

1 David A. Bahr (Oregon Bar No. 90199)  
 2 Bahr Law Offices, P.C.  
 3 1035 ½ Monroe Street  
 4 Eugene, OR 97402  
 (541) 556-6439  
davebahr@mindspring.com

5 Elena Saxonhouse (California Bar. No. 235139)  
 6 Sierra Club Environmental Law Program  
 7 85 Second St., 2nd Floor  
 8 San Francisco, CA 94105  
 (415) 977-5765  
 (415) 977-5793 (facsimile)  
Elena.Saxonhouse@Sierraclub.org

9 Attorneys for Plaintiffs

10  
 11 MELINDA HAAG (CSBN 132612)  
 United States Attorney

12 ALEX TSE (CSBN 152348)  
 Acting Chief, Civil Division

13 ABRAHAM A. SIMMONS (CSBN 146400)  
 Assistant United States Attorney

14 450 Golden Gate Avenue, 9th Floor  
 15 San Francisco, California 94102-3495  
 Telephone: (415) 436-7264  
 16 Facsimile: (415) 436-6748  
 17 Email: abraham.simmons@usdoj.gov

18 Attorneys for Federal Defendant

19 **IN THE UNITED STATES DISTRICT COURT**  
 20 **FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
 21 **SAN FRANCISCO DIVISION**

22 **THE SIERRA CLUB and ENVIRONMENTAL**  
**INTEGRITY PROJECT,**

23 Plaintiffs,

24 vs.

25 **UNITED STATES ENVIRONMENTAL**  
 26 **PROTECTION AGENCY,**

27 Defendant.

Case No. C-11-0846-MEJ

**FOURTH SUPPLEMENTAL JOINT CASE  
MANAGEMENT REPORT**

1 This is an action brought by Plaintiffs pursuant to the Freedom of Information Act, 5 U.S.C. §  
2 552, to compel production of documents. The information request upon which this suit is based, sought  
3 information submitted to defendant relating to the operations of coal-fired power plants owned by the  
4 Luminant Corporation.

5 After the parties completed briefing cross-motions for summary judgment, but before oral argu-  
6 ment on same, on May 20, 2012, the Court vacated the scheduled hearing and ordered the parties to  
7 meet and confer in her chambers on May 30, 2012. Dkt. No. 50. After fruitful discussion in chambers,  
8 the parties agreed to continue with informal settlement discussions in an effort to resolve this matter  
9 without further litigation. Accordingly, the parties engaged in a number of direct and informal settlement  
10 conference calls and have exchanged a settlement proposal. Additionally, as the Parties informed the  
11 Court, recent EPA enforcement activities involving Luminant have impacted EIP and Sierra Club's in-  
12 terest in the documents at issue in this matter. Because the parties required additional time in which to  
13 explore possible resolution of this case, when they reported back to the Court on September 20, 2012,  
14 they requested that the case be stayed until November 21, 2012 by which time they would inform the  
15 Court of the status of their settlement efforts. Dkt. No. 52. The Court so ordered. Dkt. No. 53.

16 The parties reported to the court on November 21, 2012, that they desired additional time to ex-  
17 plore a possible settlement of this case. Dkt. No. 54. Accordingly, the Court set December 21, 2012 as a  
18 deadline for the parties to report their progress in this regard. Dkt. No. 55.

19 The parties then reported to the court on December 19, 2012, that they desired an additional 60  
20 days to explore a possible settlement of this case. Dkt. No. 56. Accordingly, the Court set February 21,  
21 2013 as a deadline for the parties to report their progress in this regard. Dkt. No. 57.

22 On February 27, 2013, the parties again reported that they desired additional time to explore a  
23 possible settlement of this case. Dkt. No. 58. Accordingly, the Court set May 28, 2013 as a deadline for  
24

1 the parties to report their progress in this regard. Dkt. No. 59. The Parties apologize to the Court that  
2 they did not submit this report by May 28, 2013.

3 The Parties have continued their dialogue, believe they are making substantive progress toward  
4 reaching a settlement, have exchanged additional substantive settlement proposals — including a draft  
5 settlement agreement — and are closer to a general consensus on how to settle the case. However, be-  
6 cause of the complexity of the issues involved, the Parties require additional time to negotiate the details  
7 of the settlement terms and obtain approval for a final settlement from their respective organizations.  
8 They therefore desire additional time in which to explore a negotiated resolution to this dispute.

9 Accordingly, the Parties request that they be provided an additional 45 days in which to attempt  
10 to conclude their settlement negotiations and report back to the Court on the status of same no later than  
11 July 15, 2013.  
12

13 Respectfully submitted for the Court's consideration, this 31<sup>st</sup> day of May, 2013.

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15 MELINDA HAAG  
16 United States Attorney

17 s/ David Bahr  
18 David Bahr (Oregon Bar No. 901990)  
19 Bahr Law Offices, P.C.  
20 1035 ½ Monroe Street  
21 Eugene, OR 97402  
22 (541) 556-6439  
23 davebahr@mindspring.com

17 s/ Abraham Simmons  
18 ABRAHAM SIMMONS  
19 Assistant United States Attorney  
20 Attorneys for Federal Defendant



24 Dated: 5/31/2013  
25 Parties shall  
26 file a further  
27 status no later  
28 than 7/15/2013.