Case 2:18-cv-00688-JAM-EFB Document 25 Filed 05/29/18 Page 1 of 4

	1 2 3 4 5 6 7 8 9 10 11	HOLLAND & KNIGHT LLP Vince Farhat (SBN 183794) Stacey H. Wang (SBN 245195) Janet Chung (SBN 272328) 400 South Hope Street, 8th Floor Los Angeles, CA 90071 Telephone: (213) 896-2400 Facsimile: (213) 896-2450 Email: vince.farhat@hklaw.com stacey.wang@hklaw.com janet.chung@hklaw.com Attorneys for Plaintiff SUNRISE FOODS INTERNATIONAL INC	Chad A. Readler Acting Assistant Attorney General McGregor W. Scott United States Attorney Eric R. Womack Assistant Branch Director, Federal Programs Branch Daniel Halainen Trial Attorney (MA Bar No. 694582) U.S. Department of Justice Civil Division, Federal Programs Branch 20 Massachusetts Avenue, NW Washington, DC 20530 C. Tel.: (202) 616-8101 Fax: (202) 616-8470 Email: daniel.j.halainen@usdoj.gov Attorneys for Defendants
		UNITED STATES DISTRICT COURT	
0		EASTERN DISTRICT OF CALIFORNIA	
I, I, I	uite 2 94111 910 13	SACRAMENTO DIVISION	
Holland & Knight LT.P	50 California Street, Suite 2800 San Francisco, CA 94111 Tel: 415.743.6900 Fax: 415.743.6910	SUNRISE FOODS INTERNATIONAL INC., a Canadian corporation,) Case No.: 2:18-cv-00688-JAM-EFB
[& P	California Stre San Francisco, Tel: 415.74 Fax: 415.72) Assigned to Judge John A. Mendez
follan	Salifor an Frz Tel Fax	Plaintiff,) STIPULATION TO DISMISS ENTIRE
<u> </u>	17 18 19 20 21 22	vs.	ACTION WITH PREJUDICE
		SONNY PERDUE, Secretary of the U.S.)) F.R.C.P. 41(a)(1)(A)(ii)
))
		Inspection Service; U.S. Department of Agriculture Animal and Plant Health))
))
	23	Customs and Border Protection; U.S. Customs and Border Protection,	
	24 25 26	Defendants.))
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STIPULATION TO DISMISS WITH PREJUDICE

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Plaintiff Sunrise Foods International Inc. ("Plaintiff") and Defendants Sonny Perdue; U.S. Department of Agriculture; Kevin Shea; U.S. Department of Animal and Plant Health Inspection Service; Kevin K. McAleenan; and U.S. Customs and Border Protection ("Defendants") (collectively, "Parties"), by and through their respective counsel of record, hereby stipulate and agree as follows:

WHEREAS, Plaintiff initiated this action by filing a Complaint against Defendants before this Court on March 29, 2018 (Dkt. 1);

WHEREAS, following the initiation of this action, Plaintiff moved ex parte for a Temporary Restraining Order ("TRO motion") against Defendants to estop the enforcement of certain Emergency Action Notifications issued by Defendants against Plaintiff's cracked corn shipments on board the merchant vessel Mountpark (Dkt. 8);

WHEREAS, on April 9, 2018, this Court set a briefing schedule for the TRO motion (Dkt. 12);

WHEREAS, April 12, 2018, Defendants filed their opposition and on April 16, 2018, Plaintiff filed its reply brief in accordance with the Court's briefing schedule on the TRO motion (Dkts. 13, 22);

WHEREAS, on April 20, 2018, this Court denied Plaintiff's TRO on the grounds, inter alia, that "it would be inappropriate to grant the ultimate relief sought at the earliest stage in the proceeding, prior to a more deliberative investigation of the claims' merits."

