

IN THE UNITED STATES COURT OF FEDERAL CLAIMS

Electronically Filed on January 14, 2014

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

FIRST JOINT STATUS REPORT REGARDING SETTLEMENT DISCUSSIONS

Pursuant to the Court’s Order dated October 25, 2013 (ECF No. 82), Plaintiffs and Defendant United States of America (the “Parties”) respectfully submit the following joint status report regarding the progress of their settlement discussions.

1. As reported by the Parties during the October 24, 2013, status conference in this matter, settlement discussions between the Parties, together with other interested entities, have been ongoing. As a result, the Parties requested and received a six-month stay of this case in order to pursue settlement. Order, Dec. 25, 2013 (ECF No. 82). The Court also ordered the Parties to file joint status reports on January 14, March 14, and May 14, 2014, to indicate the progress of their settlement discussions and whether it continues to be appropriate for this case to be stayed. *Id.*

2. Since the October 24, 2013, status conference, the Parties and other interested entities have continued to discuss the possibility of settlement of this case and two related litigations: *Firebaugh Canal Water Dist., et al. v. United States, et al.*, Case No. 88-cv-634-LJO (E.D. Cal.) (“*Firebaugh*”) and *Westlands Water Dist. v. United States*, Case No. 2013-5069 (Fed. Cir.) (“*Westlands*”). The United States and Westlands Water District (“Westlands”) have

identified principles on which to negotiate a potential settlement agreement which, if approved, would resolve all pending claims in this case and in *Westlands*, and those claims in *Firebaugh* which involve the provision of drainage in the San Luis Unit, including Westlands and those water districts located in the northerly area of the San Luis Unit (the “Northerly Districts”).

3. Based on those preliminary discussions, Westlands and the United States believe that a settlement of claims related to the provision of drainage service to lands within Westlands

the parties there to file a status report within 90 days indicating whether the stay should continue. Order, *Westlands*, at 1 (ECF No. 36). The parties' joint motion noted that such a settlement may also resolve the pending action in the United States Court of Federal Claims without resort to further litigation. Joint Motion to Stay Proceedings, *Westlands*, at 1-2 (ECF No. 34).

6. Since the entry of the stay in this case, the United States and Westlands have conferred regarding broad principles of agreement for a potential settlement. In addition, the United States and representatives of the Northerly Districts initiated parallel discussions over drainage-related issues. Based on the progress of those discussions, counsel for the United States in this case and in *Firebaugh* have conferred with Department of Justice leadership and will pursue the negotiation of specific settlement terms based generally on the broad principles outlined by the United States and Westlands.

7. In addition to the foregoing discussions, counsel for Plaintiffs and representatives of Westlands continue to be engaged in discussions regarding a potential settlement that would resolve the claims of Plaintiffs and other affected landowners in Westlands which are predicated on the alleged lack of drainage or drainage service. These discussions have included a telephonic conference call and an in-person meeting in Fresno, California in December 2013. Additional follow-up meetings are planned, with the next one currently scheduled for February 2014.

8. Based on the foregoing, the Parties remain optimistic that a settlement may be reached. Accordingly, the Parties believe that this case's six-month stay should continue.

9. Pursuant to the Court's October 25, 2013, Order, the Parties will file their second joint status report regarding ongoing settlement efforts on March 14, 2014.

Dated: January 14, 2014

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