

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

Electronically Filed on October 9, 2012

_____)	
MICHAEL ETCHEGOINBERRY, <i>et al.</i> ,)	
Plaintiffs,)	No. 11-564 L
)	
v.)	Judge Marian Blank Horn
)	
THE UNITED STATES,)	
)	
Defendant.)	
_____)	

JOINT STIPULATION OF FACTS
PURSUANT TO COURT’S AUGUST 20, 2012 ORDER

Pursuant to this Court’s August 20, 2012 Order (ECF Doc. # 42) and October 1, 2012 Order (ECF Doc. # 47), Plaintiffs and Defendant submit this Joint Stipulation of Facts in connection with Defendant’s pending Motion to Dismiss (ECF Doc. # 9).

The Joint Stipulation is presented in chronological order. If available, specific citations to the Appendix in Support of Joint Stipulation of Facts are included. The Appendix is filed on a CD with the Clerk’s Office (with a courtesy copy to the Court). Additionally, in the electronic version of this document submitted to the Court on CD, we have provided direct hyperlinks to each of the documents cited in the Appendix (accessible by clicking on the associated number in the Appendix).

The parties have yet to conduct discovery and therefore reserve the right to supplement or amend this Joint Stipulation, subject to the Court’s leave or agreement of the parties, upon discovery of new information.

Fact No.	Date	Fact	Appendix
A	1956 Dec. 17	U.S. Bureau of Reclamation (“Reclamation”) provides feasibility report for the San Luis Unit to Congress. Reclamation, San Luis Unit Central Valley Project, California, A Report on the Feasibility of Water Supply Development (May 1955) [JA00001-JA00116]	01
B	1960 June 03	Congress enacts San Luis Act (Pub. L. No. 86-488, 74 Stat. 156 (1960). San Luis Act, Pub. L. No. 86-488 (1960) [JA00117-JA00121]	02
C	1963 June 05	Westlands Water District (“Westlands”) and United States enter into “Contract Between the United States and Westlands Water District Providing for Water Service,” Contract No. 14-06-200-495A (the “1963 Contract”). 1963 Contract [JA00122-JA00177]	03
D	1965 Apr. 01	Westlands and United States enter into “Contract Between the United States and Westlands Water District Providing for the Construction of a Water Distribution and Drainage Collector System,” Contract No. 14-06-200-2020A (“1965 Contract”). 1965 Contract [JA00178-JA00220]	04
E	1965 Oct. 22	Congress passes Public Law 89-299 which contains an appropriation rider prohibiting selection of a final point of discharge for the San Luis Drain until certain conditions are met. These conditions include completion of a pollution study and development of a plan to mitigate damage from drainage water on the San Francisco Bay. Appropriation riders with similar conditions are passed in nearly every subsequent year. Pub. L. No. 89-299 (1965) [JA00221-JA00235] <i>Firebaugh Canal Co. v. United States</i> , 203 F.3d 568, 571 (9th Cir. 2000) [JA00238]	05 06

Fact No.	Date	Fact	Appendix
F	1967	Reclamation begins water deliveries to Westlands. <i>Firebaugh Canal Co. v. United States</i> , 203 F.3d 568, 571 (9th Cir. 2000) [JA00238]	06
G	1968 Mar.	Reclamation begins construction of the San Luis Drain and Stage 1 of the Kesterson Reservoir. Reclamation, San Luis Drainage Feature Re-evaluation, Feasibility Report (March 2008), at vi [JA00253]	07
H	1971	Reclamation completes construction of Stage 1 of Kesterson Reservoir. State Water Resources Control Board, Order No. WQ 85-1 (Feb. 5, 1985), at 4 [JA00320]	08
I	1975	Reclamation completes construction of 82- or 83-mile segment of San Luis Drain, ending at Kesterson Reservoir. Court's Memorandum Opinion and Order, <i>Sumner Peck Ranch, Inc. v. Bureau of Reclamation</i> , No. CV-F-91-048 (E.D. Cal. May 17, 1993), at 4:10-12 [JA00376] Reclamation, San Luis Drainage Feature Re-evaluation, Record of Decision (March 2007), at i [JA00399]	09 10
J	1975	Reclamation contracts for construction of a sub-surface drainage collection system to provide drainage for approximately 42,000-acre of farmland within Westlands. Court's Memorandum Opinion and Order, <i>Sumner Peck Ranch, Inc. v. Bureau of Reclamation</i> , No. CV-F-91-048 (E.D. Cal. May 17, 1993), at 4:6-9 [JA00376]	09

