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UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

STAN BITTERS, et al.,

Plaintiffs,

v.

FEDERAL HIGHWAY  
ADMINISTRATION, et al.,

Defendants.

No. 1:14-CV-1646 KJM SMS

AMENDED STATUS (PRETRIAL  
SCHEDULING) ORDER

An initial scheduling conference was held in this case on May 14, 2015. Sara Hedgpeth-Harris appeared for plaintiff; Stephen Onstot appeared for defendant City of Fresno; Judith Carlson appeared for defendants California Department of Transportation (CalTrans) and Malcolm Dougherty. On May 28, 2015, the parties filed a joint motion to clarify the court's May 20, 2015 Status Order.

The court makes the following orders:

I. SERVICE OF PROCESS

All named defendants have been served and no further service is permitted without leave of court, good cause having been shown.

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1 II. ADDITIONAL PARTIES/AMENDMENTS/PLEADINGS

2 No further joinder of parties or amendments to pleadings is permitted without  
3 leave of court, good cause having been shown. *See* Fed. R. Civ. P. 16(b); *Johnson v. Mammoth*  
4 *Recreations, Inc.*, 975 F.2d 604 (9th Cir. 1992).

5 III. JURISDICTION/VENUE

6 Jurisdiction is predicated upon 28 U.S.C. § 1331.

7 The City of Fresno does not contest venue or this court's subject matter  
8 jurisdiction over the First, Second, and Third Causes of Action as federal questions. The City  
9 does contend that supplemental jurisdiction over the Fourth Cause of Action is inappropriate.

10 IV. DISCOVERY

11 The first three claims are brought under the judicial review provisions of the  
12 Administrative Procedure Act (APA), 5 U.S.C. § 701-706, and are exempted under Federal Rule  
13 of Civil Procedure 26(a)(1)(B)(i) from the initial disclosure requirements of Rule 26(a) and from  
14 the discovery-planning requirements of Federal Rule of Civil Procedure 26(f).

15 Because the fourth claim may entail discovery and retention of experts, as agreed  
16 by the parties, the court STAYS discovery as to the fourth claim until after briefing and hearing  
17 on the first three claims.

18 V. MOTION PRACTICE

19 The court understands plaintiff may seek a preliminary injunction prior to the start  
20 of construction, including demolition, of the Fulton Street Mall. The parties may also seek to  
21 brief collateral estoppel once an appellate matter pending in state court is resolved.

22 All motion practice, other than summary judgment practice addressed below, will  
23 be governed by the Federal Rules of Civil Procedure, the Local Rules of this court, and this  
24 court's standing order.

25 VI. ADMINISTRATIVE RECORD AND CROSS MOTIONS

26 CalTrans is in the process of determining the content of and preparation time for  
27 the Administrative Record in this case. The administrative record will be filed with the court

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1 no later than **June 26, 2015**, and all cross-motions for summary judgment are to be filed no later  
2 than **August 21, 2015**.

3 All litigation of claim four is STAYED and further scheduling dates deferred until  
4 such time as the court has resolved the first three claims.

5 VII. MODIFICATION OF STATUS (PRETRIAL SCHEDULING) ORDER

6 The parties are reminded that pursuant to Rule 16(b) of the Federal Rules of Civil  
7 Procedure, the Status (Pretrial Scheduling) Order shall not be modified except by leave of court  
8 upon a showing of good cause. Agreement by the parties pursuant to stipulation alone does not  
9 constitute good cause. Except in extraordinary circumstances, unavailability of witnesses or  
10 counsel does not constitute good cause.

11 VIII. OBJECTIONS TO STATUS (PRETRIAL SCHEDULING) ORDER

12 This Status Order will become final without further order of the court unless  
13 objections are filed within fourteen (14) *calendar* days of service of this Order.

14 IT IS SO ORDERED.

15 DATED: June 1, 2015.

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UNITED STATES DISTRICT JUDGE