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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 COUNTY OF FRESNO
12

13 **PEOPLE OF THE STATE OF**
14 **CALIFORNIA, ex rel. Debbie Raphael,**
15 **Director, California Department of Toxic**
16 **Substances Control,**
17 **Plaintiff,**

18 v.

19 **MOORE QUALITY GALVANIZING, L.P.,**
20 **a California Limited Partnership, CRAIG**
BRIDGES, and Does 1 to 10,

Defendants.

Case No. 11 CECG02356

Assigned for all purposes to the
Honorable Jeff Hamilton
Department 402

**STIPULATION FOR SETTLEMENT
AND ENTRY OF JUDGMENT AND
PERMANENT INJUNCTION**

(Code of Civil Procedure § 664.6)

Action Filed: 7/11/11

MSC: 3/7/13 at 1:30 p.m.

Trial Date: 4/1/13 at 9:00 a.m.

21 Plaintiff People of the State of California *ex rel.* Debbie Raphael, Director, California
22 Department of Toxic Substances Control (“Plaintiff” or the “Department”) and Defendants Moore
23 Quality Galvanizing, L.P., a California Limited Partnership (“Moore Quality Galvanizing”), and
24 Craig Bridges (collectively “Defendants”)¹ enter into this Stipulation for Settlement and Entry of
25 Judgment and Permanent Injunction (“Stipulation”), and stipulate as follows:
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27 ¹ Plaintiff and Defendants also are individually referred to herein as “Party” or
28 collectively referred to herein as the “Parties.”

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1. THE COMPLAINT

On July 11, 2011, the Department filed a Complaint for Civil Penalties and Injunctive Relief (“Complaint”) pursuant to the California Hazardous Waste Control Law, Health and Safety Code section 25100 et seq. (“HWCL”) and its implementing regulations against Defendants as generators of hazardous waste and as owners and operators of a metal galvanizing facility located at 3001 Falcon Drive, Madera, California (“the Facility”), where hazardous waste is generated and managed.

2. AGREEMENT TO SETTLE DISPUTE

The Parties enter into this Stipulation pursuant to a compromise and settlement of disputed claims by mutually consenting to the entry by the Superior Court of the County of Fresno (the “Court”) of the Judgment and Permanent Injunction Pursuant to Stipulation in the form attached as Exhibit 1 (“Judgment”). The Parties are each represented by counsel. The Department is represented by the Office of the Attorney General and Defendants are represented by Wanger Jones Helsley PC. This Stipulation and the Judgment were negotiated and executed in good faith and at arms’ length by the Parties to avoid expensive and protracted litigation regarding the alleged violations of the HWCL and to further the public interest.

3. JURISDICTION AND VENUE

The Parties agree that this Court has subject matter jurisdiction over the matters alleged in the Complaint and personal jurisdiction over each of the Defendants. Venue is proper pursuant to Health and Safety Code section 25183.

4. WAIVER OF HEARING AND TRIAL AND ENTRY OF JUDGMENT

By signing and entering into this Stipulation, Defendants waive their right to a trial on matters alleged in the Complaint. Further, the Parties request entry of the Judgment on the terms set forth in this Stipulation.

5. APPLICABILITY

Unless otherwise expressly provided herein, the provisions of this Stipulation and the Judgment shall apply to and be binding on: (1) Craig Bridges, as an individual; (2) Moore Quality Galvanizing, L.P., a California Limited Partnership, its subsidiaries and divisions, its

1 parent companies, its officers and directors, its successors and assignees or other entities, acting
2 by, through, under or on behalf of Moore Quality Galvanizing; and (3) the Department and any
3 successor agency of the Department that may have responsibility for and jurisdiction over the
4 subject matter of the Judgment.

5 **6. SETTLEMENT**

6 The Parties enter into this Stipulation as a compromise and settlement of disputed claims
7 for the purpose of avoiding prolonged and complicated litigation and in furtherance of the public
8 interest. The Parties agree that there has been no adjudication of any fact or law, and nothing
9 herein shall be construed as an admission by Defendants that any violation of the HWCL alleged
10 in the Complaint occurred.

