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Via Electronic Mail

November 28, 2012

Ms. Jeanine Townsend
Clerk to the Board
State Water Resources Control Board
1001 I Street, 24th Floor [95814]
P.O. Box 100
Sacramento, CA 95812-0100



Re: Item 12 -- December 4 Board Meeting

Dear Ms. Townsend:

Pursuant to the State Water Board's notice dated November 13, 2012, enclosed is the "Joint Report and Update of Developments of the County of San Bernardino, Coty of Colton, City of Rialto, the Emhart Parties Pyro Spectaculars, Inc., Astro Pyrotechnics, Inc., the Peter Parties, Stonehurst, LLC, Trojan Fireworks Company, and Goodrich Corporation." Representatives of each of these parties will be present at the December 4 Board meeting at which time they will make a brief presentation and be prepared to answer any questions.

Please bring this document to the attention of the Board members and its staff.

Very truly yours,


James L. Meeder

JLM
Enclosures

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ITEM 12—DRAFT RESOLUTION
IN SWRCB/OCC FILE A-1824
TO BE CONSIDERED AT DECEMBER 4, 2012 BOARD MEETING

**JOINT REPORT AND UPDATE OF DEVELOPMENTS
OF
COUNTY OF SAN BERNARDINO, CITY OF COLTON, CITY OF RIALTO, THE
EMHART PARTIES, PYRO SPECTACULARS, INC., ASTRO PYROTECHNICS, INC.,
THE PETERS PARTIES, STONEHURST, LLC, TROJAN FIREWORKS COMPANY,
AND GOODRICH CORPORATION**

Submitted November 28, 2012

Pursuant to the request of the State Water Resources Control Board ("State Water Board"), dated November 13, 2012, the Joint Reporting Parties¹ hereby submit this joint report and update of developments related to Item 12 on the State Water Board's Agenda for December 4, 2012, in connection with SWRCB/OCC File No. A-1824 ("11-28-12 Joint Report"). This 11-28-12 Joint Report supplements the "Joint Report and Update of Developments Related to SWRCB/OCC File No. A-1824," submitted on July 11, 2012, ("7-11-12 Joint Report") by the Joint Reporting Parties and the Regional Water Quality Control Board, Santa Ana Region, ("Santa Ana Regional Board") on information "Item A-1824," for the July 17, 2012 State Board Agenda. (Attached hereto as **Exhibit A** is a copy of the 7-11-12 Joint Report without enclosures.)

Summary of Developments Since the July 17 State Water Board Meeting

Since the State Water Board meeting on July 17, 2012, the Joint Reporting Parties, the United States, on behalf of the Environmental Protection Agency ("U.S. EPA"), the United States, on behalf of the Department of Defense ("U.S. DoD"), and multiple other defendants in the seven consolidated federal actions ("Consolidated Federal Actions") pending in the United States District Court for the Central District of California ("District Court") have entered into consent decrees which, in conjunction with the existing cleanup being undertaken by the County, provide for work parties and the funds necessary for the cleanup of perchlorate and trichloroethylene ("TCE") in the Rialto/Colton Groundwater Basin. This contamination is the subject of Regional Board Order No. R8-2003-0013, as amended by R8-2004-0072, and SWRCB File No. A-1824.

Continued Operation of Perchlorate and VOC Remedy for the Mid-Valley Sanitary Landfill

The County continues to operate a groundwater treatment system to contain perchlorate and VOC contamination alleged to be emanating from and near the Mid-Valley Sanitary Landfill property ("MVSL"). As previously reported, this plant has operated since 2006, pursuant to orders issued by the Regional Board, Regional Board Order No. R8-2003-0013, as amended by R8-2004-0072. The County's remedy supplies clean water to Rialto. The County's obligation to perform and fund this remedy is also memorialized in a settlement with the Rialto and Colton, which is embodied in a Consent Order approved by the federal District Court on December 22, 2011.

¹ The "Joint Reporting Parties" are the County of San Bernardino ("County"); the City of Rialto and the Rialto Utility Authority ("Rialto"); the City of Colton ("Colton"); Emhart Industries, Inc. ("Emhart"), Kwikset Locks, Inc., and Black & Decker Inc. (collectively, the "Emhart Parties"); Pyro Spectaculars, Inc. ("PSI"); Astro Pyrotechnics, Inc. ("Astro"); the Peters Parties; Stonehurst, LLC. ("SSLLC"); Trojan Fireworks Company ("Trojan"); and Goodrich Corporation ("Goodrich").

The Interim Remedy for the Site

On October 10, 2012, work commenced on groundwater modeling, the remedial design, and permitting for the interim remedy selected by the U.S. EPA in 2010 which, when built, will capture and contain perchlorate and TCE emanating from the 160-Acre Site, heretofore known as the B.F. Goodrich Superfund Site ("Site"). Emhart has agreed to perform the work required by U.S. EPA's 2010 Interim Action Record of Decision (the "Interim Remedy"). Pursuant to what is known as the "Source Area Work Consent Decree," Emhart will enter into implementation agreements with Rialto as the operator of the treatment system, Colton as the recipient of clean water. Emhart and the County also intend to negotiate an implementation agreement for a combined treatment and capture system, if feasible. The Interim Remedy for the Site is being funded by the parties to the Source Area Work Consent Decree and the PSI Consent Decree. These two decrees and the County Consent Decree also provide for the reimbursement of certain costs incurred by Rialto and Colton.

On October 10, 2012, the PSI Consent Decree was lodged with the District Court. On October 19, 2012, it was published in the Federal Register, and an amended notice was published on October 25, 2012; the public comment period closed on November 26, 2012. The three separately represented settling defendants to the PSI Consent Decree are: (1) PSI and Astro; (2) the Peters Parties and SLLLC; and (3) Trojan. (See **Exhibit B**, hereto, Notice of Lodging of Consent Decree.)

