

1 Laura Pagano, SBN 244079
2 Selena Kyle, SBN 246069
3 NATURAL RESOURCES DEFENSE COUNCIL
4 111 Sutter Street, 20th Floor
5 San Francisco, CA 94104
6 Telephone: (415) 875-6100
7 Fax: (415) 875-6161

8 Aaron Colangelo, admitted *pro hac vice*
9 NATURAL RESOURCES DEFENSE COUNCIL
10 1200 New York Ave, NW, Suite 400
11 Washington, DC 20005
12 Telephone: (202) 289-2376
13 Fax: (202) 289-1060

14 Attorneys for Plaintiff

15 RONALD J. TENPAS
16 Assistant Attorney General
17 United States Department of Justice
18 Environment & Natural Resources Division
19 JEAN E. WILLIAMS, Chief
20 LISA LYNNE RUSSELL, Assistant Chief

21 KRISTEN BYRNES FLOOM, Trial Attorney (DC Bar No. 469615)
22 Wildlife and Marine Resources Section
23 Benjamin Franklin Station, P.O. Box 7369
24 Washington, DC 20044-7369
25 Telephone: (202) 305-0340
26 Facsimile: (202) 305-0275
27 Kristen.Floom@usdoj.gov

28 Attorneys for Defendants

**STIPULATED REQUEST FOR STAY OF SUMMARY JUDGMENT BRIEFING
SCHEDULE AND [~~PROPOSED~~] ORDER – Case No. C 01-0421 JL**

1 **UNITED STATES DISTRICT COURT**
2 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**

3 _____)
4 NATURAL RESOURCES DEFENSE COUNCIL, INC.,) Case No. C 01-0421 JL
5)
6 Plaintiff,) **STIPULATED REQUEST**
7 v.) **FOR STAY**
8) **OF SUMMARY JUDGMENT**
9) **BRIEFING SCHEDULE**
10 CARLOS M. GUTIERREZ, Secretary of Commerce, et al.,)
11)
12 Defendants.)
13 _____)

11 Pursuant to Civil Local Rule 6-2, the parties hereby request a stay of the current briefing
12 schedule for cross-motions on summary judgment. The parties seek this stay in order to
13 accommodate a potential amendment to the complaint to incorporate a challenge to Defendants’
14 final 2009-2010 harvest specifications for the Pacific groundfish fishery.

15 Plaintiff Natural Resources Defense Council’s (“NRDC’s”) current complaint in this case
16 challenges a series of amendments to Defendants’ fishery management plan that concern the
17 rebuilding of the Pacific groundfish fishery, and Defendants’ use of those amendments in
18 establishing harvest specifications for Pacific groundfish. *See* Doc. No. 190 (Fourth Am.
19 Compl.). The Court’s current schedule provides for summary judgment briefing to begin on
20 December 17, 2008 and to conclude on March 11, 2009, and for the parties to present oral
21 argument on March 25, 2009. *See* Doc. No. 246. In February 2009, Defendants are expected to
22 issue final harvest specifications for the Pacific groundfish fishery for the years 2009 to 2010.
23 NRDC anticipates, based on its review of Defendants’ draft specifications for 2009-2010, that it
24 will move to amend its complaint to challenge the final 2009-2010 specifications.

25 In order to accommodate the anticipated motion to amend, the parties respectfully
26 propose that the current briefing schedule be stayed pending Defendants’ issuance of the final
27 2009-2010 specifications. To avoid undue delay in merits briefing, and to facilitate a ruling on
28 any motion to amend within the 30-day statute of limitations provided by the Magnuson-Stevens

**STIPULATED REQUEST FOR STAY OF SUMMARY JUDGMENT BRIEFING
SCHEDULE AND [PROPOSED] ORDER – Case No. C 01-0421 JL**

1 Act, *see* 16 U.S.C. § 1855(f)(1), the parties agree to conduct expedited briefing on any motion to
2 amend. If leave to amend is granted, the parties will propose a new schedule for record
3 supplementation and summary judgment briefing within 14 days of NRDC's filing of its
4 amended complaint.

5 If NRDC does not move to amend its complaint, or its motion to amend is denied, the
6 parties will propose a new schedule for summary judgment briefing on NRDC's current
7 complaint within 30 days of Defendants' issuance of the 2009-2010 specifications.

8 While the parties do not anticipate the need for any hearing on this Stipulated Request,
9 should the Court wish to hear from the parties, Defendants' counsel respectfully requests
10 permission to appear telephonically.

11 Respectfully submitted,

12
13 /s/ Selena Kyle
14 Laura Pagano, SBN 244079
15 Selena Kyle, SBN 246069
16 NATURAL RESOURCES DEFENSE
17 COUNCIL
18 111 Sutter Street, 20th Floor
19 San Francisco, CA 94104
20 Telephone: (415) 875-6100
21 Fax: (415) 875-6161

22 Aaron Colangelo, admitted *pro hac vice*
23 NATURAL RESOURCES DEFENSE
24 COUNCIL
25 1200 New York Ave, NW, Suite 400
26 Washington, DC 20005
27 Telephone: (202) 289-2376
28 Fax: (202) 289-1060

Attorneys for Plaintiff

Dated: November 25, 2008

RONALD J. TENPAS
Assistant Attorney General
United States Department of Justice
Environment & Natural Resources
Division
JEAN E. WILLIAMS, Chief
LISA LYNNE RUSSELL, Assistant Chief

/s/ Kristen Byrnes Floom
KRISTEN BYRNES FLOOM, Trial
Attorney (DC Bar No. 469615)
Wildlife and Marine Resources Section
Benjamin Franklin Station, P.O. Box 7369
Washington, DC 20044-7369
Telephone: (202) 305-0340
Facsimile: (202) 305-0275
Kristen.Floom@usdoj.gov

Attorneys for Defendants

Dated: November 25, 2008

1 **~~PROPOSED~~ ORDER**

2 The Court, pursuant to the Parties' Stipulated Request, hereby orders that the summary
3 judgment briefing schedule set forth in this Court's August 18, 2008 order (Doc. No. 246) is
4 STAYED pending Defendants' issuance of final 2009-2010 harvest specifications for the Pacific
5 groundfish fishery. If Plaintiff does not move to amend its complaint to challenge the final
6 2009-2010 specifications, or leave to amend is denied, the parties will propose a new schedule
7 for briefing on the current record within 30 days of Defendants' issuance of final 2009-2010
8 specifications. If leave to amend is granted, the parties will propose a new schedule for record
9 supplementation and merits briefing to the Court within 14 days of Plaintiff's filing of its
10 amended complaint.

11
12 IT IS SO ORDERED.

13 Dated: November __ 26 __, 2008

14 

15 Hon. James Larson
16 United States Magistrate Judge
17
18
19
20
21
22
23
24
25
26
27
28

