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12 Third-Party Plaintiff/Counterdefendant
MODEST IRRIGATION DISTRICT

13
14 **UNITED STATES DISTRICT COURT**

15 **EASTERN DISTRICT OF CALIFORNIA, FRESNO DIVISION**

16
17 BLACK & VEATCH CORPORATION,

18 Plaintiff,

19 v.

20 MODESTO IRRIGATION DISTRICT,

21 Defendant.

22 MODESTO IRRIGATION DISTRICT,

23 Counterclaimant,

24 v.

25 BLACK & VEATCH CORPORATION,

26 Counterdefendant.

27 AND RELATED ACTIONS
28

CASE NO. 1:11-CV-00695 LJO SKO

**STIPULATION OF DISMISSAL AND
ORDER**

***COURT LANGUAGE ADDED TO
ORDER***

Complaint Filed: April 29, 2011

1 WHEREAS, the claims asserted in this action by Black & Veatch Corporation
2 (“B&V”) on the one hand and Modesto Irrigation District (“MID”) and City of Modesto
3 (“City”) on the other hand (together, the “Settling Parties”) have now been settled by
4 agreement between the Settling Parties;

5 WHEREAS, the Settling Parties have obtained findings of good faith settlement,
6 which were entered by this Court on February 19, 2013 (Dkt. No._231); and

7 WHEREAS, the parties to this litigation do not intend to oppose the dismissal of
8 the Settling Defendants from their respective claims and counter claims against each
9 other without costs or fees;

10 IT IS THEREFORE STIPULATED by and between the parties to this action,
11 through their designated counsel, that the following claims of the Settling Parties in the
12 above-captioned action and related cross-actions be and hereby are dismissed with
13 prejudice pursuant to FRCP 41(a)(1), each side to bear their own fees and costs:

- 14 ▪ The Second Claim for Relief for Breach of Implied Covenant of Good Faith
15 and Fair Dealing alleged against MID in B&V’s First Amended Complaint.
- 16 ▪ The Third Claim for Relief for Declaratory Relief alleged against MID in
17 B&V’s First Amended Complaint.
- 18 ▪ The Fourth Claim for Relief for Breach of Written Contract – Hold Harmless
19 from City of Modesto Claim alleged against MID in B&V’s First Amended
20 Complaint.
- 21 ▪ MID’s First Amended Counterclaim in its entirety that consists of all nine
22 Claims for Relief alleged against B&V as asserted therein.
- 23 ▪ The City’s Counterclaim in its entirety that consists of all three Claims for
24 Relief alleged against B&V as asserted therein.

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1 DATED: March 12, 2013

HANSON BRIDGETT LLP

2 By: /s/ Tyson M. Shower
3 ANDREW G. GIACOMINI
4 TYSON M. SHOWER
5 Attorneys for Defendant/Counterclaimant/
6 Third-Party Plaintiff/Counterdefendant
7 MODEST IRRIGATION DISTRICT

6 DATED: March 12, 2013

DAVIDOVITZ & BENNETT LLP

7 By: /s/ Patricia Lakner
8 PATRICIA LAKNER
9 Attorneys for Defendant/Counterclaimant
10 CITY OF MODESTO

10 DATED: March 12, 2013

DIEPENBROCK ELKIN LLP

11 By: /s/ Eileen M. Diepenbrock
12 EILEEN M. DIEPENBROCK
13 Attorneys for Third-Party Defendant/
14 Counterclaimant/Cross-Defendant/Cross-
15 Complainant WESTERN SUMMIT
16 CONSTRUCTORS, INC.

16 DATED: March 12, 2013

WULFSBERG REESE COLVIG & FIRSTMAN

17 By: /s/ H. James Wulfsberg
18 H. JAMES WULFSBERG
19 Attorneys for Plaintiff/Counterdefendant
20 BLACK & VEATCH CORPORATION

21 DATED: March 12, 2013

CLAPP, MORONEY, BELLAGAMBA,
VUCINICH, BEEMAN & SCHELEY

22 By: /s/ Robert A. Bellagamba
23 ROBERT A BELLAGAMBA
24 Attorneys for Third-Party Defendant BIG B
25 CONSTRUCTION

1 DATED: March 11, 2013

PERKINS COIE LLP

2 By: /s/ Jan Feldman
3 JAN FELDMAN
4 Attorneys for Third-Party Defendant
5 SIEMENS INDUSTRY, INC., f/k/a SIEMENS
6 WATER TECHNOLOGIES CORPORATION

7 **ORDER**

8 This Court DISMISSES with prejudice the claims subject to this stipulation. This
9 Court ORDERS the parties to pursue diligently settlement and dismissal of remaining
10 claims and to file, no later than April 19, 2013, a joint status report to address settlement
11 and/or need to litigate remaining claims.
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15 IT IS SO ORDERED.

16 Dated: **March 13, 2013**

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