On November 16, 2012, the U.S. EPA advised the District Court that all parties to the Source Area Work Consent Decree have submitted their signature pages. (See **Exhibit C**, hereto, at page 3, United States' Second Supplemental Certification Regarding Receipt of Work Consent Decree Signatures.) Subject to final approval by the U.S. Department of Justice in Washington, D.C., it is anticipated that on or shortly after December 4, 2012, the Source Area Work Consent Decree will be lodged with the District Court and published in the Federal Register for comments. There are ten separately represented settling defendants to the Source Area Work Consent Decree.²

² The ten separately represented defendants to the Source Area Work Consent Decree are: (1) Emhart, Kwikset Locks, Inc., Black & Decker Inc., and Fred Skovgard (generally described as "the Emhart Parties"); (2) American Promotional Events, Inc. West, and American Promotional Events, Inc.; (3) Broco, Inc., and J.S. Brower & Associates, Inc.; (4) Colton; (5) the County; Robertson's Ready Mix, Inc.; Edward Stout; Edward Stout as the Trustee of the Stout-Rodriquez Trust; Elizabeth Rodriquez; John Callagy as Trustee of the Fredricksen Children's Trust Under Trust Agreement Dated February 20, 1985; John Callagy as Trustee of the E.F. Schulz Trust; Linda Fredricksen; Linda Fredricksen as Trustee of the Walter M. Pointon Trust Dated 11/19/1991; Linda Fredricksen as Trustee of the Michelle Ann Pointon Trust Under Trust Agreement Dated February 15, 1985; Linda Fredricksen as Trustee of the E.F. Schulz Trust; John Callagy; Mary Callagy; Jeanine Elzie; Stephen Callagy; Michelle Ann Pointon; Anthony Rodriquez; Zambelli Fireworks Manufacturing Company, Inc.; Zambelli Fireworks Company, aka Zambelli Fireworks Internationale; and Zambelli Fireworks Manufacturing Company (the "County Parties"); (6) The Ensign

It is anticipated that, within the next 90 days, motions will be filed in the District Court for entry of the PSI Consent Decree and the Source Area Work Consent Decree as final enforceable judgments.

The Final Remedy for the Site

On October 12, 2012, the U.S. EPA advised the District Court that a tentative settlement agreement had been reached with Goodrich which "requires Goodrich, in part with funding provided by other parties, to implement the final remedial action" (See **Exhibit D**, hereto, at page 3, Stipulation of All Parties to Request to Extend Litigation Schedule for 90 Days and Proposed Order to Amend CMO No. 1 (Dkt. 601) as Modified by Orders (Dkt. #s 1432, 1550, 1726) in Light of Tentative Settlement with Goodrich Corporation.)

The District Court also was advised that "on or before December 14, 2012, the United States expects to file with the Court, on behalf of Goodrich, a certificate that it has received the applicable signature page from Goodrich and that the [Final Remedy Work] Consent Decree has been transmitted to the U.S. Department of Justice for final approval on behalf of the United States." (*Id.*) Because no final remedy has been selected, part of Goodrich's obligations under the Final Remedy Work Consent Decree will be to develop a final remedy for approval by U.S. EPA in accordance with CERCLA's remedial investigation and feasibility study (RI/FS) process. At this juncture, there are two settling entities to the Final Remedy Work Consent Decree: Goodrich and the U.S. DoD.

It is anticipated that the Final Remedy Work Consent Decree will not be finalized by the original target date of December 14, 2012, but within the next 90 days. If the Final Remedy Work Consent Decree is finalized within the next 90 days, the U.S. EPA anticipates filing a single motion in the District Court for entry of the PSI Consent Decree, the Source Area Work Consent Decree, and the Final Remedy Work Consent Decrees as final enforceable judgments.

The Draft Resolution for Item 12

Upon entry as judgments by the District Court, the PSI Consent Decree, the Source Area Work Consent Decree, and the Final Remedy Work Consent Decree are expected to provide the work parties and funds necessary to clean up the perchlorate and TCE in the Rialto/Colton Groundwater Basin emanating from the Site, thereby resolving the issues framed in SWRCB File No. A-1824. Accordingly, the Joint Reporting Parties support the adoption of the draft Resolution attached to Item 12 by the State Water Board.

Bickford Company; Ensign-Bickford Industries, Inc.; and Ordnance Associates; (7) Raytheon Company; (8) Rialto; (9) U.S. DoD; and (10) Whittaker Corporation.

EXHIBIT A

STATE OF CALIFORNIA
STATE WATER RESOURCES CONTROL BOARD

ITEM A-1824—JULY 17 BOARD MEETING

**JOINT REPORT AND UPDATE OF DEVELOPMENTS
RELATED TO SWRCB/OCC FILE NO. A-1824**

SUBMITTED JULY 11, 2012, BY:
SANTA ANA REGIONAL BOARD,
COUNTY OF SAN BERNARDINO,
CITY OF COLTON,
CITY OF RIALTO,
THE EMHART PARTIES,
PYRO SPECTACULARS, INC.,
ASTRO PYROTECHNICS, INC.,
THE PETERS PARTIES,
STONEHURST, LLC,
AND TROJAN FIREWORKS COMPANY

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Pursuant to the request of the State Water Resources Control Board ("State Water Board"), dated May 31, 2012, the following parties hereby jointly submit this update of developments related to SWRCB/OCC File No. A-1824: the Regional Water Quality Control Board, Santa Ana Region ("Santa Ana Regional Board"); the County of San Bernardino ("County"); the City of Rialto ("Rialto"); the City of Colton ("Colton"); Emhart Industries, Inc. ("Emhart"), Kwikset Locks, Inc., and Black & Decker Inc. (collectively the "Emhart Parties"); Pyro Spectaculars, Inc. ("PSI"); Astro Pyrotechnics, Inc. ("Astro"); the Peters Parties; Stonehurst LLC. ("SSLIC"), and Trojan Fireworks Company ("Trojan") (collectively the "Joint Reporting Parties").

I. Executive Summary

Contamination of the groundwater in the Rialto/Colton Groundwater Basin ("Basin") has adversely affected an important regional source of drinking water. Multiple legal proceedings, at times contentious, brought to identify the responsible parties have been ongoing, in one form or another, since 2002. The Joint Reporting Parties are pleased to report that the legal proceedings are nearing a successful resolution. On July 17, 2012, the Joint Reporting Parties will appear to present this Joint Report, present additional separate comments, and answer Board questions with regarding to the following:

- The Problem: Cleaning up perchlorate and TCE detected in groundwater in the Basin.
- The 2006 County Remedy has been defined and implemented: In 2006, following approval by the Santa Ana Regional Board, the County commenced operation of a capture-and-treatment system for perchlorate and TCE emanating from source areas located in and near Unit 5 of the Mid-Valley Sanitary Landfill property ("MVSL"); the County's system supplies clean water to Rialto (the "2006 County Remedy").
- At the request of the State, U.S. EPA gets involved: In September 2009, the U.S. EPA designated a portion of the Basin as the B.F. Goodrich Superfund Site ("Superfund Site"). In February 2010, the United States, on behalf of the EPA, commenced litigation under CERCLA and RCRA in federal district court in Los Angeles to compel cost recovery and cleanup of the Superfund Site; the United States' lawsuit was subsequently consolidated with six other federal lawsuits filed in 2009 by Rialto, Colton, the County, and several private parties (the "Consolidated Federal Actions"). The Consolidated Federal Actions currently involve more than 20 separately represented potentially responsible parties ("PRPs").
- A 2010 Initial Remedy—EPA's ROD Remedy—defined: In November 2010, U.S. EPA issued its first record of decision for the Superfund Site (the "2010 ROD Remedy"); it requires construction of a capture and treatment system for perchlorate and TCE emanating from the 160-Acre Site source area in Rialto.

- The United States has reached tentative settlements with the majority of PRPs in the Consolidated Federal Actions: In June 2012, after over a year of court-ordered mediation, the United States, on behalf of the EPA, advised the federal district court in Los Angeles that it had reached tentative settlements (subject to the approval of appropriate governmental officials) with the majority of the PRPs; these settlements, which will be documented in two Consent Decrees, are expected to be filed with the district court before September 10, 2012. They will include: (1) agreement by Emhart to be the "work party" to construct and operate the 2010 ROD Remedy; (2) agreements by other settling PRPs to make cash payments to fund remedial and other response actions at the Superfund Site; (3) agreements by Rialto and Colton to cooperate and provide infrastructure associated with the EPA IROD remedy; and (4) agreements by EPA, subject to certain contingencies reserved by EPA, to use certain funds to reimburse the cities of Rialto and Colton for past costs..
- The 2010 ROD Remedy is in the design phase: In 2012, EPA and Emhart commenced design work on the 2010 ROD Remedy. EPA has conducted additional studies. Emhart has prepared the remedial design work plan, reached a tentative agreement with Rialto, a permitted water purveyor, to operate the project, and is in discussions with the County regarding the potential coordination of the County's 2006 Initial Remedy and the 2010 ROD Remedy. Once the 2010 ROD Remedy is constructed, treated water will be piped into Rialto's existing water supply system for delivery to both Rialto and Colton customers.
- Final Remedies: The Santa Ana Regional Board and U.S. EPA are currently investigating and studying potential final remedies concerning the MVSL area and the Superfund Site.
- Joint Answers to Questions Posed by State Board in its May 31, 2012 Meeting Notice: The State Water Board should (1) continue Item A-1824 to its October meeting, at which time all interested parties could present their views on what further action, if any, the State Water Board should take; and (2) consider at its October meeting a Proposed Resolution submitted on July 11, 2012, by the State Water Board's Office of Enforcement.

The Santa Ana Regional Board, the U.S. EPA, and Emhart's technical consultant will each have short Power Point presentations, which are being submitted separately.

II. The Problem and Its Solution

In 1997, perchlorate was detected in a number of groundwater wells in the Basin. As a result, water supply wells were shut down, and the investigation of potential historical sources of perchlorate releases was commenced by the Santa Ana Regional Board. The regulatory issues facing the Regional and State Water Boards and the U. S. EPA have been to: (1) identify the historical activities over the past 70 years that released perchlorate and TCE to groundwater in the Basin; (2) determine who is liable for those releases; (3) select the remedy(s) necessary to

remediate the Basin; and (4) raise the funds necessary to pay for that remediation from liable parties.

For more than six years, the 2006 County Remedy has been cleaning up perchlorate and, since 2010, TCE contamination emanating from in and near Unit 5 of the MVSL, one of two known contaminant sources. When the tentative settlements become final and the 2010 ROD Remedy is implemented, perchlorate and TCE contamination in the Superfund Site, the second source, will begin. The regulatory process for the selection and implementation of any necessary final remedies are also now in place. On the legal front, the United States, on behalf of the EPA, is endeavoring in the months ahead to reach a global settlement with all remaining PRPs. If not, a trial has been set for June 25, 2013, in the federal district court in Los Angeles to resolve all remaining liability issues with any non-settling PRP.

As explained in detail below, in connection with the United States' tentative settlements, the Joint Reporting Parties request that the State Water Board continue its discussion of Questions 3 through 7, in its May 31, 2012 meeting notice for Item A-1824, to its October meeting, at which time the State Water Board can determine what, if any, additional action by it may be warranted. The Joint Reporting Parties are hopeful that settlements involving the Emhart Parties, PSI, Astro, Trojan, the Peters Parties, and SLLC will be finalized before the State Water Board meets in October. State Water Board concurrence in these settlements is key to their effectiveness and finality. Assuming that the final settlement terms are satisfactory to the State Water Board, the Joint Parties request that the State Water Board adopt at its October meeting a resolution dismissing all pending and possible future claims against these settling PRPs. The Joint Reporting Parties concur in the text of the draft Proposed Resolution submitted on July 11, 2012, by the Office of Enforcement of the State Water Board.

III. Summary of Events Leading Up to the State Water Board's Involvement

In 2001, pursuant to the Porter-Cologne Water Quality Control Act (Water Code, §§ 13000, *et seq.*) the Santa Ana Regional Board commenced its investigation of potential sources of perchlorate releases in the Basin. In 2003, pursuant to CERCLA, the U.S. EPA commenced its parallel investigation of potential sources of contaminants of concern in the Basin. In 2003, the Santa Ana Regional Board issued a cleanup and abatement order to the County, which resulted in construction of the 2006 County Remedy, described in detail in Section IV. C. 1., below.

