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 6 (415) 986-0227

7 Attorney for Plaintiffs
 8 BRUCE A. BURROWS and
 9 JAMES A. ROESSLER

10 UNITED STATES DISTRICT COURT
 11 NORTHERN DISTRICT OF CALIFORNIA

11	BRUCE A. BURROWS and JAMES A.)	
12	ROESSLER,)	CASE NO. C 07-5354 MHP
13	Plaintiffs)	
14)	
15)	JOINT STATUS/CASE
16	DWIGHT W. PERRY, CARLETON L.)	MANAGEMENT STATEMENT,
17	PERRY, KWANG SUK LEE, KUI JA LEE,)	STIPULATION, AND
18	NAM SUN PARK AND SEUNG HEE)	(PROPOSED) ORDER
19	PARK,)	DATE: December 8, 2008
20	Defendants.)	TIME: 3:00 p.m.
)	
)	

21
 22 Pursuant to this Court’s Civil Local Rule (“Civ. L.R.”) 16-9, the parties jointly submit
 23 this Status/Case Management Statement, Stipulation, and Proposed Order. Each party certifies
 24 that its lead trial counsel, who will try this case, met and conferred for the preparation of this
 25 Statement as required by Civ. L.R. 16-3.

26 The parties make the following representations and stipulations:

1 **A. JOINT STATEMENT OF FACTS AND EVENTS UNDERLYING THE ACTION**

2 1. Since June, 2008, a report on additional investigation and a proposed Soil Vapor
3 Extraction Pilot Study Workplan ("Workplan") has been prepared and submitted to the Alameda
4 County Division of Environmental Health ("ACDEH") and is presently under review by ACDEH.
5

6 2. Since May, 2008, a stay has been in effect upon agreement of the parties and order of
7 this Court until December 15, 2008, and a Status/Case Management Conference has been scheduled
8 for December 8, 2008, at 3:00 p.m.

9 3. The Plaintiffs, the Perrys Defendants, the Parks Defendants and the Chiu Family
10 Trust Cross-Defendant have been in compliance with their agreement to contribute to and share
11 certain costs reached at the time of the May 1, 2008, Settlement Conference before Magistrate Judge
12 Laporte.
13

14 4. The Plaintiffs, the Perrys Defendants, the Parks Defendants, Cross-Defendant the
15 Chiu Family Trust, and Cross-Defendants Dublin Town & Country Associates and William
16 Kartoian, a general partner in Dublin Town & Country Associates, have all been in compliance
17 with the stay which was part of their agreement reached at the time of the May 1, 2008, Settlement
18 Conference before Magistrate Judge Laporte.
19

20 5. ACDEH staff advised delay in its review of the Workplan due to workload, but
21 expects to be done soon. The parties anticipate review and approval shortly by ACDEH of the
22 Workplan, and implementation immediately thereafter, to be conducted in January and February,
23 2009. The parties anticipate that the results of that implementation will be reported in March, 2009.
24

25 6. With the purpose of minimizing costs to the parties and the waste of time of this
26 Court, all the parties hereby stipulate to a further continuance of the stay and rescheduling of the
27 Status/Case Management Conference before the Court.
28

1 **B. IDENTIFICATION AND SIGNATURE OF LEAD TRIAL COUNSEL**

2 The parties hereby respectfully request that the Court continue the stay previously ordered in
3 the case until April 15, 2009. The parties further respectfully request that the Court reschedule the
4 pending Status/Case Management Conference to a date in April, 2009, shortly before April 15,
5 2009, for example Monday, April 6, 2009, or such other date that is convenient to the Court.

6
7 Karl R. Morthole hereby attests that concurrence in this Joint Case Management Conference
8 Statement was obtained from Lead Trial Counsel for the Defendants listed immediately below.

9 Jan A. Greben (by KRM, with permission)

10 Jan A. Greben, 1332 Anacapa Street, Suite 110, Santa Barbara, CA 93101, 805-963-9090
11 [Parks Defendants Lead Trial Counsel]

12 Thomas M. Downey (by KRM, with permission)
13 Thomas M. Downey, 1901 Harrison Street, 11th Floor, Oakland, CA 94612, 510-444-6800
14 [Perrys Defendants Lead Trial Counsel]

14 Edward W. Polson (by KRM, with permission)

15 Edward W. Polson, 5000 Hopyard Road, Suite 400, Pleasanton, CA 94588, 925-225-9600
16 [Chiu Family Trust Cross-Defendant Lead Trial Counsel]

16 Greggory C. Brandt (by KRM, with permission)

17 Greggory C. Brandt, 1111 Broadway, 24th Floor, Oakland, CA 94607-4036, 510-834-6600
18 [Dublin Town & Country Associates and William Kartoian Cross-Defendants Lead Trial
19 Counsel]

19 Date: November 19, 2008

20 Respectfully submitted,

21 LAW OFFICES OF KARL R. MORTHOLE

22 Karl R. Morthole

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24 Lead Trial Counsel for Plaintiffs
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(PROPOSED) ORDER

The court finds that each party was represented by lead trial counsel responsible for trial of this matter and was given an opportunity to be heard as to all matters encompassed by this Status/Case Management Statement, Stipulation, and (Proposed) Order filed prior to the date of this conference. The court adopts this statement as modified and enters it as the Order of this court pursuant to Civ. L.R. 16-8(b).

The foregoing joint statement, as amended by setting the date for the next Status/Case Management Conference for April 20, 2009, is adopted by this court as the Case Management Order in this action in accordance with Civ. L.R. 16 and other applicable Local Rules, and shall govern all further proceedings in this action. **A joint CMC statment shall be filed ten days prior to the conference.**

IT IS SO ORDERED.

Date: 11/26/2008



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9 UNITED STATES DISTRICT COURT
10 NORTHERN DISTRICT OF CALIFORNIA

11 BRUCE A. BURROWS and JAMES A.)
12 ROESSLER,) CASE NO. C 07-5354 MHP
13 Plaintiffs)
14)
15) CERTIFICATE OF SERVICE
16)
17 DWIGHT W. PERRY, CARLETON L.)
18 PERRY, KWANG SUK LEE, KUI JA LEE,)
19 NAM SUN PARK AND SEUNG HEE)
20 PARK,)
21 Defendants.)
22 _____)

23 I declare that on the date set forth below, I served the attached

24 **JOINT STATUS/CASE MANAGEMENT STATEMENT,
25 STIPULATION, AND (PROPOSED) ORDER**

26 by e-filing on all parties by their counsel so appearing.

27 I declare under penalty of perjury that the foregoing is true and correct and that this declaration
28 was executed on the date hereinafter set forth.

San Francisco, CA
Date: November 25, 2008

/s/ Karl R. Morthole
Karl R. Morthole