11 **7. INJUNCTION**

12 Defendant Moore Quality Galvanizing shall comply with the following:

13 A. In the event of a spill or release of hazardous materials or hazardous wastes,
14 Defendant Moore Quality Galvanizing shall take appropriate action consistent with the HWCL.
15 Additionally, at least once per day Defendant Moore Quality Galvanizing shall inspect all floors,
16 walls and storage and work areas of the Facility. As part of that inspection, Defendant Moore
17 Quality Galvanizing shall ensure that all equipment is functioning properly and shall remove any
18 hazardous waste or hazardous materials from the ground, floor or walls and shall manage those
19 hazardous materials or hazardous wastes in accordance with the HWCL.

20 B. Defendant Moore Quality Galvanizing shall maintain a written daily log of the
21 northern material storage area for Building No. 2, eastern material storage area for Building No. 2
22 (including scrap metal and municipal dumpster), sand blasting/equipment storage area (area south
23 of Building No.1), Building No. 1 acid strip room (including hazardous waste storage and
24 excluded recyclable material, and shot blast room), Building No. 2 kettle/caustic and acid
25 cleaning room, maintenance shop room, and the baghouse equipment at the Facility that, at a
26 minimum, shall identify:

27 (1) Any spills or releases of hazardous material or hazardous waste with the
28 exception of zinc, zinc dross, or zinc ash unless the zinc, zinc dross, or zinc ash becomes located

1 outside or extends past the immediate vicinity of the northern material storage area for Building
2 No. 2, acid strip, cleaning line, kettle, blast unit or other galvanizing/processing unit.

3 (2) Any maintenance work done to any equipment that generates hazardous
4 material or hazardous wastes.

5 (3) A daily certification, signed by Moore Quality Galvanizing's designated
6 representative, that Defendant Moore Quality Galvanizing conducted the inspection required by
7 section 7.A. above and removed any hazardous waste or hazardous materials from the ground,
8 floor or walls, and managed those hazardous materials or hazardous wastes in accordance with
9 the HWCL.

10 (4) Defendant Moore Quality Galvanizing shall maintain the inspection log on
11 site as part of the Facility's operating record required by California Code of Regulations, tit. 22,
12 sections 66265.15 and 66265.73 and make the log available as required by California Code of
13 Regulations, tit. 22, section 66265.74.

14 C. If Defendant Moore Quality Galvanizing manages any hazardous waste as excludable
15 recyclable material (recyclable hazardous waste), which includes returning zinc, zinc dross,
16 and/or zinc ash to the kettle, Defendant Moore Quality Galvanizing shall follow the requirements
17 of the HWCL (Health & Safety Code sections 25143.2, 25143.9, 25143.10 and 25162.1) with
18 respect to the management of that material.

19 D. Defendant Moore Quality Galvanizing shall comply with California Code of
20 Regulations, tit. 22, section 66265.16 for all employees subject to that requirement and shall keep
21 records as required by California Code of Regulations, tit. 22, section 66265.73.

22 E. Defendant Moore Quality Galvanizing shall comply with California Health and
23 Safety Code section 25201(a), incorporating applicable provisions of Health and Safety Code
24 section 25123.3, and with California Code of Regulations, title 22 section 66262.34(a) in its
25 storage, treatment or disposal of any hazardous wastes including as applicable, baghouse waste
26 and contaminated drums or containers.

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1 **8. MONETARY SETTLEMENT REQUIREMENTS**

2 A. Defendants shall pay the Department the sum of one hundred twenty thousand dollars
3 (\$120,000) in civil penalties within 90 days of the "Effective Date" of the Judgment.

4 B. Defendant Moore Quality Galvanizing may, but is not obligated to, send up to five
5 employees to the California Compliance School, Modules I-IV. If Defendant Moore Quality
6 Galvanizing exercises its rights under this Paragraph, attendance must be completed and
7 Defendant Moore Quality Galvanizing must submit a Certificate of Satisfactory Completion
8 issued by the California Compliance School to the Department within 90 days of the "Effective
9 Date" of the Judgment (see Section 20). In recognition of this educational investment, the civil
10 penalty shall be reduced by up to \$1000 per employee if the employee satisfactorily completes the
11 specified school and the Department receives the certificate of Satisfactory Completion within 90
12 days of the "Effective Date" of the Judgment. Defendants' payment to the Department shall be
13 reduced for each employee's successful completion of compliance school accordingly.

