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6 Attorneys for Third Party Defendants
 Wells Fargo Bank, N.A., and F. Warren Hellman as
 7 Trustees of Trust A created by the Estate of Marco
 Hellman, and F. Warren Hellman as Trustee of Trust B
 8 created by the Estate of Marco Hellman

10 UNITED STATES DISTRICT COURT
 11 EASTERN DISTRICT OF CALIFORNIA
 12 SACRAMENTO DIVISION

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 14 ADOBE LUMBER, INC., a California
 corporation,
 15
 16 Plaintiff,
 v.
 17
 18 HAROLD TAECKER, an individual,
 GERALDINE TAECKER, an individual,
 19
 20 Defendants.
 21
 22 AND ALL COUNTER, CROSS AND
 THIRD PARTY ACTIONS
 23

Case No.: CIV.S-02-0186 GEB GGH

**STIPULATION AND [PROPOSED]
 ORDER DISMISSING ESTATE OF
 MARCO F. HELLMAN, DECEASED,
 WELLS FARGO BANK AND F.
 WARREN HELLMAN AS TRUSTEES,
 AND WOODLAND SHOPPING
 CENTER, A LIMITED
 PARTNERSHIP, FROM SECOND
 AMENDED THIRD PARTY
 COMPLAINT**

STIPULATION

24 This Stipulation is entered into by and among Defendants and Third-Party Plaintiffs
 25 Harold and Geraldine Taecker (the "Taeckers"), Third Party Defendants Wells Fargo Bank,
 26 N.A., and F. Warren Hellman as Trustees of Trust A created by the Estate of Marco F.
 27 Hellman, and F. Warren Hellman as Trustee of Trust B created by the Estate of Marco F.
 28

1 Hellman (the "Trustees"), and Third Party Defendant Woodland Shopping Center, a limited
2 partnership ("WSC"). The Taeckers, the Trustees, and WSC shall be referred to
3 individually as "Party" or collectively as the "Parties" in this Stipulation.

4 WHEREAS, in its May 24, 2005 Order on the cross-motions for summary judgment
5 filed by Plaintiff Adobe Lumber, Inc. ("Adobe") and the Taeckers (the "Order"), this Court
6 dismissed Adobe's claim against the Taeckers under section 113 of the Comprehensive
7 Environmental Response, Compensation and Liability Act, 42 U.S.C. section 9601 *et seq.*
8 ("CERCLA"), and limited Adobe's claim against the Taeckers under section 107 of
9 CERCLA to a claim for contribution.

10 WHEREAS, following receipt of the Order, counsel for the Trustees and WSC
11 presented counsel for the Taeckers with their proposed motion for summary judgment. That
12 motion would have sought dismissal of the Taeckers' claims asserted against the Trustees
13 and WSC in the Taeckers' Second Amended Third Party Complaint filed in this action on
14 February 20, 2003, on the grounds (among others) that the Taeckers no longer had any
15 CERCLA or state law contribution or equitable indemnity claims against the Trustees or
16 WSC as a matter of law given the Court's Order limiting Adobe's section 107 claim to a
17 claim for contribution.

18 WHEREAS, after reviewing the Trustees' and WSC's proposed motion for summary
19 judgment, the Taeckers have agreed to dismiss the Trustees and WSC from the Second
20 Amended Third Party Complaint, on the following terms and conditions.

21 NOW, THEREFORE, in light of the foregoing Recitals, and pursuant to Fed. R. Civ.
22 Proc. 41(c), the Parties stipulate as follows and jointly request that the Court enter the
23 following Proposed Order:

24 (1) Third Party Defendants the Estate of Marco F. Hellman, Deceased, Wells Fargo
25 Bank, N.A., and F. Warren Hellman as Trustees of Trust A created by the Estate of Marco
26 F. Hellman, F. Warren Hellman as Trustee of Trust B created by the Estate of Marco F.
27 Hellman, and Woodland Shopping Center, a limited partnership, are hereby dismissed from
28 the Taeckers' Second Amended Third Party Complaint with prejudice as to the claims

1 asserted in the Second Amended Third Party Complaint, except as provided in paragraph
2 (2) below, with each Party to bear its own attorneys' fees and costs.

3 (2) The dismissal set forth in paragraph (1) above shall not constitute or be
4 construed as a determination of any issue of fact between the parties still remaining in this
5 action, including, without limitation, any issue concerning the causes, sources and/or extent
6 of any environmental contamination found at the Woodland Shopping Center property that
7 is the subject of this action (the "Site"). Moreover, the dismissal set forth in paragraph (1)
8 above shall be without prejudice to the Tackers' right to seek recovery from the Trustees
9 and/or WSC of any "response costs" (as that term is defined under CERCLA) that the
10 Tackers might incur in the future with respect to the Site.

11 IT IS SO STIPULATED.

12

13 DATED: June __, 2005

HELLER EHRMAN LLP

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By _____
THOMAS M. DONNELLY

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Attorneys for Third Party Defendants
Wells Fargo Bank, N.A., and F. Warren Hellman,
Trustees

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DATED: June __, 2005

DOWNEY BRAND LLP

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21

By _____
STEVEN H. GOLDBERG

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Attorneys for Third Party Defendant
Woodland Shopping Center, a limited partnership

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1 DATED: June __, 2005

LEWIS BRISBOIS BISGAARD & SMITH LLP

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By _____
BRIGITTE M. MAYO

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Attorneys for Defendants and Third Party Plaintiffs
Harold and Geraldine Taecker

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[PROPOSED] ORDER

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Having considered the foregoing Stipulation, and good cause appearing therefor,
IT IS SO ORDERED.

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11 DATED: June 7, 2005

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_____/s/ Garland E. Burrell, Jr._____
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1.

GARLAND E. BURRELL, JR.

United States District Judge

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6/7/05 10:45 AM

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