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8 *Department of Toxic Substances Control and the*
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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**
28

2:14-cv-00595-WBS-EFB

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

Trial Date: February 20, 2018

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 two (2) months to permit the parties to seek judicial approval of the proposed Consent Decree
6 necessary to settle 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.

17 2. The parties have reached a settlement in the form of a proposed Consent Decree. The
18 proposed Consent Decree was lodged with the Court on October 30, 2017. ECF No. 173.
19 Zuckerman Declaration, ¶ 2.

20 3. For its CERCLA settlements, DTSC follows section 122(h) of CERCLA, and
21 conducts a thirty (30) day public review and comment period on a proposed consent decree
22 before moving for its approval by the Court. 42 U.S.C § 9622(h). Zuckerman Declaration, ¶ 3.
23 DTSC published notice of the proposed Consent Decree on November 17, 2017, and the public
24 comment period for the proposed Consent Decree closed on December 18, 2017. DTSC will now
25 file a noticed motion seeking judicial approval of the settlement with Van Over. *Id.*

26 4. DTSC anticipates filing a noticed motion for judicial approval of the proposed
27 Consent Decree in late January or early February, given vacations and counsel's trial schedules.
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1 In consideration of the 28-day time period for filing and setting a hearing date for a noticed
2 motion to approve the settlement with Van Over, the parties request an extension of the pretrial
3 and trial dates by approximately three (3) months. Currently, the final pre-trial conference is set
4 for January 5, 2018 and trial is set for February 20, 2018. Since it is now late December, DTSC
5 requests a continuance of the January 5, 2018 final pre-trial conference date because the parties
6 have settled the case. Zuckerman Declaration, ¶ 4.

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

9 6. 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 three (3) months as
11 follows:

12 A. Final Pretrial Conference: from January 5, 2018 to April 6, 2018.

13 B. Trial: from February 20, 2018 to May 22, 2018.

14 IT IS SO STIPULATED.

15 Dated: December 26, 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: December 26, 2017

DAVID VAN OVER
Defendant

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 January 16, 2018 to **April 9, 2018 at 1:30 p.m.**

B. Trial: February 20, 2018 to **June 5, 2018 at 9:00 a.m.**

IT IS SO ORDERED.

Dated: December 27, 2017



WILLIAM B. SHUBB
UNITED STATES DISTRICT JUDGE

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1 **DECLARATION OF LAURA J. ZUCKERMAN**

2 I, Laura J. Zuckerman, declare as follows:

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

8 2. DTSC and defendant David Van Over (“Van Over”), the last remaining defendant
9 in this action, have been engaged in settlement discussions for many months, have reached a
10 settlement, and have lodged the settlement, in the form of a proposed Consent Decree, with the
11 Court on October 30, 2017. ECF No. 173.

12 3. For its CERCLA settlements, DTSC follows section 122(h) of CERCLA, and
13 conduct a thirty (30) day public review and comment period on the proposed consent decree
14 before moving for its approval by the Court. 42 U.S.C. § 9622(h). Here, after lodging the
15 proposed Consent Decree, DTSC published notice of the proposed Consent Decree for a 30-day
16 public comment period which started on November 17, 2017 and ended on December 18, 2017.

17 4. DTSC now plans to file a noticed motion for judicial approval of the Consent
18 Decree with Van Over, which requires a 28-day notice period. Given upcoming vacation and
19 counsel’s trial schedule, DTSC anticipates filing the noticed motion by late January or early
20 February. Since it is now late December, DTSC requests a continuance of the January 5, 2018
21 final pre-trial conference date because the parties have settled the case.

22 5. These parties have made three prior requests to extend discovery and trial
23 deadlines, which were granted.

24 I declare under penalty of perjury that the foregoing is true and correct. Executed on

25 _____12/26/2017_____, at Oakland, California.

26 /s/ Laura J. Zuckerman
27 Laura J. Zuckerman