Fact No.	Date	Fact	Appendix
K	1975	<p>The San Joaquin Valley Interagency Drainage Program, a joint effort between Reclamation, the California Department of Water Resources, and the California State Water Resources Control Board (“SWRCB”), is formed to develop “an economically, environmentally, and politically acceptable solution to San Joaquin Valley drainage problems” (intact through 1979).</p> <p style="text-align: right;">Reclamation, San Luis Drainage Feature Re-evaluation, Record of Decision (March 2007) at 2 [JA00403]</p>	10
L	1976	<p>Reclamation begins drainage service in Westlands. The drainage collector system discharges drain water into the San Luis Drain, which carries the drain water to Kesterson Reservoir.</p> <p style="text-align: right;">Court’s Memorandum Opinion and Order, <i>Sumner Peck Ranch, Inc. v. Bureau of Reclamation</i>, No. CV-F-91-048 (E.D. Cal. May 28, 1993), at 4:10-12 [JA00376]</p>	09
M	1977 June 15	<p>Congress enacts Authorizations, Appropriations – San Luis Act, Central Valley Project (Pub. L. No. 95-46, 91 Stat. 225 (1977)), which increases appropriations ceiling for continuation of construction of distribution systems and drains in San Luis Unit and establishes a task force to study the feasibility and environmental impacts of completing the San Luis Drain while also investigating alternatives.</p> <p style="text-align: right;">Pub. L. 95-46 (1977) [JA00447-JA0049]</p>	12
N	1978	<p>Reclamation’s Special Task Force Report on San Luis Unit, Central Valley Project, California submitted to Congress.</p> <p style="text-align: right;">Reclamation, Special Task Force Report on San Luis Unit, Central Valley Project (1978) [JA00450-JA00480]</p>	13

Fact No.	Date	Fact	Appendix
O	1979 Apr. 26	<p><i>Barcellos & Wolfsen, Inc. v. Westlands Water District</i>, No. CV-79-109 EDP (U.S.D.C. – Eastern District) Complaint filed. Certain landowners and water users within Westlands seek declaratory relief and damages based on their claim that the District’s annual water service contracts with the United States for the latter half of 1978 and subsequent years and the internal water pricing and allocations regulations thereunder deprived them of alleged priority rights to water.</p> <p style="text-align: center;">Court Docket, <i>Barcellos v. Westlands</i>, No. CV-79-109 (E.D. Cal. Apr. 26, 1979) (date filed) (unable to obtain copy of complaint) [JA00481]</p>	14
P	1979 July 25	<p><i>Barcellos v. Westlands</i>, No. CV-79-109 Third Amended Complaint for Declaratory and Other Equitable Relief and Damages – Partial Defendant Class Action filed.</p> <p style="text-align: center;">Plaintiffs’ Third Amended Complaint, <i>Barcellos v. Westlands</i>, No. CV-79-109 (July 25, 1979) [JA00493-JA00524]</p>	15
Q	1981 July 24	<p><i>Westlands Water District v. United States, at al.</i>, No. CV-81-245 EDP (U.S.D.C. – Eastern District) Complaint filed.</p> <p style="text-align: center;">Class notice, <i>Barcellos v. Westlands</i>, No. 79-106 (E.D. Cal. Dec. 10, 1981) (unable to obtain copy of complaint) [JA00481-JA00492]</p>	11
R	1981 Sept. 18	<p><i>Barcellos v. Westlands</i>, No. CV-79-109/ <i>Westlands v. United States</i>, No. CV-81-245 Court consolidates <i>Westlands</i> litigation and <i>Barcellos</i> litigation as to all claims in <i>Westlands</i> litigation and those claims in <i>Barcellos</i> which relate to the rights and obligations of Westlands and the United States under alleged contracts and federal reclamation law.</p> <p style="text-align: center;">Court’s Order of Consolidation, <i>Barcellos v. Westlands</i>, No. CV-79-109 (E.D. Cal. Sept. 19, 1981), at 2-3 [JA00526-JA00527]</p>	16

Fact No.	Date	Fact	Appendix
S	1981 Dec. 10	<p><i>Barcellos v. Westlands</i>, No. CV-79-109/ <i>Westlands v. United States</i>, No. CV-81-245 Class notice issued by Court to all water users and landowners in each of four major areas of the Westlands Water District. The notice summarizes the factual and legal issues in the litigation and how recipients will be represented by class representatives or can intervene.</p> <p style="text-align: right;">Class notice, <i>Barcellos v. Westlands</i>, No. 79-106 (E.D. Cal. Dec. 10, 1981) [JA00439-JA00446]</p>	11
T	1983	<p>Discovery of embryonic deformities of aquatic birds at Kesterson Reservoir.</p> <p style="text-align: right;"><i>Firebaugh Canal Co. v. United States</i>, 203 F.3d 568, 571 (9th Cir. 2000) [JA00238]</p> <p style="text-align: center;">Reclamation, San Luis Drainage Feature Re-evaluation, Feasibility Report (March 2008), at vi [JA00253]</p>	06 07
U	1984	<p>The San Joaquin Valley Drainage Program (“SJVDP”), a joint Federal and state interagency program, established to investigate drainage problems and possible solutions (through 1990).</p> <p style="text-align: right;">Reclamation, San Luis Drainage Feature Re-evaluation, Preliminary Alternatives Report (Dec. 2001), at 1-4 [JA00549]</p> <p style="text-align: center;">San Joaquin Valley Drainage Program, A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (Sept. 1990), at xi [JA00716]</p>	17 24
V	1985 Feb. 05	<p>SWRCB adopts Cleanup and Abatement Order No. WQ 85-1. The order requires the U.S. Department of Interior (“Interior”) to present to SWRCB a plan to double line or to close down and clean up Kesterson Reservoir as a drainage facility by February 1988.</p> <p style="text-align: right;">State Water Resources Control Board, Order No. WQ 85-1 (Feb. 5, 1985) [JA00319-JA00372]</p>	08

Fact No.	Date	Fact	Appendix
W	1985 Mar. 15	Interior issues Statement of Secretary of the Interior on Kesterson National Wildlife Refuge. Interior begins process of shutting down Kesterson Reservoir. Statement of the Secretary of Interior on Kesterson National Wildlife Refuge (Mar. 15, 1985) [JA00575-JA00576]	18
X	1985 Apr. 3	Westlands enters into agreement with Interior pertaining to the closing of Kesterson Reservoir and providing water service to Westlands. Agreement between Interior and Westlands (Apr. 3, 1985) [JA00577-JA00586]	19
Y	1985 Aug. 22	SWRCB adopts Cleanup and Abatement Order No. WQ 85-5 amending Order No. WQ 85-1 and Cleanup and Abatement order No. 85-1. State Water Resources Control Board, Order No. WQ 85-5 (Aug. 22, 1985) [JA00587-JA00590]	20
Z	1986 June	Drains at Westlands plugged and middle portion of San Luis Drain closed. <i>Firebaugh Canal Co. v. United States</i> , 203 F.3d 568, 572 (9th Cir. 2000) [JA00236-JA00245]	06
AA	1986 Aug. 29	<i>Barcellos</i> , No. CV-79-109 / <i>Westlands</i> , No. CV-81-245 The parties enter into a Stipulated Judgment. Stipulated Judgment, <i>Barcellos v. Westlands</i> , No. 79-106 (E.D. Cal. Dec. 30, 1986) [JA00591-JA00648]	21
BB	1986 Dec. 30	<i>Barcellos</i> , No. CV-79-109 / <i>Westlands</i> , No. CV-81-245 Stipulated Judgment entered requiring future action by Reclamation to provide a Drainage Plan for Drainage Service Facilities subject to certain provisions and preserving certain claims for potential future litigation by the parties. Stipulated Judgment, <i>Barcellos v. Westlands</i> , No. 79-106 (E.D. Cal. Dec. 30, 1986) [JA00591-JA00648]	21

Fact No.	Date	Fact	Appendix
CC	1988 Dec. 9	<p><i>Firebaugh Canal Co. v. United States</i>, No. CV-F-88-634 (E.D. Cal.) Complaint filed. Plaintiffs, water districts downslope of the San Luis Unit, allege claims against Westlands and Reclamation. Among other claims, plaintiffs seek declaratory judgment that the San Luis Act obligates the United States construct adequate drainage facilities.</p> <p style="text-align: center;">Complaint, <i>Firebaugh Canal Co. v. United States</i>, No. CV-F-88-634 (E.D. Cal. Dec. 9, 1988) [JA00649-JA00664]</p>	22
DD	1989	<p>Reclamation forms San Luis Unit Drainage Program for the purpose of “provid[ing] a long-term solution to the agricultural drainage problem in San Luis Unit of the Central Valley Project.”</p> <p style="text-align: center;">Reclamation, San Luis Unit Drainage Program, Central Valley Project, California, Draft Environmental Impact Statement (Dec. 20, 1991), at Introductory Statement & S-1 [JA00667, JA00672]</p>	23
EE	1990 Sept.	<p>SJVDP issues its final report: “A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley,” Final Report of the San Joaquin Valley Drainage Program (aka “Rainbow Report”) “The report summarizes the results of an intensive study of the subsurface agricultural drainage problems of the western side of the San Joaquin Valley, and presents a plan and recommendations for managing those problems from 1990 to 2040.”</p> <p style="text-align: center;">San Joaquin Valley Drainage Program, A Management Plan for Agricultural Subsurface Drainage and Related Problems on the Westside San Joaquin Valley (Sept. 1990), at 1 [JA00719]</p>	24
FF	1991 Jan. 31	<p><i>Sumner Peck Ranch v. Bureau of Reclamation</i>, No. CV-F-91-048 (E.D. Cal.) Complaint for Equitable and Monetary Relief filed. Lawsuit by landowners against Interior seeking completion of master drain to the Delta.</p> <p style="text-align: center;">Complaint, <i>Sumner Peck Ranch v. Bureau of Reclamation</i>, No. CV-F-91-048 (E.D. Cal. Jan. 31, 1991) (<i>Sumner Peck</i> Docket Number (“SP Doc. #”) 1) [JA00783-JA00845]</p>	25

Fact No.	Date	Fact	Appendix
GG	1991 Dec. 20	<p>Reclamation releases Draft Environmental Impact Statement, San Luis Unit Drainage Program, Central Valley Project, California (“1991 DEIS”) in order to “address drainage needs through year 2007, satisfy requirements of the <i>Barcellos</i> Judgement, and be compatible with potential long-term solutions.”</p> <p style="text-align: center;">Reclamation, San Luis Unit Drainage Program, Central Valley Project, California, Draft Environmental Impact Statement (Dec. 20, 1991), at Introductory Statement & S-1 to S-8) [JA00667, JA00672-JA00679]</p>	23
HH	1992 May 26	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048</p> <p>Cases partially consolidated “for purposes of determining the obligation imposed by the San Luis Act . . . on the United States Department of Interior, Bureau of Reclamation, to provide drainage service.”</p> <p style="text-align: center;">Order Granting, In Part, and Denying, In Part, The Motion for Consolidation, <i>Sumner Peck v. Bureau of Reclamation</i>, No. CV-F-91-048 (E.D. Cal. May 26, 1992) at 1 [JA00847]</p>	26

