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9 Attorneys for Defendant Apex Directional Drilling, LLC

10 **UNITED STATES DISTRICT COURT**
 11 **EASTERN DISTRICT OF CALIFORNIA**

12 MP NEXLEVEL OF CALIFORNIA, INC.,
 13 Plaintiff,
 14 v.
 15 APEX DIRECTIONAL DRILLING, LLC,
 16 Defendant.

Case No. 1:14-CV-00857-JAM-BAM

**STIPULATION AND ORDER TO
 RESCHEDULE RULE 26(f)
 CONFERENCE
AS MODIFIED BY THE COURT**

17 Defendant Apex Directional Drilling, LLC, and Plaintiff MP Nexlevel of California, Inc
 18 through their attorneys of record, stipulate as follows:

19 1. Pursuant to Judge Mendez's Order, Dkt. 16, the parties are required to meet and
 20 confer within 60 days of the service of the complaint as required by Rule 26(f) to prepare and
 21 submit to the Court a joint status report and discovery plan.

22 2. Defendant Apex has filed a motion to dismiss, presently set for hearing on
 23 September 17, 2014 (Dkt. 18). The parties have met and conferred, and agree that postponing the
 24 Rule 26(f) conference and preparation of the required joint status report until after the Court rules
 25 on the pending motion is in their collective interest and would save time and resources.

26 3. If Apex's motion is denied, the parties request that the Court schedule the
 27 Mandatory Scheduling Conference no sooner than sixty (60) days after issuing its decision, and
 28 the parties agree they will then proceed to conduct the required meet and confer and would have

1 the required joint status report and discovery plan prepared in advance of the status conference.

2 4. Therefore, Apex and MP Nexlevel hereby stipulate, and request that the Court
3 order that: i) the parties may postpone preparation of the required Rule 26(f) Joint Status Report
4 until a time after the Court decides Apex's pending motion to dismiss; and, ii) should the Court
5 deny Apex's motion to dismiss, the Mandatory Scheduling Conference be rescheduled for a date
6 ideally no earlier than sixty (60) days after the Court's ruling.

7
8 IT IS SO STIPULATED

9
10 Dated: August 29, 2014

TONKON TORP, LLP

11
12 /s/ David Rabbino

13 David Rabbino, Esq. (SBN 181291)

14 Attorneys for Defendant

APEX DIRECTIONAL DRILLING, LLC

15 Dated: Authorized August 29, 2014

**WILSON, ELSER, MOSKOWITZ, EDELMAN &
DICKER LLP**

16
17
18 /s/ Ben Patrick

19 Ben Patrick, Esq. (SBN 244092)

20 Attorneys for Plaintiff

21 MP NEXLEVEL OF CALIFORNIA, INC.
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ORDER

The foregoing Stipulation of the parties is hereby approved, and pursuant to the Stipulation, IT IS HEREBY ORDERED that:

i) the parties may postpone preparation of the required Rule 26(f) Joint Status Report until a time after the Court decides Apex's pending motion to dismiss; and,

ii) should the Court deny Apex's motion to dismiss, the parties shall file their joint status report no later than sixty (60) days after the Court's ruling on the motion to dismiss.

BY THE COURT:

Dated: 8/29/2014

/s/ John A. Mendez
Hon. John A. Mendez
United States District Court Judge

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