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8 **Attorneys for Cross-Defendants CHARLES H. LEWIS (Dec'd)**  
9 **and JANE W. LEWIS (Dec'd)**

10  
11 **IN THE UNITED STATES DISTRICT COURT**  
12 **EASTERN DISTRICT OF CALIFORNIA - SACRAMENTO DIVISION**

13 CHARLES H. LEWIS AND JANE W.  
14 LEWIS,

15 Plaintiffs,

16 v.

17 ROBERT D. RUSSELL, ET AL.,

18 Defendants,

Case No.: CIV S-03-2646 WBS AC

19 **STIPULATION TO EXTEND TRIAL**  
20 **AND OTHER DEADLINES SET FORTH**  
21 **IN PRETRIAL SCHEDULING ORDER**

22 **[PROPOSED] ORDER**

23 **[LR 144]**

24 Trial Date: August 7, 2018

25 AND RELATED COUNTER, CROSS AND  
26 THIRD-PARTY CLAIMS.

27 **STIPULATION**

28 Counter Claimant City of Davis (the "City"); Counter Claimants The Davis Center, LLC,  
Emily A. Stover, individually and as Trustee of the Stover Family Trust and as Personal  
Representative for Melvin Stover (Deceased), and Richard Albert Stinchfield, individually and  
as Trustee of the Robert S. Stinchfield Separate Real Property Trust and as Trustee of the

1 Barbara Ellen Stinchfield Testamentary Trust (collectively, “Landowners”); Counter Claimants  
2 Potter Taylor & Co., Potter, Long, Adams & Taylor Ltd., Davis Center, Potter-Taylor, Inc.,  
3 Potter Taylor & Scurfield, Inc. (collectively, “Potter-Taylor”); and Counter Defendants Charles  
4 H. Lewis (Deceased) and Jane W. Lewis (Deceased), Estate of Charles H. Lewis (Deceased) and  
5 Robert Zehnder as Personal Representative of Charles H. Lewis (Deceased) (“Lewis”) (the City,  
6 Landowners, Potter-Taylor and Lewis are referred to collectively herein as the “Participating  
7 Parties”), by and through their respective counsel, hereby stipulate as follows:

9           WHEREAS, on August 12, 2013, The Davis Center moved to amend the scheduling  
10 order (Doc. No. 447) and the Participating Parties stipulated to extend the deadlines to disclose  
11 experts (Doc. No. 458). On August 30, 2013, the Court entered Orders granting the Motion  
12 (Doc. No. 457) and approving the Stipulation (Doc. No. 460).

14           WHEREAS, on February 28, 2014, the Participating Parties entered into a further  
15 stipulation to amend the scheduling order to allow time to produce and compile data associated  
16 with the investigative study (Doc. No. 472). On March 3, 2014, the Court entered an Order  
17 approving the Stipulation (Doc. No. 474).

19           WHEREAS, on August 15, 2014, the Participating Parties entered into a further  
20 stipulation to amend the scheduling order to allow time to produce and compile additional data  
21 associated with the site investigation (Doc. No. 475). On August 19, 2014, the Court entered an  
22 Order approving the Stipulation (Doc. No. 477).

24           WHEREAS, on December 12, 2014, the Participating Parties entered into a further  
25 stipulation to amend the scheduling order to allow time to develop a cost estimate and work  
26 plan for the proposed remediation (Doc. No. 478). On the same day, the Court entered an Order  
27 approving the Stipulation (Doc. No. 479).