WHEREAS, on or about April 21, 2018 the Mountpark departed the Port of San Francisco; WHEREAS, following this Court's decision, Parties have engaged in communications for resolution of this matter;

WHEREAS, Defendants have not yet answered or otherwise responded to Plaintiff's Complaint;

WHEREAS, Sunrise maintains that the Mountpark shipments at issue were in compliance with all APHIS requirements, which Defendants dispute;

WHEREAS, this Court has not yet made any determination on the merits of this dispute;

3 4 5 6 7 8 9 10 11 12 50 California Street, Suite 2800 Holland & Knight LLP San Francisco, CA 94111 13 Fax: 415.743.6910 Tel: 415.743.6900 14 15 16 17 18 19 20 21 22 23 24 25 26

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Case 2:18-cv-00688-JAM-EFB Document 25 Filed 05/29/18 Page 3 of 4

WHEREAS, the Parties have agreed to an in-person meeting between representatives of APHIS and Plaintiff to review regulatory requirements for corn imports into the United States;

WHEREAS, the Parties agree that such a meeting will take place on or about June 6, 2018 at 20 Massachusetts Avenue, NW, in Washington D.C., for which counsel for the Parties may be present; and

WHEREAS, the Parties agree that such a meeting will not create any rights, substantive or procedural, enforceable by law or prejudice the Parties' right to bring any future action;

WHEREAS, in exchange, Plaintiff agrees to voluntarily dismiss its Complaint with prejudice pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii); and

WHEREAS, pursuant to this dismissal, each Party agrees to bear its own fees and costs.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED by and between the Parties that the above-captioned action is hereby dismissed with prejudice.

SO STIPULATED.

Respectfully Submitted,
U.S. DEPARTMENT OF JUSTICE
CIVIL DIVISION

By: /s/ Daniel Halainen (authorized on 5/29/2018)

Daniel Halainen Attorney for Defendants

SONNY PERDUE; U.S. DEPARTMENT OF AGRICULTURE; KEVIN SHEA; U.S. DEPARTMENT OF ANIMAL AND PLANT HEALTH INSPECTION SERVICE; KEVIN K. MCALEENAN, U.S. CUSTOMS AND BORDER PROTECTION

Dated: May 29, 2018 HOLLAND & KNIGHT LLP

By: <u>/s/ Vince Farhat</u>

Vince Farhat Stacey H. Wang Janet Chung Attorneys for Plaintiff

SUNRISE FOODS INTERNATIONAL INC.

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	Case 2:18-cv-00688-JAM-EFB Document 25 Filed 05/29/18 Page 4 of 4			
1	PROOF OF SERVICE			
2	State of California)			
3) ss. County of Los Angeles)			
4	I am employed in the County of Los Angeles, State of California. I am over the age of 19			
5	and not a party to the within action. My business address is 400 South Hope Street, 8 th Floor, Los Angeles, California 90071.			
6 7	On May 29, 2018, I served the document described as STIPULATION TO DISMISS ENTIRE ACTION WITH PREJUDICE on the interested parties in this action:			
8				
9	In accordance with Federal Rules of Civil Procedure 5, Local Rule 135, I uploaded via electronic transfer a true and correct copy scanned into an electronic file in Adobe "pdf" format of the above-listed documents to the United States District Court Eastern District of California' Case Management and Electronic Case Filing (CM/ECF) system on this date. It is my understanding that by transmitting these documents to the CM/ECF system, they will be served on all parties of record according to the preferences chosen by those parties within the CM/ECF system. The transmission was reported as complete and without error. DANIEL HALAINEN Trial Attorney (MA Bar No.694582) U.S. Department of Justice Civil Division, Federal Programs Branch 20 Massachusetts Appende, NW			
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17	Fax: (202) 616-8470 Email: daniel.j.halainen@usdoj.gov			
18	I declare under penalty of perjury under the laws of the United States of America that			
19	the above is true and correct.			
20	Executed on May 29, 2018, at Los Angeles, California.			
21	<u>/s/ Ericka Mendez</u> Ericka Mendez			
22	Effeka Wichaez			
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PROOF OF SERVICE