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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

SILVERHAWK INC., dba LOWER
SACRAMENTO CHEVRON, et al.,

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE FOOD AND
NUTRITION SERVICE,

Defendant.

No. 2:15-CV-02470-MCE-EFB

ORDER

On May 27, 2016, this Court issued an order to show cause (“OSC”) as to why this case should not be dismissed for failure to comply with the Local Rules and the orders of this Court. ECF No. 18. Plaintiffs timely responded in writing (ECF No. 20) and filed a First Amended Complaint (“FAC”) (ECF No. 19) as well. According to Plaintiffs’ counsel, who is also a party to this action, based on Defendant’s statement in its Motion to Dismiss that “[t]he Court should . . . grant Plaintiffs leave to amend to bring a claim against the United States under the statute allowing judicial review,” ECF No. 13-1 at 2, Plaintiff intended to file the FAC in lieu of an opposition. Plaintiffs failed to do so, however, due to mistake, inadvertence or excusable neglect resulting from counsel’s medical issues. Based on the statements of counsel in response to the Court’s OSC,

1 the Court finds both good cause for Plaintiffs' failure to oppose Defendant's Motion and
2 that Plaintiffs have conceded its merit. Accordingly, that Motion (ECF No. 13) is
3 GRANTED with leave to amend. The OSC (ECF NO. 18) is hereby DISCHARGED, and
4 the FAC (ECF No. 19) is deemed filed in response to this Order as of the date this Order
5 is electronically filed.¹

6 IT IS SO ORDERED.

7 Dated: June 13, 2016

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9 MORRISON C. ENGLAND, JR.
10 UNITED STATES DISTRICT JUDGE
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27 _____
28 ¹ The original filing of the FAC without stipulation of the parties or order of the Court was itself
untimely under Federal Rule of Civil Procedure 15.