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7 **Counsel for Plaintiff and Intervenor-Defendant**
8 **Listed on Signature Page**

9 IN THE UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA

11
12 SEQUOIA FORESTKEEPER,

13 Plaintiff,

14 v.

15 ERIC LA PRICE, in his official capacity as
16 District Ranger for the Western Divide Ranger
17 District of the Sequoia National Forest, *et al.*,

18 Federal Defendants, and

19 SIERRA FOREST PRODUCTS, a California
20 Corporation,

21 Intervenor-Defendant.

Case No. 1:16-CV-00759-AWI-JLT

**STIPULATION AND PROPOSED ORDER TO
CONTINUE DEADLINE TO ANSWER FIRST
AMENDED COMPLAINT
(Doc. 49)**

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1 **STIPULATION AND PROPOSED ORDER**

2 IT IS HEREBY STIPULATED by and among Plaintiff Sequoia ForestKeeper; Defendants Eric
3 La Price, Alfred Watson, Kevin Elliot, and United States Forest Service (“Federal Defendants”); and
4 Intervenor-Defendant Sierra Forest Products, through their undersigned counsel and subject to Court
5 approval, that the deadline for Federal Defendants and Intervenor-Defendant to file Answers to the First
6 Amended Complaint (“FAC,” ECF No. 46) be continued from May 23, 2017, to 14 days after the Court
7 rules on the parties’ Cross-Motions for Summary Judgment. No Answers need be filed if the Court’s
8 ruling resolves all claims in the FAC.

9 The reasons for this Stipulation are as follows:

10 Plaintiff filed the FAC on May 9, 2017, and thereafter filed a Motion for Summary Judgment
11 (ECF No. 47) on May 12, 2017. Pursuant to the Court’s briefing schedule (ECF No. 40), Federal
12 Defendants and Intervenor-Defendant will be opposing Plaintiff’s Motion and filing their own Motions
13 for Summary Judgment on May 26, 2017. Courts routinely hold that summary judgment motions, like
14 motions under Federal Rule of Civil Procedure 12, toll the deadline for filing a responsive pleading. *See*
15 *Mann v. Lee*, No. 07-781, 2009 WL 5178095, at *2 (N.D. Cal. Dec. 22, 2009) (holding that “the filing of
16 defendants’ motion for summary judgment effectively extended the time for defendants to file a
17 responsive pleading until after the motion for summary judgment has been decided,” and collecting
18 cases); *see also* 10A Charles Alan Wright & Arthur R. Miller, *Federal Practice and Procedure* § 2718
19 (4th ed. & Supp. 2017) (“[A] summary-judgment motion made prior to an answer should have the
20 benefit of the Rule 12(a) language tolling the period of time in which an answer must be filed.”). The
21 parties believe this case likely will be resolved by a ruling on the pending and impending summary
22 judgment motions, and Answers need not be filed, if at all, until 14 days after a ruling on those motions.

23 Dated: May 22, 2017

PHILLIP A. TALBERT
United States Attorney

24
25 By: /s/ Joseph B. Frueh
JOSEPH B. FRUEH
Assistant United States Attorney

26
27 Attorneys for Federal Defendants

1 Dated: May 22, 2017

/s/ René P. Voss (authorized on 5/22/2017)
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12 Dated: May 22, 2017

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Attorneys for Intervenor-Defendant

18 IT IS SO ORDERED.

19 Dated: May 22, 2017

/s/ Jennifer L. Thurston
UNITED STATES MAGISTRATE JUDGE