

1 JOHN C. CRUDEN  
Acting Assistant Attorney General  
2 Environment and Natural Resources Division  
U.S. Department of Justice

3 ROBERT D. MULLANEY (Cal. Bar No. 116441)  
4 Trial Attorney  
Environmental Enforcement Section  
5 U.S. Department of Justice  
301 Howard Street, Suite 1050  
6 San Francisco, CA 94105  
Tel: (415) 744-6491  
7 Fax: (415) 744-6476  
E-mail: Robert.Mullaney@usdoj.gov

8  
9 Attorneys for Plaintiff United States of America

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

13 UNITED STATES OF AMERICA, )  
14 Plaintiff, )  
15 v. )  
16 BRADLEY MINING COMPANY, )  
et al., )  
17 Defendants. )  
18

Case No. 3:08-CV-03968 TEH

JOINT STIPULATION AND  
~~PROPOSED~~ ORDER

19  
20  
21  
22  
23  
24  
25  
26  
27  
28

1 On January 4, 2010, Plaintiff United States and Defendants Bradley Mining Company  
2 (“Bradley Mining”) and Frederick Bradley, as Trustee of the Worthen Bradley Family Trust  
3 (“Bradley Trust”), filed separate status reports with the Court. Docket Nos. 40, 41. On January  
4 25, 2010, the parties filed a Joint Case Management Statement presenting their positions on the  
5 conduct of discovery and other matters related to trial of this case. Docket No. 43. On February  
6 1, 2010, Plaintiff United States and Defendants appeared before the Court for a case  
7 management conference. The Court issued an Order dated February 4, 2010, regarding matters  
8 raised at the February 1, 2010 case management conference. Docket No. 45. The Court’s Order  
9 stated, in pertinent part, that:

- 10 (1) unless the transfer of land from the Bradley Trust to the Elem Tribe was fully completed  
11 within 90 days (i.e., May 5, 2010), Plaintiff was required to file a motion to join the Elem  
12 Tribe as a necessary party by May 24, 2010;
- 13 (2) the Order was without prejudice to the filing by Defendants of a motion to enforce an  
14 agreement, or any other relief they deem appropriate; and
- 15 (3) the case was set for a further case management conference on May 3, 2010, with a joint  
16 case management conference statement to be filed by April 26, 2010.

17 The parties have come to agreement but not yet finalized the general terms of a  
18 settlement. In its January 2010 status report, the United States described four open issues it was  
19 negotiating with Defendants: the extent of land transfers from the Bradley Trust to the Elem  
20 Tribe and United States, the terms of the release provided by the United States to the Defendants,  
21 the division of insurance proceeds between the United States and Bradley Mining, and the  
22 division of Bradley Mining’s annual net income between the United States and Bradley Mining.  
23 Docket No. 40 at 4. The general terms of settlement recently reached by the parties are  
24 summarized as follows:

- 25 (1) Land transfers: The United States, Bradley Mining, the Bradley Trust, and the Elem  
26 Tribe are in agreement on the transfer of parcels as part of the settlement. The parties  
27 still need to set out the exact boundary line of one parcel by means of survey.
- 28 (2) Terms of the release: The parties agree that Defendants will receive covenants not to sue

1 for cost recovery claims and contribution protection at specified mine sites, and a  
2 covenant not to sue for Natural Resources Damages at one site. The settlement will not  
3 include covenants from any State.

4 (3) Division of insurance proceeds and Bradley Mining income: The parties have reached  
5 agreement on the division of all proceeds from insurers of Bradley Mining and on the  
6 division of the company's future income.

7 As provided in the proposed Order below, the parties jointly stipulate and request the  
8 Court to: (1) stay all proceedings in this matter, with the exception of any further mediation-  
9 related proceedings, until the continued Initial Case Management Conference; and (2) extend the  
10 Initial Case Management Conference until August 2, 2010, so that the parties may conclude  
11 settlement negotiations regarding the terms of a proposed consent decree. The parties propose to  
12 report to the Court by July 6, 2010, regarding case status, prospects of settlement, and case  
13 management scheduling, if needed.

14 IT IS SO STIPULATED.

15 I attest that concurrence in the filing of this Joint Stipulation and [proposed] Order has  
16 been obtained from Mr. Jon K. Wactor, the attorney for Defendants Bradley Mining Company  
17 and Frederick Bradley, Trustee for the Worthen Bradley Family Trust.

18 Dated: April 26, 2010

/s/ Robert D. Mullaney

19 Robert D. Mullaney  
20 Environmental Enforcement Section  
21 U.S. Department of Justice  
22 301 Howard Street, Suite 1050  
23 San Francisco, California 94105  
24 Tel: (415) 744-6491  
25 Fax: (415) 744-6476  
26 Attorneys for Plaintiff United States of  
27 America

24 Dated: April 26, 2010

/s/ Jon K. Wactor

25 Jon K. Wactor  
26 Wactor & Wick LLP  
27 180 Grand Avenue, Suite 950  
28 Oakland, California 94612  
Tel: (510) 465-5750  
Fax: (510) 465-5697  
Attorneys for Defendants Bradley Mining

Company and Frederick Bradley, as Trustee of the  
Worthen Bradley Family Trust

~~[PROPOSED]~~ ORDER

GOOD CAUSE APPEARING, IT IS ORDERED that:

- (1) all proceedings in this matter, with the exception of any further mediation-related proceedings, shall be stayed until the continued Initial Case Management Conference;
- (2) the Initial Case Management Conference, which is currently set for 1:30 p.m. on May 3, 2010, shall be continued until 1:30 p.m. on August 2, 2010. ~~or a date thereafter that is set by the Court;~~
- (3) the United States' response to the counterclaims is not due until October 4, 2010, 60 days after the continued Initial Case Management Conference;
- (4) Bradley Trust's motion for summary judgment, currently scheduled for hearing on June 2, 2010, shall be continued until 10 a.m. on August 30, 2010; and
- (5) the parties shall provide a joint report to the Court on case status, prospects of settlement, and case management scheduling, if needed, by July 6, 2010.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 04/27/10

