

1 XAVIER BECERRA, State Bar No. 118517  
 Attorney General of California  
 2 TIMOTHY R. PATTERSON  
 State Bar No. 72209  
 3 Supervising Deputy Attorney General  
 JOHN W. EVERETT  
 4 Deputy Attorney General  
 State Bar No. 259481  
 5 600 West Broadway, Suite 1800  
 San Diego, CA 92101  
 6 P.O. Box 85266  
 San Diego, CA 92186-5266  
 7 Telephone: (619) 738-9305  
 Fax: (619) 645-2271  
 8 E-mail: John.Everett@doj.ca.gov  
*Attorneys for Plaintiff California Department of  
 9 Toxic Substances Control*

10 IN THE UNITED STATES DISTRICT COURT  
 11 FOR THE EASTERN DISTRICT OF CALIFORNIA

14 **UNITED STATES OF AMERICA, and**  
**CALIFORNIA DEPARTMENT OF TOXIC**  
**SUBSTANCES CONTROL,**  
 15  
 16 Plaintiffs,  
 17  
 18 v.  
 19 **STERLING CENTRECORP INC.,**  
**STEPHEN P. ELDER, and ELDER**  
**DEVELOPMENT, INC.,**  
 20  
 21 Defendants.

2:08-cv-02556-MCE-DB

**STIPULATION AND ORDER  
 GRANTING EXTENSION FOR  
 PLAINTIFFS' REPLY BRIEFS IN  
 SUPPORT OF MOTIONS FOR  
 ENFORCEMENT COSTS**

Judge: The Honorable Morrison C.  
 England, Jr.  
 Trial Date: Not Scheduled  
 Action Filed: June 22, 2007

1           WHEREAS, on March 25, 2009, the Court entered the Bifurcation Order (ECF No. 26)  
2 separating the discovery and trial of defendants' liability ("Phase I") from the discovery and trial  
3 on plaintiffs' entitlement to response costs ("Phase II");

4           WHEREAS, only the enforcement costs portion of Plaintiffs United States of America and  
5 California Department of Toxic Substances Control ("Plaintiffs") response costs remains  
6 unresolved;

7           WHEREAS, on September 8, 2015, the Court signed a Stipulation and Order (ECF No.  
8 244) providing that (a) on or before 60 days after the conclusion of the Phase II trial, Plaintiffs  
9 shall file a motion seeking enforcement costs, which are a subset of the response costs being  
10 litigated in Phase II; (b) on or before 60 days after Plaintiffs' deadline to file a motion seeking  
11 enforcement costs, if Defendant Sterling Centrecorp, Inc. ("Sterling") decides a response is  
12 necessary, Sterling shall file a response in opposition to Plaintiffs' motion for enforcement costs;  
13 and (c) on or before 21 days after Sterling's deadline to file its response, if Plaintiffs decide a  
14 reply is necessary, Plaintiffs shall file their reply;

15           WHEREAS, on October 24, 2016, the Court signed a Stipulation and Order (ECF No. 301)  
16 staying the deadlines in the Court's September 8, 2015 Order until December 21, 2016 to provide  
17 the Parties time to negotiate a settlement of enforcement costs. The stipulated schedule for  
18 briefing and discovery related to Plaintiffs' motion for enforcement costs would commence when  
19 the stay ended on December 21, 2016 if the Parties were unable to settle the issue of enforcement  
20 costs;

21           WHEREAS, the Parties did not settle the issue of enforcement costs, Plaintiffs' filed  
22 separate Motions for Enforcement Costs on February 21, 2017, Sterling filed its Opposition to  
23 those motions on April 21, 2017, and Plaintiffs' reply briefs are due on May 12, 2017;

24           WHEREAS, Plaintiffs and Sterling stipulated on January 31, 2017 that, "[s]hould Plaintiffs  
25 seek discovery of Sterling and require additional time to prepare their reply brief, Sterling will not  
26 oppose Plaintiffs' request to stay their reply deadline up to 45 days after Sterling serves its  
27 response to written discovery";

28

1 WHEREAS, Plaintiffs now seek discovery of Sterling and require additional time to  
2 prepare their reply brief, and Plaintiffs and Sterling agree to extend the deadline for Plaintiffs'  
3 reply briefs to 45 days after Sterling serves its responses to written discovery; and

4 WHEREAS, Plaintiff DTSC also moved for enforcement costs against Defendants Stephen  
5 P. Elder and Elder Development, Inc. (collectively, the "Elder Defendants"), the Elder  
6 Defendants have filed no opposition to DTSC's Motion for Enforcement Costs, and DTSC's  
7 reply brief shall therefore address only the arguments raised in Sterling's Opposition;

8 IT IS HEREBY STIPULATED BY AND BETWEEN PLAINTIFFS AND STERLING,  
9 BY AND THROUGH THEIR UNDERSIGNED COUNSEL, THAT:

10 1. Plaintiffs separate or joint reply briefs in support of their respective Motions for  
11 Enforcement Costs are due on July 17, 2017, forty-five (45) days after the date on which  
12 Sterling's responses to written discovery propounded by Plaintiffs must be served.

13 For Defendant Sterling Centrecorp, Inc.

14  
15 May 3, 2017  
16 DATED

15 /s/ Gary J. Smith  
16 GARY J. SMITH  
17 Beveridge & Diamond, P.C.  
18 456 Montgomery Street, Suite 1800  
19 San Francisco, CA 94104

18 For Plaintiff United States of America

19  
20 May 3, 2017  
21 DATED

20 /s/ Patricia L. Hurst  
21 PATRICIA L. HURST  
22 Senior Counsel  
23 Environmental Enforcement Section  
24 Environment and Natural Resources Division  
25 United States Department of Justice  
26 PO Box 7611  
27 Washington, DC 20044-7611

25 *Counsel for Defendant Sterling Centrecorp, Inc. has authorized the California Department of  
26 Toxic Substances Control to electronically sign and file this Stipulation on its behalf. The  
27 Department of Toxic Substances Control will retain documents evidencing this authorization.*

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1 For Plaintiff Department of Toxic Substances Control

2 XAVIER BECERRA  
3 Attorney General of California  
4 TIMOTHY R. PATTERSON  
5 Supervising Deputy Attorney General

6 May 3, 2017  
7 DATED


8 /s/ John W. Everett  
9 JOHN EVERETT  
10 Deputy Attorney General  
11 600 West Broadway, Suite 1800  
12 San Diego, CA 92186

13 **ORDER**

14 In accordance with the foregoing stipulation, and good cause appearing, Plaintiff's reply  
15 briefs shall be filed not later than July 17, 2017.

16 IT IS SO ORDERED.

17 Dated: May 4, 2017

18   
19 MORRISON C. ENGLAND, JR.  
20 UNITED STATES DISTRICT JUDGE  
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