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 10 UNION PACIFIC RAILROAD COMPANY

11 [Co-Counsel listed on signature page]

12 UNITED STATES DISTRICT COURT
 13 EASTERN DISTRICT OF CALIFORNIA
 14 SACRAMENTO DIVISION

16 ASSOCIATION OF AMERICAN
 17 RAILROADS, UNION PACIFIC RAILROAD
 COMPANY, AND BNSF RAILWAY
 18 COMPANY,

19 Plaintiffs,

20 v.

21 CALIFORNIA OFFICE OF SPILL
 PREVENTION AND RESPONSE, THOMAS
 22 M. CULLEN, JR., CALIFORNIA
 ADMINISTRATOR FOR OIL SPILL
 23 RESPONSE, in his official capacity, AND
 KAMALA D. HARRIS, ATTORNEY
 24 GENERAL OF THE STATE OF
 CALIFORNIA, in her official capacity,

25 Defendants.
 26

CASE NO. 2:14-cv-02354-TLN-CKD

**STIPULATION RE SCHEDULE FOR
 DEFENDANTS' MOTION TO DISMISS
 PLAINTIFFS' COMPLAINT FOR
 INJUNCTIVE AND DECLARATORY
 RELIEF; ORDER**

Judge: The Honorable Troy L. Nunley

1 Plaintiffs ASSOCIATION OF AMERICAN RAILROADS, UNION PACIFIC RAILROAD
2 COMPANY, and BNSF RAILWAY COMPANY (collectively, Plaintiffs) and defendants
3 CALIFORNIA OFFICE OF SPILL PREVENTION AND RESPONSE (OSPR), THOMAS M.
4 CULLEN, JR., CALIFORNIA ADMINISTRATOR FOR OIL SPILL RESPONSE, in his official
5 capacity, and KAMALA D. HARRIS, ATTORNEY GENERAL OF THE STATE OF
6 CALIFORNIA, in her official capacity (collectively, Defendants), by and through their counsel of
7 record, enter into the stipulation below based upon the following facts:

8 1. On October 7, 2014, Plaintiffs filed their Complaint for Injunctive and Declaratory
9 Relief.

10 2. On October 10, 2014, Plaintiffs filed a Motion for Preliminary Injunction (PI
11 Motion).

12 4. On October 29, 2014, Defendants submitted to this Court a Stipulation Regarding the
13 Schedule for Plaintiffs' Motion for Preliminary Injunction, which states in relevant part that,
14 subject to the Court's approval, the parties agree (a) to reschedule the hearing on Plaintiffs' PI
15 Motion to January 15, 2015 at 2:00 p.m., or as soon thereafter as the Court is available; (b) that
16 Defendants shall file their opposition to the PI Motion on or before December 5, 2014; and (c)
17 that Plaintiffs' shall file their reply brief regarding the PI Motion on or before December 19,
18 2014.

19 5. On October 30, 2014, Defendants filed a Motion to Dismiss Plaintiffs' Complaint for
20 Injunctive and Declaratory Relief (MTD).

21 6. On October 31, 2014, Plaintiffs' counsel contacted Defendants' counsel regarding the
22 briefing schedule and hearing date for the MTD. Plaintiffs' counsel proposed that the briefing
23 schedule for the MTD be adjusted to match the briefing schedule for Plaintiffs' PI Motion and
24 that the hearing for the MTD be consolidated with the proposed PI hearing on January 15, 2015.

25 7. Defendants' counsel so agreed.

26 8. The parties have thus met and conferred and have stipulated, subject to the Court's
27 approval, to reschedule the hearing on the MTD (currently calendared for December 11, 2014) to
28

1 January 15, 2015 at 2:00 p.m., or as soon thereafter as the Court shall hear the PI Motion, and to
2 revise the MTD briefing schedule as set forth below.

3 **STIPULATION**

4 IT IS HEREBY STIPULATED therefore, by and between the parties to this action, through
5 their respective counsel of record, subject to court order, that Defendants' MTD will be subject to
6 the following schedule:

7 1. The MTD hearing currently scheduled for December 11, 2014 will be consolidated
8 with the hearing on Plaintiffs' PI Motion and heard on January 15, 2015 at 2:00 p.m., or as soon
9 thereafter as the Court shall hear the PI Motion.

10 2. Plaintiffs shall file their opposition to the MTD on or before December 5, 2014.

11 3. Defendants shall file their reply to the MTD on or before December 19, 2014.

12 Dated: November 4, 2014

13 Respectfully submitted,

14 LATHAM & WATKINS LLP
15 Maureen E. Mahoney
16 Timothy L. O'Mara
17 Andrew M. Gass

18 /s/ Timothy L. O'Mara

19 Timothy L. O'Mara
20 Attorneys for Plaintiffs
21 *Union Pacific Railroad Company*

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4 Counsel for Plaintiff *BNSF Railway Company*

5
6 Dated: November 4, 2014

7 Kamala D. Harris
Attorney General of California
8 Randy L. Barrow
Supervising Deputy Attorney General

9
10 /s/ Nicholas C. Stern (as authorized on 11/4/2014)
Nicholas C. Stern
11 Deputy Attorney General
Attorneys for Defendants
12 California Office of Oil Spill Prevention and
Response, Thomas M. Cullen, Jr., California
13 Administrator for Oil Spill Response, and Kamala
D. Harris, Attorney General of the State of
14 California

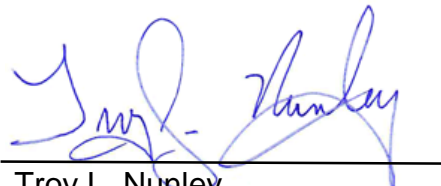
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ORDER

Based on the foregoing Stipulation and recitals, Defendants' Motion to Dismiss Plaintiffs' Complaint for Injunctive and Declaratory Relief (MTD) shall be heard on January 15, 2015 at 2:00 p.m. in Courtroom 2 on the 15th Floor. Plaintiffs shall file their opposition to the MTD on or before December 5, 2014. Defendants shall file their reply to Plaintiffs' opposition on or before December 19, 2014.

IT IS SO ORDERED.

Dated: November 14, 2014



Troy L. Nunley
United States District Judge