In 2004, the City of Rialto filed a cost recovery action under CERCLA in federal district court in Riverside (later transferred to Los Angeles) against a number of PRPs. In 2005, Colton filed its CERCLA cost recovery action against many of the same PRPs sued by Rialto. In 2005, the Executive Officer of the Santa Ana Regional Board issued a cleanup and abatement order ("2005 CAO"), subsequently amended, which was challenged for various reasons. Those challenges ultimately triggered commencement of SWRCB/OCC File No. A-1824, which was challenged in state court, culminating in State Water Board's adoption in May 2009 of Order WQ 2009-0004.

IV. The Material Events Since State Water Board Order WQ 2009-0004

A. With the Concurrence of the State, the U.S. EPA Takes Action

In September 2009, with the concurrence of the State, the U.S. EPA listed a portion of the Basin as the B. F. Goodrich Superfund Site ("Superfund Site") under CERCLA. The Superfund Site includes a 160-Acre Area in Rialto, California, where (1), between 1952 and 1963, pyrotechnics and rocket motors were loaded, assembled, and developed by the West Coast Loading Corporation (pyrotechnics) and the B.F. Goodrich Company (rocket motors), who were contractors for the United States Departments of Army and Navy (now DoD), and (2), since the mid-1960s, a multitude of private fireworks companies have manufactured and/or stored fireworks. It also includes all areas where contamination in the groundwater from the 160-Acre Area has or will come to be located.

In early 2010, the United States, on behalf of the U.S. EPA, sued a number of PRPs in federal court in Los Angeles under the Comprehensive, Environmental, Response, Compensation, and Liability Act ("CERCLA"), 42 U.S.C. § 9601, *et seq.*, and the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6901 *et seq.*, for past costs, future costs, and injunctive relief necessary to clean up perchlorate and TCE contamination associated with the Superfund Site. The United States' action was consolidated with six other CERCLA cost recovery actions involving contamination of the groundwater in the Basin associated with the source areas in and near the MVSL (collectively the "Consolidated Federal Actions").

In the fall of 2010, after a comprehensive remedial investigation and study of alternative remedies, the U.S. EPA issued its Interim Action Record of Decision ("2010 ROD"), which selected an initial remedy for the Superfund Site (capture and mass removal), commenced work on its investigation and study of a final remedy for the Superfund Site, and invited certain PRPs to submit proposals to perform the work described in its 2010 ROD Remedy.

B. The U.S. EPA Has Reached Tentative Settlements With All But Seven PRPs

In early 2011, the federal district court in Los Angeles issued an order directing all parties to the Consolidated Federal Actions to attempt to resolve their differences through mediation. More than a year of intense settlement discussions followed. On June 4, 2012, the United States, on behalf of the U.S. EPA, reported to the federal district court that it had reached tentative settlements with the following separately represented parties to the Consolidated Federal Actions:

1. American Promotional Events, Inc. West, and American Promotional Events, Inc.;
2. Broco, Inc., and J.S. Brower & Associates, Inc.;
3. Colton;
4. County; Robertson's Ready Mix, Inc.; Edward Stout; Edward Stout as the Trustee of the Stout-Rodriguez Trust; Elizabeth Rodriguez; John Callagy as Trustee of the Fredricksen Children's Trust Under Trust Agreement Dated February 20, 1985; John Callagy as Trustee of the E.F. Schulz Trust; Linda Fredricksen; Linda Fredricksen as Trustee of the

Walter M. Pointon Trust Dated 11/19/1991; Linda Fredricksen as Trustee of the Michelle Ann Pointon Trust Under Trust Agreement Dated February 15, 1985; Linda Fredricksen as Trustee of the E.F. Schulz Trust; John Callagy; Mary Callagy; Jeanine Elzie; Stephen Callagy; Michelle Ann Pointon; Anthony Rodriguez; Zambelli Fireworks Manufacturing Company, Inc.; Zambelli Fireworks Company, aka Zambelli Fireworks Internationale; and Zambelli Fireworks Manufacturing Company (the "County Parties");

5. Emhart Industries, Inc. ("Emhart"), Kwikset Locks, Inc., Black & Decker Inc., and Fred Skovgard (generally described as "the Emhart Parties");
6. The Ensign Bickford Company;
7. The Peters Parties and SLLLC;
8. PSI/Astro;
9. Raytheon Company;
10. City of Rialto and Rialto Utility Authority ("Rialto");
11. Trojan; and
12. United States Department of Defense.

See **Exhibit A**, hereto, Joint Report, 6/6/12, at 2-3.

The United States further reported to the federal district court in June 2012, that it is conducting settlement discussions with the following remaining parties to the Consolidated Federal Actions: (1) American West Explosives, ETI Explosives, and Golden State Explosives (collectively "American West"); (2) Environmental Enterprises, Inc.; (3) General Dynamics, Inc.; (4) Goodrich Corporation; (5) the Estate of Harry Hescox; (6) Ken Thompson, Inc. and related party, Rialto Concrete Products, Inc.; and (7) Whittaker Corporation. *Id.*, at 4.

In order to provide additional time to the settling parties to finalize their settlement documents and to allow the United States to conclude its ongoing settlement discussions with additional PRPs, on June 11, 2012, the federal district court issued an order: (1) extending the remaining pre-trial discovery completion dates three months in the Consolidated Federal Actions; (2) resetting the trial date from March 24, 2013, to June 25, 2013; and (3) directing all parties to return on September 10, 2012, to report on the status of the United States' efforts to reach a global settlement with all PRPs. See **Exhibit B**, hereto, 6/11/12 Order.

The United States, on behalf of the EPA, intends to lodge, on or before September 10, 2012, two Consent Decrees, which will finalize its tentative settlements, with the federal district in Los Angeles. The trial, set for June 25, 2013, will resolve all remaining claims involving any non-settling PRP.

