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Attorneys for Defendant
OCCIDENTAL CHEMICAL CORPORATION

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

RIO LINDA ELVERTA COMMUNITY
WATER DISTRICT,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,
ELEMENTIS CHROMIUM
INCORPORATED, OCCIDENTAL
CHEMICAL CORPORATION,
HONEYWELL INCORPORATED, BASF
CORPORATION, PPG INCORPORATED,
E.I. DU PONT DE NEMOURS AND
COMPANY, UNIVAR INCORPORATED,
LUXFER HOLDINGS PLC, SIGMA-
ALDRICH CORPORATION, and DOW
CHEMICAL COMPANY,

Defendants.

Case Nos. 2:17-cv-01349-KJM-GGH and
2:17-cv-01353-KJM-GGH

**STIPULATION TO STAY ACTIONS;
AND ORDER**

SACRAMENTO SUBURBAN WATER
DISTRICT,

Plaintiff,

v.

ELEMENTIS CHROMIUM
INCORPORATED, OCCIDENTAL
CHEMICAL CORPORATION,
HONEYWELL INCORPORATED, BASF

CORPORATION, PPG INCORPORATED,
E.I. DU PONT DE NEMOURS AND
COMPANY, LUXFER HOLDINGS PLC,
UNIVAR INCORPORATED, SIGMA-
ALDRICH CORPORATION, DOW
CHEMICAL COMPANY, and THE
UNITED STATES OF AMERICA,

Defendants.

Plaintiffs Rio Linda Elverta Community Water District and Sacramento Suburban Water District (together, “Plaintiffs”) and Defendants the United States of America, Elementis Chromium Incorporated, Occidental Chemical Corporation, Honeywell International, Inc., BASF Corporation, PPG Industries, Inc. sued as PPG Incorporated, E.I. Du Pont de Nemours and Company, Univar Inc., Univar USA, Inc., Luxfer Holdings PLC, Sigma-Aldrich Corporation, and The Dow Chemical Company, in the above-captioned related matters, through their undersigned counsel, hereby stipulate and agree to the following:

I. Recitals

1. Plaintiffs Rio Linda Elverta Community Water District and Sacramento Suburban Water District filed actions against the United States of America and the United States Department of the Air Force in the United States Court of Federal Claims on June 23, 2017. The Court of Federal Claims case names and numbers are: *Rio Linda Elverta Community Water District vs. The United States of America, et al.*, Case No. 1:17-cv-00859-VJW; and *Sacramento Suburban Water District vs. The United States of America, et al.*, Case No. 1:17-cv-00860-RHH (together, the “Federal Claims Actions”).

2. Plaintiffs subsequently filed these actions in this Court on June 30, 2017 (*Rio Linda Community Water District v. United States, et al.*) and July 12, 2017 (*Sacramento Suburban Water District v. Elementis Chromium Inc., et al.*).

3. On September 18 and 25, 2017, Non-Federal Defendants¹ filed motions to dismiss under Federal Rule of Civil Procedure 12.

¹ The “Non-Federal Defendants” are all Defendants except the United States.

1 4. On September 20, 2017, based on a stipulation between Plaintiffs and Non-
2 Federal Defendants, this Court entered an Order re Scheduling and Case Management (Docket
3 34) that, in addition to addressing service issues, established a schedule for motions to be brought
4 by Non-Federal Defendants. That Order set the following schedule:

- 5 • “All [Non-Federal] Defendants named in this stipulation will file responsive
6 pleadings by September 25, 2017”;
- 7 • “Plaintiff will respond to any pleading motions by October, 25, 2017”;
- 8 • “Defendants will file reply briefs by November 8, 2017”; and
- 9 • “The parties propose a hearing date of November 17, 2017, or the soonest the
10 Court can hear the matter following the filing of the reply briefs.”

