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7  
 8 **UNITED STATES DISTRICT COURT**  
 9 **NORTHERN DISTRICT OF CALIFORNIA**  
 10 **SAN FRANCISCO DIVISION**

11 CENTER FOR BIOLOGICAL DIVERSITY, )  
 a non-profit corporation, )  
 12 )  
 Plaintiff, )  
 13 )  
 v. )  
 14 )  
 15 ENVIRONMENTAL PROTECTION )  
 AGENCY *et al.*, )  
 16 )  
 Defendants, and )  
 17 )  
 18 CROPLIFE AMERICA, RISE, AND )  
 RECKITT BENCKISER, INC., )  
 19 )  
 20 Intervenor-Defendants.  
 21 \_\_\_\_\_

Case No.: 07-2794-JCS

22 )  
 23 ) **JOINT STIPULATED REQUEST FOR**  
 24 ) **STATUS CONFERENCE**  
 25 )  
 26 )  
 27 )  
 28 )

**JOINT MOTION FOR RELIEF**

Pursuant to Local Rule 16-2(d), Plaintiff and Federal Defendants hereby jointly move this Court for relief from the existing case management schedule.

On September 21, 2007, this Court held a case management conference (“CMC”) in this matter. At the CMC, counsel for both Plaintiff and the Federal Defendants stated their preference to pursue settlement rather than moving forward with briefing on the allegations in Plaintiff’s complaint. To that end, the parties exchanged settlement proposals and discussed the potential for settlement.

On March 14, 2008, another CMC was held, as well as a hearing on several motions to intervene. On March 19, 2008, this Court issued an order granting in part and denying in part the motions to intervene. Consequently, Intervenor Defendants CropLife America, RISE - Responsible Industry for a Sound Environment, and Reckitt Benckiser were permitted to intervene in the remedy phase of this case.

On June 8, 2009, this Court set a CMC for August 14, 2009, and stated that a continuance of this CMC would not be granted. Dkt. No. 72. On July 1, 2009, the Federal Defendants solicited comments from the public on the draft settlement, see 74 Fed. Reg. 31427 (July 1, 2009), and on July 17, 2009, all parties to this case requested that this Court grant the parties relief from the existing case management schedule. As part of their filing, the parties agreed that if the settlement agreement was not filed with this Court within 45 days after the close of the public comment period, the parties would promptly request a CMC with this Court. On July 27, 2009, this Court granted relief from the existing case management schedule.

The public comment period closed on August 17, 2009, and various discussions have been held since then regarding the terms of the settlement. Among other things, those discussions led Plaintiff to believe that an additional pesticide, difenacoum, should be added to this case. Plaintiff intends to move this Court to add this pesticide to the case via an amended complaint and has provided the Environmental Protection Agency with a 60-day notice pursuant to the terms of the Endangered Species Act (“ESA”).

1 At this time, the Federal Defendants do not intend to oppose Plaintiff's motion to amend  
2 their complaint, once 60 days have passed as required by the ESA. The Intervenor-Defendants  
3 reserve the right to respond to any motion for leave to file an amended complaint.

4 On October 30, 2009, Plaintiff and Federal Defendants filed a joint motion requesting  
5 relief from the existing case management schedule. Dkt. No. 86. Intervenor-Defendants did not  
6 oppose that request. On November 2, 2009, this Court issued an order denying the motion. Dkt  
7 No. 87. In response, the undersigned counsel for the Federal Defendants, with the permission of  
8 the other parties, contacted chambers to determine how the Court wanted to proceed in light of  
9 the Court's order and was informed that this Court would like to hold a status conference.

10 In light of the above explained circumstances, the parties hereby offer a joint stipulated  
11 request for a status conference on November 13, 2009.

12  
13 Dated: November 3, 2009

14 Presented by:

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17 /s/ Erik Petersen  
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Dated: 11/3/9

