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8 **THE UNITED STATES DISTRICT COURT**
 9 **NORTHERN DISTRICT OF CALIFORNIA**
 10 **(SAN FRANCISCO DIVISION)**

11	IN RE COMPLAINT OF TAURUS MARINE,)	CASE NO.: CV 08 3195 PJH
12	INC. AS OWNERS AND/OR OPERATORS OF)	
13	THE TUG <i>TERILYN</i> HER ENGINES,)	STIPULATION AND REQUEST FOR
14	TACKLE, APPURTENANCES IN A CAUSE)	ORDER NOTING DEFAULT
15	OF EXONERATION FROM OR LIMITATION)	
16	OF LIABILITY,)	IN ADMIRALTY
17)	
18	Petitioner,)	FRCivP SUPP RULE F
19)	
20	v.)	
21)	
22	THE COUNTY OF MARIN, STATE OF)	
23	CALIFORNIA,)	
24)	
25	Claimant.)	
26)	
27)	
28)	

20 COME NOW COUNSEL FOR THE PARTIES IN THIS ACTION, TAURUS MARINE,
 21 INC. (“petitioner”), THE COUNTY OF MARIN (“Marin”) and MANSON CONSTRUCTION
 22 COMPANY and the DUTRA GROUP (“Manson/Dutra”) (collectively “Parties”) (the only
 23 persons appearing to date in this action), and do hereby stipulate and agree and request this Court
 24 find and order, with regard to the captioned lawsuit, as follows:

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1 1.) Petitioner filed an action in Admiralty entitled "Complaint for Exoneration from
2 or Limitation of Liability Under 46 USC §30501, et. seq." on 2 July 2008 seeking to limit their
3 liability for the maritime incident complained of to the value of its vessel, tug TERILYN
4 ("Vessel");

5 2.) An "Order Approving Ad Interim Stipulation for Value, Directing Issuance of
6 Notice and Restraining Prosecution of Claims" was duly issued and entered herein, dated 14
7 August 2008 and appearing on the Docket of this Court at No.12, against all persons claiming
8 damages for any and all losses, damages, injuries, or destruction arising out of or occurring on
9 the voyage of the Vessel and related to the Incident, citing and requiring all persons to appear
10 before the Court and file their respective claims in writing, under oath, and to serve copies
11 thereof on the attorneys for petitioner, and to answer the allegations of the petition herein on or
12 before 30 September 2008 and notice of said Order was duly given and published, as appears by
13 return of petitioner duly made, and copies of the notice and Order were duly served on all
14 claimants in accordance with the Rules of this Court (both appearing on the Docket of this Court
15 at Docket No. 19);

16 3.) Claimant Manson/Dutra and claimant Marin are the only entities before this Court
17 that timely filed claims with petitioner:

18 [a] Claimant Manson/Dutra asserts, *inter alia*, there were two incidents giving
19 rise to its claim for damage to the barge CK7, which allegedly total in
20 excess of \$512,000 together with any claims against them for liability to
21 the County of Marin; and

22 [b] Claimant Marin seeks damages in excess of \$1,585,000 for alleged
23 damage to McNear Pier.

24 4.) No other claim has been presented to or filed with said petitioner as of the date of
25 this stipulation; and

26 5.) Petitioner and claimants hereby respectfully request the Court grant an "Order
27 Noting Default" in the form attached hereto; and

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1 6.) Petitioner and claimants' counsel hereby stipulate that the form of the "Order
2 Noting Default" attached hereto is acceptable to petitioner's and claimant's counsel.

3
4 IT IS SO STIPULATED:

5 Dated: October 17, 2008

LAW OFFICES OF GEORGE W. NOWELL

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7 By: _____ /s/ George W. Nowell
8 GEORGE W. NOWELL
9 Attorneys for petitioner
10 TAURUS MARINE, INC.

11 IT IS SO STIPULATED:

12 Dated: October 17, 2008

CHILES and PROCHNOW, LLP

13 By: _____ /s/ Robert C. Chiles
14 ROBERT C. CHILES
15 Attorneys for claimants
16 MANSON CONSTRUCTION COMPANY
17 and the DUTRA GROUP

18 IT IS SO STIPULATED:

19 Dated: October 17, 2008

GROTEFELD & HOFFMANN, LLP

20 By: _____ /s/ Todd C. Harshman
21 TODD C. HARSHMAN
22 Attorneys for claimant THE COUNTY OF MARIN

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[PROPOSED] ORDER NOTING DEFAULT

29 A Petition for exoneration from or limitation of all liability having been filed herein on 2
30 July 2008, appearing on the Docket at No. 1, by petitioner Taurus Marine Inc., as owners of the
31 vessel tug TERILYN ("Vessel") related to damage to McNear Pier in Marin County, California
32 on or about 4 January 2008 ("Incident");

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1 And, an Order having been duly issued and entered herein, dated 14 August 2008 and
2 appearing on the Docket of this Court at No. 12, against all persons claiming damages for any
3 and all losses, damages, injuries, or destruction arising out of or occurring on the voyage of the
4 Vessel and related to the Incident, citing and requiring all persons to appear before the Court and
5 file their respective claims in writing, under oath, and to serve copies thereof on the attorneys for
6 petitioner, and to answer the allegations of the petition herein on or before 30 September 2008
7 and notice of said Order having been duly given and published, as appears by return of petitioner
8 duly made (appearing on the Docket of this Court at No. 19), and copies of the notice and Order
9 having been duly served on all claimants in accordance with the Rules of this Court (appearing
10 on the Docket of this Court at No. 19);

11 And it further appearing by stipulation of the Parties that the following claims have been
12 presented to and filed with petitioner's counsel as required by the Rules of this Court, to wit:

- 13 (1) Claim of Manson Construction Company and the Dutra Group for in excess of
14 \$512,000 for alleged damage to the Dutra barge CK7 together with any claims
15 against them for liability to the County of Marin; and
- 16 (2) Claim of County of Marin, State of California for in excess of \$1,585,000 for
17 alleged damage to McNear Pier arising out of the Incident;

18 and that no other claim has been presented to or filed with said petitioner as of the date of this
19 Order; and

20 Now, therefore on stipulation of all the Parties appearing, by and through its/their
21 respective counsel, it is

22 ORDERED, ADJUDGED AND DECREED that the defaults of all persons claiming
23 damages for any and all losses, damages, injuries and destruction arising out of, occasioned or
24 occurring from or on the voyage of the Vessel and related to the Incident, who have not
25 heretofore filed and presented claims and answers, if desired, be and are in default, and such
26 persons are hereby barred from filing any claims and answers regarding the voyage of the Vessel
27 and related to the Incident in this Court or in any proceeding related hereto; and

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IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all persons, concerns or firms in default, as aforesaid, be subject to, and that all issues raised by the petition herein and the answer thereto now on file, shall stand for trial before this Court according to the rules and practice hereof; and

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all other proceedings on any and all proofs of claims now on file, or which are subsequently interposed, wherever said action, proceeding or event may be located, be and hereby are stayed until the trial and determination of this suit.

IT IS SO ORDERED:

Dated: October 21 2008

By: _____
UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
IT IS SO ORDERED
Phyllis J. Hamilton
Judge Phyllis J. Hamilton