C. Two Key "Work Party" Settlements

1. The 2006 County Remedy – Capture and Treatment of Perchlorate/TCE Emanating from Source Areas In and Near Unit 5 of the MVSL (Operational Since 2006)

On January 17, 2003, the Santa Ana Regional Board issued a cleanup and abatement order, directing the County to clean up perchlorate emanating from source areas in the MVSL. On September 17, 2004, the Santa Ana Regional Board amended the 2003 CAO to require the County, in addition to cleaning up perchlorate in the groundwater down-gradient of the MVSL, to take all actions necessary to provide replacement water to Rialto. On September 27, 2005, the County, without any admission of liability, entered into an agreement with Rialto to provide it with replacement water and to construct and operate an initial remedy to contain and remove perchlorate and TCE emanating from source areas in and near Unit 5 of the County's Landfill—the 2006 County Remedy. In 2006, the County commenced operation of this remedy for perchlorate and, in 2010, for TCE, which the County estimates will ultimately cost \$60 million.

In 2008, the County, Rialto, and Colton entered into a settlement agreement, again without any admission of liability, regarding all claims against each other in the Consolidated Federal Actions. The County agreed: (1) to continue to implement the 2006 County Remedy; and (2) to pay \$5 million to Rialto and Colton. In December 2011, the federal district court, approved the County's settlement agreement with Rialto and Colton as having been entered in "good faith" and dismissed all claims against the County in the Consolidated Federal Actions. Several PRPs and the United States filed appeals challenging the County's settlement; those appeals are on hold pending further settlement discussions. As part of the tentative settlements described herein, the United States, the Emhart Parties, PSI, and Astro have agreed to dismiss their appeals challenging the County settlements.

2. The 2010 ROD Remedy -- Capture and Treatment of Perchlorate/TCE for Source Areas on the 160-Acre Site (In the Design Phase)

To resolve all claims against the Emhart Parties in the Consolidated Federal Actions, Emhart has agreed tentatively with the United States, without any admission of liability, to be the "work party" for 2010 ROD Remedy, which Emhart currently estimates will cost \$36 million (net present value) over the next 30 years. As part of its tentative settlement with the United States, Emhart has agreed, with no formal settlement documents in place, to prepare the necessary Remedial Design Work Plan and to obtain necessary permitting for the 2010 ROD Remedy. Emhart commenced that design work in April of 2012. It is anticipated that Emhart's Remedial Design Work Plan will be an exhibit to the Consent Decree that will be lodged with the federal district court before its next status conference on September 10, 2012.

The County, Rialto and Colton have agreed to coordinate the County's existing remedy infrastructure with 2010 ROD Remedy. Rialto, as a permitted water purveyor by the California Department of Public Health, has agreed: (1) to operate the necessary treatment system(s); (2) receive all clean water into its existing water supply system; and (3) deliver that water to Colton. Colton has agreed to receive the water and, depending on future extraction needs to achieve

capture, to shut down its current well-head treatment system for perchlorate and turn on and off other wells as needed to meet the water supply needs of its customers.

In order to connect Rialto's existing water supply system with Colton's system, a new 1,700 to 3,800 foot pipeline (depending on the route) may be needed. Once constructed, this pipeline will be owned jointly by Rialto and Colton. The Santa Ana Regional Board and Emhart are in discussions regarding how the cost of this pipeline could be funded.

D. The Tentative Cash Settlements

As part of the U. S. EPA's settlement efforts, substantial settlement funds have been raised from cash-out and ability-to-pay settling PRPs in the Consolidated Federal Actions. These monetary settlements will be used to fund response costs at the Superfund Site. A portion of the settlement funds will be paid to Rialto and Colton to reimburse the cities for past response costs, subject to certain contingencies reserved by the United States. It is anticipated that additional settlement funds will be raised as more, and possibly all, PRPs agree to settlement terms. As a result of these settlements, or, if not all PRPs settle, as a result of judgments entered at the close of the June 2013 trial, one or more PRPs, who have not yet settled, may agree or be required to be the work party for the final remedy and/or pay all its remaining costs.

Further details of the tentative settlements described, above, cannot be provided at this time because the United States is currently engaged in settlement discussions with the non-settling PRPs. These details will be publicly disclosed when the Consent Decrees are lodged with the federal district court and published in the Federal Register. The parties are seeking to lodge the Consent Decrees and submit a notice of their lodging to the Federal Register for public comment before the status conference before the federal district court on September 10, 2012.

E. Final Remedies

The Santa Ana Regional Board's 2003 CAO, as amended, the County's settlement agreement with Rialto and Colton, and its corresponding Consent Decree entered by the federal district court in Los Angeles obligates the County to implement additional remedial actions, if necessary as set forth in those documents. At this juncture, it is too early to determine whether a remedy beyond the 2006 County Remedy will be required of the County.

The U.S. EPA is currently conducting its remedial investigation and feasibility study ("RI/FS") for the final remedy for the Superfund Site. The agency anticipates that its RI/FS process will be completed in approximately two years at which time it will select the final remedy, which will be implemented in accordance with the Superfund program.

In short, the known sources for perchlorate and TCE contamination in the Basin are being fully addressed.

V. Proposed Resolution Resolving State Board and Regional Board Actions

In light of the substantial developments described above, the Joint Reporting Parties submit that at this time the Santa Ana Regional Board and the State Water Board should defer the active enforcement activities for those parties that have entered into tentative settlements

with the United States, pending consideration of anticipated settlement developments over the next few months. In addition, the resolution of the Regional and State Water Board proceedings is critical to finalizing those tentative settlements. Therefore, on July 11, 2012, the Office of Enforcement of the State Water Board is submitting to the State Water Board, for information purposes only, a Proposed Resolution which addresses this condition for consideration and possible adoption by the State Water Board at a later meeting.

VI. Answers to the State Board's Seven Questions

A. Questions 1 and 2

In the Notice of Meeting dated May 31, 2012, the Chief Counsel of the State Water Board identified seven questions which the State Water Board is interested in having the noticed parties address. The first two questions are:

1. What relevant legal and technical developments have occurred concerning the 160-acre site or the Rialto-Colton groundwater basin since February 2007?
2. Besides legal and technical developments, since February 2007 have there been any other developments concerning the 160-acre site or the Rialto-Colton groundwater basin that the State Water Board should be aware of?

The answers to these two questions are set forth in Sections I through IV, above, of this Joint Report.

