

1 PHILIP C. HUNSUCKER (SBN: 135860)
 BRIAN L. ZAGON (SBN: 142403)
 2 MAUREEN B. HODSON (SBN: 251990)
 HUNSUCKER GOODSTEIN & NELSON PC
 3 3717 Mt. Diablo Blvd., Suite 200
 Lafayette, CA 94549
 4 Telephone: (925) 284-0840
 Facsimile: (925) 284-0870

5 LEE N. SMITH (SBN: 138071)
 STOEL RIVES LLP
 6 500 Capitol Mall, Suite 1600
 Sacramento, CA 95814
 7 Telephone: (916) 447-0700
 8 Facsimile: (916) 447-4781

9 Attorneys for Plaintiff
 AMERIPRIDE SERVICES INC.

10 RONALD S. BUSHNER (SBN: 98352)
 BERNARD GEHLHAR (SBN: 208482)
 11 EMILY M. WEISSENBERGER (SBN: 248898)
 WILSON, ELSER, MOSKOWITZ, EDELMAN &
 12 DICKER LLP
 525 Market Street, 17th Floor
 13 San Francisco, California 94105-2725
 Telephone: (415) 433-0990
 14 Facsimile: (415) 434 1370

15 Attorneys for Defendant
 TEXAS EASTERN OVERSEAS, INC.
 16 [Additional Attorneys Listed on Signature Page]

17 **UNITED STATES DISTRICT COURT**
 18 **EASTERN DISTRICT OF CALIFORNIA**

19 AMERIPRIDE SERVICES INC., a Delaware
 corporation,

20 Plaintiff,

21 vs.

22 VALLEY INDUSTRIAL SERVICES, INC., a
 23 former California corporation and TEXAS
 EASTERN OVERSEAS, INC., a former
 24 Delaware Corporation,

25 Defendants.

26 AND CONSOLIDATED ACTION AND
 27 CROSS AND COUNTER-CLAIMS.

Case No. CIV. S-00-113 LKK/JFM

**STIPULATION AND ORDER
 RESOLVING TEXAS EASTERN
 OVERSEAS, INC.'S MOTION FOR
 SANCTIONS AGAINST AMERIPRIDE
 SERVICES INC.**

Date: July 18, 2011
 Time: 10:00 a.m.
 Dept.: 4
 Hon. Lawrence K. Karlton

Trial Date: January 18, 2012
 Discovery Cut Off: May 1, 2011
 Motion Cut Off: July 1, 2011

1 Plaintiff AMERIPRIDE SERVICES INC., (“AmeriPride”) and Defendant TEXAS
2 EASTERN OVERSEAS, INC. (“TEO”), by and through their respective counsel, stipulate with
3 respect to TEO’s Motion for Sanctions against AmeriPride as follows:

4 **RECITALS**

5 1. Whereas, on May 23, 2011, defendant TEO filed a Motion for Sanctions (“the
6 Motion”) against AmeriPride (Docket Number (“Dkt.”) 746). TEO did not meet and confer with
7 AmeriPride prior to filing its motion.

8 2. Whereas, the Court previously awarded evidentiary sanctions in this action to
9 Huhtamaki Foodservices, Inc. (“Huhtamaki”) in the form of an adverse inference that AmeriPride
10 would be prohibited from presenting any evidence which denies that AmeriPride contributed PCE to
11 soil and groundwater contamination from the wastewater system at the property located on Wilbur
12 Way in Sacramento, California (“the Facility”) where both Valley Industrial Services, Inc. (“VIS,
13 Inc.”) and then AmeriPride operated. (Order of August 8, 2006, Dkt. 544.)

14 3. Whereas, TEO claims in its Motion that it stands in Huhtamaki’s shoes and it seeks
15 the same adverse inference that the Court awarded to Huhtamaki on August 8, 2006. (Dkt. 746 at
16 15.)

17 4. Whereas, AmeriPride disputes that TEO stands in Huhtamaki’s shoes, but does not
18 dispute that some PCE probably was added to the groundwater contamination during AmeriPride’s
19 operation of the Facility.

20 **STIPULATION**

21 Based on the foregoing, the court will instruct the jury and/or the fact finder will find that the
22 removed pipes leaked PCE-contaminated wastewater into the soil and groundwater and that this
23 contamination was a cause of the contamination on the Huhtamaki property. AmeriPride will be
24 prohibited from presenting any evidence which denies that AmeriPride contributed to the soil and
25 groundwater contamination. However, the parties agree that there is a dispute about the amount of
26 contamination caused by releases of wastewater during both VIS, Inc.’s and AmeriPride’s operation
27 of the Facility that must be resolved by the trier of fact.

28 ///

1 Dated: July 8, 2011

HUNSUCKER GOODSTEIN & NELSON PC

2
3 By: /s/Philip C. Hunsucker
4 Philip C. Hunsucker
5 Brian L. Zagon
6 Maureen B. Hodson
7 Attorneys for
8 AMERIPRIDE SERVICES INC.
9 STOEL RIVES LLP
10 Lee N. Smith
11 Attorneys for
12 AMERIPRIDE SERVICES INC.


13 Dated: July 8, 2011

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

14 By: /s/Emily M. Weissenberger
15 Ronald Bushner
16 Bernard Gehlhar
17 Emily Weissenberger
18 Attorneys for
19 TEXAS EASTERN OVERSEAS, INC.
20
21 BASSI, EDLIN, HUIE & BLUM LLP
22 Fred M. Blum
23 William Noel Edlin
24 Attorneys for
25 TEXAS EASTERN OVERSEAS, INC.

26 IT IS SO ORDERED.

27 Dated: July 12, 2011.

28

LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT