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11 IN THE UNITED STATES DISTRICT COURT
 12 FOR THE EASTERN DISTRICT OF CALIFORNIA
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15 **CALIFORNIA DEPARTMENT OF TOXIC**
 16 **SUBSTANCES CONTROL,**

17 Plaintiff,

18 v.

19 **THE UNITED STATES OF AMERICA,**

20 Defendant.
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2:16-cv-02897-JAM-AC

**JOINT STATUS REPORT,
 STIPULATION AND ORDER TO
 CONTINUE THE STAY**

Judge: John A. Mendez
 Action Filed: December 9, 2016

1 Plaintiff, the Department of Toxic Substances Control (“DTSC”) and Defendant, the
2 United States of America (“United States”) hereby submit this Joint Status Report, Stipulation
3 and [Proposed] Order to Continue the Stay and to postpone the deadline for dispositional papers.
4 Dispositional papers are currently due on or before November 1, 2017. DTSC and the United
5 States stipulate to lodge the proposed Consent Decree by December 1, 2017.

6 **BACKGROUND**

7 On or about December 9, 2016, DTSC initiated the above-captioned case, seeking cost
8 recovery and declaratory relief under sections 107(a) and 113(g) of the Comprehensive
9 Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9607(a)
10 and 9613(g). The matter concerns the properties known as 711 and 750 Jackson Street, Benicia,
11 Solano County, California (identified by Assessor’s Parcel number 0080-14-0440) and 938, 940,
12 942, 945, 946, 952, and 954 Tyler Street; 963, 965, 967, 969, 971, 973, 977, 979, 981, 983, 985,
13 989, and 991 Lincoln Street; and 900 and 954 Jackson Street, Benicia, Solano County, California
14 (identified by Assessor’s Parcel numbers 0080-28-0010, 0080-28-0030, 0080-28-0040, 0080-28-
15 0050) and all locations where hazardous substances released at, in, or from those addresses may
16 come to be located in the future (the “Site”). On April 27, 2017 DTSC and the United States filed
17 a Joint Notice of Tentative Settlement and asked the Court for additional time to file dispositional
18 papers. On April 28, 2017 the Court filed a Minute Order that stayed the matter and instructed
19 the parties to file dispositional documents on or before September 1, 2017. On August 31, 2017,
20 the Parties filed a Stipulation and Proposed Order seeking additional time to file the proposed
21 Consent Decree on or before November 1, 2017. ECF No. 8. The Parties stated that in the event
22 the proposed Consent Decree could not be filed with the Court by November 1, 2017, the parties
23 agreed to file a joint status report notifying the Court of the status of the approvals. *Id.* at 3. The
24 Court approved the stipulated extension on August 31, 2017. ECF No. 9.

25 **SETTLEMENT PROGRESS**

26 DTSC and the United States have been negotiating in good faith to resolve this matter.
27 While staff attorneys have agreed upon the terms of the Consent Decree that will settle this matter,
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1 authorized officials within these two government organizations still need to review and approve
2 the terms of the Consent Decree.

3 Under the settlement procedures for the United States, the settlement must be approved by
4 the Associate Attorney General of the United States Department of Justice. Because of an
5 intermediate review comment, the parties revisited a potential ambiguity in the draft Consent
6 Decree and made minor adjustments to the document. Given the nature of the review process, the
7 undersigned counsel for the United States believes that it should take no more than an additional
8 30-day period to obtain the requisite review. In addition, the public, including the current and
9 past owners of the Site, will be provided the opportunity to comment on the proposed Consent
10 Decree. DTSC and the United States propose that the parties lodge a proposed Consent Decree
11 approved by the authorized officials of both governments on or before December 1, 2017.

12 After the proposed Consent Decree is lodged, DTSC and the United States agree that a 60-
13 day comment period is appropriate. At the end of the comment period, DTSC will need to
14 respond to public comments. Since we do not know the nature or the number of the comments
15 that need to be answered, DTSC requests up to 30 days to respond to the comments. After those
16 30 days, or sooner, if possible, the parties will file with the Court motions for approval of the
17 proposed Consent Decree, unless public comments disclose facts or considerations that indicate
18 the proposed Consent Decree is inappropriate, improper, or inadequate, in which case DTSC may
19 withdraw or withhold its consent to entry of the Consent Decree.

20 **STIPULATION**

21 The parties hereby stipulate and agree that there is good cause for the Court to enter the
22 following order:

- 23 1. The matter is stayed until April 2, 2018. On or before December 1, 2017, the parties
24 shall file a proposed Consent Decree with the Court.
- 25 2. In the event that a proposed Consent Decree cannot be filed with the Court by
26 December 1, 2017, the parties agree to file a Supplemental Joint Status Report notifying the Court
27 of the status of the approvals.

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IT IS SO STIPULATED.

Dated: October 30, 2017

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Attorney General of California
SUSAN S. FIERING
Supervising Deputy Attorney General

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Dated: October 30, 2017

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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 10/31/2017

 /s/ John A. Mendez

UNITED STATES DISTRICT COURT
JUDGE JOHN A. MENDEZ