

TEL OAKL 300 K PRO WULFSBERG REESE & FIRSTMAN
EPH AND, LAKESIDE FES SIONRG REESE COLVIG & FIRSTMAN
ONE CALIF DE SIONRG REESE COLVIG & FIRSTMAN
(510) ORNIA DRIVE, E AL COLVIG & FIRSTMAN
835-94612 24TH R COR COLVIG & FIRSTMAN
9100 -3524 FLOOR C POR COLVIG & FIRSTMAN

1 WULFSBERG REESE COLVIG & FIRSTMAN
PROFESSIONAL CORPORATION
2 H. James Wulfsberg - 046192
Stephen L. Cali - 133923
3 David J. Hyndman - 193944
Kaiser Center
4 300 Lakeside Drive, 24th Floor
Oakland, CA 94612-3524
5 Telephone: (510) 835-9100
Facsimile: (510) 451-2170

6 LANG, RICHERT & PATCH
7 Mark L. Creede - 128418
Matthew W. Quall - 183759
8 Fig Garden Financial Center
5200 North Palm Avenue, Fourth Floor
9 Fresno, CA 93704
Telephone: (559) 228-6700
10 Facsimile: (559) 228-6727

11 Attorneys for Plaintiff
BLACK & VEATCH CORPORATION

12
13
14 **IN THE UNITED STATES DISTRICT COURT**
15 **IN AND FOR THE EASTERN DISTRICT OF CALIFORNIA**
16 **FRESNO DIVISION**

17 BLACK & VEATCH CORPORATION,

18 Plaintiff,

19 vs.

20 MODESTO IRRIGATION DISTRICT,

21 Defendant.

22
23 AND RELATED ACTIONS.

No. 1:11-cv-00695-LJO-SKO

**STIPULATION TO AMEND
SCHEDULING ORDER; ORDER
THEREON**

TEL OAKL 300 K PRO WULFSBE
EPH AND, LAKESIDE S
ONE CALIF DE SSIONRG REESE
(510) ORNIA DRIVE, E AL COLVIG
835-94612 24TH R COR
9100 -3524 FLOOR C POR
E ATIO N N FIRSTMA

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Plaintiff and counter-defendant Black & Veatch Corporation (“B&V”); defendant, counter-claimant, and third party complainant Modesto Irrigation District (“MID”); third party defendants and counter-claimants Western Summit Constructors, Inc. (“WSCI”), Federal Insurance Company, Fidelity and Deposit Company of Maryland, and Travelers Casualty and Surety Company of America; third-party defendant Big B Construction (“Big B”); and counter-claimant City of Modesto (“City”) (collectively, the “Parties”) hereby agree and stipulate as follows:

RECITALS

WHEREAS, the Scheduling Order, dated November 3, 2011, contains a deadline of December 14, 2012, for the completion of all discovery pertaining to non-experts and February 1, 2013 for the completion of all discovery pertaining to experts.

WHEREAS, the Parties desire to conduct a private mediation before April 15, 2012, before Mediator Hon. Richard Silver, Rtd., and also desire to postpone taking depositions and limiting discovery prior to the mediation, in order to save attorneys’ fees and litigation costs.

WHEREAS, the Parties believe that they will be able to complete non-expert and expert discovery by March 1, 2013, without the need for continuing the dates currently scheduled for Non-Dispositive Motions, Dispositive Motions, Mandatory Settlement Conference, Pre-Trial Conference, and Trial.

NOW, THEREFORE, IT IS HEREBY STIPULATED by and between the Parties as follows:

1. The deadline for completion of non-expert discovery shall be continued from December 14, 2012 to March 1, 2013;
2. The deadline for completion of non-expert discovery shall be continued from February 1, 2013 to March 1, 2013; and
3. No other provisions of the November 3, 2011 Scheduling Order are otherwise modified herein.

(Signatures on the following pages.)

TEL OAKL 300 K PRO WULFSBERG
EPH AND LAKESIDE
ONE CALIF DE SION REESE
(510) ORNIA DRIVE, E AL
835-94612 24TH R COR
9100 -3524 FLOOR C POR
E ATIO N N FIRSTMA

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: February 16, 2012

WULFSBERG REESE COLVIG & FIRSTMAN
PROFESSIONAL CORPORATION

By /s/ H. James Wulfsberg
H. JAMES WULFSBERG
Attorneys for Plaintiff and Counterdefendant
BLACK & VEATCH CORPORATION

DATED: February 16, 2012

HANSON BRIDGET LLP

By /s/ Tyson M. Shower (As Authorized on 02/14/12)
TYSON M. SHOWER
Attorneys for Defendant, Crossclaimant and Third
Party Claimant
MODESTO IRRIGATION DISTRICT

DATED: February 16, 2012

LAW OFFICES OF JOHN A. BIARD

By /s/ Catharine Ching (As Authorized on 02/13/12)
CATHARINE CHING
Attorneys for Third Party Defendant
BIG B CONSTRUCTION

DATED: February 16, 2012

DIEPENBROCK ELKIN LLP

By /s/ Eileen Diepenbrock (As Authorized on 02/09/12)
EILEEN DIEPENBROCK
Attorneys for Third Party Defendant
WESTERN SUMMIT CONSTRUCTORS, INC.

DATED: February 16, 2012

DAVIDOVITZ & BENNETT LLP

By /s/ Patricia Lakner (As Authorized on 02/16/12)
PATRICIA LAKNER
Attorneys for Defendant and Crossclaimant
CITY OF MODESTO

TEL OAKL 300 K PRO WULFSBELA
EPH AND, LAKESIDE FES
ONE CALIF DE SSIONRG REESE
(510) ORNIA DRIVE, E AL
835- 94612 24TH R COR
9100 -3524 FLOOR C POR
EATIO N N
FIRSTM A

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

The dates proposed for an extension of the non-expert and expert-discovery deadlines are not feasible when considering the current non-dispositive and dispositive motion filing deadlines. Continuation of discovery beyond February 1, 2013, will impact the remainder of the schedule, up to and including trial. As such, while the Court will grant the parties' stipulated request for a schedule modification, the discovery deadlines are **only** extended as follows:

<u>Event</u>	<u>Deadline</u>	<u>Previous Deadline</u>
Non Expert Discovery	February 1, 2013	December 14, 2012

The rest of the scheduling deadlines remain unchanged, and are as follows:

<u>Event</u>	<u>Deadline</u>
Expert Discovery	February 1, 2013
Non-Dipositive Motion Filing	February 6, 2013
Non-Dipositive Hearing	March 6, 2013
Dispositive Motion Filing	March 13, 2013
Dispositive Motion Hearing	April 24, 2013
Settlement Conference	May 2, 2013
Pre-Trial Conference	June 5, 2013
Trial	July 16, 2013

IT IS SO ORDERED.

Dated: **February 28, 2012**

/s/ Sheila K. Oberto
UNITED STATES MAGISTRATE JUDGE