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UNITED STATES DEPARTMENT OF LABOR

FILED

JUN 27 2011

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

BY  DEPUTY CLERK

9 THE UNITED STATES DISTRICT COURT FOR THE
10 EASTERN DISTRICT OF CALIFORNIA

11 HILDA L. SOLIS, Secretary of Labor,
United States Department of Labor

12 Plaintiff,

13 v.

14 ORLAND SAND & GRAVEL CORPORATION,

15 Defendant

Case No.: CIV. S-11-1706 JAM JFM

(PROPOSED) ORDER GRANTING
PLAINTIFF'S MOTION FOR TEMPORARY
RESTRANING ORDER AND SETTING
DATE FOR PRELIMINARY INJUNCTION
HEARING

-JFM Solis v. Orland Sand & Gravel Corporation

Doc. 5

17 This matter is before the Court upon the application of Plaintiff, Hilda L. Solis, Secretary of
18 Labor, United States Department of Labor, (the "Secretary"), pursuant to Rule 65 of the Federal Civil
19 Procedure, for a temporary order restraining Defendant Orland Sand & Gravel Corporation from
20 continuing to violate Section 103 of the Federal Mine Safety & Health Act of 1977, 30 U.S.C. §§ 801
21 et seq. (hereinafter referred to as "the Act") by denying authorized representatives of the Secretary
22 entry to the Orland Sand and Gravel Corporation mine operated by the Defendant; refusing to permit
23 inspection of the mine and related equipment; and interfering with, hindering and delaying the
24 Secretary of Labor or her authorized representatives from carrying out the provisions of the Act; and
25 from continuing to violate Section 104(b) of the Act by refusing to comply with Order of Withdrawal
26 No. 8603273.
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1 Having considered the evidence and the arguments of counsel, and further good cause
2 appearing, the Court finds that:

3 1. There is reasonable grounds to believe that the Defendant has violated and is continuing
4 to violate Sections 103 and 104(b) of the Act by denying entry to an authorized representative of the
5 Secretary to inspect Defendant's mine;

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7 2. Under Section 108(a) of the Act, 30 U.S.C. § 818(a), this Court has the jurisdiction and
8 the power to restrain the Defendant from continuing to violate Sections 103 and 104(b) of the Act;

9 3. The public interest will be irreparably harmed unless Defendant is restrained from
10 continuing to violate Sections 103 and 104(b) of the Act.

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12 IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that:

13 1. Defendant, its agents, servants, employees, and those persons in active concert or
14 participation with it, are restrained from violating Section 103 of the Act by denying authorized
15 representatives of the Secretary entry to and to permit the inspection of the Orland Sand and Gravel
16 Corporation mine operated by the Defendant; refusing to permit inspection of the mine and related
17 equipment; and interfering with, hindering and delaying the Secretary of Labor or her authorized
18 representatives from carrying out the provisions of the Act;

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20 2. Defendant, its agents, servants, employees, and those persons in active concert or
21 participation with it, are restrained from violating Section 104(b) of the Act by refusing to comply with
22 Order of Withdrawal No. 8603273;

23 3. This Temporary Restraining Order shall, unless it is further extended by order of this
24 Court, remain in full force and effect until the 29th day of June, 2011, at the hour of
25 9:30 a.m., local time, at which time the Defendant shall appear before this Court, in
26 Courtroom 6 of the United States District Court for the Eastern District of California, located at 501
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1 I Street, Suite 4-200, Sacramento, California, for the Court to consider the Plaintiff's motion for
2 preliminary injunction;

3 4. Defendant has until June 28, 2011, to file papers in opposition to Plaintiff's
4 motion for preliminary injunction; and,

5 5. This Temporary Restraining Order shall be served on the Defendant or its attorney.

6 6. Plaintiff is exempt from posting security, under Fed. R. Civ. P. 65(c), as an officer of the
7 United States.
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10 IT IS SO ORDERED.

11 This 27th day of June, 2011 at Sacramento, California at the hour of 9³⁰ am.

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14 UNITED STATES DISTRICT JUDGE
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