Fact No.	Date	Fact	Appendix
II	1993 May 28	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048 Judge Wanger's Memorandum Opinion and Order Re: Plaintiffs' Motions for Partial Summary Judgment filed. Court grants Westlands' motion to dismiss with prejudice as to Plaintiffs' claims for negligence, trespass, and nuisance, grants dismissal of breach of mandatory duty claim with leave to amend, and denies Westlands' motion in all other respects. Court grants Federal Defendants' motion for judgment on the pleadings as to Plaintiffs' claims regarding alleged NEPA violations and negligence claims (as alleged in paragraph 140 (but not 140(a)), dismisses them with prejudice, and grants motion for judgment on the pleadings regarding inverse condemnation claims, dismissing it without prejudice. Court denies Federal Defendants' Motion for Judgment on the pleadings in all other respects and denies their motion for partial summary judgment as to discretionary immunity.</p> <p style="text-align: right;"><i>Sumner Peck Ranch v. Bureau of Reclamation</i>, 823 F. Supp. 715 (E.D. Cal. May 27, 1993) [JA00849-JA00876]</p>	27
JJ	1993 July 20	<p><i>Sumner Peck</i>, No. CV-F-91-048 (1st Revised) Third Amended Complaint for Equitable and Monetary Relief Pursuant to Stipulation and Order Dated July 19, 1993 filed.</p> <p style="text-align: right;">Third Amended Complaint, <i>Sumner Peck Ranch v. Bureau of Reclamation</i>, No. CV-F-91-048 (E.D. Cal. July 20, 1993) (SP Doc. # 143) [JA00877-00964]</p>	28
KK	1993 Aug. 09	<p><i>Sumner Peck</i>, No. CV-F-91-048 Answer of Defendant Bureau of Reclamation to Third Amended Complaint filed.</p> <p style="text-align: right;">Reclamation Answer, <i>Sumner Peck</i>, No. CV-F-91-048 (E.D. Cal. July 20, 1993) (SP Doc. # 148) [JA00965-JA00985]</p>	29

Fact No.	Date	Fact	Appendix
LL	1994 Jan. 04	<p><i>Sumner Peck</i>, No. CV-F-91-048 Judge Wanger's Stipulation and Order that United States' Answer to <i>Sumner Peck</i> Plaintiffs' Second Amended Complaint shall also be deemed as its answer to Third Amended Complaint filed.</p> <p style="text-align: center;">Stipulation, <i>Sumner Peck</i>, No. CV-F-91-048 (E.D. Cal. July 20, 1993) (<i>SP</i> Doc. # 166) [JA01072-JA01075]</p>	31
MM	1994 Aug. 30- Sep. 22	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048 Trial on first phase heard. The issues of concern were "(1) whether the [statutory] obligation of [Interior] to provide drainage for the San Luis Unit has been excused by factual or legal impossibility; (2) the extent of the court's authority to order compliance with that obligation; and (3) what monetary relief, if any, should be ordered if [the] Court finds [Interior's] obligation has not been excused."</p> <p style="text-align: center;">Court's Findings of Fact and Conclusions of Law, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Dec. 16, 1994), at 2:1-9 (<i>Firebaugh Canal</i> Docket Number ("FC Doc. #") 426) [JA01077]</p>	32
NN	1994 Dec. 16	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-04 Judge Wanger's Findings of Fact and Conclusions of Law based on first phase of trial filed. Court enters 134 Findings of Fact and 26 Conclusion of Law related to issues of concern in first phase of trial.</p> <p style="text-align: center;">Court's Findings of Fact and Conclusions of Law, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Dec. 16, 1994) (<i>FC</i> Doc. # 426) [JA01076-JA01122]</p>	32

Fact No.	Date	Fact	Appendix
OO	1995 Mar. 12	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048 Judge Wanger's Partial Judgment on Findings of Fact and Conclusions of Law Re Statutory Duty filed. Partial Judgment states that the San Luis Act established a statutory duty to provide drainage.</p> <p style="text-align: center;">Court's Partial Judgment on Findings of Fact and Conclusions of Law re Statutory Duty, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Mar. 12, 1995) (FC Doc. # 442) [JA01123-JA01136]</p>	33
PP	1995 Feb. 10	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048 United States appeals Judge Wanger's December 16, 1994, Injunction and Findings of Fact and Conclusions of Law to the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit")</p> <p style="text-align: center;">United States' Notice of Appeal, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Feb. 10, 1995), at 1-2 [JA01137-JA01138]</p>	34
QQ	2000 Feb. 4	<p><i>Firebaugh Canal Co. v. United States</i>, No. 95-15300 & No. 95-16641 (9th Cir.) Ninth Circuit issues Opinion.</p> <p style="text-align: center;"><i>Firebaugh Canal Co. v. United States</i>, 203 F.3d 568 (9th Cir. 2000) [JA00236-JA00245]</p>	06
RR	2000 Dec. 18	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048 Judge Wanger's Order Modifying Partial Judgment on Findings of Fact and Conclusions of Law Re: Statutory Duty to Conform to Ninth Circuit Opinion filed. Court modifies Partial Judgment on Findings of Fact and Conclusions of Law, filed March 12, 1995.</p> <p style="text-align: center;">Court's Order Modifying Partial Judgment on Findings of Fact and Conclusions of Law re Statutory Duty to Conform to Ninth Circuit Opinion, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Dec. 18, 2000) (FC Doc. # 654) [JA01139-JA01143]</p>	35

