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13 Attorneys for Defendants

14 **UNITED STATES DISTRICT COURT**
15 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**
16 **SAN FRANCISCO DIVISION**

17 SIERRA CLUB, INC., MINNESOTA)
18 CENTER FOR ENVIRONMENTAL)
ADVOCACY, NATIONAL WILDLIFE)
19 FEDERATION, and INDIGENOUS)
ENVIRONMENTAL NETWORK,)

20 Plaintiffs,)

21 v.)

22 UNITED STATES DEPARTMENT OF)
STATE, HILLARY CLINTON, in her)
23 official capacity as Secretary of State,)
24 JAMES STEINBERG, in his official)
capacity as Deputy Secretary of State,)
25 and the UNITED STATES ARMY)
CORPS OF ENGINEERS,)

26 Defendants.)
27

No. 3:09-cv-04086-SI

**STIPULATION TO CONTINUE HEARING
DATE ON DEFENDANTS' MOTION TO
TRANSFER VENUE AND TO PERMIT
COUNSEL FOR DEFENDANTS TO
APPEAR TELEPHONICALLY**

) Hearing Date: September 25, 2009
) Time: 9:00 am

) Hon. Susan Illston
) U.S. District Judge

28

Stipulation to Continue Hearing Date on Defendants' Motion to Transfer Venue
Case No. 3:09-cv-04086-SI

1 It is hereby stipulated by and between the Parties, through their respective counsel, and
2 subject to the approval of the Court, that the hearing date on Defendants' Motion to Transfer Venue
3 (Docket No. 44) shall be continued until Monday, September 28, 2009, at 10:30 a.m. The hearing
4 is currently scheduled for Friday, September 25, at 9:00 a.m. As explained in the attached
5 Declaration of Luther L. Hajek, Mr. Hajek and co-counsel David Glazer are both unavailable on
6 September 24 and 25, 2009, due to a long scheduled U.S. Department of Justice training program
7 on those days. The undersigned counsel spoke by telephone with Sarah Burt, counsel for Plaintiffs,
8 who indicated that Plaintiffs do not object to continuing the hearing date as long as the motion can
9 be heard on September 28 or 29, 2009. The undersigned counsel also spoke by telephone with
10 David Coburn, counsel for proposed Intervenor, who agreed to continue the hearing to September
11 28, 2009.

12 This is the Parties' first request for an extension of the hearing on Defendants' Motion to
13 Transfer Venue, and no other requests for extensions have been made in the case. Granting the
14 requested extension would delay hearing of the motion by only one business day.

15 The parties also stipulate, subject to the approval of the Court, that counsel for Defendants,
16 Luther L. Hajek, may appear at the hearing telephonically. The undersigned counsel spoke with Ms.
17 Burt and Mr. Coburn, and both had no objection to Mr. Hajek appearing by telephone at the hearing.
18 Should the Court grant the request, Mr. Hajek can be reached by telephone during the hearing at
19 (202) 305-0492. Mr. Glazer will not be able to participate in the hearing due to Yom Kippur, but
20 an attorney from the U.S. Attorney's Office for the Northern District of California will be present
21 in the courtroom.

22 Counsel for Plaintiffs has reviewed the instant Stipulation and has authorized counsel for
23 Defendants to sign on their behalf. Counsel for proposed Intervenor has reviewed the Stipulation
24 and approves of its filing. A Proposed Order approving this Stipulation is attached.

25 Respectfully submitted this 18th day of September, 2009.

26 JOHN C. CRUDEN
27 Acting Assistant Attorney General
28 Environment & Natural Resources Division

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/s/ Luther L. Hajek
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Attorneys for Defendants

/s/ Sarah H. Burt
SARAH H. BURT (CA Bar No. 250378)
J. MARTIN WAGNER (CA Bar No. 190049)
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Fax: (510) 550-6740

