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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

THE OTTER PROJECT and)
ENVIRONMENTAL DEFENSE CENTER,)
)
Plaintiffs,)
v.)
KEN SALAZAR, Secretary of the United)
States Department of the Interior, DANIEL)
ASHE, Director of the U.S. Fish & Wildlife)
Service, UNITED STATES)
DEPARTMENT OF THE INTERIOR,)
UNITED STATES FISH & WILDLIFE)
SERVICE,)
)
Defendants,)
)
CALIFORNIA SEA URCHIN)
COMMISSION, PETER HALMAY,)
HARRY LIQUORNIK, CALIFORNIA)
ABALONE ASSOCIATION, SONOMA)
COUNTY ABALONE NETWORK,)
)
Intervenor-Defendants.)
)

No. C 09-4610 JW

**STIPULATION TO AMEND
STIPULATED SETTLEMENT
AGREEMENT AND ~~PROPOSED~~
ORDER**

1 Pursuant to Local Rule 7-12, this Stipulation is entered into by and between Plaintiffs,
2 The Otter Project and Environmental Defense Center, Defendants, Ken Salazar, in his official
3 capacity as Secretary of the United States Department of the Interior; Daniel Ashe, in his official
4 capacity as Director of the United States Fish and Wildlife Service (“Service”); the United States
5 Department of the Interior; and the Service (collectively, “Federal Defendants”), and Intervenor-
6 Defendants, California Sea Urchin Commission; Peter Halmay; Harry Liquornik; California
7 Abalone Association; Sonoma County; and County Abalone Network. By and through their
8 undersigned counsel, the parties state as follows:

9 WHEREAS, on December 23, 2009, Plaintiffs filed a First Amended Complaint for
10 Declaratory and Injunctive Relief in the above-captioned case, alleging that the Service
11 unreasonably delayed a decision on whether the southern sea otter translocation program has
12 failed according to the five failure criteria at 50 C.F.R. § 1784(d)(8), in violation of the
13 Administrative Procedure Act, 5 U.S.C. § 555(b);

14 WHEREAS, on November 22, 2010, the parties, through their authorized representatives,
15 entered into a Stipulated Settlement Agreement, ECF No. 66, resolving the claims set forth in
16 Plaintiffs’ First Amended Complaint;

17 WHEREAS, on November 23, 2010, the Court approved the Stipulated Settlement
18 Agreement and ordered dismissal with prejudice of the action, ECF No. 67;

19 WHEREAS, the Stipulated Settlement Agreement requires the Service to submit to the
20 Federal Register a notice of a final determination on the proposed rule amending 50 C.F.R. §
21 17.84(d) on or before December 7, 2012;

22 WHEREAS, the Stipulated Settlement Agreement allows this deadline to be modified
23 upon good cause shown by written stipulation between the parties filed with and approved by the
24 Court, ECF No. 67 at 4;

25 WHEREAS, Notice of the Availability of a Final Supplemental Environmental Impact
26 Statement on the Translocation of Southern Sea Otters Program was published by the
27 Environmental Protection Agency on November 9, 2012, 77 Fed. Reg. 67362 (Nov. 9, 2012);
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/s/ Mary Hollingsworth
MARY HOLLINGSWORTH (AZ Bar No. 027080)
Trial Attorney
U.S. Department of Justice
Environment & Natural Resources Division
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Attorneys for Federal Defendants

/s/ George J. Mannina, Jr. (as authorized 11/14/2012)
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Email: gmannina@nossaman.com

Attorney for Intervenor-Defendants

ATTORNEY ATTESTATION OF CONCURRENCE

I hereby attest that I have obtained concurrence in this filing and for affixing the signature of Plaintiffs' and Intervenor-Defendants' counsel, indicated by a "conformed" signature ("/s/"), to this e-filed document, in accordance with Local Rule 5-1(i)(3).

PURSUANT TO STIPULATION, IT IS SO ORDERED

Dated: this 14th day of November, 2012.



UNITED STATES DISTRICT JUDGE

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**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION**

)	
THE OTTER PROJECT, et al.,)	No. C 09-4610 JW
Plaintiffs,)	CERTIFICATE OF SERVICE
v.)	
KEN SALAZAR, et al.,)	
Defendants,)	
CALIFORNIA SEA URCHIN COMMISSION, et al.,)	
Intervenor-Defendants.)	
)	

I hereby certify that today I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such to the attorneys of record.

/s/ Mary Hollingsworth
Mary Hollingsworth