IN THE UNITED STATES DISTRICT COURT FOR THE

EASTERN DISTRICT OF CALIFORNIA

EXXON MOBIL OIL CORPORATION,   1:09-cv-01498-AWI-SAB

                Plaintiff,   **ORDER REQUIRING PLAINTIFF TO FILE A RESPONSE TO DEFENDANT'S RENEWED MOTION *IN LIMINE* AND MOTION TO STRIKE TESTIMONY OF JOYCE RIZZO**

                v.

NICOLETTI OIL, INC., et al.,

                Defendant.

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On March 14, 2013, Defendant Nicoletti Oil, Inc. ("Nicoletti") filed a renewed motion *in limine* and motion to strike, seeking an order striking three areas of Ms. Rizzo's testimony. Specifically, Nicoletti contends that the Court should strike any testimony regarding: 1) the purported condition of, and potential risk of a future leak of gasoline or diesel product from the piping, dispensing, and storage equipment located on the Dos Palos bulk plant – as irrelevant; 2) the purported evidence of petroleum product releases from ongoing storage and transfer operations at the Dos Palos bulk plant – since Ms. Rizzo admitted (a) that she does not know if an actual release ever occurred and/or (b) she cannot determine whether the release she addressed ever reached the soil or groundwater; and 3) matters previously undisclosed and beyond the scope of Ms. Rizzo's report. *See* ECF. No. 148.

The day after the filing of the motion in question, the parties advised the Court that they had begun settlement discussions and requested that the trial be suspended pending the outcome of those discussions. *See* ECF. No. 150. On May 7, 2013, the Court was informed that Nicoletti would file for bankruptcy. *See* ECF No. 152. As a result, the action was stayed. Several status conferences were held, keeping the Court apprised of the status of the bankruptcy proceedings and the parties' postures. *See* ECF No. 155, 163-165. The bankruptcy proceedings no longer require a stay of this action.

The bench trial on this action is scheduled to resume on June 17, 2014. Plaintiff is ordered to file a response to Defendant's motion by June 13, 2014.

IT IS SO ORDERED.

Dated: June 3, 2014   _____
                              SENIOR DISTRICT JUDGE