Fact No.	Date	Fact	Appendix
SS	2001 Apr. 18	<p>Reclamation issues Plan of Action for Drainage to the San Luis Unit Central Valley Project. Reclamation announces that it “will initiate immediately a detailed review of all reasonable alternatives for providing drainage service to lands within the San Luis Unit.”</p> <p style="text-align: center;">Reclamation, San Luis Drainage Feature Re-evaluation, Plan of Action (Apr. 18, 2001), at 2 [JA01145]</p>	36
TT	2001 Dec.	<p>Reclamation issues San Luis Unit Drainage Feature Re-evaluation Preliminary Alternatives Report. Report summarizes results of Reclamation’s (i) review of previous studies and development of preliminary options and alternatives for providing drainage service to San Luis Unit of Central Valley Project, and (ii) project scoping to seek public comments on the scope, process, and alternatives for the Feature Re-evaluation effort.</p> <p style="text-align: center;">Reclamation, San Luis Drainage Feature Re-evaluation, Preliminary Alternatives Report (Dec. 2001), at ES-1 [JA00536]</p>	17
UU	2002 Sept. 3	<p><i>Sumner Peck</i>, No. CV-F-91-048</p> <p>A group of plaintiff landowners known as the Britz Plaintiffs, Westlands, and the United States enter into “Agreement Among the United States, Westlands Water District, and the Britz Plaintiffs for Settlement of the <i>Sumner Peck</i> Lawsuit” (also known as the Britz Settlement).</p> <p style="text-align: center;">Consent Order Pursuant to Settlement Agreement, <i>Sumner Peck</i>, No. CV-F-91-048 (E.D. Cal. Feb. 7, 2003), at 1:25-2:2 [JA01318-JA01319]</p>	41

Fact No.	Date	Fact	Appendix
VV	2002 Oct. 24	<p><i>Sumner Peck</i>, No. CV-F-91-048/ <i>Firebaugh Canal</i>, No. CV-F-88-634 Judge Wanger’s Memorandum Decision and Order Re: Peck Plaintiff’s Motion to Modify July 8, 2002 Memorandum and Order (<i>FC Doc. 749</i>) filed. Court grants the Peck Plaintiffs’ (another group of plaintiff landowners) motion to amend the July 8, 2002 memorandum and order under FRCP 60(a) and FRCP 60(b) and denies Federal Defendants’ motion to dismiss the Peck Plaintiffs’ inverse condemnation claim against Federal Defendants.</p> <p style="text-align: center;">Court’s Memorandum Decision and Order Re: Peck Plaintiff’s Motion to Modify July 8, 2012 Memorandum and Order, <i>Sumner Peck</i>, No. CV-F-91-048 (E.D. Cal. Oct. 24, 2002), at 23:1-28 (<i>SP Doc. # 749</i>) [JA01190]</p>	37
WW	2002 Dec. 11	<p><i>Sumner Peck</i>, No. CV-F-91-048 Peck Plaintiffs, Westlands, and the United States enter into “Agreement Among the United States, Westlands Water District, and the Peck Plaintiffs for Settlement of the <i>Sumner Peck</i> Lawsuit” (also known as the Peck Settlement).</p> <p style="text-align: center;">Court’s Memorandum Decision and Order Re: Motion to Approve and Enter Consent Decree and Consent Judgment, <i>Sumner Peck</i>, No. CV-F-91-048 (E.D. Cal. Feb. 06, 2002) (<i>SP Doc. # 798</i>) [JA01251-JA01317]</p>	40
XX	2002 Dec.	<p>Reclamation issues San Luis Drainage Feature Re-evaluation Plan Formulation Report. The primary purpose of the report is to describe the final set of alternatives being evaluated by Reclamation to provide drainage service to the San Luis Unit and to present the selection process for the proposed action.</p> <p style="text-align: center;">Reclamation, San Luis Drainage Feature Re-evaluation, Plan Formulation Report (Dec. 2002), at ES-1 [JA01212]</p>	39

Fact No.	Date	Fact	Appendix
YY	2003 Feb. 6	<p><i>Sumner Peck</i>, No. CV-F-91-048 Judge Wanger's Memorandum Decision and Order Re: Motion to Approve and Enter Consent Decree and Consent Judgment, Including Findings of Fact and Conclusions of Law, attaching Settlement Agreement.</p> <p>Court's Memorandum Decision and Order Re: Motion to Approve and Enter Consent Decree and Consent Judgment, <i>Sumner Peck</i>, No. CV-F-91-048 (E.D. Cal. Feb. 06, 2003) (SP Doc. # 798) [JA01251-JA01317]</p>	40
ZZ	2003 Feb. 7	<p><i>Sumner Peck</i>, No. CV-F-91-048 Consent Order Pursuant to Settlement Agreement entered. The order memorializes the parties' agreements waiving and releasing the United States from any obligation to provide drainage to the 3,006 acres of land covered by the Britz Settlement and the 34,100 acres of land covered by the Peck Settlement. The order further specifies that nothing in the Court's Partial Judgment divests Interior of discretion to choose means of providing drainage.</p> <p>Court's Consent Order Pursuant to Settlement, <i>Sumner Peck</i>, No. CV-F-91-048 (E.D. Cal. Feb. 07, 2003) (SP Doc. # 800) [JA01318-JA01324]</p>	41
AAA	2003 Mar. 12	<p><i>Sumner Peck</i>, No. CV-F-91-048 Judge Wanger's Stipulation and Order of Voluntary Dismissal Upon Settlement filed. Stipulated Order regarding dismissal of pending claims, counter-claims and cross-claims between parties.</p> <p>Stipulation and Order of Voluntary Dismissal Upon Settlement, <i>Sumner Peck</i>, No. CV-F-91-048 (E.D. Cal. Mar. 12, 2003) (SP Doc. # 810) [JA01325-JA01334]</p>	42

