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

13 UNITED STATES OF AMERICA,)
14 Plaintiff,)
15 v.)
16 BRADLEY MINING COMPANY,)
17 Defendant.)
18)
19 _____)

Case No. 3:08-CV-05501 TEH

JOINT MOTION TO CONSOLIDATE
ACTIONS, STIPULATION, AND
~~PROPOSED~~ ORDER

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1 Plaintiff, the United States of America, and Defendant, Bradley Mining Company, hereby
2 move, pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, to consolidate the above-
3 captioned action with the related action filed in this Court by the United States, United States v.
4 Bradley Mining Company, et al., Civil Action No. 3:08-CV-03968-TEH. The parties
5 respectfully request that the Court consolidate these two actions under case number 3:08-CV-
6 03968-TEH.

7 On August 19, 2008, the United States filed a Complaint against Defendants Bradley
8 Mining Company and Frederick Bradley, Trustee for the Worthen Bradley Family Trust, in case
9 number 3:08-CV-03968-TEH under the Comprehensive Environmental Response,
10 Compensation, and Liability Act of 1980 (“CERCLA”), 42 U.S.C. § 9601 et seq., seeking
11 recovery of unreimbursed costs incurred and to be incurred by it, together with interest, for
12 activities undertaken in response to the release or threatened release of hazardous substances at
13 the Sulphur Bank Mercury Mine Superfund Site in Lake County, California (“Sulphur Bank
14 case”). On September 26, 2008, the United States filed another action under Section 107 of
15 CERCLA, 42 U.S.C. § 9607, against Bradley Mining Company in the District Court of Idaho for
16 recovery of costs incurred by the United States in connection with the Stibnite Mine Site in
17 Valley County, Idaho (“Stibnite Mine case”). Pursuant to the parties’ stipulation, the District of
18 Idaho ordered that the venue be changed to the Northern District of California. In response to
19 the parties’ stipulation and the United States’ motion in the Sulphur Bank case, this Court
20 determined that the Sulphur Bank and Stibnite Mine cases were related on December 23, 2008.
21 Case No. 3:08-CV-03968-TEH, Court Docket No. (“DN”) 31.

22 On December 2, 2011, the parties filed a Joint Notice of Settlement to inform the Court
23 that the parties had reached final agreement on all of the terms of a Consent Decree, which, if
24 entered, would fully resolve all of the claims in this matter and in the related Sulphur Bank case,
25 United States v. Bradley Mining Company, et al., Case No. 3:08-CV-03968-TEH. DN 57.
26 Counsel for the Elem Tribe, which is not yet a party to this action but is a party to the Consent
27 Decree, has also represented that the terms of the Consent Decree are acceptable to the Elem
28 Tribe. Id. at 2. If approval of the Consent Decree is obtained from all parties, the United States

1 will lodge the Consent Decree with the Court and submit the Consent Decree for public
2 comment in accordance with 28 C.F.R. § 50.7. Id. The Court granted the parties' request to stay
3 all proceedings in this matter for 75 days to allow for a final settlement of this matter. DN 58 at
4 3.

5 Consolidation is appropriate because the Sulphur Bank and the Stibnite Mine cases
6 involve common parties and common questions of law and fact, and are expected to be resolved
7 concurrently by the same Consent Decree. See Fed. R. Civ. P. 42(a). Furthermore, in addition
8 to simplifying the public comment procedure by the lodging of a single decree, the parties agree
9 that consolidation into one action will facilitate entry of the decree and any potential amendment,
10 enforcement, or other future Court action related to the Consent Decree. Accordingly, pursuant
11 to Rule 42(a) of the Federal Rules of Civil Procedure, the parties respectfully request that the
12 Court consolidate these two actions under the Sulphur Bank case number, 3:08-CV-03968 TEH.
13 A proposed Order is submitted below.

14 IT IS SO STIPULATED.

15 I attest that concurrence in the filing of this Joint Notice of Settlement has been obtained
16 from Mr. Jon K. Wactor, the attorney for Defendant Bradley Mining Company.

17 Dated: December 5, 2011

/s/ Loren Remsberg

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24 Dated: December 5, 2011

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Attorneys for Defendants Bradley Mining
Company and Frederick Bradley, as Trustee of the
Worthen Bradley Family Trust

~~PROPOSED~~ ORDER

The Court, having read and considered the Joint Motion to Consolidate Actions and good
cause appearing therefor,

IT IS HEREBY ORDERED that:

1. The Joint Motion to Consolidate Actions is GRANTED;
2. Pursuant to Rule 42(a) of the Federal Rules of Civil Procedure, this action is consolidated
with the related Sulphur Bank case, United States v. Bradley Mining Company, et al., Civil
Action No. 3:08-CV-03968-TEH, and that action (3:08-CV-03968) shall be designated as the
main case. Henceforth, these consolidated cases shall be considered as one case, and all
pleadings shall be filed in the main case and captioned with case number 3:08-CV-03968.
3. This Stibnite Mine case, United States v. Bradley Mining Company, Civil Action No.
3:08-CV-05501-TEH, shall be statistically closed.
4. Parties in the related action shall be added to the main case as consolidated
plaintiffs/defendants, as applicable.

IT IS SO ORDERED.

Dated: 12/05/2011

