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WESTLANDS WATER DISTRICT
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10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
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13 FIREBAUGH CANAL WATER DISTRICT
14 and CENTRAL CALIFORNIA IRRIGATION
DISTRICT,
15

16 Plaintiffs,

17 v.

18 UNITED STATES OF AMERICA, et al.,

19 Defendants, and

20 WESTLANDS WATER DISTRICT,
21

22 Defendant-in-Intervention.

Case No. 1:88-cv-00634 LJO DLB
1:91-cv-00048 LJO DLB
(Partially Consolidated)

**DECLARATION OF THOMAS W.
BIRMINGHAM IN SUPPORT OF
MOTION FOR ORDER FURTHER
EXTENDING TEMPORARY
SUSPENSION OF FEDERAL
DEFENDANTS’ DRAINAGE ACTIVITIES
WITHIN WESTLANDS**

Date: December 9, 2014
Time: 8:30 a.m.
Crtrm.: 4

The Hon. Lawrence J. O’Neill

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24 I, Thomas W. Birmingham, declare as follows:

25 1. I am the General Manager for Westlands Water District (“Westlands”). I have
26 participated in the ongoing discussions with the United States concerning a potential settlement of
27 Westlands’ claims related to providing drainage for lands within Westlands, and am familiar with
28 the status and progress of those discussions.

1 2. I have provided two prior declarations in support of motions by Westlands for an
2 order allowing the Federal Defendants to temporarily suspend drainage activities within
3 Westlands. (Doc. 968-2; Doc. 975-2.) This declaration supplements my prior declarations, and
4 provides an update on the parties' settlement discussions.

5 3. In my declaration filed April 14, 2014, I explained that "Westlands and the United
6 States are now preparing a proposed form of settlement agreement based on the principles of
7 agreement." Doc. 975-2. I can now report that the negotiators for each side have completed a
8 draft of the settlement agreement. It is my understanding, based on communications from the
9 negotiators for the United States, that the form of settlement agreement we negotiated is now
10 being reviewed by the Department of the Interior and the Department of Justice for final approval.
11 It is my hope and expectation that this review will be completed, and the settlement agreement
12 will be ready for signing by the parties, within sixty to ninety days.

13 4. Once the final settlement agreement is signed, there will be a number of additional
14 steps necessary to effectuate the settlement, including most significantly the passage of legislation
15 by Congress. While the steps are defined in the settlement agreement, the precise process for
16 completing the steps is still being discussed. Westlands requests suspension of the drainage
17 obligation for lands within Westlands for another six months, so that in its report to the Court in
18 six months it can lay out not only the settlement terms, but also the process and a projected
19 schedule for implementing the settlement agreement.

20 5. As I explained in my prior declarations, a suspension of drainage activities by the
21 United States within Westlands is needed because it will prevent further federal expenditures. I
22 am informed and believe the Federal Defendants would seek reimbursement of those funds from
23 Westlands. That would impede settlement, because it would adversely change the economics of
24 the settlement for Westlands, and because Westlands will likely take an approach to drainage
25 management that is different from the federal approach. The Federal Defendants have indicated a
26 willingness to continue to suspend their drainage activities within Westlands, and hence avoid
27 related expenditures, provided that the Court issues an order further extending the suspension.

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1 I declare under penalty of perjury under the laws of the United States of America that the
2 foregoing is true and correct. Executed this 5th day of November, 2014.

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4 /s/ Thomas W. Birmingham
THOMAS W. BIRMINGHAM

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