

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLORADO

Civil Action No. 09-cv-00019-MSK-MEH

UNITED STATES OF AMERICA,

Plaintiff,

v.

CEMEX, INC.,

Defendant.

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**RECOMMENDATION**

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**Michael E. Hegarty, United States Magistrate Judge.**

Pending before the Court is the Renewed Joint Motion to Modify the Scheduling Order [filed August 4, 2009; docket #55]. The Motion is referred to this Court for disposition. (Docket #58.)

For the following reasons, the Court **RECOMMENDS** the Joint Motion be **GRANTED**.<sup>1</sup>

The government instigated this case on January 6, 2009. The parties moved for bifurcation of the issues in this matter, and the District Court granted in part and denied in part their request on May 20, 2009. (Docket #32.) The parties now ask the Court to reset the deadlines to accommodate

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<sup>1</sup>Be advised that all parties shall have ten (10) days after service hereof to serve and file any written objections in order to obtain reconsideration by the District Judge to whom this case is assigned. Fed. R. Civ. P. 72. The party filing objections must specifically identify those findings or recommendations to which the objections are being made. The District Court need not consider frivolous, conclusive or general objections. A party's failure to file such written objections to proposed findings and recommendations contained in this report may bar the party from a de novo determination by the District Judge of the proposed findings and recommendations. *United States v. Raddatz*, 447 U.S. 667, 676-83 (1980); 28 U.S.C. § 636(b)(1). Additionally, the failure to file written objections to the proposed findings and recommendations within ten (10) days after being served with a copy may bar the aggrieved party from appealing the factual findings of the Magistrate Judge that are accepted or adopted by the District Court. *Thomas v. Arn*, 474 U.S. 140, 155 (1985); *Moore v. United States*, 950 F.2d 656, 659 (10th Cir. 1991); *Niehaus v. Kansas Bar Ass'n*, 793 F.2d 1159, 1164 (10th Cir. 1986).

the unified issues of liability and remedy, including mitigation, harm, and penalty. (*See* docket #55 at 1.) Due to the complexity of the issues raised, the Court believes a schedule providing for trial within approximately two years of filing the action (which the parties' proposed schedule will do) is appropriate and fairly common within this District.

Accordingly, the Court recommends that the District Court grant the Motion and permit this Court to enter the Amended Scheduling Order attached to this Recommendation. The proposed scheduling adjustments surpass the date set for a Final Pretrial Conference before the District Court, which is why this Court recommends that the District Court adopt the proposed deadlines and reset the Final Pretrial Conference as it sees fit.

Dated in Denver, Colorado, this 13th day of August, 2009.

BY THE COURT:

A handwritten signature in black ink that reads "Michael E. Hegarty". The signature is written in a cursive, flowing style.

Michael E. Hegarty  
United States Magistrate Judge