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Attorneys for Defendants
MARBULK CANADA, INC.; MARBULK
SHIPPING, INC.; and CSL INTERNATIONAL,
INC.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HANSON AGGREGATES MID-PACIFIC,))
INC.,))
))
Plaintiff,))
))
v.))
))
PIONEER, IN REM, its engines, tackle,))
equipment, furnishings and machinery, IN))
PERSONAM MARBULK CANADA,))
INC.; MARBULK SHIPPING, INC.; and))
CSL INTERNATIONAL, INC.))
))
Defendants.))
_____))

Case No.: C-07-3849-JL

**STIPULATION AND
~~PROPOSED~~ ORDER TO
CONTINUE FACT AND EXPERT
DISCOVERY CUT-OFF IN LIGHT
OF THE CURRENTLY
SCHEDULED SETTLEMENT
CONFERENCE DATE OF
FEBRUARY 10, 2010**

STIPULATION

IT IS HEREBY STIPULATED by the parties to this action by and through their respective counsel that *good cause* exists to continue the Fact Discovery Cut-off as to plaintiff Hanson Aggregates Mid-Pacific, Inc., by two weeks as well as the deadline to exchange expert reports and complete Expert Discovery by approximately 60 days *in the interests of justice and judicial economy* based in part upon the following:

- (1) This action arises as the result of the Plaintiff's claim that certain cargo [sand] shipped aboard the *M/V Pioneer* from Sechelt, British Columbia, Canada to Plaintiff [or Plaintiff's customer] in Redwood City, California was contaminated during the voyage. The Plaintiff

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CSL.Hanson/2554

1 contends that it first learned of the alleged contamination on July 30,
 2 2004 and that the defendants are responsible for its alleged resulting
 3 damages. The defendants deny they are responsible for the damages;

4 (2) *No trial date has been set;*

5 (3) On October 21, 2009, counsel for the parties attended a Case
 6 Management Conference during which certain Pre-trial deadlines
 7 were set by the Court, including a deadline to disclose expert
 8 witnesses and reports of December 18, 2009, and a deadline to
 9 complete fact and expert discovery by January 25, 2009;

10 (4) At that same Case Management Conference, the parties requested that
 11 the matter be referred to a Settlement Conference before a U.S.
 12 Magistrate Judge. *A Mandatory Settlement Conference was*
 13 *subsequently scheduled by Magistrate Laporte to take place on*
 14 *February 10, 2010 (apparently the first available date).*

15 (5) The parties have now exchanged extensive written discovery but wish
 16 to avoid the potential unnecessary cost and legal expense which
 17 would be associated with their disclosing experts and reports, as well
 18 as completeing expert discovery before the upcoming Mandatory
 19 Settlement Conference scheduled for February 10, 2010. All of that
 20 expense will be avoided should the parties reach a settlement at the
 21 upcoming Settlement Conference. *Counsel for the parties further*
 22 *believe that if the case were not to settle at the upcoming Settlement*
 23 *Conference, that they could complete expert discovery, including*
 24 *disclosing expert reports and deposing experts, within*
 25 *approximately 30 days of completion of the Settlement Conference*
 26 *on February 10, 2010;*

27 (6) Counsel for the parties therefore request that the deadline to exchange
 28 written expert reports be extended from December 18, 2009 to

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February 24, 2010, to avoid any unnecessary legal expense should the matter settle at the Settlement Conference. Counsel for the parties further request that the deadline to complete expert discovery (depositions) be continued from January 25, 2009 to March 12, 2010;

(7) Finally, the parties also agree that the deadline for plaintiff Hanson Aggregates Mid-Pacific, Inc., to complete fact discovery shall be continued from January 25, 2010 to February 8, 2010;

(8) Based upon the above, counsel for the parties submit that *good cause* exists in the interest of justice and judicial economy to grant the request.

CONCLUSION

Based upon the above, the parties respectfully request that the Court adopt the schedule outlined below:

- Expert Discovery Cut-off: March 12, 2010
- Simultaneous exchange of expert reports: February 24, 2010
- Fact Discovery Cut-off as to plaintiff only: February 8, 2010
- All other deadlines to remain as previously ordered.

Respectfully Submitted,

Dated: December 17, 2009

NIXON PEABODY LLP
Attorneys for Plaintiff
HANSON AGGREGATES MID-PACIFIC, INC.

By: /S/ David Kolek
David Kolek

Dated: December 17, 2009

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~~PROPOSED~~ ORDER

PURSUANT TO STIPULATION IT IS HEREBY ORDERED THAT the following schedule is adopted by the Court:

- Expert Discovery Cut-off: March 12, 2010
- Simultaneous exchange of expert reports: February 24, 2010
- Fact Discovery Cut-off as to plaintiff only: February 8, 2010
- All other deadlines to remain as previously ordered.

IT IS SO ORDERED.

Date: December 21, 2009, 2009

By: 
 Magistrate James Larson
~~Chief~~ Magistrate Judge
 United States District Court

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