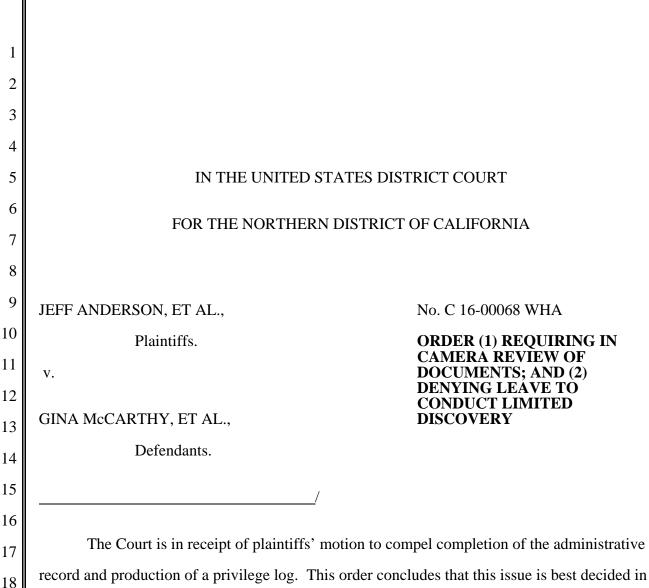
Dockets.Justia.com



17 The Court is in receipt of plaintiffs motion to compel completion of the administrative
record and production of a privilege log. This order concludes that this issue is best decided in
the context of the overall motion for summary judgment. The current deadline for filing
summary judgment motions of September 16, 2016, will remain in place. In their summary
judgment briefs, plaintiffs shall lay out any alleged shortfalls in the administrative record. Then
the Court will be in a position to review any alleged gaps in the administrative record in the
context of the issues to be decided.

By NOON ON OCTOBER 4, 2016, the EPA shall submit for in camera review and under seal the documents that relate to the development of the guidance that are *not* a part of the administrative record, including pre-decisional and deliberative documents. The Court will then determine the extent to which these documents should be part of the administrative record.

As to plaintiff's motion for limited discovery on the failure to act claim, the motion for summary judgment should be based on the administrative record. In the course of briefing,

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counsel can explain why further discovery is needed (even though discovery is the exception
 rather than the rule with respect to review of agency action). The motion for limited discovery is
 therefore **DENIED WITHOUT PREJUDICE**.
 This order does not reach the issue of whether it was appropriate to file this motion as an
 administrative motion under Local Rule 7-11.
 No further extensions shall be granted.
 IT IS SO ORDERED.

Dated: September 7, 2016.

Win Ahmen

WILLIAM ALSUP UNITED STATES DISTRICT JUDGE