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13 SUNRISE FOODS INTERNATIONAL INC.

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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION

SUNRISE FOODS INTERNATIONAL)
INC., a Canadian corporation,)

Plaintiff,)

vs.)

SONNY PERDUE, Secretary of the U.S.)
Department of Agriculture; U.S. Department)
of Agriculture; KEVIN SHEA,)
Administrator of the U.S. Department of)
Agriculture's Animal and Plant Health)
Inspection Service; U.S. Department of)
Agriculture Animal and Plant Health)
Inspection Service; KEVIN K.)
MCALEENAN, Commissioner of U.S.)
Customs and Border Protection; U.S.)
Customs and Border Protection,)

Defendants.)

Case No.: 2:18-cv-00688-JAM-EFB

Assigned to Judge John A. Mendez

**STIPULATION TO DISMISS ENTIRE
ACTION WITH PREJUDICE**

F.R.C.P. 41(a)(1)(A)(ii)

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San Francisco, CA 94111
Tel: 415.743.6900
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STIPULATION

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

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

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

13 WHEREAS, on April 9, 2018, this Court set a briefing schedule for the TRO motion (Dkt.
14 12);

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

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

21 WHEREAS, on or about April 21, 2018 the Mountpark departed the Port of San Francisco;

22 WHEREAS, following this Court’s decision, Parties have engaged in communications for
23 resolution of this matter;

24 WHEREAS, Defendants have not yet answered or otherwise responded to Plaintiff’s
25 Complaint;

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

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

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

3 WHEREAS, the Parties agree that such a meeting will take place on or about June 6, 2018 at
4 20 Massachusetts Avenue, NW, in Washington D.C., for which counsel for the Parties may be
5 present; and

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

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

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

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

13 **SO STIPULATED.**

14 Dated: May 29, 2018

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

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

16 Daniel Halainen
17 Attorney for Defendants

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

23 Dated: May 29, 2018

HOLLAND & KNIGHT LLP

24 By: /s/ Vince Farhat

25 Vince Farhat
26 Stacey H. Wang
27 Janet Chung
28 Attorneys for Plaintiff

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