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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**  
 23 **INTEGRITY PROJECT,**

24 Plaintiffs,

25 vs.

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

28 Defendant.

Case No. C-11-0846-MEJ

**SIXTH SUPPLEMENTAL JOINT CASE**  
**MANAGEMENT REPORT AND**  
~~**[PROPOSED]**~~ **ORDER**

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

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

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

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24 The parties then reported to the court on December 19, 2012, that they desired an additional 60  
25 days to explore a possible settlement of this case. Dkt. No. 56. Accordingly, the Court set February 21,  
26 2013 as a deadline for the parties to report their progress in this regard. Dkt. No. 57.

1 On February 27, 2013, the parties again reported that they desired additional time to explore a  
2 possible settlement of this case. Dkt. No. 58. Accordingly, the Court set May 28, 2013 as a deadline for  
3 the parties to report their progress in this regard. Dkt. No. 59.

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

7 Again, on July 15, 2013, the parties reported that they desired additional time to explore a possi-  
8 ble settlement of this case. Dkt. No. 63. Accordingly, the Court set August 6, 2013 as a deadline for the  
9 parties to report their progress in this regard. Dkt. No. 64.

10 The Parties apologize to the Court that they did not submit this report by August 6, 2013; it ap-  
11 pears that an issue of technology has interfered with Defendant's receipt of Plaintiffs' recent communi-  
12 cations regarding settlement of the case and this status report.

13 Notwithstanding the above noted difficulty, the Parties have continued their dialogue, believe  
14 they are making substantive progress toward reaching a settlement, have exchanged additional substan-  
15 tive settlement proposals — including two drafts of a settlement agreement — and are closer to a general  
16 consensus on how to settle the case. However, because of the complexity of the issues involved, the Par-  
17 ties require additional time to negotiate the details of the settlement terms and obtain approval for a final  
18 settlement from their respective organizations. They therefore desire additional time in which to explore  
19 a negotiated resolution to this dispute.

20 Accordingly, the Parties request that they be provided an additional 28 days in which to attempt  
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6 to conclude their settlement negotiations and report back to the Court on the status of same no later than  
7 September 4, 2013.

8 Respectfully submitted for the Court's consideration, this 7<sup>th</sup> day of August, 2013.

9 MELINDA HAAG  
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15 Attorneys for Federal Defendant

17 ~~PROPOSED~~ ORDER

18 This matter having come before the Court upon the Parties' Joint Case Status Report and pro-  
19 posed order, and the Court being fully advised in the premises and good cause appearing;

20 IT IS HEREBY ORDERED that the Parties shall file an updated status report by September 4,  
21 2013.

22 Dated this 8<sup>th</sup> day of August, 2013.

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26 JUDGE MARIA-ELENA JAMES  
27 UNITED STATES DISTRICT COURT  
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