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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
 FOR THE NORTHERN DISTRICT OF CALIFORNIA

OCEANA, Inc., a non-profit organization,

Plaintiff,

v.

JOHN E. BRYSON, in his official capacity as
 Secretary of Commerce; NATIONAL OCEANIC
 AND ATMOSPHERIC ADMINISTRATION; and
 NATIONAL MARINE FISHERIES SERVICE,

Defendants,

and

CALIFORNIA WETFISH PRODUCERS ASS'N,
et al.,

Defendant-Intervenors

Case No. 3:11-cv-06257 EMC

JOINT STIPULATION FOR ENTRY OF
 SCHEDULING ORDER

and

~~[PROPOSED]~~ ORDER

Plaintiff Oceana ("Plaintiff"), Federal Defendants John E. Bryson, in his official capacity as Secretary of Commerce, the National Oceanic and Atmospheric Administration, and the National Marine Fisheries Service ("Federal Defendants"), and Defendant-Intervenors the California Wetfish Producers Association *et al.* ("Defendant-Intervenors"), by and through undersigned counsel, hereby jointly stipulate to the following schedule for the resolution of this lawsuit. Plaintiff's First Amended Complaint alleges that the Federal Defendants' authorization and promulgation of regulations implementing Amendment 13 to the U.S. West Coast Coastal Pelagic Species Fishery Management Plan violates the Magnuson-Stevens Fishery Conservation and Management Act,

1 National Environmental Policy Act, Endangered Species Act, and Administrative Procedure Act.
2 The parties anticipate that Plaintiff's claims will be resolved on cross-motions for summary
3 judgment on the basis of the administrative record. *See* Civil L.R. 16-5; Civil L.R. 56. Accordingly,
4 the parties propose the following schedule for the filing of Defendant-Intervenors' Answer to
5 Plaintiff's First Amended Complaint, resolving any disputes regarding the completeness of the
6 administrative record, and briefing on cross-motions for summary judgment:

7 1. **Defendant-Intervenors' Answer.** Defendant-Intervenors shall file their Answer to
8 Plaintiff's First Amended Complaint on or before **May 10, 2012**.

9 2. **Disputes Regarding the Administrative Record.** On or before **May 11, 2012**, the
10 parties shall notify the Court whether they are in agreement that the administrative record is
11 complete, whether they intend to move this Court to resolve any disputes regarding the completeness
12 of the record, or whether they intend to move this Court for leave to submit extra-record materials.
13 If either party determines that a motion regarding the completeness of the administrative record or
14 the need for extra-record review is necessary, that party shall file the motion on or before **May 25,**
15 **2012**. Briefing on any such motion shall proceed in accordance with Civil L.R. 7.

16 3. **Summary Judgment Briefing Schedule.** Due to the complexity of the claims and
17 the anticipated size of the administrative record, the parties propose the following extended schedule
18 and page limits for summary judgment briefing:

19 (a) Plaintiff shall file for summary judgment not later than 45 days following the date the
20 record for judicial review is determined to be complete, either by stipulation of the
21 parties or pursuant to an Order of the Court resolving any dispute regarding the
22 completeness of the administrative records and/or the need for extra-record review.
23 Plaintiff's initial summary judgment brief shall not exceed 45 pages.

24 (b) Federal Defendants and Defendant-Intervenors shall file their opposition to the
25 Plaintiff's motion for summary judgment and cross-motion for summary judgment
26 not later than 35 days following the filing of Plaintiff's motion. Federal Defendants'
27 and Defendant-Intervenors' initial briefs shall not exceed 45 pages each.
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1 (c) Plaintiff shall file its opposition to Federal Defendants' and Defendant-Intervenors'
2 cross-motions and reply brief not later than 30 days following the filing of the cross-
3 motion. Plaintiff's combined opposition and reply shall not exceed 40 pages.

4 (d) Federal Defendants and Defendant-Intervenors shall file their reply briefs not later
5 than 21 days after the filing of Plaintiffs' combined opposition and reply. Federal
6 Defendants' and Defendant-Intervenors' reply briefs shall not exceed 25 pages each.

7 **4. Hearing on Motions for Summary Judgment.** In keeping with the Court's
8 regularly scheduled civil law-and-motion calendar, the parties suggest that the Court schedule the
9 hearing on the cross-motions for summary judgment for October 26, November 2, or November 9,
10 whichever is more convenient for the Court.

11 Because the above schedule provides for the efficient resolution of this lawsuit, the parties
12 respectfully submit that good cause exists for granting this motion and adopting the parties'
13 proposed schedule as an Order of the Court. The parties further submit that because the above
14 schedule would govern the remainder of proceedings in this case, the Court's adoption of the
15 schedule would obviate the need for the Case Management Conference currently scheduled for
16 May 18, 2012, as well as the submission of a separate Case Management Statement. A proposed
17 Order is attached.

18 DATED: April 26, 2012

Respectfully submitted,

19 /s/ Michael R. Sherwood

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[PROPOSED] ORDER

Upon consideration of the parties' Stipulation as set out above, and good cause appearing, it is hereby

ORDERED that:

1. Defendant-Intervenors shall file their Answer to Plaintiff's First Amended Complaint on or before **May 10, 2012**.
2. On or before **May 11, 2012**, the parties shall notify the Court whether they are in agreement that the administrative record is complete, whether they intend to move this Court to resolve any disputes regarding the completeness of the record, or whether they intend to move this Court for leave to submit extra-record materials.
3. If either party determines that a motion regarding the completeness of the administrative record or the need for extra-record review is necessary, that party shall file the motion on or before **May 25, 2012**.
4. The parties shall comply with the following schedule and page limits for summary judgment briefing:
 - (a) Plaintiff shall file for summary judgment not later than 45 days following the date the record for judicial review is determined to be complete, either by stipulation of the parties or pursuant to an Order of the Court resolving any dispute regarding the completeness of the administrative records and/or the need for extra-record review brought. Plaintiff's initial summary judgment brief shall not exceed 45 pages.
 - (b) Federal Defendants and Defendant-Intervenors shall file their oppositions to the Plaintiff's motion for summary judgment and cross-motions for summary judgment not later than 35 days following the filing of Plaintiff's motion. Federal Defendants' and Defendant-Intervenors' initial briefs shall not exceed 45 pages each.
 - (c) Plaintiff shall file its opposition to Federal Defendants' and Defendant-Intervenors' cross-motions and reply brief not later than 30 days following the filing of the cross-motion. Plaintiff's combined opposition and reply shall not exceed 40 pages.

(d) Federal Defendants and Defendant-Intervenors shall file their reply briefs not later than 21 days after the filing of Plaintiffs' combined opposition and reply. Federal Defendants' and Defendant-Intervenors' reply briefs shall not exceed 25 pages each.

5. The Case Management Conference currently scheduled for May 18, 2012 is hereby ~~vacated~~ rescheduled for October 26, 2012 at 9:00 a.m. A joint CMC Statement shall be filed by October 19, 2012.

IT IS SO ORDERED.

6. When Plaintiff files its motion for summary judgment, Plaintiff shall notice a hearing date for said motion; the hearing date shall be at least 14 days after the date on which Defendants' and Defendant-Intervenors' reply briefs will be due pursuant to the above briefing schedule.

DATED: April 26, 2012

