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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10

11 SVEN HEMMERT et al.,) CASE NO. 15-4904 WHO
12)
13 Plaintiffs,) STIPULATION AND ORDER TO CONTINUE
14) DEADLINE FOR UNITED STATES OF
15 v.) AMERICA TO RESPOND TO FIRST
16 DAVID FINN et al.,) AMENDED COMPLAINT AND CASE
17) MANAGEMENT CONFERENCE DATE
18)
19 Defendants.)
20)
21) Hon. William H. Orrick
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RECITAL

Whereas Plaintiffs Sven Hemmert and Sue-Ellen Speight (collectively, “Plaintiffs”) filed their First Amended Complaint on December 14, 2015 against the United States of America (“the United States”) and the David and Amy Finn (collectively, “Finn Defendants”);

Whereas the Court previously approved the parties’ stipulation to Continue the Deadline for Responses to First Amended Complaint and Case Management Conference in Light of Agreement to Mediate Case in Docket No. 23, approved another stipulation in Docket No. 33; and approved another

1 stipulation in Docket No. 35.

2 Whereas Plaintiffs, the United States, and Finn Defendants mediated this case with Michael G.
3 Ornstil of JAMS on February 11, 2016, but did not resolve the case in that initial mediation session;

4 Whereas the Finn Defendants filed an answer and third-party complaint on March 11, 2016
5 naming a new party, Terence Tallen, who owns property uphill to the property of the United States, Finn
6 Defendants and Plaintiffs;

7 Whereas Mr. Tallen would have at least 21 days following service of a complaint and summons
8 to respond to the third-party complaint but has not yet appeared in the case;

9 Whereas the parties do not think a Case Management Conference without the participation of
10 Mr. Tallen or his counsel would be productive and believe the Conference should be continued so that all
11 parties can participate;

12 Whereas the mediation with Mr. Ornstil is not concluded and the current parties to the suit will
13 seek to hold a further mediation session with Mr. Tallen in the next 30 to 60 days;

14 Whereas the mediator, Mr. Ornstil, has facilitated recent discussions with certain of the parties
15 and has expressed his view that further discussions among the parties would be productive and should be
16 pursued;

17 Whereas Plaintiffs provided counsel for the United States with a proposal in the form of an
18 expert-prepared schematic on June 3, 2016 and whereas counsel for the United States has provided a
19 number of questions about the proposal after consulting with its expert on June 9, 2016, Plaintiffs and
20 the United States desire to continue discussions about resolving this matter and this effort continues to
21 require input from expert consultants and others that is time consuming;

22 Whereas the United States is prepared to file a motion to dismiss the claims against it but
23 Plaintiffs and the United States desire to continue discussing the potential for the resolution of some or
24 all of the claims in this case rather than engaging in motion practice at this time;

25 Whereas the United States and Plaintiffs want to continue these discussions over the next 60
26 days, including assistance from the mediator, and have agreed that the United States should have until
27 August 12, 2016 to answer, move or respond to Plaintiffs' First Amended Complaint;

1 Dated: June 13, 2016

LAW OFFICES OF JOHN A. BIARD

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3 /s/ David J. DeMordaunt

4 By: _____

David J. DeMordaunt

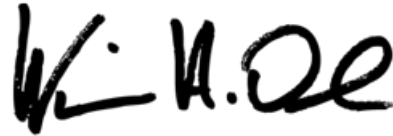
Attorneys for Defendants,

5 DAVID FINN and AMY FINN

6 **PURUSANT TO STIPULATION, IT IS SO ORDERED.**

7 The United States shall have until August 12, 2016 to answer, move or respond to Plaintiffs'
8 First Amended Complaint. The Case Management Conference is continued from June 21, 2016 to
9 August 16, 2016 at 2:00 p.m. The parties shall file a Joint Case Management Statement no less than 7
10 days prior to the Conference.

11 DATED: June 13, 2016



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13 Hon. William H. Orrick
14 United States District Judge
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