B. Questions 3, 4, 5, 6, and 7

The remaining five questions are:

3. Should the State Water Board resume the evidentiary hearings as contemplated by State Water Board Orders WQ 2008-0004 and WQ 2009-0004 initiating own motion review?
4. Is there any benefit to remanding the matter back to the Santa Ana Water Board without an evidentiary hearing by the State Water Board?
5. Should any proceeding before the State Water Board remain limited to the 160-acre site or should it be expanded geographically?
6. If the proceeding should be expanded, to what extent?
7. Should there be additional potentially responsible parties added to the existing proceeding?

For the reasons set forth in Section I through IV, above, of this Joint Report, the answers to these Questions should await further settlement developments over the next two and one half months in Consolidated Federal Actions.

VII. Next Steps

The Joint Reporting Parties respectfully request that the State Water Board take the following next steps:

1. Item A-1824 on the July 17, 2012 agenda should be continued to the State Water Board's October 16, 2012 meeting at which time the State Water Board should receive all final comments on Questions 3, 4, 5, 6, and 7 and determine what, if any, further State Water Board action is warranted.
2. The State Water Board should consider, at its October 16, 2012 meeting, the Proposed Resolution submitted on July 11, 2012, as an information item only, by the Office of Enforcement of the State Water Board. The United States anticipates that in advance of the State Water Board's October 16 meeting two Consent Decrees, which will set forth in detail the commitments of each of the settling PRPs, will be lodged with the federal district court and published in the Federal Register. When they are lodged and published, copies will be provided to the State Water Board.

EXHIBIT B

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United States Department of Justice
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9 Attorneys for Plaintiff, UNITED STATES OF AMERICA

10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA – WESTERN DIVISION
12
13

14 CITY OF COLTON, a California
15 municipal corporation,

16 Plaintiff,

17 v.

18 AMERICAN PROMOTIONAL
19 EVENTS, INC., et al.

20 Defendants.
21

CASE NO. ED CV 09-01864 PSG (SSx)

[Consolidated with Case Nos. CV 09-6630 PSG (SSx), CV 09-06632 PSG (SSx), CV 09-07501 PSG (SSx), CV 09-07508 PSG (SSx), CV 10-824 PSG (SSx) and CV 05-01479 PSG (SSx)]

NOTICE OF LODGING

CONSENT DECREE

22 AND CONSOLIDATED ACTIONS
23

24 The United States of America hereby notifies the Court that the United
25 States is lodging a proposed Consent Decree that, subject to a public comment
26 period and subsequent entry by the Court, will resolve the claims of certain parties
27 to the Consolidated Actions.
28

1 On August 31, 2012, parties to the Consolidated Actions informed the Court
2 that the majority of the litigants had entered into tentative settlements with the
3 United States and that the settlements would be embodied in two consent decrees,
4 one of which was identified as the PSI Consent Decree. The Court granted a short
5 extension to the remaining schedule and provided a framework for lodging the PSI
6 Consent Decree with the Court no later than October 10, 2012. (Dkt. #1736).
7 Consistent with the Court's direction, the United States is contemporaneously
8 lodging the Consent Decree with this Notice of Lodging.

9 Under the terms of the Consent Decree and pursuant to 28 C.F.R. § 50.7, the
10 United States will publish notice in the Federal Register and accept public
11 comment on the proposed Consent Decree for a period of thirty days.
12 Accordingly, the United States respectfully requests that the proposed Consent
13 Decree not be entered prior to the expiration of the public comment period.
14

15 At the expiration of that period and after the United States has reviewed any
16 public comments that are received, the United States will either request that the
17 Court enter the proposed Consent Decree, or advise the Court that public
18 comments have been received that warrants the United States' withdrawal from the
19 proposed Consent Decree.
20

21 Respectfully submitted,

22
23
24 DATED: 10/10/12

25 
26 _____
27 BRADLEY R. O'BRIEN
28 Senior Attorney
Environmental Enforcement Section
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United States Department of Justice

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16 UNITED STATES DISTRICT COURT
 17 CENTRAL DISTRICT OF CALIFORNIA
 18 WESTERN DIVISION

19 CITY OF COLTON, a California
 20 municipal corporation, et al.,

21 Plaintiffs,

22 vs.

23 AMERICAN PROMOTIONAL
 24 EVENTS, INC., et al.,

25 Defendants.

Case No. ED CV 09-01864 PSG (SSx)

[Consolidated with Case Nos. CV 09-6630 PSG (SSx), CV 09-6632 PSG (SSx), CV 09-07501 PSG (SSx), CV 09-07508 PSG (SSx), CV 10-00824 PSG (SSx), CV 05-01479 PSG (SSx)]

**UNITED STATES' SECOND
 SUPPLEMENTAL CERTIFICATION
 REGARDING RECEIPT OF WORK
 CONSENT DECREE SIGNATURES**

Judge: Hon. Philip S. Gutierrez

Trial Date: October 21, 2013

26 The United States hereby certifies, pursuant to the Court's Order of
 27 September 10, 2012 (Dkt. 1736) ("Sept. 10 Order"):

- 28 1. The following Settling Parties are signatories to the Work Consent Decree as described in the Sept. 10 Order, and have submitted signature pages for

1 the Work Consent Decree to the United States since the United States submitted its
2 first supplemental certification on October 17, 2012 (Dkt. 1770). The Sept. 10
3 Order provides that all fact discovery dates, expert discovery dates, other pre-trial
4 dates, and the trial date are therefore vacated as to those Settling Parties as of the
5 filing of this certification:
6

7
8 a. Emhart Industries, Inc., Kwikset Corporation, Kwikset Locks,
9 Inc., Black & Decker Corporation, Black & Decker Inc., Mildred Wilkens
10 (deceased), and Fred Skovgard (signature page received by counsel for the United
11 States on November 16, 2012);
12

13 b. The County of San Bernardino (received November 16, 2012);

14 c. Robertson's Ready Mix, Inc. (received November 16, 2012).
15

16 d. Edward Stout, Elizabeth Rodriguez, John Callagy, John Callagy,
17 as the trustee of the Fredericksen Children's Trust under Trust Agreement dated
18 Feb. 20, 1985, Linda Fredericksen, Linda Fredericksen, as trustee of the Walter M.
19 Pointon Trust, dated Nov. 19, 1991, Linda Fredericksen, as the trustee of the
20 Michelle Ann Pointon Trust Under Trust Agreement dated Feb. 15, 1985, Mary
21 Mitchell (now known as Mary Callagy), Jeanine Elzie, and Stephen Callagy ("The
22 Schulz Parties") (received November 16, 2012).
23
24

25 e. Zambelli Fireworks Manufacturing Company, Inc., Zambelli
26 Fireworks Company a.k.a., Zambelli Fireworks Internationale, and Zambelli
27
28

1 Fireworks Manufacturing Company (“The Zambelli Parties”) (received November
2 16, 2012).

3
4 2. The United States has now received signature pages from all other
5 signatories to the Work Decree. The Work Decree is now routing for higher-level
6 United States officials' review.

