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KARL R. MORTHOLE (CA Bar #112565)
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(415) 986-0227

Attorney for Plaintiffs
BRUCE A. BURROWS and
JAMES A. ROESSLER

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

BRUCE A. BURROWS and JAMES A.
ROESSLER,
Plaintiffs

CASE NO. C 07-5354 MHP

JOINT STATUS/CASE
MANAGEMENT STATEMENT,
STIPULATION, AND
(~~PROPOSED~~) ORDER

DWIGHT W. PERRY, CARLETON L.
PERRY, KWANG SUK LEE, KUI JA LEE,
NAM SUN PARK AND SEUNG HEE
PARK,
Defendants.

DATE: April 20, 2009

TIME: 3:00 p.m.

AND RELATED COUNTERCLAIMS AND
CROSSCLAIMS.

Pursuant to this Court's Civil Local Rule ("Civ. L.R.") 16-9, the parties jointly submit this Status/Case Management Statement, Stipulation, and Proposed Order. Each party certifies that its lead trial counsel, who will try this case, met and conferred for the preparation of this

1 Statement as required by Civ. L.R. 16-3.

2 The parties make the following representations and stipulations:

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

4 1. A report on additional investigation and a proposed Soil Vapor Extraction Pilot Study
5 Workplan (“Workplan”) was prepared and submitted to the Alameda County Division of
6 Environmental Health (“ACDEH”), reviewed by ACDEH, and approved by ACDEH, subject to
7 certain conditions and additional provisions, and a revised Workplan has been submitted to and
8 approved by ACDEH..

9
10 2. Since May, 2008, a stay has been in effect upon agreements of the parties and orders
11 of this Court until April 15, 2009, and a Status/Case Management Conference has been scheduled
12 for April 20, 2009, at 3:00 p.m.

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

18
19 4. The Plaintiffs, the Perrys Defendants, the Parks Defendants, Cross-Defendant the
20 Chiu Family Trust, and Cross-Defendants Dublin Town & Country Associates and William
21 Kartoian, a general partner in Dublin Town & Country Associates, have all been in compliance
22 with the stay which was part of their agreement reached at the time of the May 1, 2008, Settlement
23 Conference before Magistrate Judge Laporte, and which stay has been extended by further
24 agreement and orders of the Court.

25
26 5. The parties are currently negotiating a further agreement to contribute to and share
27 the additional costs that will be required to implement the revised, approved Workplan.

1 6. The parties anticipate reaching such further agreement shortly, and thereafter
2 anticipate implementation of the revised Workplan immediately thereafter, to be conducted in
3 May, June and July, 2009. The parties anticipate that the results of that implementation will be
4 reported in August, 2009.

5 7. With the purpose of minimizing costs to the parties and the waste of time of this
6 Court, all the parties hereby stipulate to a further continuance of the stay and rescheduling of the
7 Status/Case Management Conference before the Court.
8

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

10 The parties hereby respectfully request that the Court continue the stay previously ordered in
11 the case until October 15, 2009. The parties further respectfully request that the Court reschedule
12 the pending Status/Case Management Conference to a date in October, 2009, shortly before
13 October 15, 2009, for example Monday, October 5, 2009, or such other date that is convenient to
14 the Court.
15

16 Karl R. Morthole hereby attests that concurrence in this Joint Case Management Conference
17 Statement was obtained from Lead Trial Counsel for the Defendants listed immediately below.
18

19 _____
20 Martin Deutsch, 440 North First Street, Suite 200, San Jose, CA 95112, 408-947-1760
21 [Parks Defendants Lead Trial Counsel]

21 *Thomas M. Downey (for Derek Hui (by KRM with permission))*

22 _____
23 Thomas M. Downey, 1901 Harrison Street, 11th Floor, Oakland, CA 94612, 510-444-6800
24 [Perrys Defendants Lead Trial Counsel]

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

25 _____
26 Gregory C. Brandt, 1111 Broadway, 24th Floor, Oakland, CA 94607-4036, 510-834-6600
27 [Dublin Town & Country Associates and William Kartoziian Cross-Defendants Lead Trial
28 Counsel]

1 Date: April 10, 2009

2 Respectfully submitted,

3 LAW OFFICES OF KARL R. MORTHOLE

4 By Karl R. Morthole

5 Karl R. Morthole

6 Lead Trial Counsel for Plaintiffs

7 Law Offices of Karl R. Morthole

8 57 Post Street

9 Suite 801

10 San Francisco, CA 94104

11 (415) 986-0227

12 karl@mortholelaw.com

13 ~~—(PROPOSED) ORDER~~

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

19 The foregoing joint statement, as amended by setting the date for the next Status/Case
20 Management Conference for October 19, 2009, [↗] at 3:00 p.m. is adopted by this court as the Case Management
21 Order in this action in accordance with Civ. L.R. 16 and other applicable Local Rules, and shall
22 govern all further proceedings in this action.

23 IT IS SO ORDERED.

24 Date: 4/16/2009



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6 | (415) 986-0227

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

9 | UNITED STATES DISTRICT COURT
10 | NORTHERN DISTRICT OF CALIFORNIA

11 | BRUCE A. BURROWS and JAMES A.)
12 | ROESSLER,)
13 | Plaintiffs)
14 |)
15 | DWIGHT W. PERRY, CARLETON L.)
16 | PERRY, KWANG SUK LEE, KUI JA LEE,)
17 | NAM SUN PARK AND SEUNG HEE)
18 | PARK,)
19 | Defendants.)
20 | _____)

CASE NO. C 07-5354 MHP

CERTIFICATE OF SERVICE

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

22 | **JOINT STATUS/CASE MANAGEMENT STATEMENT,**
23 | **STIPULATION, AND (PROPOSED) ORDER**

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

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

27 | San Francisco, CA
28 | Date: April 10, 2009

/s/ Karl R. Morthole
Karl R. Morthole