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 10 **IN THE UNITED STATES DISTRICT COURT**  
**FOR THE EASTERN DISTRICT OF CALIFORNIA**

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 12 FRIENDS OF THE RIVER, DEFENDERS OF  
 WILDLIFE, and CENTER FOR BIOLOGICAL  
 13 DIVERSITY,

14 Plaintiffs,

15 v.

16 UNITED STATES ARMY CORPS OF  
 17 ENGINEERS, *et al.*,

18 Defendants.  
 19

Case No. 2:11-cv-01650 JAM AC

**STIPULATION AND PROPOSED  
 ORDER FOR STAY OF DEADLINE TO  
 FILE ADMINISTRATIVE RECORD IN  
 LIGHT OF LAPSE OF  
 APPROPRIATIONS**

20 The United States of America hereby requests that this Court enter this stipulation for a  
 21 stay of Defendants' deadline to file the administrative record in the above-captioned case.

22 1. On September 12, 2013, Magistrate Judge Claire issued an order providing that  
 23 the United States Army Corps of Engineers (the "Corps") shall produce the complete and final  
 24 administrative record no later than October 31, 2013. ECF No. 82. This Order provides that  
 25 "[m]odification to the October 31, 2013 deadline shall be made only for extraordinary circum-  
 26 stances." *Id.*

1           2.       At the end of the day on September 30, 2013, the appropriations act that had been  
2 funding the Department of Justice expired and appropriations to the Department lapsed. The  
3 same is true for most Executive agencies, including the Corps. The Corps is currently able to  
4 continue limited operations for specified purposes using prior year, non-expiring appropriations,  
5 primarily for civil works activities. Those prior year appropriations are limited and will be ex-  
6 hausted at some point. The Department does not know when funding will be restored by Con-  
7 gress.

8           3.       Absent an appropriation, Department of Justice attorneys and employees of the  
9 Corps are prohibited from working, even on a voluntary basis, except in very limited circum-  
10 stances, including “emergencies involving the safety of human life or the protection of proper-  
11 ty.” 31 U.S.C. § 1342.

12           4.       While the Corps has endeavored to continue working toward production of the  
13 record, Department of Justice employees have been unable to assist in the production due to the  
14 lapse of appropriations. It is also possible that the Corps attorneys currently working on the ad-  
15 ministrative record will be furloughed in the near future due to the lapse of appropriations.

16           5.       Although the administrative record is not due to be filed until October 31, 2013,  
17 there are certain internal deadlines before that date that must be met, including review of the  
18 privilege log and privileged documents and quality control checks, in order for the record to be  
19 produced on October 31, 2013.

20           6.       Undersigned counsel for the Department of Justice therefore requests a stay of the  
21 deadline to file the administrative record until Congress has restored appropriations to the De-  
22 partment. The parties have stipulated that such a stay would be appropriate, given the circum-  
23 stances.

24           7.       If this stipulation for a stay is granted, undersigned counsel will notify the Court  
25 as soon as Congress has appropriated funds for the Department. The Government requests that,  
26 at that point, all current deadlines for the parties be extended commensurate with the duration of  
27 the lapse in appropriations.



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IT IS SO ORDERED.

DATED: October 15, 2013

  
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ALLISON CLAIRE  
UNITED STATES MAGISTRATE JUDGE