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STIPULATION FOR EXTENSION OF TIME TO FILE 1
FEDERAL DEFENDANTS' ANSWER
Conservation Congress v. U.S., No. 2:13-cv-01977 JAM-DAD

1
2 UNITED STATES DISTRICT COURT FOR THE
3 EASTERN DISTRICT OF CALIFORNIA
4 SACRAMENTO DIVISION

5 CONSERVATION CONGRESS,)

6 *Plaintiff,*)

7 v.)

Case No. 2:13-cv-1977-JAM-DAD

8 UNITED STATES FOREST SERVICE,)

9 and the UNITED STATES)

10 FISH AND WILDLIFE SERVICE,)

11 *Federal Defendants.*)

12 **STIPULATION FOR EXTENSION OF TIME TO FILE FEDERAL DEFENDANTS'**
13 **ANSWER OR RESPONSE TO THE COMPLAINT**
14 **AND TO POSTPONE THE JOINT STATUS REPORT DEADLINE**

15 In support of this Stipulation, the parties hereby
16 stipulate and state as follows:

17 1. In this action, Plaintiff Conservation Congress alleges
18 that Defendants United States Forest Service ("USFS") and
19 United States Fish and Wildlife Service ("USFWS")
20 violated the Endangered Species Act, the National
21 Environmental Policy Act, and the National Forest
22 Management Act in connection with the Smokey Project on
23 the Mendocino National Forest.

24 2. On November 12, 2013 the USFS indefinitely suspended all
25 Smokey Project operations "[d]ue to ongoing litigation
26 and the new biological analysis needing to be performed."
27
28

1 3. In light of the USFS decision to reinitiate consultation
2 with USFWS under Section 7(a)(2) of the Endangered
3 Species Act, 16 U.S.C. §1536(a)(2), USFWS may issue a
4 new biological opinion at the conclusion of that
5 consultation. If it does, the parties expect that
6 Conservation Congress will file an Amended Complaint in
7 this matter.¹

9 4. Accordingly, the parties agree that the interests of
10 judicial economy and efficiency favor the issuance of a
11 stay of this litigation until the new consultation is
12 complete. The parties are attempting to negotiate a
13 schedule for a stipulation for a stay of the proceedings
14 during the consultation.

15 5. The stipulation for a stay of proceedings will seek the
16 Court's approval to extend the deadlines for Federal
17 Defendants to answer or otherwise respond to the
18 complaint or any amended complaint, and the deadline for
19 20 21

22 ¹ The parties contemplate that Conservation Congress might
23 actually need to file two amended complaints in this action,
24 since new citizen's suit claims against the USFS cannot be pled
25 until sixty days have elapsed from the time that Conservation
26 Congress provides the USFS notice of its intent to sue under the
27 citizen's suit provision of the Endangered Species Act. If
28 there were a need for Conservation Congress to seek interim
injunctive relief within that sixty day period, then
Conservation Congress would likely file a First Amended
Complaint pleading those new claims which are **not** Endangered
Species Act citizen's suit claims as the basis for its motion
for interim injunctive relief.

1 the Joint Status Report, until after the Endangered
2 Species Act consultation is complete.

3 For the above reasons, Conservation Congress and the
4 Federal Defendants hereby stipulate pursuant to Local Rule 144
5 and Federal Rule of Civil Procedure 6 to a twenty-eight day
6 extension of time of Federal Defendants' deadline for filing
7 their answer or response to Plaintiff's Complaint. Pursuant to
8 the instant stipulation, if the Court does not approve the
9 stipulation for stay of proceedings, Federal Defendants'
10 deadline for filing their answer or response to the Complaint
11 shall be due on December 30, 2013. The parties anticipate that
12 this deadline will be vacated if the parties submit and the
13 Court approves a stipulation for a stay of proceedings during
14 the Endangered Species Act consultation.
15
16

17 Also for the reasons set out above, the parties also
18 respectfully request that the Court postpone the deadline for
19 the parties to confer and submit the joint status report
20 currently due on December 2, 2013 until December 30, 2013.
21 Dkt.No. 4¶ 4. As with the deadline for Federal Defendants'
22 answer or response, the parties contemplate that this deadline
23 will be vacated if the parties submit and the Court approves a
24 stipulation for stay of proceedings.
25
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1 For all the foregoing reasons, the parties respectfully
2 request that the Court approve the stipulation to extend the
3 deadline for the joint status report.
4

5
6 It is so ordered this 3rd day of December, 2013.

7
8 /s/ John A. Mendez
9 The Honorable John A. Mendez
10 United States District Court Judge

11
12 Respectfully submitted this 2nd day of December, 2013,
13

14 /s/ STUART NICHOLAS WILCOX
15 *(signed by filer with written*
16 *authorization provided on*

17 *December 2, 2013)*
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