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8 Attorneys for Defendant-Intervenor
CROPLIFE AMERICA

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

13 PESTICIDE ACTION NETWORK NORTH
AMERICA; UNITED FARM WORKERS,
14 PINEROS Y CAMPESINOS UNIDOS DEL
NOROESTE; FARM LABOR ORGANIZING
15 COMMITTEE; AFL-CIO; BEYOND
PESTICIDES; NATURAL RESOURCES
16 DEFENSE COUNCIL; SEA MAR COMMUNITY
HEALTH CENTER; TEAMSTERS LOCAL 890;
17 and MOISES LOPEZ,

18 Plaintiffs,

19 v.

20 U.S. ENVIRONMENTAL PROTECTION
AGENCY, *an agency of the United States*;
21 STEPHEN L. JOHNSON, *Administrator*,
U.S. Environmental Protection Agency, *in*
22 *his official capacity*,

23 Defendants.
24

CASE No. 3:08-CV-01814 MHP

STIPULATION TO EXTEND TIME TO FILE
MOTIONS TO DISMISS & INDICES TO THE
ADMINISTRATIVE RECORDS PURSUANT TO
LOCAL RULES 6-1, 6-2 & 6-3; [~~PROPOSED~~
ORDER]

25 WHEREAS, on September 9, 2008, Defendant-Intervenors Gowan Company (“Gowan”)
26 and CropLife America (“CLA”) (collectively, “Defendant-Intervenors”), jointly filed and served
27 an Administrative Motion for Stay of this Action (“Motion to Stay”) due to the expedited appeal
28 pending before the United States Court of Appeals for the Ninth Circuit in *United Farm Workers*

1 of *America v. EPA*, No. 08-35528 (9th Cir.) (“United Farm Workers Case”), which Defendant-
2 Intervenor alleges involves the same subject matter jurisdiction questions presented by the above-
3 captioned case, a motion for which Defendant-Intervenor has requested an October 20, 2008
4 hearing date;

5 WHEREAS, on September 11, 2008, in its Response to Administrative Motion for Stay,
6 PANNA stated that it will oppose Defendant-Intervenor’s Motion to Stay on or before
7 September 29, 2008.

8 WHEREAS, on September 17, 2008, Defendants United States Environmental Protection
9 Agency and Stephen L. Johnson (“EPA”), in an Administrative Motion to Consider Whether
10 Cases Should be Related, stated that it intends also to file a motion to stay proceedings in this
11 case, and that motion still is forthcoming;

12 WHEREAS, during the July 15, 2008 telephonic Case Management Conference hearing in
13 this case, the Court set a briefing schedule for Defendant EPA’s and Defendant-Intervenor’s
14 Motions to Dismiss concerning subject matter jurisdiction questions which Defendant-Intervenor
15 have alleged are the same issues before the Ninth Circuit appeal in the United Farm Workers
16 Case, as follows: Motions to Dismiss to be filed by October 6, 2008; Oppositions to be filed by
17 October 20, 2008; Replies to be filed by October 27, 2008; Motions to be heard 2:00 p.m. on
18 November 17, 2008;

19 WHEREAS, in the Joint Case Management Statement (Dkt. No. 40), parties also agreed to
20 the following deadlines related to the administrative record:

21		
22	EPA will provide plaintiffs and defendant intervenors with the indices to the administrative records and copies of documents falling into mutually identified categories	October 15, 2008
23		
24	EPA will file with the Court and serve on plaintiffs and defendant-intervenor certified indices to the administrative records and agreed-upon extracts of the records	December 12, 2008
25		
26		
27		
28		

1 **WHEREAS**, it would unnecessarily burden the parties and this Court to prepare and
2 consider Defendant EPA’s and Defendant-Intervenors’ Motions to Dismiss now, while motions to
3 stay are pending before the Court;

4 **WHEREAS**, it would unnecessarily burden Defendant EPA to complete preparation of the
5 administrative record indices while motions to stay are pending before the Court; and

6 **WHEREAS**, Plaintiffs, Defendant EPA, and Defendant-Intervenors (“the Parties”) have
7 satisfied the requirement under this Court’s Local Rule 6-3 that they must meet and confer to seek
8 a stipulation before requesting an enlargement of time for filing;

9 In light of the foregoing recitals, the Parties below hereby stipulate that the briefing
10 schedule and hearing date on the Motions to Dismiss should be stayed to allow the Court a full
11 opportunity to resolve the pending Motion for Stay so as to maximize the efficient use of the
12 Court’s and the Parties’ resources and without unnecessarily burdening the Parties and this Court
13 with Motions to Dismiss which are now premature.

14 The Parties further stipulate that, within seven days after the Court rules on the pending
15 Motion for Stay (which may include EPA’s anticipated motion to stay) they will meet and confer
16 and then submit for the Court’s consideration a stipulated modified briefing schedule and hearing
17 date for the Motions to Dismiss. The Parties also stipulate that, unless the Court stays the filing
18 of the certified index to the administrative record, within thirty (30) days after the Court rules on
19 the pending Motion for Stay, EPA will provide Plaintiffs and Defendant-Intervenors with the
20 indices to the administrative records and copies of documents falling into mutually identified
21 categories and within sixty (60) days after providing Plaintiffs and Defendant-Intervenors with
22 such records, EPA will file with the Court and serve on Plaintiffs and Defendant-Intervenors
23 certified indices to the administrative records and agreed-upon extracts of the records.

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IT IS SO STIPULATED.

Dated: September 26, 2008

MCKENNA LONG & ALDRIDGE LLP

By: _____

ANN G. GRIMALDI
LAWRENCE EBNER
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Attorneys for Defendant-Intervenor
CROPLIFE AMERICA

Dated: September 26, 2008

STOEL RIVES LLP

By: _____

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Dated: September 26, 2008

By: _____

BETHAMI AUERBACH

Attorneys for Defendant-Intervenor
GOWAN COMPANY

Dated: September 26, 2008

RONALD J. TENPAS
ASSISTANT ATTORNEY GENERAL
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NATURAL RESOURCES DIVISION
UNITED STATES DEPARTMENT OF JUSTICE

By: _____

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Attorneys for Defendant
U.S. ENVIRONMENTAL PROTECTION
AGENCY, *et al.*

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Dated: September 26, 2008

EARTHJUSTICE

By: _____
JOSHUA OSBORNE-KLEIN
KRISTEN L. BOYLES

Attorneys for Plaintiffs
PESTICIDE ACTION NETWORK NORTH
AMERICA, *et al.*

ORDER

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The Parties having so stipulated, and good cause appearing therefor, **IT IS HEREBY ORDERED** that the briefing schedule and hearing date for Defendant EPA’s and Defendant-Intervenors’ Motions to Dismiss established July 15, 2008 is stayed and shall be amended as follows: Within seven days after this Court rules on the pending Motion for Stay, the Parties shall meet and confer and shall submit to the Court a stipulated modified briefing schedule and hearing date for the Motions to Dismiss.

IT IS FURTHER HEREBY ORDERED that, unless the Court stays the filing of the certified index to the administrative record, within thirty (30) days after the Court rules on the pending Motion for Stay, EPA will provide Plaintiffs and Defendant-Intervenors with the indices to the administrative records and copies of documents falling into mutually identified categories and within sixty (60) days after providing Plaintiffs and Defendant-Intervenors with such records, EPA will file with the Court and serve on Plaintiffs and Defendant-Intervenors certified indices to the administrative records and agreed-upon extracts of the records.

IT IS SO ORDERED.

Dated: October 6, 2008