14 C. All payments by Defendants to the Department pursuant to this Stipulation and the
15 Judgment shall be made by cashier's check, payable to "California Department of Toxic
16 Substances Control," and shall bear the following notation: "Moore Quality Galvanizing
17 11CECG02356 JH" and shall be sent to:

18
19 Cashier
20 Accounting Office, MS-21A
21 Department of Toxic Substances Control
22 P.O. Box 806
23 Sacramento, CA 95812-0806

24 An electronic (i.e., Adobe PDF) copy or paper photocopy of all checks and payments
25 made pursuant to the Judgment shall be sent, at the same time, to:

26 Paul S. Kewin, Chief
27 State Oversight and Enforcement Branch
28 Enforcement and Emergency Response Program
29 Department of Toxic Substances Control
30 8800 Cal Center Drive
31 Sacramento, CA 95826-3200
32 Paul.kewin@dtsc.ca.gov

1 Erika Giorgi, Senior Staff Counsel
2 Office of Legal Counsel, MS-23A
3 Department of Toxic Substances Control
4 1001 I Street
5 P.O. Box 806
6 Sacramento, CA 95812-0806
7 Erika.giorgi@dtsc.ca.gov

8 **9. SCOPE OF THIS STIPULATION AND JUDGMENT**

9 A. Both this Stipulation and Judgment constitute a final and binding resolution and
10 settlement of all "Covered Matters" against Defendants Craig Bridges and Defendant Moore
11 Quality Galvanizing, and each of Defendant Moore Quality Galvanizing's subsidiaries and
12 divisions, any parent companies, its officers and directors, and its successors or assignees or other
13 entities, acting by, through, under or on behalf of Moore Quality Galvanizing. As used in this
14 Stipulation, "Covered Matters" or "Covered Matter" means any claims, violations, or causes of
15 action alleged in the Complaint, or any claims or violations identified in the July 23, 2008
16 Inspection Report, and August 10, 2009 Inspection Report (collectively the "Inspection
17 Reports"), with the exception of any claim expressly reserved in Paragraph 9(B). The
18 Department agrees not to pursue any further claims against Defendants for any Covered Matter.
19 This Paragraph does not limit the ability of the Department to enforce the Stipulation and
20 Judgment.

21 B. Any claim, violation, or cause of action that is not a Covered Matter is a "Reserved
22 Claim." The Department reserves the right to pursue any Reserved Claim. "Reserved Claims"
23 include, but are not necessarily limited to, any claims or causes of action related to: (1) any
24 claims, violations, or causes of action that are not alleged in the Complaint; (2) any claims,
25 violations, or causes of action that are not identified in the Inspection Reports; (3) performance of
26 corrective action, response action, or recovery of costs actions, concerning or arising out of any
27 actual past or future releases, spills, leaks, discharges, or disposal of hazardous materials,
28 hazardous wastes, and/or hazardous substances; and (4) the disposal of hazardous materials,
hazardous wastes, and/or hazardous substances by Defendants, where such disposal is unknown
to the Department. The term "Reserved Claim" also includes any environmental response and/or
environmental enforcement action relating to Sample MQG-12 (collected May 14, 2009), as

1 identified on page 13 of the August 10, 2009 inspection report.

2 C. In any subsequent action that may be brought in the name of the Department based on
3 any Reserved Claims, Defendants agree that they will not assert that the failure to pursue the
4 Reserved Claims as part of this action constitutes claim-splitting or laches or is otherwise
5 inequitable because of this asserted failure. This Paragraph does not bar Defendants from
6 asserting any statute of limitations or other defense that may be applicable to any Reserved
7 Claims.

8 D. Defendants covenant not to pursue any civil or administrative claims against DTSC
9 or against any government unit of the State of California, any counties or municipalities in the
10 State of California, or against their officers, employees, representatives, agents, or attorneys for
11 actions taken against Defendants arising out of or relate to Covered Matters.

12 E. Nothing in this Stipulation is intended nor shall it be construed to preclude the
13 Department or any other government agency, department, board or entity from exercising its
14 authority under any law, statute or regulation.

