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

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

23 Plaintiffs,

24 vs.

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

27 Defendant.

Case No. C-11-0846-MEJ

**FIFTH 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
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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 On May 31, 2013, the parties again reported that they desired additional time to explore a possi-
4 ble settlement of this case. Dkt. No. 61. Accordingly, the Court set July 15, 2013 as a deadline for the
5 parties to report their progress in this regard. Dkt. No. 62.

6
7 The Parties have continued their dialogue, believe they are making substantive progress toward
8 reaching a settlement, have exchanged additional substantive settlement proposals — including drafts of
9 a settlement agreement, including a new draft exchanged today — and are closer to a general consensus
10 on how to settle the case. However, because of the complexity of the issues involved, the Parties require
11 additional time to negotiate the details of the settlement terms and obtain approval for a final settlement
12 from their respective organizations. They therefore desire additional time in which to explore a negoti-
13 ated resolution to this dispute.
14

15 Accordingly, the Parties request that they be provided an additional 21 days in which to attempt
16 to conclude their settlement negotiations and report back to the Court on the status of same no later than
17 August 6, 2013.

18 Respectfully submitted for the Court's consideration, this 15th day of July, 2013.

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23 s/ Abraham Simmons
ABRAHAM SIMMONS
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24 The parties' request
25 for an additional 21
26 days is GRANTED. A joint
27 status report shall be
28 filed on August 6, 2013.

DATED: 7/16/2013

