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9 **Counsel for Federal Defendants**

10 IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
11  
12 SAN FRANCISCO DIVISION

13 CENTER FOR BIOLOGICAL DIVERSITY, )  
14 Plaintiff, )  
15 vs. )  
16 KEN SALAZAR, et al., )  
17 Defendants, )  
18 and )  
19 SAND CITY, CALIFORNIA and SAND )  
CITY REDEVELOPMENT AGENCY, )  
20 Intervenor, )  
21 SECURITY NATIONAL GUARANTY, INC., )  
22 Intervenor, )  
23 FRIENDS OF OCEANO DUNES, INC. and )  
24 OXFOOT ASSOCIATES, LLC, )  
25 Intervenor. )

Case No. 3:08-cv-4594-PJH

**JOINT STIPULATION AND  
~~PROPOSED~~ ORDER TO  
AMEND SETTLEMENT  
AGREEMENT AFFIRMED  
BY THIS COURT ON MAY 1,  
2009**

26 Plaintiff the Center for Biological Diversity (“Plaintiff”) and Defendants Ken  
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1 Salazar,<sup>1/</sup> Secretary of the United States Department of the Interior; Rowan Gould,<sup>2/</sup> Acting  
2 Director of the United States Fish and Wildlife Service; and the United States Fish and  
Wildlife Service (“Service”) (collectively, “Federal Defendants”) declare as follows:

3 WHEREAS, this Court adopted a stipulated settlement agreement (“Agreement”)  
4 between Plaintiff and Federal Defendants as an enforceable order of this Court on May 1,  
2009, Dkt. No. 56;

5 WHEREAS, the Agreement currently states:

6 The Service will conduct a rulemaking to consider potential revisions to the  
7 designated critical habitat for the Pacific Coast population of the western snowy  
plover under Sections 4(b)(2) and 4(a)(3)(B) of the ESA, according to the following  
8 schedule:

9 a. on or before December 1, 2010, the Service will submit to the Federal  
Register for publication a proposed regulation setting forth any proposed  
10 revisions to the critical habitat; and

11 b. on or before June 5, 2012, the Service will submit to the Federal Register  
for publication a final determination on any proposed revisions to the critical  
12 habitat.

Dkt. No. 55-2 at ¶ 1;

13 WHEREAS, the Agreement states that, “[t]he Parties may seek to modify the  
14 deadlines specified in Paragraph 1 for good cause shown, consistent with the Federal Rules  
of Civil Procedure,” Dkt. No. 55-2 at ¶ 2;

15 WHEREAS, because consideration of issues relating to the determination have proven  
16 to be more complex than anticipated, FWS needs three additional months to issue the  
proposed regulation setting forth any proposed revisions to the critical habitat;

17 WHEREAS, the parties to the Agreement have agreed that extending the deadline for  
18 the proposed regulation is acceptable and appropriate;

19 NOW, THEREFORE, IT IS STIPULATED BY AND BETWEEN THE PARTIES  
AS FOLLOWS:

20 Paragraph 1 of the Agreement shall be revised to read as follows:

21 The Service will conduct a rulemaking to consider potential revisions to the  
22 designated critical habitat for the Pacific Coast population of the western snowy  
plover under Sections 4(b)(2) and 4(a)(3)(B) of the ESA, according to the following  
23 schedule:

24 a. on or before March 1, 2011, the Service will submit to the Federal Register

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26 <sup>1/</sup> Pursuant to Fed. R. Civ. P. 25(d), Ken Salazar is substituted as a defendant for Dirk  
Kempthorne.

27 <sup>2/</sup> Pursuant to Fed. R. Civ. P. 25(d), Rowan Gould is substituted as a defendant for H. Dale  
28 Hall.

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for publication a proposed regulation setting forth any proposed revisions to the critical habitat; and

b. on or before June 5, 2012, the Service will submit to the Federal Register for publication a final determination on any proposed revisions to the critical habitat.

IT IS SO AGREED AND AFFIRMED,

Dated: 11/30/2010



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Honorable Phyllis J. Hamilton  
Judge, United States District Court

1 Dated: November, 24 2010

Respectfully submitted,

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U.S. Department of Justice  
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SETH M. BARSKY, Acting Section Chief  
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Dated: November 24, 2010

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Dated: November 24, 2010

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