Fact No.	Date	Fact	Appendix
BBB	2003 Dec. 16	<p><i>Firebaugh Canal Water District v. United States</i>, No. 1:03-cv-02790 (Federal Cl.) Firebaugh Canal Water District and Central California Irrigation District's takings claim transferred from Eastern District Court of California.</p> <p style="text-align: center;">Transfer Notice, <i>Firebaugh Canal Water District v. United States</i>, No. 1:03-cv-02790 (Fed. Cl. Dec. 16, 2003) (Doc. # 1) [JA01335]</p>	43
CCC	2004 Jan. 27	<p><i>Firebaugh Canal v. United States</i>, No. 1:03-cv-02790 (Court of Federal Claims) Complaint filed. Plaintiffs Firebaugh Canal Water District and Central California Irrigation District allege that failure of the United States to provide drainage service to the San Luis Unit of the Central Valley Project has transferred additional drainage requirements onto the lands within Plaintiffs' service area resulting in a partial taking of property rights and interests.</p> <p style="text-align: center;">Complaint, <i>Firebaugh Canal Water District v. United States</i>, No. 1:03-cv-02790 (Fed. Cl. Jan. 27, 2004) (Doc. #7) [JA01336-JA01357]</p>	44
DDD	2004 June 01	<p><i>Sumner Peck</i>, No. CV-F-91-048/ <i>Firebaugh Canal</i>, No. CV-F-88-634 Plaintiffs Firebaugh Canal Water District and Central California Irrigation District file their Fifth Amended Complaint for Declaratory and Injunctive Relief and for Damages.</p> <p style="text-align: center;">Fifth Amended Complaint, <i>Sumner Peck</i>, No. CV-F-91-048 (E.D. Cal. June 1, 2004) (SP Doc. # 930) [JA01358-JA01398]</p>	45
EEE	2004 July	<p>Reclamation issues San Luis Drainage Feature Re-evaluation Plan Formulation Report – Addendum. Addendum summarizes “changes to the drainage disposal alternatives since December 2002, documents the development of new land retirement alternatives, and describes the additional land retirement alternatives to be evaluated in the Environmental Impact Statement (EIS).”</p> <p style="text-align: center;">Reclamation, San Luis Drainage Feature Re-evaluation, Plan Formulation Report - Addendum (July 2004), at E-1 [JA01406]</p>	46

Fact No.	Date	Fact	Appendix
FFF	2005 Jan. 31	<p><i>Firebaugh Canal v. United States</i>, Case No. 1:03-cv-02790 (Fed. Cl.)</p> <p>Judge Sybolt issues Order and Opinion Granting Motion to Dismiss Pursuant to Rule 12(b)(1). Court dismisses Plaintiff Firebaugh Canal Water District and Plaintiff Central California Water District's inverse condemnation claim.</p> <p>Opinion and Order, <i>Firebaugh Canal v. United States</i>, Case No. 1:03-cv-02790 (Fed. Cl. Jan. 31, 2005) (Doc. # 16) [JA01421-JA01429]</p>	47
GGG	2005 Feb. 01	<p><i>Firebaugh Canal Water District v. United States</i>, Case No. 1:03-cv-02790 (Fed. Cl.)</p> <p>Judge Sybolt dismisses action based on lack of jurisdiction under 28 U.S.C. § 1500.</p> <p>Docket, <i>Firebaugh Canal v. United States</i>, Case No. 1:03-cv-02790 (Fed. Cl. Feb. 1, 2005) (Doc. # 17) [JA01432]</p>	48
HHH	2005 Feb. 28	<p><i>Firebaugh Canal Water District v. United States</i>, Case No. 1:03-cv-00262 (Court of Federal Claims)</p> <p>Complaint filed. Plaintiffs Firebaugh Canal Water District and Central California Water District allege that failure of the United States to provide drainage service to the San Luis Unit of the Central Valley project has transferred additional drainage requirements onto the lands within Plaintiffs' service area resulting in a partial taking of property rights and interests.</p> <p><i>Firebaugh Canal v. United States</i>, Case No. 1:03-cv-00262 (Fed. Cl. Feb. 28, 2005) at 1:19-24 (Doc. # 1) [JA01433]</p>	49
III	2005 May	<p>Reclamation issues San Luis Drainage Feature Re-evaluation Draft Environmental Impact Statement for San Luis Drainage Feature Re-evaluation. "This Draft Environmental Impact Statement (EIS) provides information on the environmental effects of seven action alternatives for providing drainage service to the San Luis Unit (the Unit) and provides the public and interested agencies an opportunity for review and comment."</p> <p>Reclamation, San Luis Drainage Feature Re-evaluation, Draft Environmental Impact Statement (May 2005), at ES-1 [JA01467]</p>	50

