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9			
10	IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA		
11	FOR THE EASTERN DIST	KET OF CALIFORNIA	
12	FRIENDS OF THE RIVER, DEFENDERS OF WILDLIFE, and CENTER FOR BIOLOGICAL	Case No. 2:11-cv-01650 JAM AC	
13	DIVERSITY,		
14		STIPULATION AND PROPOSED	
15	Plaintiffs,	ORDER FOR STAY OF DEADLINE TO	
15	v.	FILE ADMINISTRATIVE RECORD IN LIGHT OF LAPSE OF	
16		APPROPRIATIONS	
17	UNITED STATES ARMY CORPS OF ENGINEERS, <i>et al.</i> ,		
18	ENGINEERS, <i>et ut.</i> ,		
	Defendants.		
19			
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		

administrative record no later than October 31, 2013. ECF No. 82. This Order provides that "[m]odification to the October 31, 2013 deadline shall be made only for extraordinary circum-

stances." Id.

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28 Stipulation for Stay of Deadline to File Admin. R. in Light of Lapse of Appropriations Case No. 2:11-cv-01650 JAM AC 2. At the end of the day on September 30, 2013, the appropriations act that had been funding the Department of Justice expired and appropriations to the Department lapsed. The same is true for most Executive agencies, including the Corps. The Corps is currently able to continue limited operations for specified purposes using prior year, non-expiring appropriations, primarily for civil works activities. Those prior year appropriations are limited and will be exhausted at some point. The Department does not know when funding will be restored by Congress.

3. Absent an appropriation, Department of Justice attorneys and employees of the Corps are prohibited from working, even on a voluntary basis, except in very limited circumstances, including "emergencies involving the safety of human life or the protection of property." 31 U.S.C. § 1342.

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

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

6. Undersigned counsel for the Department of Justice therefore requests a stay of the deadline to file the administrative record until Congress has restored appropriations to the Department. The parties have stipulated that such a stay would be appropriate, given the circumstances.

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

28 Stipulation for Stay of Deadline to File Admin. R. in Light of Lapse of Appropriations Case No. 2:11-cv-01650 JAM AC

1	Therefore, although we greatly regret any disruption caused to the Court and the other lit-		
2	igants, the Government hereby moves and the parties stipulate that a stay of the deadline to file		
3	the administrative record in this case should be issued until Department of Justice attorneys are		
4	permitted to resume their usual civil litigation functions.		
	Respectfully submitted this 15th day of October, 2013,		
5			
6		<u>s/ Devon Lehman McCune</u>	
7		Devon Lehman McCune, Trial Attorney U.S. Department of Justice	
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20		s/ per authorization given on 10/15/2013	
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20	Stipulation for Stay of Deadline to File Admin. R. in Light of Lapse of Appropriations	3	
	Case No. 2:11-cv-01650 JAM AC		

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9		Attorneys for Plaintiffs
10	IT IS SO ORDERED.	
11	DATED: October 15, 2013	auson Clane
12		ALLISON CLAIRE UNITED STATES MAGISTRATE JUDGE
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28	Stipulation for Stay of Deadline to File Admin. R. in Light of Lapse of Appropriations Case No. 2:11-cv-01650 JAM AC	4