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11
12 IN THE UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF CALIFORNIA
14

15 EARTH ISLAND INSTITUTE, *et al.*,

16 Plaintiffs,

17 v.

18 KEVIN ELLIOTT, in his official capacity as
19 the Forest Supervisor of the Sequoia National
20 Forest, *et al.*,

21 Federal Defendants,

22 and

23 SIERRA FOREST PRODUCTS, a California
24 Corporation,

25 Defendant-Intervenor.
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Case No. 1:17-cv-01320-LJO-MJS

**STIPULATION AND ORDER FOR
DISPENSING WITH STATEMENTS OF
UNDISPUTED FACTS**

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STIPULATION AND ORDER

IT IS HEREBY STIPULATED, by and among the parties and subject to Court approval, that the parties need not file and respond to Statements of Undisputed Facts in connection with their anticipated cross-motions for summary judgment in this action. The reasons for this stipulation are as follows:

1. Plaintiffs Earth Island Institute and Sequoia ForestKeeper allege that the United States Forest Service and the Forest Supervisor of the Sequoia National Forest (“Federal Defendants”) violated the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4332, by authorizing the Bull Run Roadside Hazard Tree Mitigation Project.

2. NEPA does not provide a private cause of action, and the Court must resolve Plaintiffs’ contentions pursuant to the Administrative Procedure Act (“APA”), 5 U.S.C. § 702, based on the administrative record lodged by Federal Defendants. *Earth Island Inst. v. U.S. Forest Serv.*, 697 F.3d 1010, 1013 (9th Cir. 2012).

“Local Rule 260(e) [currently 260(a)] directs that each [summary judgment] motion shall be accompanied by a ‘Statement of Undisputed Facts’ that shall enumerate each of the specific material facts on which the motion is based and cite the particular portions of any document relied upon to establish that fact. In APA cases, such statements are generally redundant because all relevant facts are contained in the agency’s administrative record.” *San Joaquin River Grp. Auth. v. Nat’l Marine Fisheries Serv.*, 819 F. Supp. 2d 1077, 1084 (E.D. Cal. 2011); *see W. Watersheds Project v. Bureau of Land Mgmt.*, 971 F. Supp. 2d 957, 968–69 (E.D. Cal. 2013). Consequently, “requests to dispense with the requirement of filing a statement of facts are routinely granted in this District.” *San Joaquin River Grp. Auth.*, 819 F. Supp. 2d at 1084; *Pinnacle Armor, Inc. v. United States*, No. 07-1655, 2013 WL 5947340, at *7 (E.D. Cal. Nov. 4, 2013) (O’Neill, J.).///

3. For the foregoing reasons, the parties respectfully request approval to dispense with Local Rule 260’s requirement to file and respond to Statements of Undisputed Facts in connection with their cross-motions for summary judgment.

Dated:

/s/ René Voss
RENÉ P. VOSS
MATT KENNA, *Pro Hac Vice*

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ORDER

Good cause appearing, the above Stipulation is accepted and its terms adopted as the Order of this Court.

IT IS SO ORDERED.

Dated: February 13, 2018

/s/ Michael J. Seng
UNITED STATES MAGISTRATE JUDGE