

1 McGREGOR W. SCOTT
United States Attorney
2 Eastern District of California

3 DAVID T. SHELEDY
Assistant U.S. Attorney

4 RONALD J. TENPAS
5 Assistant Attorney General
Environment and Natural Resources Division
6 United States Department of Justice

7 CHARLES R. SHOCKEY (DC Bar # 914879)
Attorney, Natural Resources Section
8 Environment and Natural Resources Division
United States Department of Justice
9 501 "I" Street, Suite 9-700
Sacramento, CA 95814
10 Telephone: (916) 930-2203
Facsimile: (916) 930-2210
11 Email: charles.shockey@usdoj.gov

12 Attorneys for Plaintiff United States of America

13 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
14 SACRAMENTO DIVISION

15 _____)
16 THE UNITED STATES OF AMERICA,)
17 Plaintiff,)
18 v.)
19 H.C. ANGLE, et al.,)
20 Defendants.)
21 _____)

Civil No. S-80-583-LKK [In Equity No. 30]

JOINT STIPULATION TO
RESCHEDULE HEARING AND
REVISE BRIEFING SCHEDULE

DATE: October 20, 2008
TIME: 10:00 a.m.
COURT: Courtroom 4, 15th Floor

22
23 The plaintiff, United States of America, and defendant Michael J. Barkley (Barkley)
24 hereby stipulate to reset the hearing date on the pending motions in this case and to revise the
25 briefing schedule accordingly. This stipulation is submitted pursuant to Local Rule 78-230(e).
26 As the grounds for the joint stipulation, the parties respectfully submit the following points and
27 request that the court approve the joint stipulation and enter the attached order.
28

1 1. On September 5, 2008, the plaintiff filed a Motion to Amend the Angle Decree
2 (Doc. 277), along with the Declaration of Robert Colella and supporting exhibits (Doc. 278).
3 The purpose of the motion is to amend the 1930 Angle Decree with regard to changes in the
4 place of use of certain decreed water rights in the federal Orland Project administered by the U.S.
5 Bureau of Reclamation, an agency in the Department of the Interior. The plaintiff set the motion
6 for hearing on October 20, 2008.

7 2. On September 26, 2008, the defendant, Mr. Barkley, filed an Opposition to the
8 plaintiff's motion, along with a Counter-Motion. (Doc. 280). The counter-motion raised a
9 number of new issues that extend beyond the scope of the plaintiff's motion, including a request
10 that the court set aside the Angle Decree in its entirety. The defendant noted his counter-motion
11 for hearing on October 20, 2008, at the same time as the plaintiff's motion. Under the Local
12 Rules, the counter-motion filed on September 26, 2008, would be noted for hearing no sooner
13 than October 27, 2008, the hearing date prescribed by Local Rule 78-230(b).

14 3. Pursuant to Local Rule 78-230(e), when a counter-motion is filed, "the Court
15 may continue the hearing on the original and all related motions so as to give all parties
16 reasonable opportunity to serve and file oppositions and replies to all pending motions." L.R.
17 78-230(e).

18 4. The parties request that the court reschedule the hearing date on both motions for
19 November 3, 2008, a continuance of two weeks. The reason for the continuance is to allow
20 sufficient time for both parties to file their respective responses and replies. Specifically, the
21 plaintiff intends to file a reply in support of its own motion and a response in opposition to the
22 defendant's counter-motion. The defendant intends to file a reply in support of its counter-
23 motion following receipt of the plaintiff's response. The current schedule does not allow
24 adequate time for both parties to prepare and file their respective briefs sufficiently in advance of
25 the October 20 hearing date, nor would it provide sufficient time for the court to review all briefs
26 in advance of the hearing.

1 5. The plaintiff's counsel has conferred with Mr. Andrew Hitchings, counsel for the
2 Orland Unit Water Users' Association (OUWUA), which is the only other party known to have
3 an interest in this matter. Counsel for the OUWUA has authorized plaintiff's counsel to
4 represent that the OUWUA supports the revised schedule set forth below.

5 6. The parties therefore request that the court reset the hearing for Monday,
6 November 3, 2008, at 10:00 a.m., and revise the briefing schedule as follows:

- 7 • October 20, 2008 - plaintiffs' reply brief and response to defendant's counter-motion
- 8 • October 27, 2008 - defendant's reply brief in support of counter-motion
- 9 • November 3, 2008 - hearing on all pending motions at 10:00 a.m.

10 The parties attach a proposed order for the court's consideration.

11 Respectfully Submitted,

12 FOR THE DEFENDANT:

FOR THE PLAINTIFF:

13 McGREGOR W. SCOTT
14 United States Attorney
 Eastern District of California

15 DAVID T. SHELEDY
16 Assistant U.S. Attorney

17 RONALD J. TENPAS
18 Assistant Attorney General
 United States Department of Justice
 Environment & Natural Resources Division

19 */s/ Michael J. Barkley*

/s/ Charles R. Shockey

20 MICHAEL J. BARKLEY, ESQ.
21 CA SBN # 122433
22 161 N. Sheridan Ave. # 1
 Manteca, CA 95336

CHARLES R. SHOCKEY, Attorney
D.C. Bar # 914879
United States Department of Justice
Environment & Natural Resources Division
Natural Resources Section
501 "I" Street, Suite 9-700
Sacramento, CA 95814-2322
Telephone: (916) 930-2203
Facsimile: (916) 930-2210
Email: charles.shockey@usdoj.gov

23 Defendant, *in propria persona*

24 Dated: October 3, 2008.
25
26
27
28

1 **CERTIFICATE OF SERVICE**

2 The undersigned hereby certifies that: he is an employee in the Sacramento Field Office
3 of the United States Department of Justice, Environment and Natural Resources Division, 501
4 "I" Street, Suite 9-700, Sacramento, California, 95814-2322; he is a person of such age and
5 discretion to be competent to serve papers; and, on October 3, 2008, he served copies of the
6 attached documents:

- 7 • Joint Stipulation to Reschedule Hearing and Revise Briefing Schedule; and
8 • Order Approving Joint Stipulation to Reschedule Hearing and Revise Briefing Schedule
9 [Proposed]

10 on all counsel of record through the court's Electronic Case Filing system and, in addition, by
11 causing copies to be placed in a prepaid envelope addressed to the person hereinafter named, at
12 the place and address stated below, which are the last known place and addresses, and by
13 depositing said envelope and contents in the United States Mail at Sacramento, California:

14 **VIA U.S. MAIL:**

15 George Wilson
16 Office of the Water Master
17 Stony Creek and Tributaries
18 828 Eighth Street
19 Orland, CA 95693

20
21 Michael J. Barkley
22 161 N. Sheridan Ave. #1
23 Manteca, CA 95336

24
25
26
27
28
29 /s/ *Charles R. Shockey*
30 Charles R. Shockey