11 5. On September 21, 2017, Plaintiffs and Defendant United States filed a Stipulation
12 to Stay Plaintiffs’ Counts Against the United States of America and Proposed Scheduling Order
13 for Defendant United States of America. On September 25, 2017, this Court entered an Order
14 (Docket 43) based on the stipulation staying this action against the United States “at least for the
15 period of time that may be required for Plaintiffs to obtain a ruling from the United States Court
16 of Federal Claims on Plaintiffs’ anticipated motions to stay” the Federal Claims Actions. The
17 Order further requires that the United States will answer or otherwise respond to Plaintiffs’
18 claims against the United States in these actions within 60 days of Plaintiffs’ notification that the
19 Federal Claims Actions have been stayed or dismissed, Plaintiffs will respond to any pleading
20 motion filed by the United States within 28 days thereafter, and the United States will file its
21 reply brief within 14 days thereafter.

22 6. On September 27, 2017 in the Rio Linda Federal Claims Action and on September
23 28, 2017 in the Sacramento Suburban Federal Claims Action, Plaintiffs filed motions to stay the
24 Federal Claims Actions pending resolution of the instant actions. United States’ responses to
25 those motions are due on October 11 and 12, 2017, respectively. Also on September 28, 2017, the
26 United States filed motions to dismiss the Federal Claims Actions under Rule of the Court of
27 Federal Claims 12(b)(1). Plaintiffs’ responses to those motions to dismiss are due on October 26,
28 2017.

1 7. This Court has set a Status (Pretrial Scheduling) Conference in these actions on
2 November 17, 2017 at 10:00 a.m.

3 8. Counsel for Plaintiffs and certain Non-Federal Defendants met and conferred on
4 September 22, 2017 concerning the scheduling of these actions in light of the Federal Claims
5 Actions, Plaintiffs' motions to stay the Federal Claims Actions, the overlapping issues in these
6 actions and the Federal Claims Actions, and means of litigating the matters efficiently without
7 duplicating issues or needlessly burdening the courts.

8 9. To reduce the potential for duplication of effort and overlap of proceedings, and to
9 avoid scheduling conflicts, the parties have agreed to the following proposed order.

10 **II. [Proposed] Order Staying Actions Against Non-Federal Defendants And Setting**
11 **Briefing and Discovery Schedule**

12 1. If the United States Court of Federal Claims enters orders staying or dismissing
13 Plaintiffs' United States Court of Federal Claims lawsuits, then Plaintiffs' counsel will file a
14 notice with the Eastern District of California of the orders **within 48 hours, or 72 hours if the**
15 **orders are issued on a Friday.**

16 2. These actions are hereby stayed against the Non-Federal Defendants until sixty
17 (60) days after Plaintiffs file such notification.

18 3. The briefing schedule set forth in the Court's September 20, 2017 Order (Docket
19 No. 34) is hereby modified as follows:

- 20 a. Plaintiffs will respond to the Rule 12 motions filed by the Non-Federal
21 Defendants within 28 days following the expiration of the stay of these actions
22 against the Non-Federal Defendants.
- 23 b. All Defendants who have filed motions in response to the complaints may file
24 reply briefs in support of those motions within 14 days after Plaintiffs'
25 opposition briefs are due.
- 26 c. The hearing date on the currently filed motions, set for November 17, 2017, at
27 10:00 a.m. is hereby vacated. Within ten days after Plaintiffs' notification that
28 the United States Court of Federal Claims cases have been stayed or

1 dismissed, the parties shall propose to the Court an agreed hearing date for all
2 Defendants' Rule 12 motions.

3 4. Discovery is stayed until the Court issues rulings on the Non-Federal Defendants'
4 currently pending Rule 12 motions and any motions to dismiss filed by the United States
5 pursuant to the deadlines entered by the Court on September 25, 2017 for all counts against the
6 United States. Initial disclosures under Federal Rule of Civil Procedure 26(a)(1) shall be due 45
7 days after this Court's ruling on all then-pending Rule 12 motions.

