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9 UNITED STATES DISTRICT COURT
 10 EASTERN DISTRICT OF CALIFORNIA

11 FIREBAUGH CANAL WATER
 12 DISTRICT and CENTRAL CALIFORNIA
 IRRIGATION DISTRICT,

13 Plaintiffs,

14 v.

15 UNITED STATES OF AMERICA; et al.,

16 Defendants.
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CASE NO. 1:88-cv-00634 OWW DLB

CONSOLIDATED WITH
 1:91-cv-00048 OWW DLB

**DEFENDANT WESTLANDS WATER
 DISTRICT'S APPLICATION FOR AN
 ORDER SHORTENING TIME TO HEAR
 MOTION REGARDING THE
 DECEMBER 2009 SCHEDULING ORDER
 AND PROVISION OF DRAINAGE
 WITHIN WESTLANDS**

18 SUMNER PECK RANCH, INC., et al.,

19 Plaintiffs,

20 v.

21 BUREAU OF RECLAMATION, et al.,

22 Defendants.
 23

**DECLARATION OF ANDREW P.
 TAURIANEN**

ORDER SHORTENING TIME

24 **APPLICATION FOR ORDER SHORTENING TIME**

25 Pursuant to Local Civil Rule 144(e), Defendant Westlands Water District ("Westlands")
 26 respectfully applies for an order shortening the time to hear its Motion Regarding the December
 27 2009 Scheduling Order and Provision of Drainage within Westlands, filed concurrently. The
 28 undersigned contacted counsel for all parties on June 14, 2011, to obtain their position on this

1 application to shorten time. Counsel for Plaintiffs have indicated that they would prefer a hearing
2 during the afternoon of June 30, but have not expressly indicated whether the Plaintiffs object to
3 this Application. The Federal Defendants, Environmental Intervenors and the remaining parties
4 have each indicated that they do not object to this Application.

5 Westlands requests that the Court enter an Order in response to this Application providing
6 that any responses to the Motion Regarding the December 2009 Scheduling Order be submitted
7 by 5:00 p.m. on June 23, 2011, that any reply in support of the Motion Regarding the December
8 2009 Scheduling Order to due by 5:00 p.m. on June 27, 2011, and that the Motion Regarding the
9 December 2009 Scheduling Order be heard at noon on June 30, 2011, or as soon thereafter as the
10 Court is available to hear it.

11 This Court has authority to shorten the time to hear the Motion Regarding the December
12 2009 Scheduling Order. Rule 6(c) of the Federal Rules of Civil Procedure sets forth the time for
13 hearings on noticed motions “except[] . . . when a court order – which a party may, for good
14 cause, apply for ex parte – sets a different time.” Fed. R. Civ. P. 6(c)(1); *see also United States v.*
15 *Fitch*, 472 F.2d 548, 549 n.5 (9th Cir. 1973) (citing former Rule 6(c) and explaining that this rule
16 “allows the district court discretion to shorten time”). The Local Civil Rules for the U.S. District
17 Court for the Eastern District of California recognize this authority, and provide that “applications
18 to shorten time shall set forth by affidavit of counsel the circumstances claimed to justify the
19 issuance of an order shortening time.” Local R. 144(e).

20 Good cause exists for this application. The proposed modification of the Control
21 Schedule described in the concurrent Motion calls for the Federal Defendants to undertake
22 feasibility studies regarding Westlands’ proposal to implement drainage first on the Westlands
23 central subunit. These studies will require approximately 120 days beyond the Control Schedule
24 incorporated into the Court’s December 23, 2009, Order Following Scheduling Conference
25 (“Scheduling Order”), Doc. 758. Westlands desires that the Federal Defendants commence on
26 the necessary feasibility studies as soon as possible. As described in the Memorandum in Support
27 of the Motion filed concurrently, a stipulated modification of the Control Schedule is not
28 possible, and a noticed hearing is required to either clarify the Scheduling Order or to obtain the

1 Court's approval of the 120-day modification. In addition, and perhaps most significantly,
2 counsel for the Federal Defendants will be unavailable for most of July.

3 Westlands thus respectfully requests that the Court exercise the authority granted to it by
4 Fed. R. Civ. P. 6(c)(1) and Local Civil Rule 144(e) here and shorten the time by which the
5 Motion Regarding the December 2009 Scheduling Order and Provision of Drainage will be
6 briefed.

7 Dated: June 15, 2011

Respectfully submitted,

8 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
9 A Professional Corporation

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11 By /s/ Daniel J. O'Hanlon
12 DANIEL J. O'HANLON
13 Attorneys for Defendant Westlands Water District
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DECLARATION OF ANDREW P. TAURIAINEN

I, Andrew P. Tauriainen, declare as follows:

1. I am an associate in the firm of Kronick, Moskovitz, Tiedemann & Girard, counsel of record for Defendant Westlands Water District. I make this declaration pursuant to Local Rule 144(e).

2. Concurrent with this application, Westlands has moved to clarify the Court's December 23, 2009 Order Following Scheduling Conference in light of a proposed modification to the Control Schedule incorporated into that Order. The proposed modification calls for the Federal Defendants to undertake feasibility studies regarding Westlands' proposal to implement drainage first on the Westlands central subunit. These studies will require approximately 120 days beyond the Control Schedule incorporated into the Court's December 23, 2009, Order Following Scheduling Conference, Doc. 758.

3. Westlands desires that the Federal Defendants commence on the necessary feasibility studies as soon as possible. Based on previous statements made by the Plaintiffs, a stipulated modification of the Control Schedule is not possible, and a noticed hearing is required to either clarify the Scheduling Order or to obtain the Court's approval of the 120-day modification.

4. The Court and the parties have been informed that counsel for the Federal Defendants will be unavailable for most of July. (See Doc. 874 (describing unavailability of counsel).)

5. On June 14, 2011, I sent counsel for the Federal Defendants, Plaintiffs, remaining District Defendants, and Environmental Intervenors an electronic mail at the email addresses of record notifying them of Westlands' intent to seek an ex parte application to shorten time in this Court. A copy of my electronic mail correspondence is attached hereto. As of the close of business on June 14, 2011, counsel for Plaintiffs have not notified me of their position on this ex parte application, although they did indicate their preference for a hearing during the afternoon of June 30. Counsel for the Federal Defendants, the Environmental Intervenors and the remaining parties have each notified me that they do not oppose this ex parte application.

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I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct, and that this declaration was executed on June 15, 2011, at Sacramento, California.

/s/ Andrew P. Tauriainen
ANDREW P. TAURIAINEN

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ORDER SHORTENING TIME

Upon application of Westlands Water District, and good cause appearing, **IT IS**
HEREBY ORDERED that the time for hearing Westlands Water District’s Motion Regarding
the December 2009 Scheduling Order and Provision of Drainage within Westlands is hereby
shortened, and the hearing on said motion shall be on June 30, 2011, at 12:00p.m. Any response
to that motion shall be filed by 5:00 p.m. on June 23, 2011. Any reply brief shall be filed by
5:00 p.m. on June 27, 2011.

IT IS SO ORDERED.

DATED: June 16, 2011

/s/ OLIVER W. WANGER
United States District Judge