7
8 Respectfully submitted,

9
10 Dated: November 16, 2012

11 IGNACIA S. MORENO
12 Assistant Attorney General
13 Environment & Natural Resources Division

14 By: /s/ Deborah A. Gitin

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12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA
14 WESTERN DIVISION

15 CITY OF COLTON, a California
municipal corporation, et al.,

16 Plaintiffs,

17 vs.

18 AMERICAN PROMOTIONAL
19 EVENTS, INC., et al.,

20 Defendants.

Case No. ED CV 09-01864 PSG (SSx)

[Consolidated with Case Nos. CV 09-6630 PSG (SSx), CV 09-6632 PSG (SSx), CV 09-07501 PSG (SSx), CV 09-07508 PSG (SSx), CV 10-00824 PSG (SSx), CV 05-01479 PSG (SSx)]

STIPULATION OF ALL PARTIES TO REQUEST TO EXTEND LITIGATION SCHEDULE FOR 90 DAYS AND PROPOSED ORDER TO AMEND CMO NO. 1 (Dkt. # 601), AS MODIFIED BY ORDERS (Dkt. #s 1432, 1550, 1736) IN LIGHT OF TENTATIVE SETTLEMENT WITH GOODRICH CORPORATION

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25
26 AND CONSOLIDATED ACTIONS

Judge: Hon. Philip S. Gutierrez

27 Trial Date: July 22, 2013

28
STIPULATION OF ALL PARTIES TO REQUEST TO EXTEND LITIGATION SCHEDULE FOR 90 DAYS AND PROPOSED ORDER TO AMEND CMO NO. 1

1 On August 31, 2012, parties to the Consolidated Actions informed the Court
2 that the majority of the litigants had entered into tentative settlements with the
3 United States and that the settlements would be embodied in two consent decrees.
4 (Dkt. #1715). These consent decrees were identified as: 1) the “PSI Consent
5 Decree,”¹ which requires the settling parties to make payments to the United States
6 Environmental Protection Agency and reimburse other parties for costs associated
7 with the 160 acre area (“Site”) and areas near the Site in the Rialto-Colton Basin
8 (“Basin”); and 2) the “Work Consent Decree”,² which requires the settling parties
9 to perform, support, and/or fund remedial work to address groundwater
10 contamination in the Basin. In light of the substantial progress that had been made
11 on these two settlements, the Court granted a 30-day adjustment to the remaining
12 schedule and provided a framework for lodging the PSI Consent Decree with the
13 Court and the filing of a certification regarding the Work Consent Decree no later
14 than October 10, 2012. (Dkt. #1736). The PSI Consent Decree was lodged and the
15 Work Consent Decree certification was filed with the Court on October 10, 2012.
16 (Dkt. #s 1765, 1765-1, and 1766).

17
18 Since the last status conference approximately four weeks ago, the United
19 States has been actively working to reach settlements with the remaining non-

20
21
22 ¹ The parties to the PSI Consent Decree are: Thomas O. Peters, the 1996
23 Thomas O. Peters and Kathleen S. Peters Revocable Trust, and Stonehurst Site
24 LLC; Pyro Spectaculars, Inc. and Astro Pyrotechnics, Inc.; Trojan Fireworks
25 Company; the City of Colton, the City of Rialto, San Bernardino County, County
26 Related Parties, and the United States.

27 ² The parties to the Work Consent Decree are: American Promotional Events,
28 Inc. West, and American Promotional Events, Inc.; Broco, Inc. and J.S. Brower &
Associates, Inc.; Emhart Industries, Inc., Kwikset Locks, Inc. Black & Decker Inc.,
and Fred Skovgard; The Ensign Bickford Company; Raytheon Company;
Whittaker Corporation; the City of Colton, the City of Rialto, San Bernardino
County Settling Parties, and the United States.

1 settling parties in order to achieve a global resolution, if possible. To that end, the
2 United States and Goodrich Corporation (“Goodrich”) have entered into a tentative
3 settlement that would resolve their respective claims, as well as related
4 contribution claims. The tentative settlement agreement requires Goodrich, in part
5 with funding provided by other parties, to implement the final remedial action for
6 the Site. Importantly, the work that would be required by the Goodrich Consent
7 Decree coupled with the above described Work Consent Decree requirements is
8 expected to address the future remedial or “clean-up” work required at the Site.
9 Given this new and significant development with Goodrich, the parties will need
10 some additional time to draft the requisite settlement agreements and determine
11 whether any of the remaining non-settling parties will want to join the settlement
12 on acceptable terms.
13

14 Accordingly, the parties³ respectfully request that the Court enter the
15 attached Proposed Order, which includes a 90-day adjustment to the remaining
16 schedule for all parties to allow for finalizing the Goodrich Consent Decree and to
17 seek to allow the remaining parties to resolve their claims.

18 Similar to the Work Consent Decree certification, on or before December
19 14, 2012, the United States expects to file with the Court, on behalf of Goodrich, a
20 certification that it has received the applicable signature page from Goodrich and
21 that the Goodrich Consent Decree has been transmitted to the U.S. Department of
22 Justice for final approval on behalf of the United States. The United States will
23 also certify that it has initiated review of the Goodrich Consent Decree by those
24 officials that have the authority to approve the settlement. Similar to the Work
25 Consent Decree certification, upon the filing of the Goodrich Consent Decree
26

27
28 ³ Rialto does not object to the proposed 90-day adjustment to the remaining
schedule, except that it objects to a continuance of the trial date.

