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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, 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 EXTEND
DEADLINES**

1 WHEREAS, on November 16, 2017, the parties filed a Revised Stipulation and (Proposed)
2 Scheduling Order (ECF No. 1141), which the Court adopted on November 17, 2017 (ECF No.
3 1142);

4 WHEREAS, Plaintiffs have served two third-party subpoenas on National Marine
5 Fisheries Service (“NMFS”) employees, Maria Rea and Eric Danner, requesting documents and
6 deposition testimony for January 10, 2018 and January 12, 2018, respectively;

7 WHEREAS, Acting General Counsel for the National Oceanic and Atmospheric
8 Administration has informed Plaintiffs’ counsel that Ms. Rea and Dr. Danner may not give the
9 testimony which Plaintiffs seek;

10 WHEREAS, an informal discovery dispute conference regarding this issue has been set
11 before Magistrate Judge Erica P. Grosjean for January 5, 2018 at 9:30 a.m.;

12 WHEREAS, Plaintiffs are willing to postpone the deposition dates for Ms. Rea and Dr.
13 Danner by 30 days in order to allow Judge Grosjean time to resolve the discovery dispute prior to
14 the deposition dates;

15 WHEREAS, Plaintiffs have agreed to an extension of the deposition dates on the condition
16 that the Department of Justice accept service of the revised subpoenas and all parties stipulate to
17 an extension of the current motion briefing deadlines and fact discovery cutoff;

18 **STIPULATION**

19 NOW THEREFORE, counsel for Plaintiffs and Defendants hereby stipulate to the
20 following revised proposed schedule regarding fact discovery¹ and briefing of motions for
21 summary judgment:²

22 **Schedule**

Event	Deadline
Plaintiffs’ motion for summary judgment	March 7, 2018
Defendants’ oppositions and cross-motions for summary judgment	April 6, 2018
Plaintiffs’ reply and opposition	May 7, 2018

26 ¹ By entering this stipulation, Federal Defendants do not waive any argument regarding (i) the
27 proper scope of judicial review for Endangered Species Act (“ESA”) claims, or (ii) the propriety
of considering extra-record evidence related to ESA claims.

28 ² Other discovery deadlines and trial dates remain unchanged from those adopted by the Court’s
November 17, 2017 Order (ECF No. 1142).

1	Defendants' replies	May 21, 2018
2	Hearing on motions for summary judgment	June 4, 2018
3	Fact Discovery cutoff	April 23, 2018
4		Provided, however, that if issues remain for trial, any party may seek to reopen fact discovery based on a showing of good cause.
5		
6		

7 DATED: January 5, 2018

/s/ Nicole M. Smith

Nicole M. Smith

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

19 DATED: January 5, 2018

/s/ Barbara J. Chisholm (as authorized on January 3,
 20 2018).

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Pelger Mutual Water Company, Meridian Farms
Water Company, Henry D. Richter, et al., Howald
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DATED: January 5, 2018

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1 DATED: January 5, 2018

/s/ Daniel J. O'Hanlon (as authorized on January 3,
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Loma Water District, and Tranquillity Irrigation
District*

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1 **ORDER**

2 Pursuant to the Parties’ Stipulation, the Court hereby ORDERS that the following schedule
3 for fact discovery and briefing of motions for summary judgment is established.

Event	Deadline
Plaintiffs’ motion for summary judgment	March 7, 2018
Defendants’ oppositions and cross-motions for summary judgment	April 6, 2018
Plaintiffs’ reply and opposition	May 7, 2018
Defendants’ replies	May 21, 2018
Hearing on motions for summary judgment	June 4, 2018
Fact Discovery cutoff	April 23, 2018 Provided, however, that if issues remain for trial, any party may seek to reopen fact discovery based on a showing of good cause.

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12 The existing pretrial and trial dates remain unchanged and will not be moved. The parties are
13 cautioned that this continuance does not change the Court’s estimate of the time it will need to
14 issue a ruling on the cross motions for summary judgment (at least 12 weeks).

15
16 IT IS SO ORDERED.

17 Dated: January 9, 2018

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