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5 **UNITED STATES DISTRICT COURT**
6 **EASTERN DISTRICT OF CALIFORNIA**
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8 TIMOTHY CLEVELAND,

9 Plaintiff,

10 v.

11 THOMAS C. HUNTON, et al.,

12 Defendants.
13

Case No. 1:16-cv-01732-AWI-SAB

**ORDER DIRECTING SERVICE BY THE
UNITED STATES MARSHALS SERVICE
WITHOUT PREPAYMENT OF COSTS**

14 The Court previously found service of the complaint appropriate. On June 12, 2017,
15 Plaintiff submitted service documents that did not comply with the Court's April 28, 2017 order.
16 On June 13, 2017, Plaintiff was ordered to return the service documents, including two copies of
17 the endorsed Second Amended Complaint filed March 14, 2017, within ten days of the date of
18 service of the order. On June 19, 2017, Plaintiff returned the service documents. Accordingly,
19 pursuant to Federal Rule of Civil Procedure 4(c), it is **HEREBY ORDERED** that:

20 1. For each defendant to be served, the Clerk of the Court is directed to forward the
21 following documents to the United States Marshals Service (USM):

- 22 (1) One completed and issued summons;
23 (2) One completed USM-285 form;
24 (3) One copy of the Second Amended Complaint filed on March 14, 2017,
25 plus an extra copy for the USM; and
26 (4) One copy of this order, plus an extra copy for the USM.

27 2. Within ten days from the date of this order, the USM is directed to notify the
28 following defendants of the commencement of this action and to request a waiver of service in

1 accordance with the provisions of Fed. R. Civ. P. 4(d) and 28 U.S.C. § 566(c):

2 **THOMAS C. HUNTON**

3 3. The USM shall file returned waivers of service as well as any requests for waivers
4 of service that are returned as undelivered as soon as they are received.

5 4. If a waiver of service is not returned by a defendant within sixty days of the date
6 of mailing the request for waiver, the USM shall:

7 a. Personally serve process and a copy of this order upon the defendant
8 pursuant to Rule 4 of the Federal Rules of Civil Procedure and 28 U.S.C. § 566(c), and command
9 all necessary assistance from the United States Department of Agriculture to execute this order.
10 The USM shall maintain the confidentiality of all information provided by the United States
11 Department of Agriculture pursuant to this order.

12 b. Within ten days after personal service is effected, the USM shall file the
13 return of service for the defendant, along with evidence of any attempts to secure a waiver of
14 service of process and of the costs subsequently incurred in effecting service on said defendant.
15 Said costs shall be enumerated on the USM-285 form and shall include the costs incurred by the
16 USM for photocopying additional copies of the summons and complaint and for preparing new
17 USM-285 forms, if required. Costs of service will be taxed against the personally served
18 defendant in accordance with the provisions of Fed. R. Civ. P. 4(d)(2).

19 5. If defendants waive service, they are required to return the signed waivers to the
20 USM. The filing of an answer or a responsive motion does not relieve defendants of this
21 requirement, and the failure to return the signed waivers may subject defendants to an order to
22 pay the costs of service pursuant to Fed. R. Civ. P. 4(d)(2).

23 IT IS SO ORDERED.

24 Dated: June 20, 2017

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27 UNITED STATES MAGISTRATE JUDGE
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