15 **10. NOTICE**

16 All submissions and notices required by this Stipulation and the Judgment shall be in
17 writing, and shall be sent to:

18
19 For the Plaintiff:

20 Paul S. Kewin, Chief
21 State Oversight and Enforcement Branch
22 Enforcement and Emergency Response Program
23 Department of Toxic Substances Control
24 8800 Cal Center Drive
25 Sacramento, CA 95826-3200

26 Erika Giorgi, Senior Staff Counsel
27 Office of Legal Counsel
28 Department of Toxic Substances Control
1001 I Street, MS-23A
P.O. Box 806
Sacramento, CA 95812-0806

1 For Defendants:
2 Moore Quality Galvanizing
3 3001 Falcon Drive
4 Madera, CA 93637

5 and

6 John P. Kinsey
7 Wanger Jones Helsley PC
8 265 E River Park Cir, Suite 310
9 Fresno, CA 93720

10 All approvals and decisions regarding any matter requiring approvals or decisions
11 under the terms of this Stipulation and the Judgment shall be communicated in writing. Each
12 Party may change its respective representative(s) for purposes of notice by providing the name
13 and address of the new representative, in writing, to all Parties. Any such change will take effect
14 within seven calendar days of the date of the written notice.

15 **11. AUTHORITY TO ENTER STIPULATION**

16 Each signatory to this Stipulation certifies that he or she is fully authorized by the Party he
17 or she represents to enter into this Stipulation, to execute it on behalf of the party represented, and
18 to legally bind that party.

19 **12. NO WAIVER OF RIGHT TO ENFORCE**

20 The failure of the Department to enforce any provision of the Stipulation or Judgment
21 shall neither be deemed a waiver of such provision, nor in any way affect the validity of the
22 Judgment or the Department's enforcement authority. The failure of the Department to enforce
23 any such provision of this Stipulation or the Judgment shall not preclude it from later enforcing
24 the same or other provisions. No oral advice, guidance, suggestions, or comments by employees
25 or officials of the Department or Defendants, or people or entities acting on behalf of Defendants,
26 regarding matters covered in this Stipulation or the Judgment, shall be construed to relieve
27 Defendants of their obligations under this Stipulation or the Judgment.

28 **13. NO LIABILITY OF THE DEPARTMENT**

The Department shall not be liable for any injury or damage to persons or property
resulting from acts or omissions by Defendants, their officers, directors, employees, agents,
representatives, or contractors, in carrying out activities pursuant to this Stipulation or the

1 Judgment, nor shall the Department be held as a party to or guarantor of any contract entered into
2 by Defendants, its officers, directors, employees, agents, representatives, or contractors, in
3 carrying out the requirements of this Stipulation or the Judgment.

4 **14. FUTURE REGULATORY CHANGES**

5 This Stipulation does not excuse Defendants from following more stringent requirements
6 that may be imposed by future changes in the applicable law. If future changes to applicable
7 statutes or regulations are either less or more stringent than the specific provisions of this
8 Stipulation, the Parties will meet and confer in good faith to determine whether the Stipulation
9 should be modified. The Parties' agreement to modify this Stipulation to conform to future
10 changes in the applicable law shall not be unreasonably withheld. If the Parties cannot reach a
11 mutually acceptable resolution regarding modification of the Stipulation, either Party may apply
12 to the Court by noticed motion to modify the obligations contained therein.

13 **15. INTEGRATION**

14 This Stipulation and the Judgment constitute the entire agreement between the Parties, and
15 may not be amended or supplemented except as provided for in this Stipulation or in the
16 Judgment. No oral representations have been made or relied on other than as expressly set forth
17 herein.

18 **16. RETENTION OF JURISDICTION**

19 The Parties agree that the Court has continuing jurisdiction to interpret and enforce the
20 provisions of this Stipulation and the Judgment.

21 **17. EQUAL AUTHORSHIP**

22 This Stipulation and the Judgment shall be deemed to have been drafted equally by all
23 Parties hereto. The Parties agree that the rule of construction holding that ambiguity is construed
24 against the drafting party shall not apply to the interpretation of this Stipulation or the Judgment.

25 **18. AMENDMENTS TO THIS STIPULATION AND THE JUDGMENT**

26 This Stipulation and the Judgment may only be amended pursuant to a written agreement
27 signed by all the Parties, followed by written approval by the Court; or by order of the Court
28 following the filing of a duly noticed motion.

