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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 [PROPOSED]
 ORDER TO CONTINUE THE STAY**

Judge: Hon. 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 December 1, 2017. DTSC and the United
5 States stipulate to a deadline to lodge a proposed Consent Decree by December 15, 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. The parties entered
25 into a supplemental stipulated extension to extend the deadline until December 1, 2017, which
26 was approved by the Court.

SETTLEMENT PROGRESS

DTSC and the United States have negotiated in good faith to resolve this matter. While staff attorneys have agreed upon the terms of the Consent Decree that will settle this matter, the review process, in which authorized officials within these two government organizations review and approve the terms of the Consent Decree, is ongoing.

Under the settlement procedures for the United States, the settlement must be approved by the Associate Attorney General of the United States Department of Justice. Undersigned counsel for the United States has initiated the briefing process, but that process has taken longer than anticipated due to intermediate review and the Thanksgiving Day holiday. Given the nature of the review process, the undersigned counsel for the United States believes that it should take no more than an additional 15-day period to obtain the requisite approval. In addition, the public, including the current and past owners of the Site, will be provided the opportunity to comment on the proposed Consent Decree. DTSC and the United States propose that the deadline for the parties to lodge a proposed Consent Decree approved by the authorized officials of both governments be briefly extended to December 15, 2017.

After the proposed Consent Decree is lodged, DTSC and the United States agree that a 60-day comment period is appropriate. At the end of the comment period, DTSC will need to respond to public comments. Due to the uncertainty as to the nature and number of the comments that need to be considered and responded to, DTSC requests up to 30 days to respond to the comments. After those 30 days, or sooner, if possible, the parties will file with the Court motions for approval of the proposed Consent Decree, unless public comments disclose facts or considerations that indicate the proposed Consent Decree is inappropriate, improper, or inadequate, in which case DTSC may withdraw or withhold its consent to entry of the Consent Decree.

STIPULATION

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

1 1. The matter is stayed until April 18, 2018. The deadline for the parties to lodge a
2 proposed Consent Decree is extended to December 15, 2017.

3 2. In the event that a proposed Consent Decree cannot be filed with the Court by
4 December 15, 2017, the parties agree to file a Supplemental Joint Status Report notifying the
5 Court of the status of the approvals.

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8 **IT IS SO STIPULATED.**

9 Dated: November 30, 2017

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

12
13 /s/ Heather C. Leslie (as authorized on 11/30/17.)
ROSE B. FUA
HEATHER C. LESLIE
Deputy Attorneys General
Attorneys for the California Department of
15 Toxic Substances Control

16
17 Dated: November 30, 2017

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19 /s/ Mark A. Rigau
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PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: December 1, 2017

/s/ JOHN A. MENDEZ
UNITED STATES DISTRICT COURT
JUDGE JOHN A. MENDEZ