1 JOSEPH F. SOARES-#212995 HORSWILL, MEDEROS & SOARES Attorneys at Law 791 North Cherry Street Post Office Box 29 3 Tulare, California 93275 4 Telephone: (559) 686-3861 Facsimile: (559) 686-1514 5 Attorneys for ALVIN L. SOUZA dba ALVIN SOUZA DAIRY 6 7 UNITED STATES DISTRICT COURT 8 EASTERN DISTRICT OF CALIFORNIA 9 -000-10 ALVIN L. SOUZA dba ALVIN SOUZA Case No. 1:10-CV-00832-AWI-GSA DAIRY. 11 Plaintiff, STIPULATION AND ORDER TO MOVE HEARING DATE 12 v. 13 LUIS OLIVEIRA FERNANDES, MARLENE A. FERNANDES, ind. and Hearing Date: June 21, 2010 Hearing Time: 1:30 p.m. 14 dba FERNANDES FAMILY JERSEYS, BRENT FERNANDES, A.L. GILBERT Courtroom: 2, Eighth Floor COMPANY, a California corporation, Judge: Hon. Anthony W. Ishii 15 SAN JOAQUIN VALLEY HAY 16 GROWERS ASSOCIATION, UNITED STATES OF AMERICA ACTING THROUGH THE FARM SERVICE 17 AGENCY, COUNTY BANK, and 18 DOES 1 through 30, inclusive, 19 Defendants. 20 21 1. WHEREAS, on March 30, 2010, Plaintiff, ALVIN L. SOUZA dba ALVIN SOUZA 22 DAIRY (hereinafter "SOUZA") filed a Complaint, for among other things, breach of contract, 23 negligence and declaratory relief in Merced County Superior Court, Case No. CV000950. Included 24 in the Complaint, SOUZA alleged that Defendant, UNITED STATES OF AMERICA, was an 25 interested party as they may have held an interest in the Secured Collateral as did other named defendants. 26 27 2. WHEREAS, on May 11, 2010, Defendant, UNITED STATES OF AMERICA, 28 removed SOUZA's state court action to this court.

1	3. WHEREAS, on or about May 19, 2010, Defendant ,UNITED STATES OF
2	AMERICA, filed a Notice of Motion and Motion to Dismiss for Lack of Subject Matter Jurisdiction
3	claiming, among other things, that SOUZA's claim against the UNITED STATES OF AMERICA
4	lacked jurisdiction over Rule 12(b)(1) and that dismissal must occur under Rule 12(b)(5) and
5	12(b)(6) because SOUZA failed to effect proper service and failed to state a claim upon which relief
6	can be granted.
7	4. WHEREAS, both judicial and party economy are served by granting this Stipulation
8	and proposed Order to move the hearing date so that SOUZA and defendants may further discuss
9	settlement and resolution between the parties. Currently, SOUZA has entered into negotiations with
0	Defendants, LUIS OLIVEIRA FERNANDES and MARLENE A. FERNANDES, to resolve this
1	matter. The parties hope that these negotiations will ultimately lead to a settlement which would
2	result in the dismissal of the entire action.
3	STIPULATIONS
4	1. NOW THEREFORE, SOUZA by and through his attorney, Joseph F. Soares, the
5	UNITED STATES OF AMERICA, by and through its attorney, Jeffrey J. Lodge, hereby stipulate
6	that the hearing be moved, at a minimum for sixty (60) days so that the parties may continue to
7	discuss settlement between them and they may further discuss other aspects of litigation in hopes that
8	the matter can be resolved.
9	The above is so stipulated.
20	Dated: June, 2010 HORSWILL, MEDEROS & SOARES
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22	By_ JOSEPH F. SOARES,
23	Attorneys for Plaintiff, Souza
24	Dated: June, 2010
25	JEFFREY J. LODGE, Attorneys for Defendant, United States
26	of America
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1	<u>CONFIRMING ORDER</u>
2	The above stipulations are approved and the court grants the parties' request to stay the action
3	for sixty (60) days and to continue the Motion to Dismiss for Lack of Subject Matter Jurisdiction
4	currently set for June 21, 2010, at 1:30 p.m. to August 23, 2010, at 1:30 p.m., in Courtroom 2 before
5	the Honorable Anthony W. Ishii.
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7	IT IS SO ORDERED.
8	Dated: June 4, 2010 /s/ Anthony W. Ishii CHIEF UNITED STATES DISTRICT JUDGE
9	CHIEF UNITED STATES DISTRICT JUDGE
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