Fact No.	Date	Fact	Appendix
JJJ	2006 Mar. 29	<p><i>Firebaugh Canal</i>, Case No. 1:03-cv-00262 (Fed. Cl.) Judge Bruggink issues Order dismissing action based on lack of jurisdiction under 28 U.S.C. § 1500. Opinion reissued on May 25, 2006.</p> <p style="text-align: center;">Order, <i>Firebaugh Canal</i>, Case No. 1:03-cv-00262 (Fed. Cl. Mar. 29, 2006) (Doc. # 29) [JA01542-JA01552]</p>	51
KKK	2006 May	<p>Reclamation issues San Luis Drainage Feature Re-evaluation Final Environmental Impact Statement for San Luis Drainage Feature Re-evaluation. The Final EIS provides information on the environmental effects of seven action alternatives for providing drainage service to the San Luis Unit.</p> <p style="text-align: center;">Reclamation, San Luis Drainage Feature Re-evaluation, Final Environmental Impact Statement (May 2006), at ES-1 [JA01559]</p>	52
LLL	2007 Mar.	<p>Reclamation issues San Luis Drainage Feature Re-evaluation Record of Decision. The Record of Decision sets forth Reclamation's decision to select the In-Valley/Water Needs Lands Retirement Alternative.</p> <p style="text-align: center;">Reclamation, San Luis Drainage Feature Re-evaluation, Record of Decision (March 2007), at 4 [JA00405]</p>	10
MMM	2007 Dec. 27	<p>Westlands and the United States enter into "Interim Renewal Contract Between the United States and Westlands Water District Providing for Project Water Service, San Luis and Delta Division" (Contract No. 14-06-200-495A-IR1) ("2007 Interim Renewal Contract").</p> <p style="text-align: center;">2007 Interim Renewal Contract [JA01746-JA01826]</p>	53

Fact No.	Date	Fact	Appendix
NNN	2008 Mar.	<p>Reclamation issues San Luis Drainage Feature Re-evaluation Feasibility Report. “The purpose of report is to determine if the proposed action is feasible and warrants Federal implementation. It re-examines the Federal interest, documents the estimated total cost of the two proposed action alternatives, allocates costs, determines the beneficiaries’ ability to repay costs, and supports a recommendation from the Secretary of the Interior to the Congress leading either to construction or concluding the proposed action.”</p> <p style="text-align: center;">Reclamation, San Luis Drainage Feature Re-evaluation, Feasibility Report (March 2008), at iii [JA00250]</p>	07
OOO	2008 July 8	<p>Reclamation transmits the San Luis Drainage Feature Re-evaluation Feasibility Report to Congress.</p> <p style="text-align: center;">Letter from Robert Johnson, Commissioner, to Hon. Jeff Bingaman (July 8, 2008) (FC Doc. #727-1) [JA01827-JA01829]</p>	54
PPP	2009 July 22	<p><i>Firebaugh Canal</i>, CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048</p> <p>Judge Wanger issues Scheduling Conference Order Court orders that Federal Defendants shall provide “a report to the Court identifying what specific actions will be taken to provide drainage to the San Luis Unit and a specific time table to implement drainage.”</p> <p style="text-align: center;">Scheduling Conference Order, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. July 22, 2009) (FC Doc. # 740) [JA01830-JA01832]</p>	55
QQQ	2009 Oct. 23	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048</p> <p>Reclamation files Federal Defendants’ Report to the Court. Reclamation reports “what specific actions will be taken to provide drainage to the San Luis Unit and a specific time table to implement drainage.”</p> <p style="text-align: center;">Federal Defendants’ Report to the Court, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Oct. 29, 2003) (FC Doc. # 743) [JA01833-JA01844]</p>	56

Fact No.	Date	Fact	Appendix
RRR	2009 Nov. 18	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048</p> <p>All parties submit Supplemental Status Report to discuss further proceedings in case. Supplemental Status Report attaches Control Schedule for San Luis Unit Central Valley Project Drainage System Reformulation, Westlands Water District – North Area.</p> <p>Supplemental Status Report, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Nov. 18, 2009) (<i>FC Doc. # 752</i>) [JA01845-JA01855]</p>	57
SSS	2010 Feb. 26	<p>Westlands and the United States enter into “Interim Renewal Contract Between the United States and Westlands Water District Providing for Project Water Service” (Contract No. 14-06-200-495A-IR2) (“2010 Interim Renewal Contract”).</p> <p>2010 Interim Renewal Contract [JA01856-JA01861]</p>	58
TTT	2010 Apr. 1	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048</p> <p>Reclamation files Federal Defendants’ Status Report of April 1, 2010 to report the present status of its actions to provide drainage service to the San Luis Unit.</p> <p>Federal Defendants’ Status Report, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Apr. 1, 2010) (<i>FC Doc. # 761</i>) [JA01862-JA01870]</p>	59
UUU	2010 Sept. 1	<p>Reclamation Commissioner Michael L. Connor sends Senator Diane Feinstein letter regarding elements of a long-term drainage strategy for the San Luis Unit of the Central Valley Project that the Administration can support by the end of 2009, subject to the President’s authority to recommend to Congress’s consideration such measures as he shall judge necessary and expedient.</p> <p>Supplemental Declaration of M. Connor, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Oct. 10, 2010), at Ex. 1 (<i>FC Doc. # 814</i>) [JA01875-JA01879]</p>	60

Fact No.	Date	Fact	Appendix
VVV	2010 Oct. 01	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048</p> <p>Reclamation files Federal Defendants' Status Report of October 1, 2010, to report the present status of its actions to provide drainage service to the San Luis Unit. Status Report attaches Commission Conner's September 1, 2010 letter to Senator Feinstein.</p> <p>Federal Defendants' Status Report, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Oct. 1, 2010) (FC Doc. # 812) [JA01880-JA01888]</p>	61
WWW	2011 Apr. 1	<p>Reclamation files Federal Defendants' Status Report of April 1, 2011 to report the present status of its actions to provide drainage service to the San Luis Unit.</p> <p>Federal Defendants' Status Report, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Apr. 1, 2011) (FC Doc. # 864) [JA01889-JA01896]</p>	62
XXX	2011 Apr. 7	<p>Westlands General Manager, Thomas W. Birmingham, sends Senator Feinstein letter in response to Reclamation's September 1, 2010 letter.</p> <p>Letter from T. Birmingham to Sen. D. Feinstein (Apr. 7, 2011) [JA01897-JA01902]</p>	63

Fact No.	Date	Fact	Appendix
YYY	2011 June 15	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 Westlands files Motion Regarding the December 2009 Scheduling Order and Provision of Drainage within Westlands. Westlands moves for clarification that the Court's December 23, 2009 Scheduling Order does not prohibit Federal Defendants from varying the Control Schedule incorporated into the Scheduling Order, provided that Federal Defendants inform Court of changes from the Control Schedule. Alternatively, Westlands moves for a further order amending the Scheduling Order to allow Federal Defendants an additional 120 days to examine feasibility of implementing drainage first within Westlands' central subunit instead of Westlands' northern subunit.</p> <p style="padding-left: 40px;">Westlands' Notice of Motion and Motion Re: December 2009 Scheduling Order and Provision of Drainage within Westlands, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. June 15, 2011) (<i>FC Doc. # 876</i>) [JA01903-JA01905]</p> <p style="padding-left: 40px;">Westlands' Memorandum in Support of Motion Re: December 2009 Scheduling Order and Provision of Drainage within Westlands, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. June 15, 2011) (<i>FC Doc. # 877</i>) [JA01906-JA01912]</p>	64 65
ZZZ	2011 July 5	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 Judge Wanger issues Order Following Hearing Regarding Amendment to Control Schedule. Court grants Westlands' motion to amend Scheduling Order.</p> <p style="padding-left: 40px;">Order Following Hearing Regarding Amendment to Control Schedule, <i>Firebaugh Canal</i>, No. CV-F-88-634 (July 5, 2011) (<i>FC Doc. # 908</i>) [JA01913-JA01914]</p>	66

Fact No.	Date	Fact	Appendix
AAAA	2011 Sept. 30	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 Judge Wanger's Memorandum Decision Re: Cross-Motions for Summary Judgment filed. Court grants Federal and District Defendants' motions for summary judgment on Plaintiffs' claim under APA section 706(2). Court denies without prejudice Plaintiffs' motion for summary judgment on their APA section 706(1) claim. Court grants without prejudice to a renewed claim based on future circumstances Federal and District Defendants' cross-motions.</p> <p style="text-align: center;">Memorandum Decision Re: Cross-Motions for Summary Judgment, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Sept. 30, 2011) (FC Doc. # 916) [JA01915-JA01950]</p>	67
BBBB	2011 Sept. 30	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048 Reclamation files Federal Defendants' Status Report of October 1, 2011 to report the present status of its actions to provide drainage service to the San Luis Unit.</p> <p style="text-align: center;">Federal Defendants' Status Report, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Oct. 1, 2011) (FC Doc. # 912) [JA01951-JA01958]</p>	68
CCCC	2011 Nov. 04	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048 Reclamation files Federal Defendants' Supplemental Status Report Re: Control Schedule to report the results of Reclamation's investigation of a proposed location change in the initiation of construction of drainage facilities within Westlands under the 2007 Record of Decision.</p> <p style="text-align: center;">Federal Defendants' Supplemental Status Report Re: Control Schedule, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Nov. 4, 2011) (FC Doc. # 921) [JA01959-JA01964]</p>	69
DDDD	2012 Mar. 19	<p><i>Firebaugh Canal</i>, No. CV-F-88-634 / <i>Sumner Peck</i>, No. CV-F-91-048 Judge O'Neill enters Final Judgment on Claims in Plaintiffs' Fifth Amended Complaint.</p> <p style="text-align: center;">Final Judgment on Claims in Plaintiffs' Fifth Amended Complaint, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Mar. 9, 2011) (FC Doc. # 945) [JA01965-JA01966]</p>	70

Fact No.	Date	Fact	Appendix
EEEE	2012 Mar. 30	<p><i>Firebaugh Canal Co. v. United States</i>, No. CV-F-88-634 <i>/Sumner Peck Ranch v. Bureau of Reclamation</i>, No. CV-F-91-048 Federal Defendants' Status Report of April 1, 2012 to report the present status of its actions to provide drainage service to the San Luis Unit.</p> <p>Federal Defendants' Status Report, <i>Firebaugh Canal</i>, No. CV-F-88-634 (E.D. Cal. Mar. 30, 2012) (FC Doc. # 946) [JA01967-JA01975]</p>	71

Respectfully submitted,

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