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 7

8 IN THE UNITED STATES DISTRICT COURT
 9 FOR THE EASTERN DISTRICT OF CALIFORNIA
 10

11 UNITED STATES OF AMERICA,)	2:09-cv-684 LKK-GGH
)	
12 Plaintiff,)	STIPULATION TO EXTEND
)	STAY OF FURTHER
13 v.)	PROCEEDINGS AND ORDER
)	
14 2007 YAMAHA RHINO ATV, VIN:)	
5Y4AM04Y27A033940, CALIFORNIA)	
15 LICENSE NUMBER: 78E45A,)	DATE: N/A
)	TIME: N/A
16 2004 MITSUBISHI KOYKER TRACTOR,)	COURTROOM: N/A
SERIAL NUMBER: 110337,)	
)	
17 2004 TERRY TRAILERS FLATBED)	
18 TRAILER, VIN: 1T9CS18274W709850,)	
CALIFORNIA LICENSE NUMBER:)	
19 4GG7716,)	
)	
20 2008 SPCNS TRAILER PTI, VIN:)	
CA1056326, CALIFORNIA LICENSE)	
21 NUMBER: 4JJ2908, and)	
)	
22 2008 YAMAHA 700R RAPTOR ATV,)	
VIN: JY4AM07Y56C025552,)	
23)	
24 Defendants.)	

25
 26 Plaintiff United States of America and claimants Deborah
 27 Brasier and Jess R. Brasier, and Jess V. Brasier (hereafter
 28 "claimants") request that the stay entered in the case on June 3,

1 2009, be extended to March 1, 2010. This request is based on the
2 following:

3 The United States contends that the defendant vehicles were
4 used to facilitate a violation of federal drug laws (cultivation
5 of marijuana) and/or were purchased with the proceeds of drug
6 trafficking, and are therefore forfeitable to the United States.

7 The United States intends to depose all claimants about the
8 claims they filed in this case and the facts surrounding the
9 cultivation of marijuana plants on real property located at 22
10 Nelsier Place and 57 Nelsier Place.¹ Plaintiff believes
11 claimant Jess R. Brasier is the son of claimant Jess V. Brasier,
12 a defendant in two related pending cases, United States v. Jess
13 Vernon Brasier and Dean Teskey, 2:08-cr-0453 LKK, and United
14 States v. Jess Vernon Brasier, et al., 2:08-cr-518 LKK.

15 _____ Jess V. Brasier and Dean Teskey have pled guilty in the
16 above criminal cases. Teskey is currently scheduled to be
17 sentenced on December 22, 2009. Brasier is currently scheduled
18 to be sentenced on January 20, 2010. In his plea agreement,
19 Brasier admitted that federal agents found over 230 marijuana
20 plants growing at 57 Nelsier Place; that over 90 marijuana plants
21 were found growing at 22 Nelsier Place; and that over 70
22 marijuana plants were found growing at 2091 Debbi Ann Court.² In
23 addition he admitted that he "controlled all three of these
24 _____

25 ¹ Civil forfeiture actions have been filed against these
26 two properties and are related to the instant case: U.S. v. 22
27 Nelsier Place, 2:08-cv-2326 LKK-GGH and U.S. v. 57 Nelsier Place,
2:08-cv-2309 LKK-GGH.

28 ² The United States did not file a forfeiture action
against this property.

1 properties" on the date of the search.

2 If discovery proceeds before Brasier and Teskey are
3 sentenced, they will, undoubtedly, invoke their Fifth Amendment
4 rights against self-incrimination and the United States will be
5 deprived of the ability to explore the factual basis for this
6 forfeiture and to determine whether claimants Deborah and Jess R.
7 Brasier had any knowledge of, or participation in, the criminal
8 activity.

9 In addition, all claimants intend to depose law enforcement
10 officers who were involved in the investigation that led to the
11 search at the defendant property. Allowing depositions of these
12 officers would adversely affect the ability of the United States
13 to conduct its related criminal investigation.

14 Accordingly, the parties contend that proceeding with this
15 action at this time has potential adverse affects on the
16 investigation and possible prosecution of the related-criminal
17 case and/or upon claimants' ability to prove their claim to the
18 property and to contest the government's allegations that the
19 property is forfeitable. For these reasons, the parties request
20 that this matter be stayed until after both Jess V. Brasier and
21 Dean Teskey have been sentenced. The United States will be
22 making a similar request in the related cases, (U.S. v. 57
23 Nelsier Place, 2:08-cv-2309 LKK-GGH) and U.S. v. 22 Nelsier Place,
24 2:08-cv-2326 LKK-GGH. Accordingly, the parties request that the
25 stay be extended to March 1, 2010. At that time the parties will
26 advise the Court whether a further stay is necessary.

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28 ///

1 DATED: November 16, 2009

BENJAMIN B. WAGNER
United States Attorney

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3 By: /s/ Kristin S. Door
4 KRISTIN S. DOOR
5 Assistant U.S. Attorney
6 Attorneys for plaintiff
7 United States of America

8 DATED: November 19, 2009

/s/ John H. Feiner
JOHN H. FEINER
Attorney for claimants
Jess R. Brasier and
Deborah Brasier

10 DATED: November 16, 2009

DANIEL J. BRODERICK
Federal Defender

11
12
13 By: /s/ Timothy Zindel
14 TIMOTHY ZINDEL
15 Assistant Federal Defender
16 Attorney for claimant
17 Jess V. Brasier


(Original signatures retained by
AUSA Door)

18
19 ORDER

20 For the reasons set forth above, this matter is stayed
21 pursuant to 18 U.S.C. §§ 981(g) (1) and 981(g) (2) until March 1,
22 2010. The parties will advise the court at least 10 days prior
23 to March 1, 2010, whether a further stay is necessary.

24 IT IS SO ORDERED.

25 Dated: November 20, 2009.

26
27 
28 LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT