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9 KILGORE & WHITE ROCK, LLC

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA

12 CALIFORNIA DEPARTMENT OF TOXIC
13 SUBSTANCES CONTROL,
14 Plaintiff,
15 vs.
16 CHARLES V. KESTER, et al.,
17 Defendants.

Case No. CIV-S-02-0018 GEB/GGH

**STIPULATION REGARDING PARCEL B
AND [PROPOSED] ORDER**

18 AND RELATED COUNTERCLAIMS
19 CROSS-CLAIMS, AND THIRD PARTY
20 CLAIMS.

21 This Stipulation is entered by and among Plaintiff California Department of Toxic
22 Substances Control (“DTSC”), and Defendants Kilgore & White Rock, LLC (“Kilgore”) and
23 Sharon Stone (“Stone”) (all collectively sometimes referred to herein as “Parties”) regarding the
24 above entitled action and certain liens recorded against, or determined to be appropriate in
25 reference to, Parcel B, Assessor’s Parcel Number 072-0260-031, located at the intersection of
26 White Rock and Kilgore Roads, Rancho Cordova, California (“Parcel B”). Kilgore and Stone
27 are the owners of Parcel B.

28 DTSC, through its consultants and contractors, Arcadis and URS Corporation Americas,
has commenced field implementation of the Remedial Action (“Remedial Action”) for the Purity
Oil Sales – Delta Gunitite Site, also known as the Brighton Oil Site (“Site”) located in Rancho
Cordova, California, which includes Parcel B. DTSC has indicated that it expects this Remedial

1 Action to take approximately six months to implement, although circumstances may lead to a
2 longer time period.

3 During the pendency of this Remedial Action, the Parties desire to maintain the status
4 quo in the above entitled litigation and agree to the following:

- 5 1. A lien in the amount of \$172,848.30 was previously recorded on
6 February 2, 2000 in favor of DTSC against the Parcel B property. The Parties
7 hereby agree that DTSC may place an additional lien on Parcel B in the
8 amount of \$37,151.70 pursuant to its authority under state law as set forth in
9 Health and Safety Code section 25365.6. The additional lien will bring the
10 total lien on Parcel B to \$210,000, reflecting the amount of the settlement
11 between the Parties memorialized in the Consent Decree regarding Parcel B,
12 approved by Judge Garland E. Burrell, Jr. on July 28, 2011 and filed with the
13 Court on July 29, 2011. No further notice to Kilgore and/or Stone shall be
14 required. Kilgore and Stone agree that they will not challenge the amount or
15 the placement of this additional lien on the Parcel B property.
- 16 2. A determination was made by DTSC on October 17, 2012 that a lien in the
17 amount of \$501,516.03 (“October 2012 Lien”) may be placed on the Parcel B
18 property by DTSC pursuant to Health and Safety Code section 25365.6. The
19 Parties hereby agree that DTSC will not record this October 2012 Lien against
20 Parcel B during the pendency of the Remedial Action, and for a period of 120
21 days after the completion of the Remedial Action, in order to provide the
22 Parties with the opportunity to conduct further negotiations and DTSC to
23 prepare an accounting of the costs of the Remedial Action, including oversight
24 costs incurred by and to be incurred by DTSC and of the amounts obtained by
25 DTSC from previous settlements with other Defendants in this litigation.
- 26 3. Kilgore and Stone hereby agree that they will toll any statutes of limitation
27 that apply to DTSC’s recording of the October 2012 Lien, or any portion
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thereof, until the Remedial Action is completed and the 120 day time period has elapsed.

IT IS SO STIPULATED:

Dated: _____, 2013 DEPARTMENT OF TOXIC SUBSTANCES CONTROL

By: _____
Charles B. Ridenour, Chief, Cleanup Program,
Department of Toxic Substances Control
Sacramento Office.

Dated: _____, 2013 KILGORE & WHITE ROCK, LLC

By: _____
Mark B. Stauffer, Managing Member

Dated: _____, 2013

By: _____
Sharon Stone

APPROVED AS TO FORM:

Dated: _____, 2013 LORI J. GUALCO, ESQ.
GUALCO LAW

By: _____
Lori Gualco, Esq.
Attorneys for Kilgore & White Rock, LLC

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Dated: _____, 2013

KAMALA D. HARRIS
Attorney General of the State of California
SALLY MAGNANI
Senior Assistant Attorney General
SUSAN S. FIERING
Supervising Deputy Attorney General

By: _____
Susan S. Fiering
Supervising Deputy Attorney General
Attorneys for Department of Toxic Substances
Control

ORDER

Based on the above Stipulation, the Court hereby orders that:

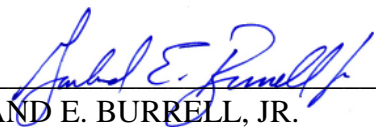
1. Pursuant to this Stipulation and to its authority under state law as set forth in Health and Safety Code section 25365.6, DTSC may place a further lien in the amount of \$37,151.70 on the property identified by Assessor’s Parcel Number 072-0260-031, located at the intersection of White Rock and Kilgore Roads, Rancho Cordova, California (“Parcel B”) in order to increase the lien amount on Parcel B to a total of \$210,000. Kilgore and Stone shall not challenge the amount or the placement of this lien on the Parcel B property.
2. A determination was made by DTSC on October 17, 2012 that a lien in the amount of \$501,516.03 (“October 2012 Lien”) may be placed on Parcel B by DTSC pursuant to Health and Safety Code section 25365.6. DTSC shall not record this October 2012 Lien against the Parcel B property during the pendency of the Remedial Action on Parcel B, and for a period of 120 days after the completion of the Remedial Action, in order to provide the Parties with the opportunity to conduct further negotiations and DTSC to prepare an accounting of the costs of the Remedial Action incurred by DTSC, including oversight costs incurred by and to be incurred by DTSC, and the amounts obtained by DTSC in previous settlements with other Defendants in this litigation.
3. Any statutes of limitation that apply to DTSC’s recording the October 2012 Lien, or any

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portion thereof, shall be tolled until the Remedial Action is completed and the 120 day time period has elapsed.

IT IS SO ORDERED:

Date: 2/25/2013



GARLAND E. BURRELL, JR.
Senior United States District Judge