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MENDOTA WATER AUTHORITY

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

THE DELTA SMELT CASES

SAN LUIS & DELTA-MENDOTA WATER
AUTHORITY, et al. v. SALAZAR, et al.
(Case No. 1:09-cv-407)

STATE WATER CONTRACTORS v.
SALAZAR, et al. (Case No. 1:09-cv-422)

COALITION FOR A SUSTAINABLE
DELTA, et al. v. UNITED STATES FISH
AND WILDLIFE SERVICE, et al. (Case No.
1:09-cv-480)

METROPOLITAN WATER DISTRICT v.
UNITED STATES FISH & WILDLIFE
SERVICE, et al. (Case No. 1:09-cv-631)

STEWART & JASPER ORCHARDS, et al. v.
UNITED STATES FISH AND WILDLIFE
SERVICE, et al. (Case No. 1:09-cv-892)

FAMILY FARM ALLIANCE v. SALAZAR,
et al. (Case No. 1:09-cv-1201)

Case No. 1:09-cv-407-LJO-BAM
1:09-cv-422-LJO-DLB
1:09-cv-631-LJO-DLB
1:09-cv-892-LJO-DLB

Partially Consolidated With:
1:09-cv-480-LJO-GSA
1:09-cv-1201-LJO-DLB

**THIRD STIPULATION AND ORDER
REGARDING MOTION FOR
ATTORNEYS' FEES AND OTHER
EXPENSES**

The Hon. Lawrence J. O'Neill

1 To facilitate settlement discussions regarding Plaintiff San Luis & Delta-Mendota Water
2 Authority's ("Authority") claim for attorneys' fees and other expenses in this case, the Authority
3 and Defendants Sally Jewell, Secretary of Interior, et al. ("Federal Defendants") have twice before
4 stipulated to, and the Court has ordered, a stay on briefing and argument of the Authority's motion
5 for attorneys' fees and other expenses. Doc. 1144, Doc.1149. These parties have now reached a
6 recommended agreement in principle to settle the Authority's fees claim, subject to review within
7 the Department of Justice and the Department of the Interior. To allow time for the review of the
8 proposed settlement, the Authority and Federal Defendants jointly request that this Court extend
9 the stay on Authority's motion for attorneys' fees and other expenses for an additional 90 days, to
10 December 15, 2015. The parties are requesting the same extension of a stay on the Authority's
11 pending motion for attorneys' fees in the Consolidated Salmon Cases, Case 1:09-cv-1053-LJO-
12 BAM, which these parties have likewise settled in principle.

13 In support of this request, the Authority and Federal Defendants stipulate as follows:

14 1. On February 10, 2015, the Authority filed a motion for an award of attorneys' fees
15 and other expenses for this litigation. Doc. 1137.

16 2. On February 11, 2015, the Court approved the parties' stipulation to stay further
17 briefing and argument on the Authority's motion for attorneys' fees and other expenses until July
18 10, 2015, to allow for settlement discussions. Doc. 1144.

19 3. On June 5, 2015 the Court approved the parties' stipulation regarding the motion
20 for attorneys' fees and other expenses, under which the parties agreed to stay briefing and
21 argument on the Authority's motion for attorneys' fees until September 15, 2015. Doc. 1149.
22 That order directed the parties to apprise the Court of any settlement or further requested action, or
23 jointly propose a briefing schedule to address the Authority's motion for fees and other expenses if
24 there was no settlement, by the expiration of the stay.

25 4. The Authority and Federal Defendants have reached a recommended agreement in
26 principle to settle the Authority's claim for fees and expenses. Before any settlement can be
27 concluded however, the proposed settlement terms must be reviewed and approved within the
28 Department of Justice and the Department of the Interior. If the recommended agreement is

1 eventually adopted, the Authority and Federal Defendants agree that further briefing and argument
2 on the Authority's claim for fees and other expenses, and a decision by the Court, will be
3 unnecessary. A stay will therefore conserve the parties' and the Court's resources.

4 5. Based on the joint stipulation set forth above, the parties respectfully request that
5 this Court extend the stay of briefing and argument on the Authority's motion for attorneys' fees
6 and other expenses until December 15, 2015. By that date, the parties will either report that
7 settlement has been completed and the Authority is withdrawing its motion for fees and expenses,
8 or request other action by the Court in the absence of a completed settlement.

9 Respectfully submitted this 14th day of September, 2015.

10 Dated: September 14, 2015

DIEPENBROCK ELKIN, LLP
A Professional Corporation

By: /s/ Eileen M. Diepenbrock

Eileen M. Diepenbrock
Attorneys for Plaintiff, SAN LUIS & DELTA-
MENDOTA WATER AUTHORITY

15 Dated: September 14, 2015

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By: /s/ Daniel J. O'Hanlon

Daniel J. O'Hanlon
Attorneys for Plaintiff, SAN LUIS & DELTA-
MENDOTA WATER AUTHORITY

20 Dated: September 14, 2015

U.S. DEPARTMENT OF JUSTICE
Environmental & Natural Resources Division

By: /s/ William Shapiro

William Shapiro, Trial Attorney
Attorneys for FEDERAL DEFENDANTS

25 IT IS SO ORDERED.

26 Dated: September 14, 2015

/s/ Lawrence J. O'Neill
UNITED STATES DISTRICT JUDGE