1 certification, the parties agree that all fact discovery dates, expert discovery dates,
2 other pretrial dates, and the trial dates are vacated as to each settling party who has
3 signed the Goodrich Consent Decree and the United States Department of Defense.

4 As noted above, the United States continues to have past and future Site cost
5 and other claims for relief relating to the small number of litigants remaining in the
6 Consolidated Actions.⁴ However, the United States will endeavor to seek to
7 resolve these remaining claims within the 90-day adjustment to the remaining
8 schedule requested herein. If deemed appropriate by the Court and at the Court's
9 convenience, the United States proposes that the Court set a status conference in
10 November that would be attended by: 1) all parties that have not reached a
11 tentative settlement with the United States; and 2) all parties that have reached
12 tentative settlement agreements with the United States but have not lodged a
13 consent decree with the Court. The purpose of the status conference would be to
14 advise the Court of the status of these settlement efforts and to discuss further
15 scheduling, if appropriate.
16

17 Therefore, the parties respectfully request that the Court enter the attached
18 Proposed Order, which allows for the filing of the certification regarding the
19 Goodrich Consent Decree, and a 90-day adjustment to the remaining schedule, as
20 follows:
21
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27 ⁴ The remaining parties to the Consolidated Litigation that have been sued by the
28 United States include the Estate of Hescox and KTI, Inc (RCP). The United States
is currently in negotiations with these parties.

Task	Current Date	Proposed New Date
Status Conference	N/A	November
Expert witness disclosures exchanged	December 14, 2012	March 14, 2013
Rebuttal expert witness disclosures exchanged	February 15, 2013	May 16, 2013
Expert discovery closes	May 30, 2013	August 28, 2013
Deadline for filing dispositive motions	March 29, 2013	June 27, 2013
Pretrial Status Conference	May 13, 2013	August 12, 2013
Trial Date	July 22, 2013	October 21, 2013

The United States has consulted with other parties to the Consolidated Actions. The parties to the PSI Consent Decree and the Work Consent Decree support the relief requested herein. Those parties that have not yet reached tentative agreements with the United States either support or have not voiced objection to this schedule proposal.

1 Respectfully submitted,

2
3 Dated: October 12, 2012

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1 Dated: October 12, 2012

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13 DEPARTMENT OF DEFENSE

14 Dated: October 12, 2012

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16 By: s/ Jeffrey D. Dintzer

17 JEFFREY D. DINTZER
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19 GOODRICH CORPORATION

20 Dated: October 12, 2012

PAUL HASTINGS

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22 By: s/ Dennis Ellis

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25 Defendants CITY OF RIALTO and
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1 Dated: October 12, 2012

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9 CORPORATION and KWIKSET
LOCKS, INC.

10 Dated: October 12, 2012

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13 By: s/ Daniel J. O'Hanlon

14 DANIEL J. O'HANLON
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16 FRED SKOVGARD

17 Dated: October 12, 2012

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21 Attorneys for Defendant
22 THE ENSIGN-BICKFORD COMPANY
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28

STIPULATION OF ALL PARTIES TO REQUEST TO EXTEND LITIGATION SCHEDULE
FOR 90 DAYS AND PROPOSED ORDER TO AMEND CMO NO. 1

1 Dated: October 12, 2012

HUNSUCKER GOODSTEIN & NELSON
PC

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5 BRIAN L. ZAGON

6 Attorneys for Defendants

7 PYRO SPECTACULARS, INC. and

8 ASTRO PYROTECHNICS, INC.

9 Dated: October 12, 2012

RENSHAW & ASSOCIATES

10
11 By: s/ Steven J. Renshaw

12 STEVEN J. RENSHAW

13 Attorneys for Defendant

14 TROJAN FIREWORKS COMPANY

15 Dated: October 12, 2012

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18 GENE TANAKA

19 Attorneys for Plaintiff

20 CITY OF COLTON

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28
STIPULATION OF ALL PARTIES TO REQUEST TO EXTEND LITIGATION SCHEDULE
FOR 90 DAYS AND PROPOSED ORDER TO AMEND CMO NO. 1

1 Dated: October 12, 2012

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ELIZABETH RODRIGUEZ; JOHN
CALLAGY, AS TRUSTEE OF THE
FREDERICKSEN CHILDREN'S
TRUST UNDER TRUST AGREEMENT
DATED FEB. 20, 1985; LINDA
FREDERICKSEN, LINDA
FREDERICKSEN, AS TRUSTEE OF
THE WALTER M. POINTON TRUST
DATED NOV. 19, 1991; LINDA
FREDERICKSEN, AS TRUSTEE OF
MICHELLE ANN POINTON TRUST
UNDER TRUST AGREEMENT DATED
FEB. 15, 1985; JOHN CALLAGY;
MARY MITCHELL (now known as
MARY CALLAGY); JEANINE ELZIE;
and STEPHEN CALLAGY

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STIPULATION OF ALL PARTIES TO REQUEST TO EXTEND LITIGATION SCHEDULE
FOR 90 DAYS AND PROPOSED ORDER TO AMEND CMO NO. 1

1 Dated: October 12, 2012 VOSS, COOK & THEL

2
3 By: s/ John E. Van Vlear

4 JOHN E. VAN VLEAR
5 Attorneys for Defendants THE 1996
6 THOMAS O. PETERS AND
7 KATHLEEN S. PETERS REVOCABLE
8 TRUST, STONEHURST SITE, LLC and
9 THOMAS O. PETERS

10 Dated: October 12, 2012 BURKE, WILLIAMS & SORENSEN, LLP

11 By: s/ Allan E. Ceran

12 ALLAN E. CERAN
13 AMY E. HOYT
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15 and J.S. BROWER & ASSOCIATES,
16 INC.
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STIPULATION OF ALL PARTIES TO REQUEST TO EXTEND LITIGATION SCHEDULE
FOR 90 DAYS AND PROPOSED ORDER TO AMEND CMO NO. 1