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16  
 17 IN THE UNITED STATES DISTRICT COURT  
 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
 18 OAKLAND DIVISION

19 CENTER FOR BIOLOGICAL DIVERSITY, )  
 20 *et al.*, )

4:12-cv-6325 SBA

21 Plaintiffs, )  
 22 v. )

**JOINT SCHEDULE AND STIPULATION**

23 EXPORT-IMPORT BANK OF THE )  
 24 UNITED STATES, *et al.*, )

25 Defendants. )  
 26  
 27  
 28

1 Pursuant to the Court's October 8, 2013 Order and Local Rules 6-1, 6-2, 7-12, and 16-2, the  
2 Parties jointly propose and stipulate to the following schedule for further proceedings in this case:

3 WHEREAS, on December 13, 2012, Plaintiffs Center for Biological Diversity, Pacific  
4 Environment, and Turtle Island Restoration Network filed this action against Defendants Export-Import  
5 Bank of the United States and Fred P. Hochberg, in his official capacity as Chairman and President of  
6 the Bank. Plaintiffs alleged Defendants violated the Endangered Species Act ("ESA"), the National  
7 Historic Preservation Act ("NHPA"), and the Administrative Procedure Act ("APA") in funding a  
8 natural gas project located in Queensland, Australia. Dkt. No. 1. Plaintiffs served Defendants with the  
9 Complaint on or around December 20, 2012;

10 WHEREAS, the initial case management conference for this case was scheduled for March 14,  
11 2013, with the Alternative Dispute Resolution Certification, Stipulation/Notice of Need for ADR  
12 Conference, and meet and confer due February 21, 2013, and the Case Management Statement due  
13 March 7, 2013. Dkt. No. 2;

14 WHEREAS, on February 11, 2013, this case was re-assigned to Judge Sandra Brown  
15 Armstrong for all further proceedings, Dkt. No. 13, and the Court later rescheduled the initial case  
16 management conference for May 22, 2013, Dkt. No. 16;

17 WHEREAS, on February 12, 2013, Defendants filed a motion to transfer the case. Dkt. No. 15;

18 WHEREAS, on February 13, 2013, Plaintiffs and Defendants filed a Joint Motion to Stay Initial  
19 Case Deadlines Pending Resolution of Defendants' Motion to Transfer. Dkt. No. 17. Plaintiffs  
20 indicated their intention to amend their Complaint and the Parties requested to postpone the deadlines  
21 for filing Defendants' Answer or other response to the Complaint, the Case Management Statement, and  
22 ADR statements, the deadline to meet and confer, and the date for the case management conference.  
23 The Parties stipulated that, should the Court deny the motion to transfer, the Parties would submit a  
24 proposed schedule within ten days of such denial;

25 WHEREAS, on February 20, 2013, the Court granted the Parties' Joint Motion to Stay Initial  
26 Case Deadlines. Dkt. No. 19;

27 WHEREAS, on September 17, 2013, the Court denied Defendants' Motion to Transfer. Dkt. No.  
28 25;

1 WHEREAS, on September 30, 2013, the Parties filed a Joint Proposed Schedule and Stipulation  
2 for further proceedings in this case, which the Court signed on October 1, 2013. Dkt. No. 27. The Court  
3 further scheduled a telephonic Case Management Conference on October 31, 2013 at 3:15 pm and  
4 ordered the parties to file a joint Case Management Statement seven days prior to that conference, *i.e.*,  
5 on October 24, 2013;<sup>1</sup>

6 WHEREAS, Plaintiffs filed their amended complaint on October 4, 2013. Dkt. No. 28;

7 WHEREAS, on October 7, 2013, the Parties filed a Stipulation to Stay in Light of Lapse in  
8 Appropriations, which the Court signed on October 8, 2013. Dkt. No. 30. The Stipulation required  
9 Defendants to notify the Court as soon as Congress appropriated funds for the Department of Justice.  
10 *Id.* The Stipulation also required the Parties to meet and confer within two days of notification of the  
11 Court and file a proposed schedule for further proceedings in this case. *Id.* The Government requested  
12 that the deadlines in the Parties' schedule be extended commensurate with the duration of the lapse in  
13 appropriations, which was 16 days;

14 WHEREAS, Defendants notified the Court on October 18, 2013 that Congress had appropriated  
15 funds for the Department of Justice. Dkt. No. 31; and

16 WHEREAS, the Parties met and conferred on October 21, 2013 regarding a schedule for further  
17 proceedings in this case.

18 The Parties jointly propose and stipulate to the following schedule:

19 (1) The Parties shall meet and confer on or before **October 28, 2013**;

20 (2) The Parties shall file their ADR Certification and Stipulation to ADR Process or Notice of Need  
21 for ADR Phone Conference on or before **November 4, 2013**;

22 (3) The Parties shall file a Joint Case Management Statement on or before **November 4, 2013**. In  
23 addition to addressing the matters required pursuant to this Court's Standing Order regarding the  
24

25 <sup>1</sup> The parties note that there was a discrepancy between the deadline for the parties' Joint Case  
26 Management Schedule in the stipulation signed by the Court (Dkt. No. 27) and a minute order issued the  
27 same day. In the Stipulation, the parties had agreed to a date of October 18, 2013 for filing their Joint  
28 Case Management Statement. In the minute order, the Court set a deadline of October 24, 2013 for the  
same document. Should the Court similarly issue orders with conflicting deadlines, the parties intend to  
meet whichever deadline is later in time.

1 contents of a joint case management statement, the Parties' Case Management Statement will propose  
2 dates for further proceedings, including production of the administrative record and a summary  
3 judgment briefing schedule; and

4 (4) Defendants shall file their responsive pleading to Plaintiffs' Amended Complaint on or before  
5 **November 11, 2013.**

6 The Parties further request that the Court reschedule the initial Case Management Conference after  
7 the Parties have filed their Joint Case Management Statement on November 4, 2013.

8 Dated: October 22, 2013

Respectfully submitted,

9 ROBERT G. DREHER, Acting Assistant Attorney General  
10 U.S. Department of Justice  
11 Environment & Natural Resources Division

12 /s/ Meredith L. Flax  
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*Counsel for Federal Defendants*

25 Dated: October 22, 2013

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18 *Counsel for Plaintiffs*

19 PURSUANT TO STIPULATION, IT IS SO ORDERED, except that the Case Management  
20 Conference scheduled for **October 31, 2013 at 3:15 p.m.** is CONTINUED to **November 13,**  
21 **2013 at 3:00 p.m.** Prior to the date scheduled for the conference, the parties shall meet and  
22 confer and prepare a joint Case Management Conference Statement. Plaintiffs are responsible  
23 for filing the joint statement on or before **November 4, 2013**. The joint statement shall comply  
24 with the Standing Order for All Judges of the Northern District of California and the Standing  
25 Orders of this Court. Plaintiffs are responsible for setting up the conference call, and on the  
26 specified date and time, shall call (510) 637-3559 with all parties on the line.

27 10/24/2013

28 Date

  
SAUNDRA BROWN ARMSTRONG  
United States District Judge

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1 ATTORNEY ATTESTATION OF CONCURRENCE

2 I hereby attest that I have obtained concurrence in the filing for the signature of all counsel  
3 indicated by a “conformed” signature (“/s/”) within this e-filed document, in accordance with Civil L.R.  
4 5-1(i).

5 Dated: October 22, 2013

6 /s/ Meredith L. Flax  
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