

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Gary J. Smith (State Bar No. 141393)
(gsmith@bdlaw.com)
Andrew C. Mayer (State Bar No. 287061)
(amayer@bdlaw.com)
BEVERIDGE & DIAMOND, P.C.
456 Montgomery Street, Suite 1800
San Francisco, CA 94104-1251
Telephone: (415) 262-4000
Facsimile: (415) 262-4040

Attorneys for Defendant
Sterling Centrecorp Inc.

Additional Counsel listed on following page.

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
SACRAMENTO DIVISION**

UNITED STATES OF AMERICA, and
CALIFORNIA DEPARTMENT OF TOXIC
SUBSTANCES CONTROL,

Plaintiffs,

vs.

STERLING CENTRECORP INC., STEPHEN P.
ELDER, and ELDER DEVELOPMENT, INC.,

Defendants.

Case No. 2:08-cv-02556-MCE-JFM

**STIPULATION AND ORDER EXTENDING
TIME FOR DESIGNATION OF EXPERTS
AND EXCHANGE OF EXPERT REPORTS
(PHASE II)**

Trial Date: July 18, 2016
Judge: Hon. Morrison C. England, Jr.

[Complaint Filed: October 27, 2008]

1 PATRICIA L. HURST (DC Bar No. 438882)
Senior Counsel
2 GABRIEL ALLEN (GA Bar No. 740737)
Trial Attorney
3 Environmental Enforcement Section
PAUL CIRINO (NY Bar No. 2777464)
4 Trial Attorney
Environmental Defense Section
5 Environment & Natural Resources Division
U.S. Department of Justice
6 P.O. Box 7611
Washington, DC 20044
7 (202) 307-1242 / (202) 514-0097
patricia.hurst@usdoj.gov
8 gabriel.allen@usdoj.gov
paul.cirino@usdoj.gov
9
Attorneys for Plaintiff
10 United States of America

11 KAMALA D. HARRIS
Attorney general of California
12 SUSAN FIERING
Supervising Deputy Attorney general
13 KIRK McINNIS (CA Bar No. 130952)
Deputy Attorney General
14 California Department of Justice
Office of the Attorney General
15 1515 Clay St., 20th Fl.,
Oakland, CA 94612
16 Kirk.mcinnis@doj.ca.gov

17 Attorneys for Plaintiff
California Department of Toxic Substances Control

18
19
20
21
22
23
24
25
26
27
28

1 STIPULATION EXTENDING TIME FOR EXCHANGE OF EXPERT REPORTS

2 WHEREAS, the Court’s Phase II Pretrial Scheduling Order (ECF No. 229) set the last day on
3 which all parties to the above-captioned action are to serve on all other parties the name, address,
4 and area of expertise of each expert that they propose to tender at trial, and exchange expert reports,
5 as August 11, 2015, and;

6 WHEREAS, as part of its initial disclosures made pursuant to Federal Rule of Procedure
7 26(a) and the Court’s Phase II Pretrial Scheduling Order, Plaintiffs United States of America, on
8 behalf of the Environmental Protection Agency, and the California Department of Toxic Substances
9 Control (collectively “Plaintiffs”) submitted a large volume of documents to Defendant Sterling
10 Centrecorp, Inc. (“Sterling”) via several disks, the last of which was received by Sterling on March
11 10, 2015, and;

12 WHEREAS, on May 11, 2015, after undertaking a partial review of the documents submitted
13 by Plaintiffs as part of their initial disclosures (which review is ongoing), Sterling propounded
14 several discovery requests on Plaintiffs, and;

15 WHEREAS, Plaintiffs and Sterling met and conferred with regard to Sterling’s discovery
16 requests, and have agreed that Plaintiffs will produce documents responsive to Sterling’s requests on
17 a rolling basis, which production is unlikely to be concluded before late July 2015, and;

18 WHEREAS, Sterling anticipates that its expert witness will require additional time to review
19 the documents produced by Plaintiffs in response to Sterling’s discovery requests, and;

20 WHEREAS, a thirty-day extension of time for designation of experts and exchange of expert
21 reports will not require additional time for expert discovery; should this Stipulation be granted, the
22 November 18, 2015 cutoff for expert discovery set by the Court’s Phase II Pretrial Scheduling Order
23 shall continue to govern; and

24 WHEREAS, a thirty-day extension of time for designation of experts and exchange of expert
25 reports will carry this deadline past the existing deadline for fact discovery, obviating the need for
26 experts to supplement reports if new facts are disclosed or discovered after the existing deadline for
27 expert disclosure and exchange of expert reports.

1 NOW THEREFORE, Plaintiffs and Sterling (collectively, "Parties") hereby jointly stipulate
2 and respectfully request that the last day the Parties may serve on all other Parties the name, address,
3 and area of expertise of each expert they propose to tender at trial, and produce a written report
4 prepared and signed by each expert witness, be moved back thirty days, to **September 10, 2015**.

5 SO STIPULATED.

6 **For Plaintiff United States of America**

8 6/29/2015
9 DATED

/s/ Patricia L. Hurst
PATRICIA L. HURST
GABRIEL ALLEN
Environmental Enforcement Section
PAUL CIRINO
Environmental Defense Section
Environment and Natural Resources Division
United States Department of Justice
301 Howard Street, Suite 1050
San Francisco, California 94105
Telephone: (415) 744-6470
Facsimile: (415) 744-6476

14 **For Plaintiff Department of Toxic Substances Control**

15 EDMUND G. BROWN JR.
16 Attorney General of California
17 KEN ALEX
Senior Assistant Attorney General

18 6/29/2015
19 DATED

/s/ Kirk McInnis
KIRK MCINNIS
Deputy Attorney General
1515 Clay St., 20th Floor
P.O. Box 70550
Oakland, CA 94612

22 *Counsel for Plaintiffs United States of America and Department of Toxic Substances Control*
23 *have authorized Defendant Sterling Centrecorp to file this Stipulation on behalf of these Parties;*
Defendant Sterling Centrecorp will retain documents evidencing this authorization.

24 **For Defendant Sterling Centrecorp, Inc.**

25 6/29/2015
26 DATED

/s/ Gary J. Smith
GARY J. SMITH
Beveridge & Diamond, P.C.
456 Montgomery Street, Suite 1800
San Francisco, CA 94104


1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

ORDER

In light of the Parties signed stipulation (ECF No. 237), the Court finds that good cause exists for issuance of an Order extending the time for the Parties to serve on all other parties the name, address, and area of expertise of each expert they propose to tender at trial, and produce a written report prepared and signed by each expert witness, to **September 10, 2015**.

IT IS SO ORDERED.

Dated: July 1, 2015



MORRISON C. ENGLAND, JR., CHIEF JUDGE
UNITED STATES DISTRICT COURT