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10
 11 **UNITED STATES DISTRICT COURT**
 12 **NORTHERN DISTRICT OF CALIFORNIA**
 13 **SAN FRANCISCO DIVISION**

14)
 15 CENTER FOR BIOLOGICAL)
 DIVERSITY, a non-profit corporation;)
 16)
 Plaintiff,)
 17)
 v.)
 18)
 ENVIRONMENTAL PROTECTION)
 AGENCY *et al.*,)
 19)
 Defendants.)
 20)
 21)

Case No: C-07-02794-JCS

**NINTH JOINT CASE MANAGEMENT
 STATEMENT AND REQUEST FOR
 CONTINUANCE; ~~PROPOSED~~ ORDER**

Date: November 21, 2008
 Time: 1:30 p.m.
 Courtroom A, 15th Floor

Honorable Joseph C. Spero

NINTH JOINT CASE MANAGEMENT STATEMENT

23 The parties to the above-entitled action submit this Ninth Joint Case Management Statement,
 24 Request for Continuance, and Proposed Order and request the Court to adopt it as its Case
 25 Management Order in this case.

REQUEST FOR CMC CONTINUANCE

27 On September 21, 2007, the Court held a case management conference in this matter. At the

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1 CMC, counsel for plaintiff and defendants stated their preference for pursuing settlement rather than
2 moving forward with briefing on the allegations in Plaintiff's complaint that Defendants are
3 currently in violation of Section 7 of the Endangered Species Act ("ESA"), 16 U.S.C. § 1536(a)(2),
4 regarding the impacts of certain pesticide registrations (as specifically identified in the Complaint)
5 on eleven endangered and threatened species occurring in the San Francisco Bay Area.

6 Since the September 21, 2007 CMC, the parties have exchanged settlement proposals and
7 discussed the potential for settlement of this case. On October 16, 2007, the parties submitted a
8 Second Joint Case Management Statement and requested additional time for settlement discussions.
9 On October 22, 2007, the Court continued the case management conference until November 30,
10 2007. On November 20, 2007, the parties submitted their Third Joint Case Management Statement
11 requesting additional time to negotiate settlement, and on November 21, 2007, the Court continued
12 the case management conference until January 18, 2008. On January 11, 2008, the parties submitted
13 their Fourth Joint Case Management Statement requesting additional time to negotiate settlement,
14 and on January 14, 2008, the Court continued the case management conference until March 14,
15 2008.

16 On March 14, 2008, a Case Management Conference was held, as well as a Motion Hearing on
17 Proposed Intervenor Defendants' Motions to Intervene. On March 19, 2008, the Court issued an Order
18 granting in part and denying in part the Motions to Intervene and consequently, Intervenor Defendants
19 CropLife America, RISE-Responsible Industry for a Sound Environment, and Reckitt Benckiser are now
20 involved in the remedy phase of this case.

22 Since March, the parties have discussed further settlement proposals and believe significant
23 progress has been made. In May, July, and September, the parties submitted their Sixth, Seventh, and
24 Eighth Case Management Statements which the Court adopted. Since then, further discussions have
25 been held and additional progress made. The Parties are hopeful they can resolve their remaining
26 issues shortly and believe a continuance of the CMC currently scheduled for November 21, 2008,
27
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1 would be beneficial in allowing the parties to continue their settlement discussions. The parties
2 therefore jointly request a continuance of the CMC currently scheduled for November 21, 2008, at
3 1:30 p.m. to January 9, 2009.
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5
6 DATED: November 14, 2008

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CropLife America and
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CASE MANAGEMENT ORDER

The Case Management Statement and ~~Proposed~~ Order is hereby adopted by the Court as the Case Management Order for the case.

IT IS HEREBY ORDERED THAT:

- 1. The case management conference scheduled for November 21, 2008 is continued to January 9, 2009 at 1:30 p.m..
- 2. An updated joint case management conference statement shall be due by January 2, 2009.

IT IS SO ORDERED

Dated: November 17, 2008.

