

1 ALEX G. TSE (CABN 152348)
United States Attorney

2 SARA WINSLOW (DCBN 457643)
3 Chief, Civil Division

4 REBECCA A. FALK (CABN 226798)
Assistant United States Attorney

5 450 Golden Gate Avenue, Box 36055
6 San Francisco, California 94102-3495
7 Telephone: (415) 436-7022
8 FAX: (415) 436-6748
Rebecca.Falk@usdoj.gov

9 Attorneys for Defendant
U.S. Environmental Protection Agency

10
11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 SIERRA CLUB,) CASE NO. 18-2372 EDL
15)
16 Plaintiff,) STIPULATION AND ~~PROPOSED~~ ORDER TO
17 v.) VACATE SETTLEMENT CONFERENCE AND
18 UNITED STATES ENVIRONMENTAL) STAY PROCEEDINGS
19 PROTECTION AGENCY,)
20 Defendant.)

1 BY AND THROUGH THEIR COUNSEL OF RECORD, Plaintiff SIERRA CLUB (hereinafter,
2 “Plaintiff”), and Defendant U.S. ENVIRONMENTAL PROTECTION AGENCY (hereinafter,
3 “Defendant” or “EPA”), having conferred, hereby stipulate and agree, subject to the approval of the
4 Court, that:

5 1. Plaintiff’s Complaint identifies four FOIA Requests that are the subject of this litigation.

6 2. Plaintiff’s first three FOIA Requests, one dated June 20, 2017 and two dated July 21,
7 2017, have been consolidated under EPA tracking number EPA-HQ-2017-08660.

8 3. Plaintiff’s fourth FOIA Request, dated January 8, 2018, has been assigned EPA tracking
9 number EPA-HQ-2018-003186.

10 4. The parties have met and conferred about a production schedule on the FOIA Requests
11 that are the subject of this litigation.

12 5. Based on information available to date, EPA will review and produce documents
13 responsive to Plaintiff’s fourth FOIA Request, EPA-HQ-2018-003186 as follows (“Part A”):

14 a. EPA reviewed 204 documents potentially responsive to FOIA Request EPA-HQ-
15 2018-003186 and produced any responsive, nonexempt records to Sierra Club on
16 July 23;

17 b. EPA has commenced review of the remaining 1,000 documents potentially
18 responsive to FOIA Request EPA-HQ-2018-003186 at a rate of 500 documents per
19 month and will produce any responsive, nonexempt records in productions on
20 August 23 and September 24.

21 6. Thereafter, EPA will commence a review of all communications between Mr. Wilcox,
22 Ms. Bowman, Mr. Ferguson, Mr. Konkus and the following external organizations: Need to Know
23 Network (ntknetwork.com); America Rising (americarisingpac.org; arsqared.org); The Washington
24 Times (washingtontimes.com); Fox News (foxnews.com); Breitbart News (breitbart.com); United States
25 Congress (mail.senate.gov; mail.house.gov); Free Beacon (freebeacon.com); Washington Examiner
26 (washingtonexaminer.com) (see Part I of consolidated request EPA-HQ-2017-08660) (“Part B”) at a rate
27 of 700 documents per month, and produce any responsive, nonexempt records every month, with
28 planned productions scheduled to begin on or before October 23, 2018 and continuing on thereafter until

1 the review and production of the Part B documents is complete, on or before February 15, 2019.

2 7. After the Part B production is complete, EPA will commence a review of the remaining
3 documents identified to date as potentially responsive to Plaintiff’s first three FOIA Requests, EPA-HQ-
4 2017-08660 (“Part C”) at a rate of 500 documents per month and produce any responsive, nonexempt
5 records on a monthly basis until complete. The parties anticipate the production of any responsive,
6 nonexempt records in Part C will be complete on or before July 19, 2019.

7 8. In light of this stipulation, the parties hereby request that the August 27, 2018 Settlement
8 Conference before Judge Ryu and all related deadlines be vacated.

9 9. To allow time for Defendant to complete its responses to Plaintiff’s FOIA Requests as
10 stated above and for the parties to resolve as many issues in this matter as possible between themselves,
11 the parties stipulate and request that this matter be stayed until August 19, 2019. The parties will submit
12 a Joint Status Report within 15 days of the lift of the stay to notify the Court regarding the status of the
13 case and the need for any additional time to meet and confer about Defendant’s production, briefing
14 schedule or further Settlement Conference. To the extent the parties require the assistance of the Court
15 during the course of the stay, they will submit a Status Report to the Court.

16 **IT IS SO STIPULATED.**

17 ALEX G. TSE
18 UNITED STATES ATTORNEY

19 DATED: August 16, 2018

/s/Rebecca Falk

20 REBECCA A. FALK¹
21 Attorneys for Defendant

22 SIERRA CLUB

23 DATED: August 16, 2018

24 By: /s/ Elena Saxonhouse
25 Elena Saxonhouse
26 Sanjay Narayan
27 Counsel for Plaintiff

28 ¹ I, Rebecca A. Falk, hereby attest, in accordance with the Civil L.R. 5(i)(3), the concurrence in the filing of this document has been obtained from the other signatories listed here.

1 **IT IS SO ORDERED.**

2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

DATED: August 21, 2018


HONORABLE ELIZABETH D. LAPORTE
United States Magistrate Judge