

1 **WANGER JONES HELSLEY PC**
2 265 E. River Park Circle, Suite 310
3 Fresno, California 93720
4 Telephone: (559) 233-4800
5 Facsimile: (559) 233-9330

6 Timothy Jones #119841
7 John P. Kinsey #215916
8 Attorneys for: Rocky Mountain Farmers Union, *et al.*

9 **KIRKLAND & ELLIS LLP**
10 655 Fifteenth Street, NW, Suite 1200
11 Washington, DC 20005
12 Telephone: (202) 879-5000
13 Facsimile: (202) 879-5200

14 John C. O'Quinn, PHV
15 Stuart A.C. Drake, PHV
16 Attorneys for: Growth Energy

17 **KATTEN MUCHIN ROSENMAN LLP**
18 2900 K Street, NW
19 North Tower, Suite 200
20 Washington, DC 20007-5118
21 Telephone: (202) 625-3525
22 Facsimile: (202) 295-1111

23 Charles H. Knauss, PHV
24 Attorney for: Renewable Fuels Association

25 **UNITED STATES DISTRICT COURT**
26 **EASTERN DISTRICT OF CALIFORNIA**

27 **ROCKY MOUNTAIN FARMERS**
28 **UNION, *et al.*,**

Plaintiffs,

v.

RICHARD W. COREY, in his official
capacity as Executive Officer of the
California Air Resources Board, *et al.*,

Defendants.

Case Nos. 1:09-cv-02234-LJO-GSA &
1:10-cv-00163-LJO-GSA

JOINT STIPULATION AND ORDER
TO CONTINUE MANDATORY
SCHEDULING CONFERENCE

1 AMERICAN FUELS &
2 PETROCHEMICAL
3 MANUFACTURERS ASSOCIATION, *et*
4 *al.*,

5 Plaintiffs,

6 v.

7 RICHARD W. COREY, in his official
8 capacity as Executive Officer of the
9 California Air Resources Board, *et al.*,

10 Defendants.

11 And related intervenor actions.

12 **WHEREAS** the mandate of the United States Court of Appeals for the Ninth
13 Circuit remanding this matter (9th Cir. Nos. 12-15131 & 12-15135) to this Court issued on
14 January 31, 2014.

15 **WHEREAS** on February 5, 2014, this Court set this matter for a Mandatory
16 Scheduling Conference to be held on May 14, 2014 and ordered the parties to file a joint
17 scheduling report one week prior to the hearing.

18 **WHEREAS** on March 20, 2014, Plaintiffs Rocky Mountain Farmers Union,
19 Redwood County Minnesota Corn and Soybean Growers, Penny Newman Grain, Inc., Growth
20 Energy, Renewable Fuels Association, Rex Nederend, Nisei Farmers League, the Fresno
21 County Farm Bureau, and the California Dairy Campaign (collectively "RMFU Plaintiffs") and
22 Plaintiffs American Fuels & Petrochemical Manufacturers Association, American Trucking
23 Associations, and Consumer Energy Alliance (collectively "AFPM Plaintiffs") filed petitions
24 for a writ of certiorari in the United States Supreme Court (S. Ct. Nos. 13-1148 & 13-1149) to
25 review the Ninth Circuit's decision.

26 **WHEREAS** on April 21, 2014, Defendants filed a Conditional Cross-Petition
27 for a Writ of Certiorari in the United States Supreme Court.

28 ///

///

///

1 **WHEREAS** the parties have agreed to stipulate to continue the Mandatory
2 Scheduling Conference to August 28, 2014, to allow time for the United States Supreme
3 Court's decisions on the petitions for a writ of certiorari and conditional cross-petition for a
4 writ of certiorari, which may occur in late June, 2014.

5 **WHEREAS** all parties are available to conduct the Mandatory Scheduling
6 Conference in these actions on August 28, 2014, and have agreed to hold it on this date if the
7 Supreme Court denies certiorari in June, 2014.

8 **WHEREAS** the parties have agreed that in the event the Supreme Court grants
9 certiorari, the Mandatory Scheduling Conference should be stayed pending resolution of the
10 Supreme Court proceedings.

11 **WHEREAS** the parties have agreed that in the event the Supreme Court does
12 not act on the pending certiorari petitions by the end of June 2014, the Mandatory Scheduling
13 Conference should be continued to a date to be set after the Supreme Court acts on the pending
14 certiorari petitions.

15 **IT IS HEREBY STIPULATED**, by and between Plaintiffs in both actions and
16 Defendants, by and through their respective counsel, that:

17 1. The Mandatory Scheduling Conference in this Action, scheduled for May 14,
18 2014, should be continued to August 28, 2014, at 9:15 a.m. or such time as may be set by the
19 Court, in Courtroom 10.

20 2. The parties will file a joint scheduling report one week prior to the scheduling
21 conference.

22 3. If the Supreme Court grants certiorari at the end of June 2014, the parties will
23 jointly inform the Court within ten days of such action and the scheduling conference should
24 be stayed pending resolution of the Supreme Court proceedings.

25 ///

26 ///

27 ///

28 ///

1 4. If the Supreme Court does not act on the pending certiorari petitions by the end
2 of June 2014, the parties will jointly inform the Court by July 28, 2014 and the scheduling
3 conference should be continued to a date to be set after the Supreme Court acts on the pending
4 certiorari petitions following the Supreme Court's summer recess.

5
6 Dated: May 6, 2014

STATE OF CALIFORNIA,
DEPARTMENT OF JUSTICE

7
8 By: /s/ M. Elaine Meckenstock
M. Elaine Meckenstock,
9 Attorneys for Defendants

10 Dated: May 6, 2014

WANGER JONES HELSLEY PC

11 By: /s/ Timothy Jones
12 Timothy Jones,
Attorneys for RMFU Plaintiffs

13 Dated: May 6, 2014

SIDLEY AUSTIN LLP

14 By: /s/ Roger R. Martella, Jr.
15 Roger R. Martella, Jr.,
Attorneys for AFPM Plaintiffs

16
17 Dated: May 6, 2014

DONAHUE & GOLDBERG, LLP

18 By: /s/ Sean Donahue
19 Sean Donahue,
Attorneys for Environmental Defense Fund;
20 Natural Resources Defense Council; Sierra
Club; Conservation Law Foundation

ORDER

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

The Court having reviewed the foregoing Stipulation, and good cause appearing, **IT IS HEREBY ORDERED** that the Mandatory Scheduling Conference in this action, scheduled for May 14, 2014, shall be continued to a future date depending on how and when the Supreme Court acts on the pending petitions for certiorari in this matter.

If the Supreme Court denies the pending certiorari petitions at the end of June 2014, the scheduling conference will be held on August 28, 2014, at 10:30 am. in Courtroom 10. The parties will file a joint scheduling report one week prior to the scheduling conference.

If the Supreme Court grants certiorari at the end of June 2014, the parties will jointly inform the Court within ten days of such action and the scheduling conference will be stayed pending resolution of the Supreme Court proceedings.

If the Supreme Court does not act on the pending certiorari petitions at or near the end of June 2014, the parties will jointly inform the Court by July 28, 2014 and the scheduling conference will be continued to a date to be set after the Supreme Court acts on the pending certiorari petitions following the Supreme Court's summer recess.

IT IS SO ORDERED.

Dated: May 7, 2014

/s/ Gary S. Austin
UNITED STATES MAGISTRATE JUDGE