1           WHEREAS, on June 2, 2015, the Participating Parties entered into a further stipulation  
2 to amend the scheduling order to allow additional time to develop a cost estimate and work plan  
3 for the proposed remediation and to enter into possible mediation in an effort to resolve the case  
4 (Doc. No. 480). On June 15, 2015, the Court entered an Order approving the Stipulation (Doc.  
5 No. 481).  
6

7           WHEREAS, the Participating Parties held a mediation in December of 2015, and since  
8 that time have continued to negotiate settlement terms among themselves and with the  
9 California Regional Water Quality Control Board, Central Valley Region (“Regional Board”).  
10

11           WHEREAS, on December 21, 2016, in light of progress in settlement negotiations, the  
12 Participating Parties entered into a further stipulation to amend the scheduling order to allow  
13 additional time to draft settlement documents and secure approval of those terms by all  
14 Participating Parties (Doc. No. 511). On December 22, 2016, the Court entered an Order  
15 approving the Stipulation (Doc. No. 512). Under that Order, the trial in this matter was set to  
16 commence on October 31, 2017.  
17

18           WHEREAS, on March 7, 2017, counsel for Lewis filed a Statement of Fact of Death in  
19 the above-captioned action (“Action”), suggesting upon the record the death of Charles H.  
20 Lewis and Jane W. Lewis (Doc. No. 518).  
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22           WHEREAS, on May 22, 2017, the Superior Court of California for Yolo County duly  
23 appointed Robert Zehnder as Personal Representative of Charles H. Lewis in Case Number  
24 PB17-94.

25           WHEREAS, on June 15, 2017, the Participating Parties transmitted various settlement  
26 documents to the Regional Board for its review and approval.  
27  
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1           WHEREAS, on June 22, 2017, the Participating Parties entered into a stipulation  
2 agreeing to substitute: 1) Robert Zehnder, as Personal Representative of Charles H. Lewis as a  
3 party to this Action in place of Charles H. Lewis (Deceased) and Jane W. Lewis (Deceased) for  
4 purposes of the City's counter claims against Lewis only; and 2) the Estate of Charles H. Lewis  
5 (Deceased) as a party to this Action in place of Charles H. Lewis (Deceased) and Jane W. Lewis  
6 (Deceased) for purposes of the Landowner's and Potter-Taylor's respective counter claims  
7 against Lewis only (Doc. No. 526).  
8

9           WHEREAS, on June 22, 2017, in light of the Participating Parties' progress in having  
10 prepared the various settlement documents and efforts in the process to secure approval of the  
11 settlement documents from the Regional Board, the Participating Parties entered into a further  
12 stipulation to amend the scheduling order and extend the deadlines by three months (Doc. No.  
13 527). On June 23, 2017, the Court entered an Order approving that stipulation (Doc. No. 529).  
14 Under that Order, the trial in this matter was set to commence on January 30, 2018.  
15

16           WHEREAS, on September 22, 2017, in light of progress in settlement negotiations, the  
17 Participating Parties entered into a further stipulation to amend the scheduling order to allow  
18 additional time to revise settlement documents and secure approval of those terms by all  
19 Participating Parties (Docket No. 531). On the same date, the Court entered an Order approving  
20 the Stipulation (Docket No. 532). Under that Order, the trial in this matter is set to commence  
21 on May 1, 2018.  
22

23           WHEREAS, on December 13, 2017, counsel for the City filed a Motion for Summary  
24 Judgment or, In the Alternative, Summary Adjudication as to Cross-Claimants Jung Hang Suh  
25 and Soo Jung Suh (Docket No. 533) which was heard on February 5, 2018.  
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1           WHEREAS, on December 14, 2017, the Court issued its own Minute Order continuing  
2 the Pretrial Conference from February 26, 2018 to March 12, 2018 (Docket No. 534).

3           WHEREAS, at that time the Participating Parties had not yet reached agreement on the  
4 final terms of the Agreement and Covenant Not to Sue (“CNS”) between the Regional Board,  
5 and the Participating Parties, but continued their negotiations.  
6

7           WHEREAS, on January 5, 2018, the Regional Board submitted material revisions and  
8 changes to the CNS. On January 18, 2018, counsel for Landowners advised all parties to the  
9 CNS that their clients rejected the Regional Board’s material revisions to the CNS and offered  
10 alternative language.  
11

12           WHEREAS, on January 25, 2018, in light of continued coordination between the  
13 Participating Parties to negotiate the terms of the various settlement documents and the  
14 Regional Board’s need for additional time to complete its review of the revised settlement  
15 documents, the Participating Parties entered into a further stipulation to amend the scheduling  
16 order (Doc. No. 536).  
17

18           WHEREAS, on January 26, 2018, the Court entered an Order approving the Stipulation  
19 (Doc. No. 537). Under that Order, the trial in this matter was set to commence on August 7,  
20 2018, and the pre-trial conference was reset to June 18, 2018.

