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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

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MARCIANO PLATA, et al.,
Plaintiffs,
v.
ARNOLD SCHWARZENEGGER,
et al.,
Defendants.

NO. C01-1351 TEH

ORDER DENYING
DEFENDANTS' REQUEST TO
SHORTEN TIME ON MOTION
TO STAY MARCH 24, 2009
ORDER

On March 24, 2009, this Court entered an order denying Defendants' motion to replace the Receiver with a special master and to terminate the Receiver's construction plans. Defendants appealed that order to the United States Court of Appeals for the Ninth Circuit on April 23, 2009. On the same date, Defendants filed a motion to stay this Court's March 24, 2009 order pending appeal and, pursuant to this Court's local rules, noticed the motion to stay for June 1, 2009. Defendants also simultaneously filed an *ex parte* request to shorten time on the motion to stay, such that the motion could be heard on May 18, 2009, or, alternatively, for a temporary stay until the June 1 hearing date. Plaintiffs and the Receiver both filed oppositions to Defendants' request to shorten time.

Upon careful review of the parties' and the Receiver's written arguments, this Court does not find good cause to grant Defendants' request. Defendants ask to shorten time because they "stand to suffer substantial harm each day a stay is not implemented as the Receiver's plans for construction are allowed to proceed." Req. to Shorten Time at 2. This argument is undermined, however, by Defendants' own delay in appealing the Court's March 24 order and seeking a stay. If Defendants were suffering substantial harm each day that the Court's March 24 order remained in effect, then it would be expected that they would have appealed and sought a stay as soon as possible, rather than waiting thirty days to do so.

1 Moreover, Defendants present no reason why they would suffer any harm in the two-week
2 period between the scheduled June 1 hearing date and the May 18 hearing date that
3 Defendants now seek.

4 Accordingly, IT IS HEREBY ORDERED that Defendants' request to shorten time is
5 DENIED. Defendants' motion to stay the Court's March 24, 2009 order shall be heard on
6 June 1, 2009, at 10:00 AM, with opposition papers due on May 11, 2009, and reply papers
7 due on May 18, 2009. The Court will, at that time, consider the arguments raised in
8 Defendants' motion, including Defendants' argument that their appeal divested this Court of
9 jurisdiction over the Receiver's construction plan.

10 Because Defendants fail to present any argument or authority for granting a temporary
11 stay of this Court's March 24 order pending hearing on a motion to stay that same order,
12 Defendants' request for a temporary stay is also DENIED. However, it appears that
13 Defendants' primary concern is that this Court not renew its October 27, 2008 order to pay
14 \$250 million to fund the Receiver's construction planning, now that the Ninth Circuit has
15 dismissed Defendants' appeal of that order, prior to the June 1 hearing before this Court on
16 Defendants' motion to stay. The Court assures Defendants it has no intent to do so.

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18 **IT IS SO ORDERED.**

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20 Dated: 05/01/09



THELTON E. HENDERSON, JUDGE
UNITED STATES DISTRICT COURT

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