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11 UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 OAKLAND DIVISION

15 OCEANA, Inc.
16 Plaintiffs,
17 v.
18 BRYSON, *et al.*
19 Defendants.

No. 4:11-cv-06257-EMC
STIPULATION AND [PROPOSED]
SCHEDULING ORDER

21
22 Plaintiff Oceana and Defendants John E. Bryson, in his official capacity as Secretary of
23 Commerce, the National Oceanic and Atmospheric Administration, and the National Marine Fisheries
24 Service hereby stipulate, pursuant to Civil L.R. 6-2, to a schedule for the filing of Plaintiff's amended
25 complaint, Defendants' answer, and the lodging and service of the administrative record. In support of
26 this stipulation, the parties represent as follows:

27
28 *Oceana v. Bryson*, No. 4:11-cv-06257-EMC
Stipulation and Proposed Scheduling Order

1 1. Pursuant to the Magnuson-Stevens Fishery Conservation and Management Act (“MSA”),
2 16 U.S.C. § 1855(f), Defendants are required to file their response to the complaint and the
3 administrative record within 45 days after service of the Complaint on the Secretary, which in this case
4 produces a deadline of January 30, 2012. The MSA provides that the Court “may extend the period for
5 filing such a response upon a showing by the Secretary of good cause for that extension.” 16 U.S.C. §
6 1855(f)(3)(A).

7 2. On December 14, 2011, Plaintiff sent Defendants a 60-day notice of intent to sue under
8 the Endangered Species Act 16 U.S.C. § 1540(g)(2)(A)(i). The 60-day waiting period expires on or
9 about February 12, 2012. Plaintiffs intend to amend their Complaint to add Endangered Species Act
10 claims if their concerns are not remedied by February 12, 2012.

11 3. Because the ESA 60-day notice period expires after the current due date for Defendants’
12 answer, permitting Defendants to file their answer after Plaintiff amends its complaint would conserve
13 resources by preventing duplicative filings.

14 4. Because of the intervening federal holidays, Defendants also need additional time to
15 compile the administrative record.

16 5. Based on the foregoing, the parties stipulate to the following schedule for the filing of
17 Plaintiff’s amended complaint, Defendants’ answer, and lodging and service of the administrative
18 record, and submit that good cause exists for the Court’s approval of the proposed schedule:

19 a. Plaintiff will file its amended complaint on or before February 29, 2012.

20 b. Defendants will file their answer to Plaintiff’s amended complaint and lodge and
21 serve the administrative record on or before March 16, 2012.

22 6. There have been no other requests for extension or continuance. (McArdle Decl. ¶ 5.)

23 / / /

1 SO STIPULATED:

2 FOR THE PLAINTIFF:

3 DATED: January 19, 2012

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22 FOR THE DEFENDANTS:

23 DATED: January 19, 2012

24 IGNACIA S. MORENO
25 Assistant Attorney General

26 /s/ Kevin W. McArdle
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ATTORNEY ATTESTATION OF CONCURRENCE

I hereby attest that I have obtained Plaintiffs' concurrence in this filing, indicated by the signature of Plaintiffs' counsel represented by a "conformed" signature ("/s/") within this e-filed document.

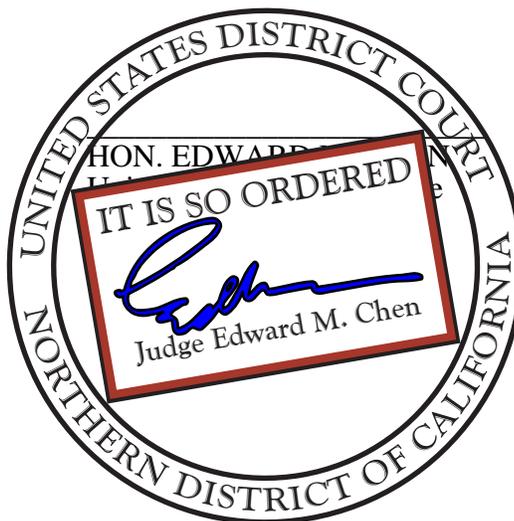
Dated: January 19, 2012

/s/Kevin W. McArdle
KEVIN W. McARDLE

[PROPOSED] ORDER

1 Upon consideration of the Stipulation set out above, and good cause appearing, it is hereby
2 ORDERED that: (1) Plaintiff shall file its amended complaint on or before February 29, 2012; and (2)
3 Defendants shall file their answer to Plaintiff's amended complaint and lodge and serve the
4 administrative record on or before March 16, 2012.
5

6 IT IS SO ORDERED this 24th
7 _____ day of January, 2012



1 CERTIFICATE OF SERVICE

2 I, Kevin W. McArdle, hereby certify that, on January 19, 2012, I caused the foregoing to be
3 served upon counsel of record through the Court's electronic service system.

4
5 I declare under penalty of perjury that the foregoing is true and correct.

6
7
8 Dated: January 19, 2012

/s/ Kevin W. McArdle
KEVIN W. McARDLE