8 5. The Status (Pretrial Scheduling) Conference set for November 17, 2017 at 10:00
9 a.m. is hereby vacated. The parties request that a Status (Pretrial Scheduling) Conference be set
10 to coincide with oral argument on Defendants' Rule 12 motions or within 30 days after entry of
11 an order resolving all Rule 12 motions filed by all defendants.

12
13 Pursuant to Local Rule 131(e), all undersigned counsel have authorized Occidental
14 Chemical Corporation's counsel, R. Morgan Gilhuly, to sign and submit this Stipulation on their
15 behalf.

16
17 Dated: October 10, 2017

SHER EDLING, LLP

18
19 By: /s/ Timothy R. Sloane

As authorized on October 9, 2017

20 Timothy R. Sloane

21 Attorneys for Plaintiffs
22 RIO LINDA ELVERTA COMMUNITY WATER
23 DISTRICT SACRAMENTO SUBURBAN WATER
24 DISTRICT
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Dated: October 10, 2017

U.S. DEPARTMENT OF JUSTICE, CIVIL DIVISION

By: /s/ Michael L. Williams
As authorized on October 9, 2017
Michael L. Williams

Attorneys for Defendant
UNITED STATES OF AMERICA

Dated: October 10, 2017

KING & SPALDING LLP

By: /s/ Megan R. Nishikawa
As authorized on October 10, 2017
Megan R. Nishikawa

Attorneys for Defendant
BASF CORPORATION

Dated: October 10, 2017

BARG COFFIN LEWIS & TRAPP, LLP

By: /s/ R. Morgan Gilhuly

Attorneys for Defendant
OCCIDENTAL CHEMICAL CORPORATION

Dated: October 10, 2017

MORGAN, LEWIS & BOCKIUS, LLP

By: /s/ Greg A. Christianson
As authorized on October 10, 2017
Greg A. Christianson

Attorneys for Defendant
ELEMENTIS CHROMIUM INCORPORATED

Dated: October 10, 2017

ARNOLD PORTER KAYE SCHOLER LLP

By: /s/ Stephanie B. Weirick

As authorized on October 10, 2017

Stephanie B. Weirick

Attorneys for Defendant

HONEYWELL INTERNATIONAL INC.

Dated: October 10, 2017

BEVERIDGE & DIAMOND, P.C.

By: /s/ Gary J. Smith

As authorized on October 10, 2017

Gary J. Smith

Attorneys for Defendant

PPG INDUSTRIES, INC., sued as PPG

INCORPORATED

Dated: October 10, 2017

GLYNN & FINLEY, LLP

By: /s/ Adam Rapp

As authorized on October 10, 2017

Adam Rapp

Attorneys for Defendant

E.I. DU PONT DE NEMOURS AND COMPANY

Dated: October 10, 2017

ARCHER & GREINER, LLP

HANSON BRIDGETT LLP

By: /s/ *Landon S. Bailey*

As authorized on October 10, 2017

Landon S. Bailey

Attorneys for Defendant

LUXFER HOLDINGS PLC

1 Dated: October 10, 2017

ALEXANDER & ASSOCIATES PC

2
3 By: /s/ Alisyn J. Palla
4 As authorized on October 10, 2017
Alisyn J. Palla

5 Attorneys for Defendant
6 UNIVAR USA INC. and UNIVAR INC.

7 Dated: October 10, 2017

STEPTOE & JOHNSON, LLP

8
9 By: /s/ Jay E. Smith
10 As authorized on October 10, 2017
Jay E. Smith

11 Attorneys for Defendant
12 SIGMA-ALDRICH CORPORATION

13 Dated: October 10, 2017

MITCHELL CHADWICK, LLP

14
15 By: /s/ Clifton McFarland
16 As authorized on October 10, 2017
Clifton McFarland

17 Attorneys for Defendant
18 THE DOW CHEMICAL COMPANY

19
20 IT IS SO ORDERED.

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22 DATED: October 16, 2017.

23 
UNITED STATES DISTRICT JUDGE