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19. COUNTERPARTS

This Stipulation may be executed in several counterpart originals, all of which taken together shall constitute an integrated document.

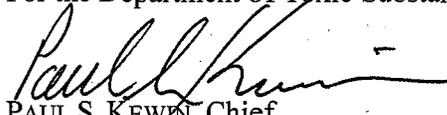
20. ENTRY OF JUDGMENT PURSUANT TO STIPULATION

The Parties further stipulate that upon approval of this Stipulation by the Court, the Court shall enter the Final Judgment on Consent and Permanent Injunction ("Judgment") in this matter in the form set forth in the attached Exhibit 1. The "Effective Date" of the Judgment is the date the Judgment is entered by the Court. If the Court does not approve this Stipulation and the Judgment in the form and substance proposed in Exhibit 1 hereto, each Party reserves the right to withdraw both the Stipulation and the Judgment upon written notice to all Parties and the Court.

IT IS SO STIPULATED.

Dated: December 14, 2012

For the Department of Toxic Substances Control



PAUL S. KEWIN, Chief
State Oversight and Enforcement Branch
Department of Toxic Substances Control

Dated: ~~December _____, 2012~~

For Defendant Craig Bridges:

CRAIG BRIDGES

Dated: ~~December _____, 2012~~

For Defendant Moore Quality Galvanizing:

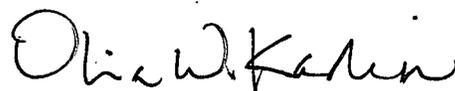
CRAIG BRIDGES
Moore Quality Galvanizing, L.P.,
a California Limited Partnership

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APPROVED AS TO FORM:

KAMALA D. HARRIS
Attorney General of California
Brian Hembacher
Supervising Deputy Attorney General

Dated 1-18-13



OLIVIA W. KARLIN
JAMES R. POTTER
Deputy Attorneys General
Attorneys for Plaintiff

Wanger Jones Helsley PC

Dated: ~~December _____, 2012~~

JOHN KINSEY
Attorney for Defendants

EXHIBIT 1

1 KAMALA D. HARRIS
Attorney General of California
2 BRIAN HEMBACHER
Supervising Deputy Attorney General
3 OLIVIA W. KARLIN, SBN 150432
JAMES R. POTTER, SBN 166992
4 Deputy Attorney General
300 South Spring Street
5 Los Angeles, CA 90013
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6 Fax: (213) 897-2802
E-mail: Olivia.Karlin@doj.ca.gov
7 James.Potter@doj.ca.gov

8 *Attorneys for Plaintiff*

9 SUPERIOR COURT OF CALIFORNIA
10 COUNTY OF FRESNO

12 **PEOPLE OF THE STATE OF
CALIFORNIA, ex rel. Debbie Raphael,
13 Director, California Department of Toxic
Substances Control,**

14 **Plaintiff,**

15 **v.**

16 **MOORE QUALITY GALVANIZING, L.P.,
a California Limited Partnership, CRAIG
17 BRIDGES, and Does 1 to 10,**

18 **Defendants.**

CASE NO. 11 CECG02356

Assigned for all purposes to the
Honorable Jeff Hamilton
Department 402

**[PROPOSED] FINAL JUDGMENT ON
CONSENT AND PERMANENT
INJUNCTION**

(Code of Civil Procedure § 664.6)

Action Filed: 7/11/11
MSC: 3/7/13 at 1:30 p.m.
Trial Date: 4/1/13 at 9:00 a.m.

22 Good cause appearing herein, the Court finds that the settlement between Plaintiff, People
23 of the State of California *ex rel.* Debbie Raphael, Director, California Department of Toxic
24 Substances Control, and Defendant Moore Quality Galvanizing, L.P., a California Limited
25 Partnership, and Defendant Craig Bridges is fair and in the public interest. Accordingly, the
26 Stipulation for Settlement and Entry of Judgment and Permanent Injunction entered into by
27 Plaintiff, People of the State of California, and Defendant Moore Quality Galvanizing, L.P., a
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California Limited Partnership, and Defendant Craig Bridges, a true and correct copy which is attached as Exhibit A, is approved, and the Final Judgment on Consent and Permanent Injunction is entered as provided therein.

IT IS SO ORDERED.

Dated: _____, 2012

The Honorable Jeff Hamilton