

**U.S. Department of Justice**

Environment and Natural Resources Division

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December 31, 2009

Chief Magistrate Judge Maria Elena-James
c/o Brenda Tolbert, Courtroom Deputy
United States District Court
Northern District of California
450 Golden Gate Ave.
San Francisco, CA 94102

Re: Natural Resources Defense Council v. Gary Locke, et al., Civ-01-0421-JL

Dear Judge James:

After further discussion, Plaintiff and the Federal Defendants do not believe that it will be possible to settle any of the claims in the above-captioned case. Although the parties had productive discussions during the settlement conference before you on December 1, 2009, and followed up with phone calls and emails with each other, we ultimately could not agree on a settlement that would be acceptable to both sides. In particular, while we made progress on settling the NEPA claim, we eventually discovered that we could not agree on the form of a settlement. This discovery obviated the need to continue discussions on settling the other claims, which were less advanced and less likely to succeed in any event.

For the reasons discussed above, we ask that you remove the settlement conference scheduled for January 6, 2010, from the Court's calendar. If you have any questions, please contact me at 202-305-0339.

Best regards,

/s/ Erik Petersen

Erik E. Petersen
Trial Attorney



cc:

Magistrate Judge James Larson
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