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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

EARTH ISLAND INSTITUTE and
CENTER FOR BIOLOGICAL
DIVERSITY,

Plaintiff,

v.

TOM QUINN, in his official
capacity as Forest Supervisor
for the Tahoe National
Forest, DEAN GOULD, in his
official capacity as Forest
Supervisor for the Sierra
National Forest, and UNITED
STATES FOREST SERVICE, an
agency of the Department of
Agriculture,

Defendants.

No. 2:14-cv-01723-GEB-EFB

**ORDER SEVERING CLAIMS AND
TRANSFERRING CLAIMS CONCERNING
THE ASPEN RECOVERY AND
REFORESTATION PROJECT TO FRESNO***

This action was originally filed in the United States District Court for the Northern District of California. Defendants moved to sever claims and transfer venue to this District.

The Honorable Jon S. Tigar granted Defendants' motion to transfer venue and denied the severance motion, stating: "Having concluded that this action should, and will, be heard by the Eastern District, this Court will not make discretionary case

* This matter is suitable for decision without oral argument. E.D. Cal. R. 230(g).

1 management decisions on behalf of that court. Therefore,
2 Defendants' motion to sever is DENIED without prejudice toward
3 renewal in the Eastern District." (Order Denying Mot. to Sever
4 and Granting Mot. to Transfer Venue 14:5-7, ECF No. 30.)

5 Regardless of whether viewed as a renewed motion by
6 Defendants or its own motion,¹ the Court severs Plaintiffs'
7 claims concerning the Aspen Recovery and Reforestation Project
8 ("Aspen Project") and Big Hope Fire Salvage and Restoration
9 Project ("Big Hope Project") into two actions.

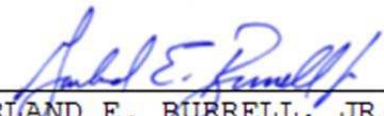
10 Plaintiffs' Complaint comprises three National
11 Environmental Policy Act ("NEPA") Claims and one National Forest
12 Management Act ("NFMA") Claim. In essence, Plaintiffs allege the
13 Aspen Project and Big Hope Project each failed to prepare an
14 Environmental Impact Statement, failed to consider significant
15 new scientific information, failed to take the requisite "hard
16 look" at their environmental impacts and cumulative effects, and
17 failed to consider the best available science in violation of
18 these laws. (Pls.' Compl. 26:10-28:27, ECF No. 1.) Although
19 Plaintiffs allege the same four claims as to each project, the
20 projects are geographically and temporally distinct. The Aspen
21 Project was created in response to the Aspen fire, which occurred
22 in July of 2013, in the Sierra National Forest in Fresno County,
23 California. (Pls.' Compl. ¶ 30, 32.) The Big Hope Project was
24 created in response to the American fire, which occurred in
25 August of 2013, in the Tahoe National Forest in Placer County,
26 California. Id. at ¶ 25, 27. Plaintiffs allege "Defendant Tom

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28 ¹ Under Federal Rule of Civil Procedure 21, "[o]n motion or its own, the
court may at any time . . . sever any claim"

1 Quinn signed the Decision Notice for the Big Hope Project,"
2 whereas Defendant Dean Gould "signed the Decision Notice for the
3 Aspen Project." Id. at ¶ 14. Therefore, even though Plaintiffs
4 allege each project violated the same federal environmental laws,
5 "the Court would still have to give [the] claim[s] individualized
6 attention" as to the two projects. Coughlin v. Rogers, 130 F.3d
7 1348, 1351 (9th Cir. 1997). "[T]he mere fact that all Plaintiffs'
8 claims arise under the same general law does not necessarily
9 establish a common question of law or fact." Id.

10 For the stated reasons, Plaintiffs' claims concerning
11 the Aspen Project and the Big Hope Project are severed into two
12 actions. Further, Plaintiffs' claims concerning the Aspen Project
13 are transferred to the Fresno Division under Local Rule 120(f)
14 since the Aspen Project is located in Fresno County.

15 Dated: July 22, 2014

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20 GARIAND E. BURRELL, JR.
21 Senior United States District Judge
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