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10 Attorneys for Defendants  
 PNEUMO ABEX CORPORATION (nka Pneumo  
 11 Abex LLC) and WHITMAN CORPORATION  
 (nka Pepsi-Cola Metropolitan Bottling Company, Inc.)  
 12

13 UNITED STATES DISTRICT COURT  
 14 NORTHERN DISTRICT OF CALIFORNIA  
 15

16 DONNA M. AVILA, et al.,  
 17 Plaintiffs,  
 18 vs.  
 19 WILLITS ENVIRONMENTAL  
 REMEDIATION TRUST, et al.,  
 20 Defendants.  
 21

Case No. C-99-3941 SI  
 (Consolidated with Case Nos. C-01-0266 SI  
 and C-06-2555 SI)

**STIPULATION AND ~~PROPOSED~~  
 ORDER MODIFYING CASE  
 SCHEDULE**

(Honorable Susan Illston)

Dept.: Courtroom 10

1 Plaintiffs, by and through their undersigned counsel, and Defendants Pneumo Abex  
2 Corporation and Whitman Corporation (collectively, “Defendants”), by and through their  
3 undersigned counsel, hereby stipulate as follows:

4 WHEREAS, the parties appeared before the Court for a Further Case Management  
5 Conference in the above-captioned matter on or about August 26, 2011;

6 WHEREAS, during the Further Case Management Conference, the Court set a case  
7 schedule in order to accommodate a mediation between the parties and, accordingly, ordered that  
8 dispositive motions be filed following completion of the mediation;

9 WHEREAS, the parties subsequently stipulated to, and the Court accordingly ordered, a  
10 modified case schedule to accommodate the dates on which the parties were able to schedule the  
11 mediation;

12 WHEREAS, pursuant to the Court’s Order (Docket No. 1390), dispositive motions must  
13 be filed by October 5, 2012, oppositions to the dispositive motions must be filed by October 26,  
14 2012, and replies in support of the dispositive motions must be filed by November 9, 2012, with  
15 the hearing on the dispositive motions set for November 30, 2012, at 9:00 a.m.;

16 WHEREAS, Defendants filed a Motion for Summary Judgment (Docket No. 1386) on or  
17 about July 20, 2012, seeking dismissal of certain Plaintiffs who did not produce causation  
18 opinions, as required, or who either previously settled their claims and/or did not join the appeal  
19 which revived the instant claims;

20 WHEREAS, Defendants’ Motion is set to be heard on October 5, 2012, the same date by  
21 which dispositive motions must be filed pursuant to the Court’s Order;

22 WHEREAS, the Court’s ruling on Defendants’ Motion will necessarily determine which  
23 Plaintiffs’ claims will be challenged in Defendants’ dispositive motions;

24 WHEREAS, the parties participated in a mediation on August 6 – 10, 2012, and  
25 September 10-14, 2012, during which Defendants and certain Plaintiffs and/or their  
26 representatives reached settlement agreements;

27 WHEREAS, following the mediation and pending the dismissal of Plaintiffs whose claims  
28 were challenged in Defendants’ Motion, only three Plaintiffs remain in this action;

1 WHEREAS, the parties are actively working to resolve the claims of the three remaining  
2 Plaintiffs, and are hopeful they can do so without incurring unnecessary additional expense or  
3 requiring further use of the Court's resources;

4 WHEREAS, it would promote efficient use of the Court's and the parties' resources to  
5 permit dispositive motions to be filed after the Court issues a ruling on Defendants' Motion, and  
6 after the parties have had sufficient opportunity to pursue informal resolution of the remaining  
7 Plaintiffs' claims;

8 WHEREAS, lead trial counsel for Defendants will be on leave through the end of October  
9 due to the birth of his son;

10 IT IS HEREBY STIPULATED by and between the parties that the case schedule be  
11 modified as follows, subject to the Court's approval:

- 12 1. Dispositive motions must be filed by November 16, 2012;
- 13 2. Oppositions to the dispositive motions must be filed by December 21, 2012;
- 14 3. Replies in support of the dispositive motions must be filed by January 18, 2012;
- 15 4. The hearing on the dispositive motions shall be set for February 1, 2012, at 9:00  
16 a.m.

17 IT IS SO STIPULATED.

18 Dated: October 4, 2012

LAW OFFICES OF WILLIAM M. SIMPICH

19  
20 By William M. Simpich (MEC)  
21 William M. Simpich  
22 Attorney for Plaintiffs

LAW OFFICES OF TESHAYE W. TSADIK

23  
24 By Tesfaye W. Tsadik (MEC)  
25 Tesfaye W. Tsadik  
26 Attorney for Plaintiffs

