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

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

16 Plaintiffs,

17 v.

18 **JIM DOBBAS, INC., a California**
corporation; CONTINENTAL RAIL, INC.,
 19 **a Delaware 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 &
 22 **AIKMAN PRODUCTS, LLC, a Delaware**
limited liability company,

23 Defendants.
 24
 25

26 **AND RELATED COUNTERCLAIMS AND**
 27 **CROSS CLAIMS**
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2:14-cv-00595-WBS-EFB

**STIPULATION REQUESTING
 EXTENSION OF PRETRIAL DATES AND
 TRIAL; DECLARATION OF LAURA J.
 ZUCKERMAN IN SUPPORT THEREOF;
 ORDER**

Trial Date: October 24, 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 stipulation
4 requesting that the Court issue an order extending all court-ordered deadlines for approximately
5 four (4) months to permit the parties to finalize the proposed Consent Decree necessary to settle
6 this litigation.

7 The foregoing Stipulation is based on the following facts:

8 1. In this action under the Comprehensive Environmental Response, Compensation, and
9 Liability Act, 42 U.S.C. § 9601 ("CERCLA"), DTSC seeks to recover response costs it incurred
10 or expects to incur in response to the release and/or threatened release of hazardous substances at,
11 around, and/or beneath the property located at 147 A Street, Elmira, Solano County, CA,
12 identified by Solano County Assessor's Parcel Numbers 142-010-130, 142-010-140 and 142-042-
13 010 ("the Site") by multiple defendants. The Court has entered and approved consent decrees
14 resolving the liability of two defendants in this action and has entered default judgments against
15 three (3) others. Van Over is the current owner and operator of the Site, and he is the last
16 remaining defendant in the case. On July 6, 2017, the Court granted DTSC's motion for partial
17 summary judgment on the liability of Van Over. Docket # 170.

18 2. The parties have been engaged in settlement discussions for many months, have
19 reached a tentative settlement, and are in the process of finalizing a proposed consent decree to
20 memorialize their settlement. Zuckerman Declaration, ¶ 2.

21 3. For its CERCLA settlements, DTSC follows section 122(h) of CERCLA, and
22 conducts a thirty (30) day public review and comment period on the proposed consent decree
23 before moving for its approval by the Court. 42 U.S.C § 9622(h). Zuckerman Declaration, ¶ 4.
24 A continuance of approximately four (4) months will allow sufficient time for the parties to
25 finalize and execute, publish, and notice any proposed consent decree entered into with Van Over
26 for public comment, comply with the statutorily required public comment period for the proposed
27 consent decree, address public comments, and file a noticed motion for judicial approval of a
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1 settlement with Van Over. *Id.*

2 4. The parties prefer to expend their available resources focusing on finalizing the
3 proposed Consent Decree rather than litigating the matter. Zuckerman Declaration, ¶ 3. The
4 parties further agree that it would be mutually beneficial, and that it would conserve the judicial
5 resources of this Court, to continue the pretrial and trial dates by approximately four (4) months
6 in order that the parties may finalize the necessary documentation. *Id.*

7 4. These parties have made two prior requests to extend the discovery and trial
8 deadlines, which were granted. Zuckerman Declaration, ¶ 5.

9 5. Based on the foregoing, DTSC and Van Over hereby jointly request that the Court
10 enter an order continuing the remaining court deadlines for approximately four (4) months as
11 follows:

12 A. Final Pretrial Conference: from August 28, 2017, to January 5, 2018.

13 B. Trial: from October 24, 2017, to February 20, 2018.

14 IT IS SO STIPULATED.

15 Dated: July ____, 2017

XAVIER BECERRA
Attorney General of California

17 /s/ Laura J. Zuckerman

18 LAURA J. ZUCKERMAN
19 Deputy Attorney General

20 *Attorneys for Plaintiffs California*
21 *Department of Toxic Substances Control*
and the Toxic Substances Control Account

22 Dated: July 28, 2017

DAVID VAN OVER
23 Defendant

24
25 /s/ David Van Over
26 _____
DAVID VAN OVER

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ORDER

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

- A. Final Pretrial Conference: from August 28, 2017, to **JANUARY 16, 2018 AT 1:30 P.M.**
- B. Trial: from October 24, 2017, to **MARCH 13, 2018 AT 9:00 A.M.**

IT IS SO ORDERED.

Dated: July 31, 2017



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

