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11 TEHAMA-COLUSA CANAL AUTHORITY

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13 UNITED STATES DISTRICT COURT
14 EASTERN DISTRICT OF CALIFORNIA
15 FRESNO DIVISION

16
17 TEHAMA-COLUSA CANAL
AUTHORITY,

18 Plaintiff,

19 v.

20 UNITED STATES DEPARTMENT OF
21 THE INTERIOR; KENNETH LEE
SALAZAR, in his official capacity as
22 Secretary of the Interior; UNITED
STATES BUREAU OF RECLAMATION;
23 MICHAEL L. CONNOR, in his official
capacity as the Commissioner of
24 Reclamation, and DONALD R. GLASER,
in his official capacity as Regional Director
25 of the Bureau of Reclamation for the Mid-
Pacific Region,

26 Defendants.
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Case No. 1:10-cv-00712-OWW-DLB

**STIPULATION OF THE PARTIES AND
ORDER SETTING BRIEFING AND
HEARING SCHEDULE**

1 Plaintiff Tehama-Colusa Canal Authority, Defendants United States Department of the
2 Interior, Kenneth Lee Salazar, United States Bureau of Reclamation, Michael L. Connor, and
3 Donald R. Glaser, and Defendant-Intervenors San Luis Delta-Mendota Water Authority and
4 Westlands Water District (collectively “Parties”), by and through their attorneys of record, hereby
5 enter into this Stipulation.

6 THE PARTIES JOINTLY STIPULATE AS FOLLOWS:

7 1. The Court entered a Scheduling Conference Order in this case on July 16, 2010
8 (Document 38). That Order set forth dates for the Parties to file and brief any motions concerning
9 the administrative record in this case, and also set the following dates concerning the Parties’
10 anticipated Cross-Motions for Summary Judgment: (a) Cross-Motions shall be filed on or before
11 November 22, 2010; (b) oppositions to Cross-Motions shall be filed on or before December 22,
12 2010; (c) replies to Cross-Motions shall be filed on or before January 11, 2011; and (d) Cross-
13 Motions shall be heard on February 22, 2011.

14 2. On September 23, 2010, counsel for Defendants filed a Status Report with the
15 Court (Document 41), to inform the Court that the Parties had reached agreement about the
16 content of the administrative record and had also reached agreement on a revised schedule for
17 filing motions for summary judgment. As noted in that Status Report, the Parties believe that a
18 staggered briefing schedule will present the issues most clearly to the Court for the reasons set
19 forth in the attached Saxton Declaration. The Status Report asked the Court to issue an order
20 scheduling motions for summary judgment in accordance with the Parties’ proposed revised
21 schedule. When agreeing upon the content of that Status Report, the Parties inadvertently failed
22 to abide by section XI of the Court’s July 16th Scheduling Order, in which it is stated that
23 adjustments may be made to the schedule outlined in the Scheduling Order “either by stipulation
24 or by subsequent scheduling conference,” and that “[s]tipulations extending the deadlines
25 contained herein will not be considered unless they are accompanied by affidavits or declarations,
26 and where appropriate attached exhibits, which establish good cause for granting the relief
27 requested.” The Court has not issued the Order requested in the Status Report.

1 3. Since the filing of the September 23rd Status Report, the Parties have further
2 discussed the schedule for filing motions for summary judgment. (*See* Declaration of Steven P.
3 Saxton, filed herewith.) A staggered briefing schedule is still preferred by all Parties but due to
4 several obligations/scheduling conflicts in other cases the Parties have agreed to the following
5 schedule for motions for summary judgment and related briefing:

6 **December 1, 2010** – Plaintiff files a motion for summary judgment and supporting
7 memorandum.

8 **January 7, 2011** – Defendants and Defendant-Intervenors file cross-motions for summary
9 judgment and memoranda supporting their motions and responding to Plaintiff’s motion.

10 **January 28, 2011** – Plaintiff files a reply memoranda in support of Plaintiff’s motion and
11 in opposition to Defendants and Defendant-Intervenors’ motions.

12 **February 18, 2011** – Defendants and Defendant-Intervenors file reply memoranda in
13 support of Defendants’ and Defendant-Intervenors’ motions.

14 The Parties suggest that oral argument be heard on **March 8, 2011**, or on a date of the
15 Court’s choosing. This schedule represents a good faith compromise of disputed issues among
16 the Parties, and the press of business and conflicting deadlines have necessitated this proposed
17 revision to the schedule (*see* Saxton Declaration).

18 4. The Parties respectfully request that the Court enter an Order scheduling motions
19 for summary judgment in this matter as set forth above. An Order is attached.

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21 **IT IS SO STIPULATED**

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DATED: _____

DOWNEY BRAND LLP

By: /s/ Steven P. Saxton
STEVEN P. SAXTON
Attorney for Plaintiff

DATED: _____

U.S. DEPARTMENT OF JUSTICE

By: /s/ David W. Gehlert
DAVID W. GEHLERT
Attorney for Defendants

DATED: _____

KRONICK, MOSKOVITZ, TIEDEMANN &
GIRARD

By: /s/ Daniel J. O'Hanlon
DANIEL J. O'HANLON
Attorney for Defendant-Intervenors

ORDER APPROVING STIPULATION OF THE PARTIES
SETTING BRIEFING AND HEARING SCHEDULE

The Court having reviewed the Stipulation filed by the Parties and good cause appearing therefore:

IT IS HEREBY ORDERED that the Stipulation of the Parties filed on October 21, 2010, is approved.

1. Plaintiff shall file a motion for summary judgment and supporting memorandum on or before December 1, 2010.

2. Defendants and Defendant-Intervenors shall file cross-motions for summary judgment and memoranda supporting their motions and responding to Plaintiff's motion on or before January 7, 2011.

3. Plaintiff shall file a reply memoranda in support of Plaintiff's motion and in opposition to Defendants and Defendant-Intervenors' motions on or before January 28, 2011.

4. Defendants and Defendant-Intervenors shall file reply memoranda in support of Defendants' and Defendant-Intervenors' motions on or before February 18, 2011.

5. Oral argument shall be heard on March 18 at 9:00AM in Courtroom 3 before Judge Wanger, extended time has been reserved by the Court for oral argument.

IT IS SO ORDERED.

Dated: October 25, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE