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**UNITED STATES DISTRICT COURT  
DISTRICT OF OREGON  
EUGENE DIVISION**

**KELSEY CASCADIA ROSE JULIANA, et al.,**

Plaintiffs,

v.

**UNITED STATES OF AMERICA, et al.,**

Defendants.

Case No. 6:15-cv-01517-TC

**INTERVENOR-DEFENDANTS'  
MOTION FOR AN EXTENSION OF  
TIME TO RESPOND TO PLAINTIFFS'  
REQUESTS FOR ADMISSIONS**

**Expedited Consideration Requested**

## LR 7-1 CERTIFICATION

The Intervenor certify that the parties have conferred regarding this motion but have not been able to reach an agreement. Plaintiffs oppose the Intervenor's request for extension of time. The Federal Defendants take no position with respect to the request.

## MOTION

For the reasons provided in the accompanying memorandum, the American Fuel & Petrochemical Manufacturers, American Petroleum Institute, and the National Association of Manufacturers ("Intervenor") move the Court for an order extending the time to respond to Plaintiffs' Request for Admission to Intervenor Defendants. Specifically, the Intervenor request an extension to respond until Wednesday, June 7, 2017, which is one week after the date by which Defendants Executive Office of the President and the U.S. Environmental Protection Agency must respond to a separate set of requests for admissions propounded by the Plaintiffs.

## MEMORANDUM

Intervenor hereby request an extension of time to respond to Plaintiffs' Requests for Admission to Intervenor, issued on March 24, 2017. Currently, the responses are due by May 15, 2017. In support of their motion, Intervenor state as follows:

1. Plaintiffs' request for admission to Intervenor consist of 98 requests. The purpose of issuing these requests for admission was to determine whether the Intervenor would contest issues that the Federal Defendants have already admitted to in their Answer to the First Amended Complaint. Each of the 98 requests consists of nearly verbatim statements taken from the Federal Defendants' Answer.

2. Many of these requests raise complex scientific issues, such as predictions of climate change effects on water supplies, crop diseases, agricultural yield, and future temperatures. The Intervenor have not previously taken a position on many of these issues, necessitating extensive meetings among the Intervenor's staff and legal counsel in order to formulate their responses. This exercise is extensively complicated by the vague nature of many

of the assertions that Intervenor are required to admit or deny (*e.g.*, how “challenging it is for humans and natural systems to adapt to” climate change; “some” unidentified “changes may be irreversible;” climate change will “lead to unsuitable working conditions”).

3. Intervenor have held extensive discussions regarding their responses. Due to the breadth and scientific nature of the requests, the Intervenor’s obligations under the Federal Rules of Civil Procedure, and the need to limit the contested issues in this case, Intervenor have had to consider a number of factors in formulating their responses, including a review of their prior public statements and agency comments, expert witness issues, the availability of resources for the type of trial contemplated by the Plaintiffs, and the Plaintiffs’ likely characterization of Intervenor’s responses, given that Plaintiffs have worked closely with the media to publicize nearly every aspect of this case.

4. The Intervenor do not anticipate being able to reach a definitive conclusion regarding many of the requests for admission by May 15, 2017.

5. A significant issue in preparing Intervenor’s responses is the increasing likelihood that the Federal Defendants will change their position on several key issues in this case. In their Objections to Findings and Recommendations of Magistrate Judge, Dkt. No. 149 (May 5, 2017) at 12, n. 5, the Federal Defendants foreshadowed moving to amend their answer to reflect the policy of the current administration. Further, Defendants Executive Office of the President and the U.S. Environmental Protection Agency will be providing Plaintiffs with their responses to a separate request for admissions on May 31, 2017. These requests cover many of the same issues as the requests for admissions to Intervenor, such as whether atmospheric carbon dioxide concentrations above 350 parts per million threaten the public health and welfare of future generations, claims about third party scientific research, and predictions of vague risks and harms in the future.

6. If the Federal Defendants do reverse their position on these issues, either through a motion to amend their answer or through their responses to Plaintiffs’ request for

admissions, then the Intervenor's responses – reached through great expenses of time and resources – would not serve the purpose of narrowing the issues before the Court. Given that the sole purpose of the requests for admissions is to determine which issues conceded by the Federal Defendants are contested by the Intervenor, if any, a reversal by the Federal Defendants would render the exercise wasted. Further, Intervenor would likely receive new requests for admissions to determine if their positions accord with the new positions of the Federal Defendants.

7. For purposes of conserving time and resources (as well as considerable frustration), Intervenor requests that the Court allow Intervenor with an extension of time whereby the Intervenor will have one week to review the responses of the Executive Office of the President and the U.S. Environmental Protection Agency before submitting their own responses. This date would be Wednesday June 7, 2017, equating to an extension of about three weeks. During this time, Intervenor would continue working to reach agreement on responses to the requests for admissions – time that would be required regardless of any action taken by the Federal Defendants – with contingencies developed for a change in the Federal Defendants' positions.

### **CONCLUSION**

For the reasons stated above, Intervenor requests the Court to grant their motion for an extension of time to respond to Plaintiffs' requests for admission until June 7, 2017.

Intervenors respectfully request expedited consideration of this motion in view of the current impending response deadline.

DATED this 10th day of May 2017.

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I hereby certify that I served the foregoing Intervenor-Defendants' Motion for An Extension of Time to Respond to Plaintiffs' Requests for Admissions on:

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by the following indicated method or methods on the date set forth below:

**CM/ECF system transmission.**

DATED this 10th day of May, 2017.

/s/ C. Marie Eckert

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*Of Attorneys for Intervenor-Defendants*

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