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

14 **CALIFORNIA DEPARTMENT OF TOXIC**  
15 **SUBSTANCES CONTROL and the TOXIC**  
16 **SUBSTANCES CONTROL ACCOUNT,**

17 Plaintiffs,

18 v.

19 **JIM DOBBAS, INC., a California**  
20 **corporation; CONTINENTAL RAIL, INC.,**  
21 **a Delaware corporation; DAVID VAN**  
22 **OVER, individually; PACIFIC WOOD**  
23 **PRESERVING, a dissolved California**  
24 **corporation; WEST COAST WOOD**  
25 **PRESERVING, LLC., a Nevada limited**  
26 **liability company; and COLLINS &**  
27 **AIKMAN PRODUCTS, LLC, a Delaware**  
28 **limited liability company,**

Defendants.

2:14-cv-00595-WBS-EFB

**STIPULATION BY PLAINTIFFS AND  
DEFENDANT WEST COAST WOOD  
PRESERVING, LLC TO CONTINUE  
HEARING ON MOTION TO APPROVE  
CONSENT DECREE BETWEEN  
PLAINTIFFS AND DEFENDANT WEST  
COAST WOOD PRESERVING, LLC  
AND VACATE HEARING ON  
DEFENDANT WEST COAST WOOD  
PRESERVING, LLC'S MOTION FOR  
SUMMARY JUDGMENT; [PROPOSED]  
ORDER**

Judge: William B. Shubb

Trial: January 4, 2017

Action Filed: March 3, 2014

**AND RELATED COUNTERCLAIMS AND  
CROSS-CLAIMS**

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**STIPULATION**

WHEREAS Plaintiffs California Department of Toxic Substances Control and the Toxic Substances Control Account (collectively “Plaintiffs”) filed a Complaint in the above-captioned action on March 3, 2014 (ECF No. 1), and filed a First Amended Complaint (“FAC”) on December 11, 2014 (ECF No. 77).

WHEREAS Defendant West Coast Wood Preserving, LLC (“WCWP”) filed an Answer to the Complaint on June 10, 2014 (ECF No. 22), and an Answer to the FAC on January 5, 2014 (ECF No. 89).

WHEREAS WCWP filed a Motion for Summary Judgment (“Motion for Summary Judgment”) on December 15, 2014 (ECF No. 79), and a hearing on that Motion for Summary Judgment (“Hearing on Motion for Summary Judgment”) was initially set for January 26, 2015.

WHEREAS the Hearing on Motion for Summary Judgment was continued to February 9, 2015 (ECF No. 88), March 9, 2015 (ECF No. 97), and April 6, 2015 (ECF No. 119).

WHEREAS Plaintiffs and WCWP (collectively “the Parties”) participated in a confidential mediation on March 3, 2015, and subsequently informed the Court on March 5, 2015, that a settlement in principle had been reached between the Parties. In light of the settlement in principle, the Parties requested that the Court set a hearing date of July 13, 2015, for a hearing on a Motion to Approve the Consent Decree between the Parties (“Hearing on Motion to Approve the Consent Decree”) and to continue the Hearing on Motion for Summary Judgment until ten days thereafter. The Parties stipulated that should the public comment period that DTSC conducts pursuant to 42 U.S.C. section 9622(d)(2)(B) for the [Proposed] Consent Decree between the Parties run longer than anticipated, that a request may be made for a continuance of the Hearing on Motion to Approve the Consent Decree. (ECF No. 120).

WHEREAS on March 6, 2015, the Court set the Hearing on Motion to Approve the Consent Decree for July 13, 2015, and continued the Hearing on Motion for Summary Judgment to July 27, 2015. (ECF No. 121).

1 WHEREAS, after the Court set the July 13, 2015, hearing date, the Parties engaged in  
2 further confidential mediation and settlement negotiations, which had not been anticipated by the  
3 Parties. These mediation sessions and negotiations resulted in an unintended and unforeseen  
4 delay in reaching a final settlement and in drafting and finalizing the [Proposed] Consent Decree.

