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15 **UNITED STATES DISTRICT COURT**
 16 **DISTRICT OF NEVADA**

17 BASIN AND RANGE WATCH,

18 Plaintiff,

19 vs.

20 BUREAU OF LAND MANAGEMENT and
 21 U.S. DEPARTMENT OF THE INTERIOR,

22 Defendants.

Case No. 2:16-cv-00403-JCM-PAL

**REQUEST OF PLAINTIFF FOR ORDER
 TO ISSUE NON-STANDARD
 SUMMONSES PURSUANT TO FRCP
 12(a) AND 5 U.S.C. § 552(a)(4)(C)**

**EXPEDITED CONSIDERATION
 REQUESTED**

24 Plaintiff Basin and Range Watch respectfully requests that the Court order the Office of the
 25 District Court Clerk to issue the attached Proposed Summonses in the above-captioned matter.

26 The proposed summonses are attached hereto as Exhibits 1 and 2.

27 Good cause for this request exists because this action is brought pursuant to the Freedom
 28 of Information Act (“FOIA”), 5 U.S.C. § 552(a)(4)(B), which includes a statutory deviation from

1 the otherwise standard timelines for defendants to respond to a complaint pursuant to the Federal
2 Rules of Civil Procedure. The standard Summons form does not provide the correct time for the
3 federal defendants in this case to serve a responsive pleading. The standard form provides the
4 default dates listed in Fed. R. Civ. P. 12(a), namely 21 days, or 60 days if a defendant is the
5 United States or its agency. However, Fed. R. Civ. P. 12(a) expressly provides that these standard
6 times apply “[u]nless another time is specified by this rule or a federal statute.” (Emphasis added).

7 The federal FOIA statute provides “another time” for filing a responsive pleading as
8 contemplated by Fed. R. Civ. P. 12(a). Under the FOIA, federal defendants have only 30 days to
9 answer: “Notwithstanding any other provision of law, the defendant shall serve an answer or
10 otherwise plead to any complaint made under this subsection within thirty days after service upon
11 the defendant of the pleading in which such complaint is made, unless the court otherwise directs
12 for good cause shown.” 5 U.S.C. § 552(a)(4)(C) (emphasis added).

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1 Accordingly, use of the form summons in this case is improper because it would indicate
2 the incorrect time for the federal defendants to serve a responsive pleading under the FOIA statute.
3 Basin and Range Watch respectfully requests that the Court order the Office of the District Court
4 Clerk to issue the attached Proposed Summonses that include the 30 day time for Defendants to
5 serve a responsive pleading.

6 February 26, 2016

Respectfully submitted,

7 **WOLF, RIFKIN, SHAPIRO,**
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IT IS SO ORDERED.

Dated: March 9, 2016


United States Magistrate Judge