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KARL R. MORTHOLE (CA Bar #112565)
Law Offices of Karl R. Morthole
57 Post Street
Suite 801
San Francisco, CA 94104
(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

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

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

DATE: April 19, 2010

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. The Soil Vapor Extraction Pilot Study Workplan ("Workplan"), which was approved
5 by the Alameda County Division of Environmental Health ("ACDEH"), has been implemented.
6 Results and completion of the Workplan were completed as anticipated in the 1st quarter of 2010. At
7 a meeting of the parties and ACDEH representatives in mid-February, 2010, it was agreed to submit
8 a supplemental workplan for some additional sampling, and that workplan was submitted to
9 ACDEH by the parties' consultant. Recently, the ACDEH has responded that it needs until some
10 time in mid-April, 2010, to comment. Once comments are received and the supplemental workplan
11 approved, certain additional samples will be taken and a supplemental report will be made to
12 ACDEH. If the data is below regulatory levels, there is increased likelihood the ACDEH could
13 declare closure, leaving only the issue of final cost-sharing to be determined.
14

15
16 2. Since May, 2008, a stay has been in effect upon agreements of the parties and orders
17 of this Court until April 15, 2010, and a Status/Case Management Conference has been scheduled
18 for April 19, 2010, at 3:00 p.m.

19
20 3. The Plaintiffs, the Perrys Defendants, the Parks Defendants and the Chiu Family
21 Trust Cross-Defendant have been in compliance with their agreement to contribute to and share
22 certain costs reached at the time of the May 1, 2008, Settlement Conference before Magistrate Judge
23 Laporte, and since that time reached further agreements to contribute to and share the additional
24 costs required to implement the work at the site.

25
26 4. The Plaintiffs, the Perrys Defendants, the Parks Defendants, Cross-Defendant the
27 Chiu Family Trust, and Cross-Defendants Dublin Town & Country Associates and William

1 Kartoizian, a general partner in Dublin Town & Country Associates, have all been in compliance
2 with the stay which was part of their agreement reached at the time of the May 1, 2008, Settlement
3 Conference before Magistrate Judge Laporte, and which stay has been extended by further
4 agreement and orders of the Court.

5 5. 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, 2010. The parties further respectfully request that the Court reschedule
12 the pending Status/Case Management Conference to a date in October, 2010, shortly before or
13 after October 15, 2010, for example Monday, October 18, 2010, or such other date that is
14 convenient to 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

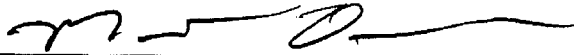
19 _____
20 Martin Deutsch, 440 North First Street, Suite 200, San Jose, CA 95112, 408-947-1760
[Parks Defendants Lead Trial Counsel]

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

23 _____
24 Edward W. Polson, 5000 Hopyard Road, Suite 400, Pleasanton, CA 94588, 925-225-9600
[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 Kartoizian Cross-Defendants Lead Trial
Counsel]

Statement was obtained from Lead Trial Counsel for the Defendants listed immediately below.



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

Thomas M. Downey, 1901 Harrison Street, 11th Floor, Oakland, CA 94612, 510-444-6800
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[Chiu Family Trust Cross-Defendant Lead Trial Counsel]

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

Date: April 12, 2010

Respectfully submitted,

LAW OFFICES OF KARL R. MORTHOLE

By 

Karl R. Morthole
Lead Trial Counsel for Plaintiffs
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karl@mortholelaw.com

*Note: Mr. Deutsch signed and returned this page which was "re-formatted" but identical in content to the Joint Statement.
Karl R. Morthole*

(PROPOSED) ORDER

1 Kartoizian, a general partner in Dublin Town & Country Associates, have all been in compliance
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3 Conference before Magistrate Judge Laporte, and which stay has been extended by further
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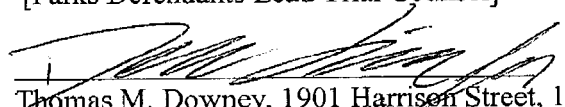
5 5. With the purpose of minimizing costs to the parties and the waste of time of this
6 Court, all the parties hereby stipulate to a further continuance of the stay and rescheduling of the
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9 **B. IDENTIFICATION AND SIGNATURE OF LEAD TRIAL COUNSEL**

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20 [Parks Defendants Lead Trial Counsel]

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22 [Perrys Defendants Lead Trial Counsel]

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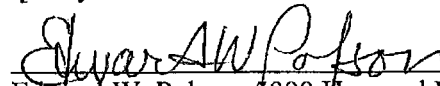
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24 [Perrys Defendants Lead Trial Counsel]

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28 [Chiu-Family-Trust-Cross-Defendant-Lead-Trial-Counsel]

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

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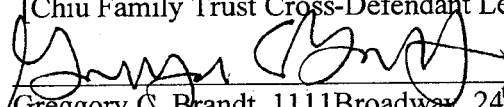
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[Dublin Town & Country Associates and William Kartoizian Cross-Defendants Lead Trial
28 Counsel]

1
2
3 Date: April 12, 2010

4 Respectfully submitted,

5
6 LAW OFFICES OF KARL R. MORTHOLE

7 By *Karl R. Morthole*

8 Karl R. Morthole

9 Lead Trial Counsel for Plaintiffs

10 Law Offices of Karl R. Morthole

11 57 Post Street

12 Suite 801

13 San Francisco, CA 94104

14 (415) 986-0227

15 karl@mortholelaw.com

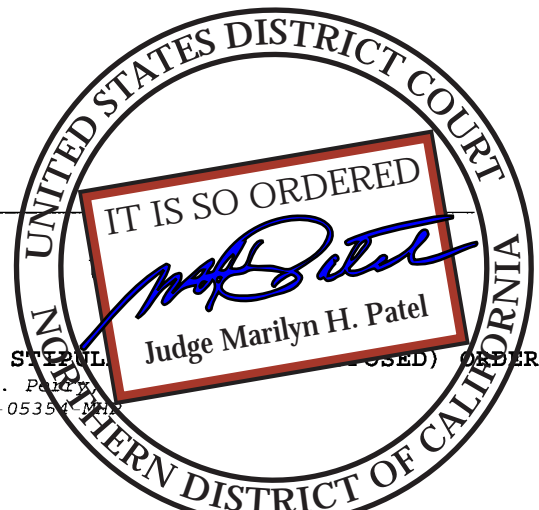
16 ~~(PROPOSED)~~ ORDER

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

22 The foregoing joint statement, as amended by setting the date for the next Status/Case
23 Management Conference for October 18, 2010, is adopted by this court as the Case Management
24 Order in this action in accordance with Civ. L.R. 16 and other applicable Local Rules, and shall
25 govern all further proceedings in this action.

26 IT IS SO ORDERED.

27 Date: 4/19/2010



1 KARL R. MORTHOLE (CA Bar #112565)
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3 57 Post Street
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5 San Francisco, CA 94104
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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,) 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)
24)
25)
26)
27)
28)

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

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

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

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

San Francisco, CA
Date: April 12, 2010

/s/ Karl R. Morthole
Karl R. Morthole