is appropriate. Within  
5 14 (fourteen) days of defendant's receipt of analytic results, photographs, or video obtained by  
6 Plaintiffs during the site inspection pursuant to Paragraphs 1-3 above, Plaintiffs and Defendants  
7 OMSS and Aboudi shall meet and confer to determine whether the parties agree certain  
8 information should be subject to a protective order. If the parties cannot agree that some or all of  
9 the information identified by defendant should be subject to a protective order, Defendants may  
10 file a motion with the Court requesting a protective order. Such motion shall be filed within 7  
11 (seven) days after the expiration of the meet and confer process. No information or  
12 documentation identified by Defendants as trade secret or proprietary shall be disclosed until  
13 such time that this court may issue a ruling on a motion for a protective order brought by  
14 Defendants', if any such motion is made.

15  
16 Dated: November 9, 2011

17 */s/ Douglas J. Chermak*  
18 \_\_\_\_\_  
19 DOUGLAS J. CHERMAK  
20 Attorney for Plaintiffs

21  
22 Dated: November 9, 2011

23 */s/ Meredith E. Brown*  
24 \_\_\_\_\_  
25 (as authorized on 11/8/11)  
26 MEREDITH E. BROWN  
27 Attorney for Defendants  
28 OAKLAND MARITIME SUPPORT  
SERVICES, INC. and WILLIAM ABOUDI

**PURSUANT TO STIPULATION, IT IS SO ORDERED:**

29 Dated: November 9, 2011

30 *Jacqueline S. Corley*  
31 \_\_\_\_\_  
32 Hon. Jacqueline Scott Corley  
33 United States Magistrate Judge