5 WHEREAS WCWP and Plaintiffs signed the [Proposed] Consent Decree on May 28, 2015  
6 and June 2, 2015, respectively, and Plaintiffs filed a Notice of Lodging of [Proposed] Consent  
7 Decree between the Parties on June 2, 2015. (ECF No. 131).

8 WHEREAS a Notice of Public Comment Period for the [Proposed] Consent Decree was  
9 published in the California Regulatory Notice Register (2015, Volume No. 25-Z<sup>1</sup>) on June 19,  
10 2015.

11 WHEREAS Plaintiffs must consider, and file with the Court, any written comments, views,  
12 or allegations relating to the [Proposed] Consent Decree that are received during the public  
13 comment period. 42 U.S.C., § 9622(d)(2)(B).

14 WHEREAS the public comment period noticed in the California Regulatory Notice  
15 Register for this matter runs through and includes July 20, 2015, and thus past the date currently  
16 set for the Hearing on Motion to Approve the Consent Decree.

17 WHEREAS the Parties believe that it is necessary to continue the date of the Hearing on  
18 Motion to Approve the Consent Decree to a date that will allow Plaintiffs to consider and file  
19 with the Court any comments received during the public comment period, and that will comply  
20 with the requirement in Local Rule 230(b) that hearings on motions shall not be set less than  
21 twenty-eight (28) days after service and filing of the motion.

22 IT IS HEREBY STIPULATED by and between the Parties as follows:

23 1. That the Hearing on Motion to Approve the Consent Decree be continued to August  
24 24, 2015;

25 2. That if Plaintiffs are not able to file the Motion to Approve the Consent Decree by  
26 July 27, 2015, that Plaintiffs will not oppose a request by WCWP for an order shortening time so  
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28 <sup>1</sup> <http://www.oal.ca.gov/res/docs/pdf/notice/25z-2015.pdf>

1 that the Hearing on Motion to Approve the Consent Decree may go forward on August 24, 2015;  
2 and

3 3. That the July 27, 2015, Hearing on Motion for Summary Judgment be taken off  
4 calendar without prejudice to WCWP's right to request a new hearing date should the Court not  
5 approve the [Proposed] Consent Decree and consistent with the Court's Pretrial Scheduling  
6 Order.

7 Dated: July 6, 2015

Respectfully submitted,

8 KAMALA D. HARRIS  
9 Attorney General of California  
10 SARAH E. MORRISON  
11 Supervising Deputy Attorney General

12 */s/ Dennis L. Beck, Jr.*

13 DENNIS L. BECK, JR.  
14 Deputy Attorney General  
15 *Attorneys for Plaintiffs California*  
16 *Department of Toxic Substances Control and*  
17 *Toxic Substances Control Account*

18 Dated: July 6, 2015

Respectfully submitted,

19 PERKINS COIE, LLP

20 */s/ Lester O. Brown*

21 LESTER O. BROWN  
22 *Attorneys for Defendant*  
23 *West Coast Wood Preserving, LLC*

24 **ATTESTATION**

25 I, Dennis L. Beck, Jr., do hereby declare pursuant to Rule 131(e) of the Local Rules of the  
26 United States District Court for the Eastern District of California that I obtained concurrence in  
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1 the filing of the foregoing document from Lester O. Brown, counsel for defendant West Coast  
2 Wood Preserving, LLC, on this 6th day of July, 2015.

3 /s/ Dennis L. Beck, Jr.  
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5 **ORDER**

6 The Hearing on Motion to Approve the Consent Decree is continued to 2:00 p.m. on  
7 August 24, 2015. The July 27, 2015, Hearing on Motion for Summary Judgment is taken off  
8 calendar without prejudice to being refiled at a later date should the Court not approve the  
9 [Proposed] Consent Decree and consistent with the Court's Pretrial Scheduling Order.

10 Dated: July 9, 2015

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12 WILLIAM B. SHUBB  
13 UNITED STATES DISTRICT JUDGE  
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