CERTIFICATE OF SERVICE

I, Luther L. Hajek, hereby certify that on September 18, 2009, I electronically filed the foregoing STIPULATION TO CONTINUE HEARING DATE ON DEFENDANTS' MOTION TO TRANSFER VENUE AND TO PERMIT COUNSEL FOR DEFENDANTS TO APPEAR TELEPHONICALLY, DECLARATION OF LUTHER L. HAJEK, and PROPOSED ORDER with the Clerk of Court using the CM/ECF system, which will automatically send email notification to all attorneys of record whose e-mail addresses are listed below:

mwagner@earthjustice.org

sburt@earthjustice.org

kreuther@mncenter.org

eric.huber@sierraclub.org

doug.hayes@sierraclub.org

jsmith@steptoe.com

/s/ Luther L. Hajek
Luther L. Hajek

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official capacity as Secretary of State,)
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27)
28)

No. 3:09-cv-04086-SI

**DECLARATION OF LUTHER L. HAJEK
IN SUPPORT OF STIPULATION TO
CONTINUE HEARING DATE ON
DEFENDANTS' MOTION TO TRANSFER
VENUE AND TO PERMIT COUNSEL FOR
DEFENDANTS TO APPEAR
TELEPHONICALLY**

Hearing Date: September 25, 2009
Time: 9:00 am

Hon. Susan Illston
U.S. District Judge

1 I, Luther L. Hajek, hereby declare as follows:

2 1. I am an attorney in good standing of the bar of the District of Columbia, and I am
3 employed as a trial attorney with the United States Department of Justice, Environment and
4 Natural Resources Division, Natural Resources Section. I am the attorney of record assigned to
5 represent the Defendants in this action. I submit this declaration in support of the parties'
6 Stipulation to Continue Hearing Date on Defendants' Motion to Transfer Venue and to Permit
7 Counsel for Defendants to Appear Telephonically.

8 2. On September 9, 2009, the Court issued an order setting a briefing schedule for
9 Defendants' Motion to Transfer Venue and setting a hearing for September 25, 2009. See
10 Docket No. 35.

11 3. Lead counsel for Defendants, Luther L. Hajek, and co-counsel, David Glazer, are
12 both scheduled to attend U.S. Department of Justice training on September 24-25, 2009. The
13 training will be attended by all members of the Environment and Natural Resources Division,
14 Natural Resources Section, of which Mr. Hajek and Mr. Glazer are both members. The training
15 takes place every two years and involves the Section's attorneys from around the country. The
16 training has been scheduled for many months and the Section makes every effort to avoid case
17 conflicts with the training.

18 4. On September 16, 2009, I spoke with Sarah Burt, counsel for Plaintiffs, and she
19 agreed to a continuance of the hearing as long as it could be held on September 28 or 29, 2009.
20 On September 17, 2009, I spoke with David Coburn, counsel for proposed Intervenors, and he
21 agreed to holding the hearing on September 28, 2009. Neither Ms. Burt nor Mr. Coburn objects
22 to counsel for Defendants appearing by telephone at the hearing. Mr. Hajek's telephone number
23 is: (202) 305-0492.

24 5. None of the parties in the case has previously sought an extension of any Court
25 deadline.

26 6. The requested continuance would result in the hearing being delayed by one
27 business day.

1 Executed on September 18, 2009, at Washington, DC.

2 /s/ Luther L. Hajek
3 LUTHER L. HAJEK

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No. 3:09-cv-04086-SI

**PROPOSED ORDER APPROVING
STIPULATION TO CONTINUE HEARING
DATE ON DEFENDANTS' MOTION TO
TRANSFER VENUE AND TO PERMIT
COUNSEL FOR DEFENDANTS TO
APPEAR TELEPHONICALLY**

Hearing Date: September 25, 2009

Time: 9:00 am

Hon. Susan Illston
U.S. District Judge

1 **[PROPOSED] ORDER**

2 Upon consideration of the parties' Stipulation to Continue Hearing Date on Defendants'
3 Motion to Transfer Venue and to Permit Counsel for Defendants to Appear Telephonically and
4 finding that good cause exists for the Stipulation to be approved, it is hereby ORDERED that the
5 Stipulation is APPROVED, and it is further

6 ORDERED that the hearing on Defendants' Motion to Transfer Venue currently
7 scheduled for September 25, 2009 at 9:00 a.m. is rescheduled for September 28, 2009 at 10:30
8 a.m., and it is further

9 ORDERED that counsel for Defendants may appear telephonically at the hearing.

10 IT IS SO ORDERED

11
12 Dated: _____, 2009.

13 

14 _____
15 The Honorable Susan Illston
16 United States District Court Judge