1 2 3 IN THE UNITED STATES DISTRICT COURT 4 FOR THE EASTERN DISTRICT OF CALIFORNIA 5 6 ASSOCIATION OF AMERICAN Case No. 2:14CV02354 RAILROADS, UNION PACIFIC 7 RAILROAD COMPANY AND BNSF ORDER RE: STIPULATION RE RAILWAY COMPANY, SCHEDULE FOR PLAINTIFFS' 8 MOTION FOR PRELIMINARY Plaintiffs, **INJUNCTION** 9 v. 10 11 CALIFORNIA OFFICE OF SPILL PREVENTION AND RESPONSE, 12 THOMAS M. CULLEN, JR., CALIFORNIA ADMINISTRATOR FOR 13 OIL SPILL RESPONSE, in his official capacity, AND KAMALA D. HARRIS, 14 ATTORNEY GENERAL OF THE STATE OF CALIFORNIA, in her official capacity, 15 Defendants. 16 17 Plaintiffs ASSOCIATION OF AMERICAN RAILROADS, UNION PACIFIC RAILROAD 18 COMPANY, and BNSF RAILWAY COMPANY (collectively, Plaintiffs) and defendants 19 CALIFORNIA OFFICE OF SPILL PREVENTION AND RESPONSE (OSPR), THOMAS M. 20 CULLEN, JR., CALIFORNIA ADMINISTRATOR FOR OIL SPILL RESPONSE, in his official 21 capacity, and KAMALA D. HARRIS, ATTORNEY GENERAL OF THE STATE OF 22 CALIFORNIA, in her official capacity (collectively, Defendants), by and through their counsel of 23 record, enter into the stipulation below based upon the following facts: 24 1. On October 7, 2014, Plaintiffs filed their Complaint for Injunctive and Declaratory 25 Relief containing claims and allegations about Senate Bill 861 (S.B. 861). 26 2. On October 10, 2014, Plaintiffs filed a Motion for Preliminary Injunction (PI 27 Motion). 28 1

- 3. The hearing on the PI Motion is currently set for November 20, 2014.
- 4. On October 22, 2014, the Court granted Plaintiffs' Motion for Relief from Page Limitation Requirement for the PI Motion.
- 5. Defendants' counsel contacted Plaintiffs' counsel regarding a stipulation to postpone the hearing on the PI Motion due to administrative issues and to extend the page limit for Defendants' opposition to the PI Motion.
- 6. Plaintiffs' counsel responded that a stipulation to postpone the hearing on the PI motion could be reached, provided that Defendants agreed not to issue, on an emergency basis or otherwise, or send to the California Office of Administrative Law, any regulation or order implementing the portions of S.B. 861 concerning or affecting railroads, before the postponed hearing date.
 - 7. Defendants' counsel so agreed.
- 8. The parties have thus met and conferred and have stipulated, subject to the Court's approval, to reschedule the currently scheduled November 20, 2014 hearing on the PI Motion to January 15, 2015 at 2:00 p.m., or as soon thereafter as the Court is available, to revise the PI Motion's briefing schedule as set forth below, to extend the page limit on Defendants' opposition to the PI Motion to 35 pages, and to extend the page limit on Plaintiffs' reply brief regarding the PI motion to 25 pages, on the condition that Defendants refrain from issuing, on an emergency basis or otherwise, or sending to the California Office of Administrative Law, any regulation or order implementing any portion of S.B. 861 concerning or affecting railroads, before the Court holds a hearing on the PI motion or January 31, 2015, whichever is earlier.

STIPULATION

IT IS HEREBY STIPULATED therefore, by and between the parties to this action, through their respective counsel of record, subject to court order, that Plaintiffs' PI Motion will be subject to the following schedule:

1. The November 20, 2014 PI Motion hearing will be rescheduled to January 15, 2015 at 2:00 p.m., or as soon thereafter as the Court is available.

2.

Dated: November 3, 2014

2014. Defendants' Memorandum of Points and Authorities in Opposition to the PI Motion shall not exceed 35 pages in length.

Defendants shall file their opposition to the PI Motion on or before December 5,

- 3. Plaintiffs' reply to the PI Motion is to be filed on or before December 19, 2014. The reply shall not exceed 25 pages in length.
- 4. The administrator of oil spill response will not issue any new S.B. 861 regulation concerning or affecting railroads, *see* Cal. Gov. Code § 8670.7.5, or send any new S.B. 861 regulation concerning or affecting railroads to the California Office of Administrative Law (OAL), before the rescheduled January 15, 2015 PI Motion hearing, or, if the PI Motion hearing is not held on January 15, 2015, then before the date that the PI Motion hearing is held or January 31, 2015, whichever is earlier. In the event that no PI Motion hearing has been held by January 31, 2015, Plaintiffs reserve the right to seek a temporary restraining order to enjoin enforcement of any new S.B. 861 regulation concerning or affecting railroads issued on or after January 31, 2015.

ORDER

Based on the foregoing Stipulation and recitals, Plaintiffs' Motion for Preliminary

Injunction (PI Motion) shall be heard on January 15, 2015 at 2:00 p.m. in Courtroom 2 on the

15th Floor; Defendants shall file their opposition to the PI Motion on or before December 5,

2014. Plaintiffs shall file their reply to the opposition to the PI Motion on or before December

19, 2014. Finally, the parties also stipulated to the following page extensions: "Defendants'

Memorandum of Points and Authorities in Opposition to the PI Motion shall not exceed 35 pages
in length. [Plaintiff's] reply shall not exceed 25 pages in length." The Court finds such sizeable
extensions to be unnecessary. Accordingly, the Court will allow Defendants 27 pages to oppose
Plaintiff's PI Motion (which is the same extension that the Court allowed Plaintiffs) and
Plaintiff's reply shall not exceed 20 pages.

IT IS SO ORDERED.

Troy L. Nunley

United States District Judge