

United States District Court  
For the Northern District of California

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

CENTER FOR BIOLOGICAL DIVERSITY,  
et al.,

Plaintiff,

v.

FEDERAL HIGHWAY ADMINISTRATION,  
et al.,

Defendants.

No. C 12-02172 JSW

**ORDER RE DEFENDANTS’  
OBJECTIONS TO STATEMENT  
OF NON-OPPOSITION**

The Court has received and considered Plaintiff-Intervenor California Farm Bureau Federation (the “Farm Bureau”) and Plaintiffs’ responses to the objections to the Farm Bureau’s Statement of Non-Opposition to Plaintiffs’ Motion for Preliminary Injunction. The Court finds that the document violates the spirit if not the letter of Northern District Civil Local Rule 7-3(b). Further, the Local Rules do not contemplate sur-replies as a matter of right. However, the Court also agrees that Farm Bureau, as intervenor, has a right to be heard on the motion. Accordingly, the Court finds the appropriate remedy is to permit the Caltrans defendants to file a sur-reply directed at any arguments that are specific to the Farm Bureau’s memorandum of law and the evidence cited therein. The hearing remains on calendar on October 12, 2012 at 9:00 am., but the Caltrans defendants may file a sur-reply by no later than 12:00 p.m. on October 15, 2012. The Court shall consider the briefing closed at that time.

**It is FURTHER ORDERED that, going forward, any statement of non-opposition shall be limited to a statement that a particular party does not oppose a motion, without**

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**argument, and the Court shall not permit sur-replies except for extremely good cause.**

It is FURTHER ORDERED that, going forward, in order to ensure that a party or parties opposing a motion is not required to seek leave to file a sur-reply, Plaintiffs and the Farm Bureau shall meet and confer in advance of filing any motions, so that all briefs in support of a particular position are filed 35 days in advance of a scheduled hearing date. Similarly, the Defendants shall meet and confer before filing any motion, so that all briefs in support of a particular position are filed 35 days in advance of the scheduled hearing date.

**IT IS SO ORDERED.**

Dated: October 9, 2012

  
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JEFFREY S. WHITE  
UNITED STATES DISTRICT JUDGE