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9 Attorneys for Plaintiff United States of America

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11 UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
12 SAN FRANCISCO DIVISION

13
14 UNITED STATES OF AMERICA,)
15 Plaintiff,)
16 v.)
17 BRADLEY MINING COMPANY,)
and FREDERICK BRADLEY, as)
18 Trustee of the Worthen Bradley)
Family Trust,)
19 Defendants.)
20

Case No. 3-08-CV-03968 THE
STIPULATION FOR STAY AND
CONTINUANCE OF INITIAL
CASE MANAGEMENT
CONFERENCE AND ~~PROPOSED~~
ORDER

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1 IT IS HEREBY STIPULATED by Plaintiff, the United States of America,
2 on the one hand, and Defendants, Bradley Mining Company and Frederick
3 Bradley, as Trustee of the Worthen Bradley Family Trust, on the other hand, that:
4 (1) the Initial Case Management Conference, which is currently set for 1:30 p.m.
5 on December 1, 2008, be continued until 1:30 p.m. on April 20, 2009, or a date
6 thereafter that is set by the Court; (2) all proceedings in this matter, with the
7 exception of (a) Defendants' filing of an amended Answer and counterclaims, and
8 (b) mediation-related proceedings, be stayed until the continued Initial Case
9 Management Conference; (3) Defendants' amended Answer and counterclaims
10 shall be filed by November 21, 2008; and (4) the United States' response to the
11 counterclaims is not due until June 19, 2009, 60 days after the continued Initial
12 Case Management Conference.

13 The parties recognize that Initial Case Management Conferences are not
14 routinely continued by the Court. The parties respectfully submit that good cause
15 exists for continuing the Initial Case Management Conference in this matter as
16 follows:

17 1. In a Stipulation filed with this Court on October 24, 2008, Plaintiff
18 and Defendants in this case agreed to participate in mediation in an attempt to
19 settle this matter before any further litigation is required.

20 2. In an Order dated October 27, 2008, the Court referred this case to
21 mediation and set a deadline for the mediation session to take place within 120
22 days from the date of the Order.

23 3. In a notice dated October 30, 2008, the Court informed the parties
24 that the mediator assigned to this case is Martin Quinn, Esq., of JAMS.

25 4. The case manager for JAMS has contacted the parties and set a
26 preliminary conference call for the mediator, Mr. Quinn, to discuss the case with
27 counsel on December 4, 2008.

28 5. Without the proposed continuance until April 20, 2009, the parties

1 would have to expend substantial resources to comply with Fed. R. Civ. P. 16(b)
2 and 26 in preparation for the Initial Case Management Conference with the Court.
3 Such expenditures may prove unnecessary if the mediation is successful. The
4 continuance requested herein would also provide the parties with time to prepare
5 for mediation and to participate in it before the parties would need to engage in
6 initial disclosures pursuant to Fed. R. Civ. P. 16(b) and 26.

7 6. Resolution of the United States' claims and Defendants'
8 counterclaims through mediation would serve to reduce litigation expenses for the
9 parties and would also preserve the Court's resources.

10 The parties agree that they will provide a joint report to the Court on case
11 status, prospects of settlement, and case management scheduling, if needed, by
12 March 20, 2009. The parties have submitted a proposed Order concurrently with
13 this Stipulation.

14 I attest that concurrence in the filing of this Stipulation has been obtained
15 from Mr. Wactor.

16
17 Dated: November 12, 2008

/s/ Robert D. Mullaney

18 Robert D. Mullaney
19 Trial Attorney
20 Environmental Enforcement Section
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28 Attorneys for Plaintiff United States of
America

1 Dated: November 12, 2008

/s/ Jon Wactor

2 Jon Wactor
3 Wactor & Wick LLP
4 180 Grand Avenue, Suite 950
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6 Tel: (510) 465-5750
7 Fax: (510) 465-5697
8 Attorneys for Defendants Bradley Mining
9 Company and Frederick Bradley, Trustee
10 for the Worthen Bradley Family Trust

11 ~~[PROPOSED]~~ ORDER

12 GOOD CAUSE APPEARING, IT IS ORDERED that:

- 13 (1) all proceedings in this matter, with the exception of (a) Defendants' filing of
14 an amended Answer and counterclaims, and (b) mediation-related
15 proceedings, shall be stayed until the continued Initial Case Management
16 Conference;
- 17 (2) the Initial Case Management Conference, which is currently set for 1:30
18 p.m. on December 1, 2008, shall be continued until 1:30 p.m. on April 20,
19 2009, ~~or a date thereafter that is set by the Court;~~
- 20 (3) Defendants shall file an amended Answer and counterclaims by November
21 21, 2008;
- 22 (4) the United States' response to the counterclaims is not due until June 19,
23 2009, 60 days after the continued Initial Case Management Conference; and
- 24 (5) the parties shall provide a joint report to the Court on case status, prospects
25 of settlement, and case management scheduling, if needed, by March 20,
26 2009.

27 PURSUANT TO STIPULATION, IT IS SO ORDERED.

28 Dated: 11/14/08

