

DENNIS J. HERRERA, State Bar #139669  
 City Attorney  
 JOANNE HOEPER, State Bar #114961  
 Chief Trial Attorney  
 MARK D. LIPTON, State Bar #152864  
 Deputy City Attorney  
 Fox Plaza  
 1390 Market Street, Sixth Floor  
 San Francisco, California 94102-5408  
 Telephone: (415) 554-4218  
 Facsimile: (415) 554-3837  
 E-Mail: mark.lipton@sfgov.org

Attorneys for Defendant  
 CITY AND COUNTY OF SAN FRANCISCO

UNITED STATES DISTRICT COURT  
 EASTERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CITY AND COUNTY OF SAN  
 FRANCISCO, HETCH HETCHY  
 WATER AND POWER,

Defendant.

Case No. I:07-cv-01300-LJO/DLB

**THIRD STIPULATION TO EXTEND  
 SCHEDULING ORDER DATES**

Trial Date: February 16, 2010

Plaintiff, the United States of America and Defendant City and County of San Francisco,  
 Hetch Hetchy Water and Power, by and through their respective counsel of record, hereby stipulate as  
 follows:

1. This stipulation is executed by all parties who have appeared in and are affected by  
 this action.

2. On August 26, 2008, the parties filed a stipulation and order to extend scheduling  
 order dates by 120 – 130 days (Document 14), which the Court signed on August 29, 2008.

3. On October 30, 2008 the parties filed a second stipulation and order to extend  
 scheduling order dates by 60 days (Document 19), which the Court signed on that same date.

1           4.       At the time the parties filed the second stipulation, the City underestimated the amount  
2 of time and effort necessary to comply with plaintiff's numerous and extensive discovery requests.  
3 Since that time, the City and its counsel have made efforts to further comply with the outstanding  
4 discovery. The parties have had multiple meet and confer conferences regarding a wide variety of  
5 discovery issues, some of which are the subject of plaintiff's pending motion to compel. Because the  
6 parties appear to have made substantial progress regarding these discovery matters, they have agreed  
7 to extend that hearing from January 16, 2009 to a date on or about March 6, 2009 subject to the  
8 Court's calendar (the agreement regarding the motion to compel will be memorialized in a separate  
9 stipulation).

10           5.       The City has also agreed to file amended discovery responses and, toward that end, is  
11 in the process of obtaining additional responsive documents from the Public Utilities Commission  
12 and its subcontractors. Given the large number of discovery requests in dispute, as well as the  
13 number and type of documents that are potentially responsive to those requests, the parties will  
14 require additional time for discovery, motions, and future settlement discussions. Specifically,  
15 plaintiff's experts cannot complete their investigation and analysis without information that has not  
16 yet been provided by the defendant. Also, the parties have agreed to return to mediation sometime in  
17 2009.

18           6.       Accordingly, the parties now jointly ask this Court to extend dates set in the  
19 Scheduling Conference Order as stated below.

	<u>CURRENT DATE</u>	<u>NEW DATE REQUESTED</u>
20           Expert Disclosure:	March 20, 2009	July 20, 2009
21           Supplemental Expert Disclosure:	April 17, 2009	August 17, 2009
22           Nonexpert Discovery Cutoff:	April 17, 2009	August 17, 2009
23           Expert Discovery Cutoff:	June 19, 2009	October 19, 2009
24           Pretrial Motion Filing Deadline:	September 18, 2009	January 19, 2010
25           Pretrial Motion Hearing Deadline:	November 4, 2009	March 4, 2010
26           Settlement Conference	None set	none set

27  
28 ///

	<u>CURRENT DATE</u>	<u>NEW DATE REQUESTED</u>
Pretrial Conference:	December 10, 2009	April 5, 2010
Trial Date:	February 16, 2010	May 17, 2010

Respectfully submitted,

**FOR PLAINTIFF:**

Dated: January 13, 2009

LAWRENCE G. BROWN  
Acting United States Attorney

By: /s/ Catherine Swann  
CATHERINE J. SWANN  
Assistant U.S. Attorney  
Attorneys for Plaintiff  
The United States  
(original signature retained by counsel)

**FOR DEFENDANT:**

Dated: January 13, 2009

DENNIS J. HERRERA  
City Attorney  
JOANNE HOEPER  
Chief Trial Deputy

By: /s/ MARK D. LIPTON  
Deputy City Attorney  
Attorneys for Defendant  
City and County of San Francisco

**ORDER**

Based on this stipulation and good cause having been shown,  
IT IS HEREBY ORDERED that the current Scheduling Order dates are continued, as follows:

	<u>CURRENT DATE</u>	<u>NEW DATE</u>
Expert Disclosure:	March 20, 2009	July 20, 2009
Supplemental Expert Disclosure:	April 17, 2009	August 17, 2009
Nonexpert Discovery Cutoff:	April 17, 2009	August 17, 2009
Expert Discovery Cutoff:	June 19, 2009	October 19, 2009

	<u>CURRENT DATE</u>	<u>NEW DATE</u>
Pretrial Motion Filing Deadline:	September 18, 2009	January 19, 2010
Pretrial Motion Hearing Deadline:	November 4, 2009	March 4, 2010
Settlement Conference	None set	none set
Pretrial Conference:	December 10, 2009	April 5, 2010
Trial Date:	February 16, 2010	May 17, 2010

Dated: 16 January 2008

/s/ *Dennis L. Beck*  
 THE HONORABLE Dennis L. Beck  
 United States Magistrate Judge