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

14 SEQUOIA FORESTKEEPER, *et al.*,

15 Plaintiffs,

16 v.

17 TERESA BENSON,¹ in her official capacity as
18 the Forest Supervisor of the Sequoia National
19 Forest, *et al.*,

20 Federal Defendants,

21 and

22 SIERRA FOREST PRODUCTS, a California
23 Corporation,

24 Intervenor-Defendant.

Case No. 1:18-cv-00331-LJO-SAB

**STIPULATION AND ORDER FOR STAYING
BRIEFING ON CROSS-MOTIONS FOR
SUMMARY JUDGMENT PENDING APPEAL
IN RELATED CASE**

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28 ¹ By operation of Federal Rule of Civil Procedure 25(d), Teresa Benson is automatically substituted in lieu of her predecessor in office.

1 **STIPULATION AND PROPOSED ORDER**

2 IT IS HEREBY STIPULATED, by and among the parties and subject to Court approval, that:

3 (1) Briefing on the parties’ cross-motions for summary judgment, as set forth in the Court’s
4 Scheduling Order (ECF No. 17), shall be stayed pending a decision on the appeal to be
5 filed in the related case *Earth Island Institute, et al. v. Kevin Elliott, et al.*, E.D. Cal. Case
6 No. 1:17-cv-01320-LJO-SAB (“the Bull Run case” or “Bull Run”).

7 (2) The parties shall file a Joint Status Report within 60 days of the Ninth Circuit’s issuance
8 of the mandate in the Bull Run case regarding how the instant action should proceed.

9 The reasons for this Stipulation and Proposed Order are as follows:

10 In this action, Plaintiffs Sequoia ForestKeeper and Earth Island Institute allege that the United
11 States Forest Service violated the National Environmental Policy Act (“NEPA”), 42 U.S.C. § 4332, by
12 authorizing the Spear Creek Hazard Tree Mitigation Project in the Sequoia National Forest. Plaintiffs
13 specifically allege that the Forest Service violated NEPA by approving the project pursuant to
14 Categorical Exclusions rather than preparing an Environmental Assessment or Environmental Impact
15 Statement. Plaintiffs further allege that the Forest Service violated NEPA by failing to explain why the
16 project’s potentially adverse effects on Pacific fishers and California spotted owls are not significant.

17 Plaintiffs alleged identical NEPA claims in the Bull Run case, in which this Court granted
18 summary judgment in favor of the Forest Service and Sierra Forest Products on July 9, 2018. Plaintiffs
19 will file a Notice of Appeal in the Bull Run case on or before July 31, 2018. The parties anticipate that
20 the outcome of the appeal in the Bull Run case may affect the outcome of the instant action challenging
21 the Spear Creek project.

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1 Accordingly, the parties believe that staying briefing in this case pending resolution of the Bull
2 Run appeal will conserve judicial resources and secure the just, speedy, and inexpensive determination
3 of this action. *See* Fed. R. Civ. P. 1; *see also Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936) (“[T]he
4 power to stay proceedings is incidental to the power inherent in every court to control the disposition of
5 the causes on its docket with economy of time and effort for itself, for counsel, and for litigants.”).

6 Dated: July 20, 2018

/s/ René P. Voss (authorized on 7/19/2018)

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MATT KENNA, *Pro Hac Vice*

8 Attorneys for Plaintiffs

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25 Attorneys for Defendant-Intervenor

26 IT IS SO ORDERED.

27 Dated: July 25, 2018

/s/ Lawrence J. O'Neill
28 UNITED STATES CHIEF DISTRICT JUDGE