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**COUNSEL IDENTIFICATION ON FINAL PAGE**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

NATURAL RESOURCES DEFENSE  
COUNCIL, *et al.*,

Plaintiffs,

v.

RYAN K. ZINKE<sup>1</sup>, in his official capacity  
as Secretary of the Interior, *et al.*,

Defendants.

SAN LUIS & DELTA MENDOTA  
WATER AUTHORITY, *et al.*,

Defendants-Intervenors.

ANDERSON-COTTONWOOD  
IRRIGATION DISTRICT, *et al.*,

Joined Parties.

Case No. 1:05-cv-01207 LJO-EPG

**STIPULATION AND ORDER TO MODIFY  
FURTHER SCHEDULING ORDER (ECF  
1027)**

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<sup>1</sup> Pursuant to Fed. R. Civ.P. 25(d), Ryan K. Zinke, in his capacity as Secretary of the Department of the Interior, is automatically substituted for S.M.R. Jewell.

1 **RECITALS**

2 WHEREAS, on February 23, 2017, the Court entered its ruling on the parties’ motions to  
3 dismiss, and dismissed Plaintiffs’ Fifth Claim for Relief and, as to Federal Defendants, narrowed  
4 the scope of Plaintiffs’ Sixth Claim for Relief to: (i) “whether the approval of transfers  
5 proximately caused the take alleged in the Sixth Claim for Relief;” or (ii) whether “Reclamation’s  
6 failure to require [Glenn-Colusa Irrigation District] to divert up to 20,315 [acre feet] of water from  
7 Stony Creek, rather than from the Sacramento River, could have proximately caused any of the  
8 harms alleged in the Sixth Claim for Relief,” ECF 1069 at 56-57;

9 WHEREAS, pursuant to the Court’s June 6, 2016, Further Scheduling Order (ECF 1027),  
10 Federal Defendants are to lodge the administrative record 20 days after the Court’s ruling on the  
11 motions to dismiss;

12 WHEREAS, Plaintiffs filed a Fifth Supplemental Complaint on March 1, 2017 (ECF  
13 1071);

14 WHEREAS, Federal Defendants need additional time to prepare an administrative record  
15 for the Sixth Claim for Relief, as narrowed by the Court’s February 23, 2017 order, and for actions  
16 challenged in Plaintiffs’ Fifth Supplemental Complaint;

17 WHEREAS, the parties agree that it would be in the best interest of all parties to review the  
18 contents and be provided an opportunity to comment on the scope of those administrative records  
19 prior to Federal Defendants’ lodging the records with the Court;

20 WHEREAS, the parties agree that Defendants should be allowed to file a responsive  
21 pleading to Plaintiffs’ Fifth Supplemental Complaint;

22 WHEREAS, for the Sixth Claim for Relief, the parties agree that discovery is appropriate  
23 as to the claims against the Sacramento River Settlement Contractor parties (SRS Contractors);

24 WHEREAS, for the Sixth Claim for Relief, the parties are discussing, but have not yet  
25 agreed on: (i) the propriety, need for, or scope of discovery as to the claims against the Federal  
26 Defendants; (ii) discovery schedules; (iii) a briefing schedule; or (iv) pre-trial and trial scheduling,  
27 for that claim;

28 WHEREAS, the parties are continuing to meet and confer regarding Plaintiffs’ Sixth Claim

1 for Relief and intend to file a further stipulation regarding amendments to the briefing schedule as  
2 to the remaining claims in this case once the parties reach agreement about Plaintiffs' Sixth Claim  
3 for Relief;

#### 4 **STIPULATION**

5 NOW THEREFORE, counsel for Plaintiffs and Defendants hereby stipulate to the  
6 following revised schedule regarding responsive pleadings and the administrative records in this  
7 case:

#### 8 **Responsive Pleadings:**

- 9 • **April 14, 2017:** Answers to Plaintiffs' Fifth Supplemental Complaint shall be filed.

#### 10 **Administrative Records:**

11 • **April 12, 2017:** Federal Defendants shall distribute to all parties a draft index summarizing  
12 the proposed contents of the administrative record(s) ("AR") for purposes of informing a meet and  
13 confer process regarding any potential disputes.

- 14 • **April 19, 2017:** Comments on the draft AR index shall be due to Federal Defendants.

- 15 • **May 3, 2017:** Federal Defendants shall lodge the AR.

16 • **May 24, 2017:** All motions regarding completeness of the AR and any motions or  
17 stipulations to limit review of the Sixth Claim as against Federal Defendants to the AR shall be  
18 filed. To the extent a motion is required, briefing shall take place according to the local rules.

19 • **7 days after Court's ruling on any disputes regarding completeness of the AR:** Federal  
20 Defendants shall complete any change to the AR to conform with the Court's rulings.

#### 21 **Discovery for the Sixth Claim:**

22 • **March 24, 2017:** Plaintiffs, SRS Contractors and Federal Defendants shall meet and confer  
23 about the scope and schedule of discovery, and pre-trial and trial scheduling, for Plaintiffs' Sixth  
24 Claim for Relief against the SRS Contractors.

25 • **May 10, 2017:** Following lodging and review of the administrative record, Plaintiffs and  
26 Federal Defendants shall meet and confer about the scope and schedule of discovery for Plaintiffs'  
27 Sixth Claim for Relief against Federal Defendants.

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DATED: March 16, 2017

/s/ Nicole M. Smith  
Nicole M. Smith

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*Attorneys for Respondents Ryan K. Zinke, in his  
official capacity as Secretary of the Interior, et al.*

DATED: March 16, 2017

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Barbara J. Chisholm

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Defendants Reclamation District No. 108, Sutter  
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Water Company, River Garden Farms Company,  
Pleasant Grove-Verona Mutual Water Company,*

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*Pelger Mutual Water Company, Meridian Farms Water Company, Henry D. Richter, et al., Howald Farms, Inc., Oji Brothers Farm, Inc., Oji Family Partnership, Carter Mutual Water Company, Windswept Land And Livestock Company, Maxwell Irrigation District, and Tisdale Irrigation and Drainage Company*

DATED: March 16, 2017

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DATED: March 16, 2017

/s/ Daniel J. O’Hanlon (as authorized on Mar. 16, 2017)  
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*District*

1 **ORDER**

2 Pursuant to the Parties’ Stipulation, the Court hereby ORDERS that the following schedule  
3 for further proceedings in this case is established:

4 **Responsive Pleadings:**

- 5 • **April 14, 2017:** Answers to Plaintiffs’ Fifth Supplemental Complaint shall be filed.

6 **Administrative Records:**

7 • **April 12, 2017:** Federal Defendants shall distribute to all parties a draft index summarizing  
8 the proposed contents of the administrative record(s) (“AR”) for purposes of informing a meet and  
9 confer process regarding any potential disputes.

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18 • **March 24, 2017:** Plaintiffs, SRS Contractors and Federal Defendants shall meet and confer  
19 about the scope and schedule of discovery, and pre-trial and trial scheduling, for Plaintiffs’ Sixth  
20 Claim for Relief against the SRS Contractors.

21 • **May 10, 2017:** Plaintiffs and Federal Defendants shall meet and confer about the scope  
22 and schedule of discovery for Plaintiffs’ Sixth Claim for Relief against Federal Defendants.

23 IT IS SO ORDERED.

24 Dated: March 21, 2017

/s/ Lawrence J. O’Neill  
UNITED STATES CHIEF DISTRICT JUDGE