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

13 CALIFORNIA DEPARTMENT OF TOXIC
 14 SUBSTANCES CONTROL and the TOXIC
 SUBSTANCES CONTROL ACCOUNT,

15 Plaintiffs,

16 v.

17
 18 JIM DOBBAS, INC., a California corporation;
 CONTINENTAL RAIL, INC., a Delaware
 19 corporation; DAVID VAN OVER,
 individually; PACIFIC WOOD
 20 PRESERVING, a dissolved California
 corporation; WEST COAST WOOD
 21 PRESERVING, LLC., a Nevada limited
 liability company; and COLLINS & AIKMAN
 22 PRODUCTS, LLC, a Delaware limited
 liability company,

23 Defendants.
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25 AND RELATED COUNTERCLAIMS AND
 26 CROSS CLAIMS

2:14-cv-00595-WBS-EFB

AMENDED STIPULATION REQUESTING
 CONTINUANCE OF JUNE 12, 2017
 HEARING DATE FOR PLAINTIFFS'
 MOTION FOR PARTIAL SUMMARY
 JUDGMENT ON THE LIABILITY OF
 DEFENDANT DAVID VAN OVER;
 DECLARATION OF LAURA J.
 ZUCKERMAN IN SUPPORT THEREOF;
 ORDER

Trial Date: September 13, 2017

Action Filed: March 3, 2014

1 Plaintiffs the State of California Department of Toxic Substances Control and the Toxic
2 Substances Control Account (collectively, "DTSC"), through their attorneys, and individual
3 defendant David Van Over, acting *in pro per* ("Van Over"), hereby submit this amended
4 stipulation requesting that the Court continue the June 12, 2017 hearing date for Plaintiffs'
5 Motion for Partial Summary Judgment on the liability of Defendant David Van Over ("Motion")
6 to July 10, 2017. This continuance will allow Van Over additional time to prepare an opposition
7 to DTSC's Motion and accommodate DTSC's counsel's schedule.

8 The foregoing Amended Stipulation is based on the following facts:

9 1. In this action under the Comprehensive Environmental Response, Compensation, and
10 Liability Act, 42 U.S.C. § 9601 ("CERCLA"), DTSC seeks to recover response costs it incurred
11 or expects to incur in response to the release and/or threatened release of hazardous substances at,
12 around, and/or beneath the property located at 147 A Street, Elmira, Solano County, CA,
13 identified by Solano County Assessor's Parcel Numbers 142-010-130, 142-010-140 and 142-042-
14 010 ("the Site") from six (6) defendants. The Court has entered and approved consent decrees
15 resolving the liability of two defendants in this action and has entered default judgments against
16 three (3) others. Van Over is the current owner and operator of the Site, and he is the last
17 remaining defendant in the case.

18 2. On May 5, 2017, DTSC filed a noticed Motion for Partial Summary Judgment on the
19 liability of Defendant David Van Over ("Motion"), setting the hearing date for the Motion for
20 June 12, 2017. Pursuant to Federal Rule of Civil Procedure 78 and Local Rule 230, Van Over's
21 opposition was due not less than 14 days preceding the noticed hearing date. Accordingly, Van
22 Over's opposition was due May 30, 2017. Van Over did not file a timely opposition. Declaration
23 of Laura J. Zuckerman ("Zuckerman Decl."), ¶ 2.

24 3. On June 2, 2017, Van Over asked for, and Plaintiffs agreed to, a brief continuance of
25 the hearing date to provide Van Over with an opportunity to file an opposition to DTSC's Motion.
26 Zuckerman Declaration, ¶ 3. Counsel for DTSC plans to be out of the country from June 25
27 through July 7, 2017. *Ibid.*

1 4. Based on the foregoing, DTSC and Van Over hereby jointly respectfully request that
2 the Court enter an order continuing the hearing on DTSC’s Motion, and extending the opposition
3 and reply brief filing dates, to enable Van Over the opportunity to file an opposition to the Motion
4 and to accommodate DTSC’s counsel’s schedule, as follows:

5 A. Filing date for **Van Over Opposition** – continued from May 30, 2017 to June
6 16, 2017.

7 B. Filing date for **DTSC Reply** – continued from June 5, 2017 to June 26, 2017,
8 2017.

9 C. **Hearing on DTSC’s Motion** – continued from June 12, 2017 to July 10, 2017.

10 IT IS SO STIPULATED.

11 Dated: 6/7/17_____

XAVIER BECERRA
Attorney General of California

13 /s/ Laura J. Zuckerman

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LAURA J. ZUCKERMAN
Deputy Attorney General
Attorneys for Plaintiffs State of California
Department of Toxic Substances Control and Toxic
Substances Account

18 Dated: _6/7/17_____

DAVID VAN OVER
Defendant

20 /s/ David Van Over

21 _____
DAVID VAN OVER

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ORDER

IT IS ORDERED that the deadlines for the above-captioned case are extended as follows:

- A. Filing date for **Van Over Opposition** – continued from May 30, 2017 to June 16, 2017.
- B. Filing date for **DTSC Reply** – continued from June 5, 2017 to June 26, 2017.
- C. **Hearing on DTSC’s Motion** – continued from June 12, 2017 to July 10, 2017.

IT IS SO ORDERED.

Dated: June 8, 2017


WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

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DECLARATION OF LAURA J. ZUCKERMAN

I, Laura J. Zuckerman, declare as follows:

1. I am a Deputy Attorney General with the California Department of Justice, Office of the Attorney General. In that capacity, I am one of the attorneys for plaintiffs California Department of Toxic Substances Control and the Toxic Substances Control Account (collectively, “DTSC”) in this action. I have personal knowledge of the facts stated herein, and, if called to do so, could and would testify competently thereto.

2. David Van Over (“Van Over”), the last remaining defendant in this action, is representing himself *in pro per*. On May 5, 2017, DTSC filed a noticed Motion for Partial Summary Judgment on the liability of Defendant David Van Over (“Motion”), setting the hearing date for the Motion for June 12, 2017. Pursuant to Federal Rule of Civil Procedure 78 and Local Rule 230, Van Over’s opposition was due not less than 14 days preceding the noticed hearing date. Accordingly, Van Over’s opposition was due May 30, 2017. Van Over did not file a timely opposition.

3. On June 2, 2017, Van Over asked for, and Plaintiffs agreed to, a continuance of the hearing date to provide Van Over with an opportunity to file an opposition to the Motion. Counsel for DTSC plans to be out of the country from June 25 through July 7, 2017.

I declare under penalty of perjury that the foregoing is true and correct. Executed on June 7, 2017, at Oakland, California.

Laura J. Zuckerman