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 17 IN THE UNITED STATES DISTRICT COURT  
 18 FOR THE EASTERN DISTRICT OF CALIFORNIA

21 **CALIFORNIA DEPARTMENT OF TOXIC**  
 22 **SUBSTANCES CONTROL,**  
 23 **Plaintiff,**  
 24 **v.**  
 25 **THE UNITED STATES OF AMERICA,**  
 26 **Defendant.**

2:16-cv-02897-JAM-AC

**JOINT NOTICE OF TENTATIVE SETTLEMENT**

Date: April 27, 2017  
 Judge: John A. Mendez  
 Action Filed: December 9, 2016

1 **TO THE COURT:**

2 In accordance with Local Rule 160 and the instruction of the Court, the Plaintiff, the  
3 California Department of Toxic Substances Control (“DTSC”), and the Defendant, the United  
4 States of America (“United States”) (collectively the “Parties”), hereby notify the Court that the  
5 parties have reached a tentative settlement and request that the Court stay this matter for one  
6 hundred twenty (120) days so that the parties may complete the drafting of the settlement  
7 documents and obtain the requisite approval by the appropriate officials within both the state and  
8 federal government. The parties propose filing a joint status report due at or before one hundred  
9 twenty (120) days so that, in the event dispositional papers have not been filed, the parties may  
10 provide the Court with a status update.

11 **BACKGROUND**

12 On or about December 9, 2016 DTSC initiated the above-captioned case, seeking cost  
13 recovery and declaratory relief under sections 107(a) and 113(g) of the Comprehensive  
14 Environmental Response, Compensation, and Liability Act (“CERCLA”), 42 U.S.C. §§ 9607 and  
15 9613. DTSC sought cost recovery and declaratory relief from the United States for costs incurred  
16 and future costs expected at a portion of the former Benicia Arsenal Army base in the vicinity of  
17 711 and 750 Jackson Street, Benicia, Solano County, California (identified by Assessor’s Parcel  
18 number 0080-14-0440) and 938, 940, 942, 945, 946, 952, and 954 Tyler Street; 963, 965, 967,  
19 969, 971, 973, 977, 979, 981, 983, 985, 989, and 991 Lincoln Street; and 900 and 954 Jackson  
20 Street, Benicia, Solano County, California (identified by Assessor’s Parcel numbers 0080-28-  
21 0010, 0080-28-0030, 0080-28-0040, 0080-28-0050).

22 **TENTATIVE SETTLEMENT**

23 Since this case was initiated, DTSC and the United States have been engaged in settlement  
24 negotiations. The Parties held telephone settlement conferences in January and February. The  
25 Parties met in person on April 3, 2017 and continued the settlement discussions. A follow-up  
26 conference call was held on April 10, 2017. The Parties reached a tentative settlement on April  
27 27, 2017. The terms of the proposed settlement are subject to approval by authorized officials  
28 within the state and federal governments.

**TIME TO FILE DISPOSITION PAPERS**

1  
2 While the general terms of settlement have been tentatively agreed to, those terms are  
3 subject to final approval and the dispositional documents must be drafted and approved by the  
4 Parties. Local Rule 160 provides for twenty-one (21) days from the date of the notice of  
5 settlement to file dispositional papers unless there is good cause for an extension. Here, there is  
6 such good cause to allow for one hundred twenty days (120) days from the date of the notice of  
7 settlement to file dispositional papers. Both Parties are government entities with internal vetting  
8 and approval processes for significant settlements such as this and will need much longer than  
9 twenty-one (21) days to prepare settlement documents and obtain final approval. Therefore, the  
10 Parties jointly request one hundred twenty (120) days in which to file the dispositional papers.  
11 The Parties agree to work diligently to prepare settlement documents and obtain the needed  
12 approvals as quickly as possible. The Parties also request that the Court schedule a joint status  
13 report due at or before one hundred twenty (120) days from the date of the notice of settlement so  
14 that, in the event dispositional papers have not been filed, the Parties may provide the Court with  
15 a status update.

1 Dated: April 27, 2017

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3  
4  
5 /s Heather C. Leslie

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8 *Toxic Substances Control*

9 Dated: April 27, 2017

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11  
12 /s Mark A. Rigau (authorized on 4/27/2017)

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