21           WHEREAS, on February 6, 2018, the Court entered an Order granting the City’s Motion  
22 for Summary Judgment or, In the Alternative, Summary Adjudication as to Cross-Claimants  
23 Jung Hang Suh and Soo Jung Suh (Doc. No. 539).  
24

25           WHEREAS, since the Court’s January 26, 2018 Order resetting the trial date to August 7,  
26 2018, the Participating Parties have continued to negotiate the settlement terms in good faith  
27 and require additional time to finalize the terms of the revised settlement documents.  
28

1 WHEREAS, due to the upcoming August 7, 2018, trial date, proceeding toward trial on  
2 the current schedule would unnecessarily direct the Participating Parties' resources to trial  
3 preparation. An extension of the existing deadlines by approximately four months will allow  
4 the Participating Parties to focus their resources on coordinating with one another and the  
5 Regional Board, and to finalize the settlement among the Participating Parties and avoid the  
6 need for trial.  
7

8 NOW THEREFORE, the Participating Parties hereby stipulate to extend the existing  
9 deadlines to the following dates:  
10

- 11 1. Final pre-trial conference is reset to October 22, 2018, or at such time that is  
12 convenient for the Court; and
- 13 2. Jury trial is reset for December 11, 2018, or at such time that is convenient for the  
14 Court.

15 Dated: May 14, 2018

16 Respectfully submitted,

17 Law Offices of Francis M. Goldsberry

18 By: /s/ Francis M. Goldsberry (as authorized

19 5/10/18)

20 Francis M. Goldsberry

21 Attorneys for Counter Claimants Potter-Taylor &  
22 Co.; Potter, Long, Adams & Taylor, Ltd.; Davis  
23 Center; Potter-Taylor, Inc. and Potter Taylor &  
24 Scurfield, Inc.

25 Dated: May 14, 2018

26 Respectfully submitted,

27 Hartman King, PC

28 By: /s/ Jennifer Hartman King (as authorized 5/11/18)

Jennifer Hartman King

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Attorneys for Counter Claimant City of Davis

Dated: May 14, 2018

Respectfully submitted,

Koeller, Nebeker, Carlson & Haluck, LLP

By: /s/ Peter Dye (as authorized on 5/11/18)  
Peter Dye

Attorneys for Counter Claimants The Davis Center, LLC; Emily A. Stover, individually and as Trustee of the Stover Family Trust and as Personal Representative for Melvin Stover (Deceased); and Richard Albert Stinchfield, individually and as Trustee of the Robert S. Stinchfield Separate Real Property Trust and as Trustee of the Barbara Ellen Stinchfield Testamentary Trust

Dated: May 14, 2018

Respectfully submitted,

Schuering Zimmerman & Doyle LLP

By: /s/ Keith D. Chidlaw  
Keith D. Chidlaw

Attorneys for Counter Defendants Charles H. Lewis (Deceased) and Jane W. Lewis (Deceased), Robert Zehnder, Personal Representative of Charles H. Lewis, and Estate of Charles H. Lewis (Deceased)

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**[PROPOSED] ORDER**

For good cause and pursuant to the above stipulation of the Participating Parties, IT IS  
HEREBY ORDERED that:

1. Final pre-trial conference is reset to **October 22, 2018 at 1:30 p.m.**; and
2. Jury trial is reset for **January 23, 2019 at 9:00 a.m.**

**IT IS SO ORDERED.**

Dated: May 14, 2018

  
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WILLIAM B. SHUBB  
UNITED STATES DISTRICT JUDGE