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11 UNITED STATES DISTRICT COURT
12 FOR THE NORTHERN DISTRICT OF CALIFORNIA
13 SAN JOSE DIVISION

14 MISHEWAL WAPPO TRIBE OF ALEXANDER
VALLEY,

15 Plaintiff,

16 v.

17 KEN SALAZAR, *et al.*,

18 Defendants.
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No. 5:09-cv-02502-EJD

STIPULATION AND ~~PROPOSED~~^{FILED} ORDER
RESCHEDULING CASE MANAGEMENT
CONFERENCE AND EXTENDING DEAD-
LINES FOR BRIEFING MOTION FOR
CERTIFICATION OF INTERLOCUTORY
APPEAL

Date: N/A

Time: N/A

Courtroom No. 1

Hon. Edward J. Davila

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28 *Mishewal Wappo Tribe of Alexander Valley v. Ken Salazar*, No. 5:09-cv-02502-EJD — Stipulation and Proposed Order
Rescheduling Case Mg't Conf. and Extending Deadlines for Briefing Mot. for Cert. of Interlocutory Appeal

1 Federal Defendants Kenneth L. Salazar, Secretary of the Interior, and Larry Echo Hawk,
2 Assistant Secretary of the Interior for Indian Affairs, Plaintiff Mishewal Wappo Tribe of the Alexander
3 Valley, and Defendant-Intervenors Counties of Napa and Sonoma (“Counties”) submit this stipulation,
4 subject to Court approval, to provide Plaintiff and the Federal Defendants additional time to respond to
5 the Counties’ motion for certification of an interlocutory appeal of the Court’s denial of their motion to
6 dismiss [Dkt. #153] and to move the currently scheduled case management conference from January 27,
7 2012, to February 3, 2012, the date on which the Counties’ motion for certification is to be heard. In
8 support of this Stipulation, the Federal Defendants represent as follows:

9 1. The January 27, 2012, case management conference was set by the Court’s order denying
10 the Counties’ motion to dismiss [Dkt. #150], at 12. Counsel for the Federal Defendants has a previously
11 scheduled motions hearing in *Western Watersheds Project v. Salazar*, No. 2:11-cv-0492 DMG (C.D.
12 Cal.), set for the same day in Los Angeles. Counsel for the Federal Defendants cannot attend both that
13 hearing and the case management conference in this case, if those events are held on the same day.

14 Declaration of David B. Glazer ¶ 2.

15 2. The Counties filed their motion for certification on December 15, 2011, noticing it to be
16 heard on February 3, 2012. Under the amended Local Rules, responses are due by December 29, 2011.
17 Before filing a response, the counsel for the Federal Defendants must obtain concurrence from the
18 Appellate Section of the Environment and Natural Resources Division of the Department of Justice, as
19 well as from the Department of the Interior. Due to the holidays, it is unlikely that those concurrences
20 can be obtained in time to meet the December 29 deadline. Glazer Dec. ¶ 3.

21 3. The Federal Defendants and Plaintiffs have sought and obtained an extension of time
22 from the Counties to respond to the motion for certification, which would make their responses due on
23 January 13, 2012. The Counties have sought an extension of time to January 23 to file their reply, to
24 which the Federal Defendants and Plaintiff have agreed. Glazer Dec. ¶ 4. Those extensions should not
25 require moving the February 3 hearing date.

26 4. Because the January 27 case management conference is currently scheduled to take place
27 before the motion for certification is heard, and because counsel for the Federal Defendants has a

1 previously scheduled motions hearing in Los Angeles that day, it may be most efficient to set the case
2 management conference for February 3, the same day as the motion for certification, or for such other
3 time thereafter as may be convenient for the Court.

4 Accordingly, the parties hereby stipulate, subject to Court approval, that the case management
5 conference currently scheduled for January 27, 2012, may be rescheduled to February 3, 2012; that the
6 date for filing the parties' Joint Case Management Statement be extended to January 27, 2012; that the
7 Federal Defendants and Plaintiff may have until January 13 to respond to the Counties' motion for
8 certification of interlocutory appeal; and that the Counties may have until January 23 to file their reply
9 in support of their motion for certification.

10
11 SO STIPULATED:

12 FOR THE FEDERAL DEFENDANTS

13 DATED: December 27, 2011

14 IGNACIA S. MORENO
Assistant Attorney General
Environment & Natural Resources Division

15 */s/David B. Glazer*
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21 FOR THE PLAINTIFF

22 DATED: December 27, 2011

23 */s/Joseph L. Kitto*
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1 FOR INTERVENTOR-DEFENDANTS– COUNTY OF NAPA AND COUNTY OF SONOMA

2
3 DATED: December 27, 2011

/s/Michael S. Cohen
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11 ATTESTATION OF COUNSEL

12 Pursuant to subsection X.B of General Order No. 45, I hereby attest that concurrence in the filing
13 of this document has been obtained from each of the other signatories.

14 Dated: December 27, 2011

/s/David B. Glazer
David B. Glazer

1 [PROPOSED] ORDER

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3 Upon consideration of the parties' stipulation to reschedule the case management conference
4 currently set for January 27, 2012, and to extend the deadlines for briefing the motion for certification of
5 interlocutory appeal filed by Intervenor-Defendants Counties of Napa and Sonoma, good cause having
6 been shown, it is hereby ORDERED that

- 7 1. The stipulation is APPROVED;
- 8 2. The case management conference will be held on February 3, 2012, at 10:00 a.m.,
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- 10 3. The parties' Joint Case Management Statement shall be filed on or before January 27,
11 2012, and;
- 12 4. Plaintiff and the Federal Defendants may have until January 13, 2012, to respond to the
13 Counties' motion, and the Counties may have until January 27, 2012, to file their reply.
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17 IT IS SO ORDERED.

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19 Dated: December 28, 2011

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22 EDWARD J. DAVILA
23 UNITED STATES DISTRICT JUDGE
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1 CERTIFICATE OF SERVICE

2 I, David B. Glazer, hereby certify that, on December 27, 2011, I caused the foregoing to be
3 served upon counsel of record through the Court's electronic service system.

4
5 I declare under penalty of perjury that the foregoing is true and correct.

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8 Dated: December 27, 2011

/s/ David B. Glazer
David B. Glazer