

2. As was reported previously, 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 Water Dist. v. United States*, Case No. 2013-5069 (Fed. Cir.) (“*Westlands*”), and which may affect the provision of drainage service under orders issued by the district court in *Firebaugh Canal Water Dist., et al. v. United States, et al.*, Case No. 88-cv-634-LJO (E.D. Cal.) (“*Firebaugh*”).

3. Based on the progress of discussions with Westlands, counsel for the United States in this case and in *Firebaugh* have conferred with Department of Justice leadership and are pursuing the negotiation of specific settlement terms based generally on the broad principles outlined by the United States and Westlands. The United States is also exploring potential terms of a drainage settlement with San Luis Unit water districts located to the north of Westlands (known as the Northerly Districts).

4. On March 20, 2014, the United States and Westlands met in Sacramento, California to continue settlement negotiations. Those discussions refined how the draft principles of agreement will be incorporated into a proposed settlement agreement. The United States and Westlands intend to conduct briefings for members of Congress and other interested parties and stakeholders. The first of these meetings occurred with United States Senator Dianne Feinstein on May 12, 2014.

5. Plaintiffs’ counsel and representatives of Westlands also 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. On April 16, 2014, Plaintiffs’ counsel and Westlands representatives convened in-person in Fresno, California to discuss a potential settlement structure. Plaintiffs continue to

analyze the settlement principles and intend to engage a third party neutral to assist in this process.

6. In addition, on March 12, 2014, in the *Westlands v. United States* action, the Federal Circuit granted a stay of the appeal in that case for 60 days from that date, with direction to the parties to provide the court of appeals with a status report in 60 days indicating whether the stay should continue. Order, Mar. 12, 2014, *Westlands* (ECF No. 38). This was an additional 60-day extension of the 90-day stay the *Westlands* court had previously granted. *See* Order, Dec. 6, 2013 (ECF No. 36). On May 12, 2014, Westlands and the United States filed their Joint Status Report and Further Motion for Stay of Proceedings in that matter. Joint Status Report and Further Motion for Stay of Proceedings, May 12, 2014, Westlands (ECF No. 39). The parties reported to the court that “discussions between the parties have progressed” since the court’s last stay order and requested an additional 60-day stay until July 11, 2014 to continue settlement discussions and to resolve disputed issues in the appeal. *See id.* This current motion is pending.

7. The six-month partial suspension of the Revised Control Schedule entered in the *Firebaugh* matter which was ordered by United States District Court for the Eastern District of California in November 2013 in order to allow parties to pursue settlement expired on May 12, 2014. Order Temporarily Suspending Federal Defendants’ Drainage Activities Within Westlands, Nov. 13, 2013, *Firebaugh*, at 3 (ECF No. 973). Due to the progress of the ongoing settlement discussions, on April 30, 2014, upon a motion made by Westlands, and with the concurrence of the United States and all other parties to the *Firebaugh* litigation, the District Court approved a six-month extension of the suspension of the Revised Control Schedule as it relates to the construction of drainage facilities in Westlands, so that Westlands and the United

States could continue their settlement negotiations. Order Extending Temporary Suspension of Federal Defendants' Drainage Activities Within Westlands, *Firebaugh*, at 4 (ECF No. 979). The District Court cautioned the parties that "further extension requests will be viewed with disfavor and must be supported by specific showings of: (a) substantial progress toward settlement; and (b) the absence of harm to the public interest resulting from further delay." *Id.*

8. Based on the foregoing, the Parties remain optimistic that a settlement can be reached. Accordingly, the Parties believe that this case should be stayed for another six-month period and respectfully request such a stay. If granted, the Parties propose that they continue to file Joint Status Reports regarding ongoing settlement efforts every two months on July 14, 2014, September 15, 2014, and November 14, 2014. The Parties further propose that in the November 14, 2014 Joint Status Report, the Parties discuss proposals regarding how to proceed in this case and to include a proposed timeline.

9. Plaintiffs further request that any stay granted by the Court provide allowances to the Parties to make motions with or otherwise seek relief from the Court during the stay period that will facilitate the settlement (e.g., motion to preliminarily approve a proposed settlement class and motion for final approval of the proposed settlement).

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