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UNITED STATES DISTRICT COURT
 EASTERN DISTRICT OF CALIFORNIA

24 DUARTE NURSERY, INC., a
 25 California Corporation; and
 26 JOHN DUARTE, an individual,
 27
 28 Plaintiffs,
 v.

No. CIV. S-13-2095 LKK/DAD

**STIPULATION TO EXTEND TIME FOR
 DEFENDANT TO RESPOND TO
 PLAINTIFFS' MOTION TO FILE FIRST
 SUPPLEMENTAL COMPLAINT AND
 JOINT REQUEST TO CONTINUE MOTION
 HEARING; [ORDER]**

Stipulation and Joint Request;
 [Proposed] Order

1 UNITED STATES ARMY CORPS OF
ENGINEERS,
2
3 Defendant.

4 UNITED STATES OF AMERICA,
5 Counterclaim-
6 Plaintiff,

7 v.

8 DUARTE NURSERY, INC., a
California Corporation; and
9 JOHN DUARTE, an individual,
10 Counterclaim-
11 Defendants.

12
13 The Parties - i.e., Duarte Nursery, Inc. and John Duarte
14 ("Duarte") and the United States of America, on behalf of the
15 United States Army Corps of Engineers ("United States")-
16 stipulate to extend the time for the United States to respond to
17 Duarte's motion to file a supplemental Complaint until July 24,
18 2014 and respectfully request an order from the Court continuing
19 the noticed hearing until August 11, 2014. The Parties state the
20 following in support of this request:

21 Duarte filed the Complaint on October 1, 2013. ECF No. 1.
22 The United States moved to dismiss Duarte's Complaint on December
23 23, 2013, and the Court heard this motion on February 10, 2014,
24 taking the motion under submission. ECF No. 10. On April 23,
25 2014, the Court denied the United States' motion to dismiss. ECF
26 No. 27.

27 The United States subsequently filed an Answer to the
28 Complaint and a Counterclaim against Duarte on May 7, 2014. ECF

1 No. 28. On May 14, 2014 the parties stipulated to extend the
2 deadline for Duarte to respond to the United States' Answer and
3 Counterclaim until June 23, 2014. ECF No. 29.

4 On June 23, 2014, Duarte filed an Answer to the Counterclaim
5 and filed a Motion to File First Supplement Complaint. ECF No.
6 33-34. Duarte noticed a hearing on this Court's calendar for
7 July 28, 2014. ECF Nos. 33-36. Pursuant to Fed. R. Civ. P. 6(d)
8 and Local Rule 230(c), any response from the United States is
9 currently due on July 10, 2014.

10 Good cause exists for a two-week extension of time for the
11 United States to respond to Duarte's motion to file a
12 supplemental complaint. At the time Duarte filed its motion,
13 lead counsel for the United States was out of the country on
14 annual leave. Further, both of the attorneys for the United
15 States are traveling for the July 4 holiday weekend. Extending
16 the deadline to respond to Duarte's motion until July 24, 2014
17 will provide the United States adequate time to consider Duarte's
18 motion, draft any response, and coordinate with the United States
19 Army Corps of Engineers and other components of the United States
20 to finalize a response.

21 Further, Duarte does not object to this extension, and no
22 party will be prejudiced by this brief extension of time. By
23 rescheduling the motion hearing to August 11, 2014, Duarte will
24 be able to file any reply with the Court well in advance of the
25 hearing.

26 Therefore, the Parties now stipulate to extend the time for
27 the United States to respond to Duarte's motion to file a
28 supplemental Complaint until July 24, 2014 and respectfully

1 request that the Court continue the July 28, 2014 hearing until
2 August 11, 2014.

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Respectfully submitted,

PACIFIC LEGAL FOUNDATION

Dated: July 3, 2014

s/ Anthony L. François
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Dated: July 3, 2014

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ORDER

Good cause appearing, Defendant shall have until July 24, 2014 to respond to Plaintiffs' Motion to File First Supplemental Complaint. Further, it is hereby ordered that the motion hearing noticed for July 28, 2014 is rescheduled to August 11, 2014.

IT IS SO ORDERED.

DATED: July 8, 2014.



LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT