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11 UNITED STATES DISTRICT COURT  
12 NORTHERN DISTRICT OF CALIFORNIA (Oakland)

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14  
15 STATE OF CALIFORNIA, ET AL.,

16 Plaintiffs,

17 vs.

18 DE LA VEGA, ET AL.,

19 Federal Defendants.  
20  
21

Case. No. 4:19-cv-06013-JST

**JOINT STIPULATION TO  
STAY PROCEEDINGS FOR 60  
DAYS AND [PROPOSED]  
ORDER**

22 Pursuant to Civil Local Rule 7-12 and 16-2, Federal Defendants and  
23 Plaintiffs in the three related cases of *Center for Biological Diversity v. de la Vega*,  
24 No. 19-cv-05206, *California v. de la Vega*, No. 19-cv-06013, and *Animal Legal Def.*  
25 *Fund v. de la Vega*, No. 19-cv-06812, stipulate to a stay of proceedings for 60 days.  
26 Intervenor-Defendants do not join in the stipulation, but do not oppose the request  
27

1 for relief. In support of the joint stipulation, the Federal Defendants and Plaintiffs  
2 set forth the following reasons:

3 1. These related cases<sup>1</sup> challenge three Endangered Species Act (“ESA”) final  
4 rules promulgated by the U.S. Fish and Wildlife Service within the U.S.  
5 Department of the Interior, two of which were jointly promulgated with the  
6 National Marine Fisheries Service within the National Oceanic and Atmospheric  
7 Administration, U.S. Department of Commerce. *See* 84 Fed. Reg. 45020 (Section 4  
8 revisions); 84 Fed. Reg. 44753 (Section 4(d) revisions); and 84 Fed. Reg. 44976  
9 (Section 7(a)(2) revisions).  
10

11  
12 2. On November 19, 2020, the Court entered an amended case management  
13 order. ECF 111. In accordance with that order, plaintiffs filed their motions for  
14 summary judgment on January 19, 2021. ECF 86; ECF 116; ECF 130.  
15

16 3. Pursuant to the Court’s amended case management order, Federal  
17 Defendants’ combined cross motion for summary judgment and opposition to  
18 Plaintiffs’ motions for summary judgment is due on March 19, 2021. Intervenor-  
19 Defendants’ combined cross motions for summary judgment and oppositions to  
20 Plaintiffs motions for summary judgment are due on April 9, 2021. ECF 111.  
21

22 4. On January 20, 2021, President Biden issued an Executive Order entitled  
23 “Executive Order on Protecting Public Health and the Environment and Restoring  
24

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25  
26 <sup>1</sup> On January 27, 2021, the Court related *State of California v. de la Vega*, 21-cv-  
27 00440-JST (N.D. Cal.) with the above-related cases. ECF 136. Federal Defendants  
and State-Plaintiffs in that case will be filing a similar stipulated motion.

1 Science to Tackle the Climate Crisis.” In conformance with the Executive Order,  
2 Federal Defendants are reviewing many rules promulgated in the last four years,  
3 including the final rules at issue in this case.

4  
5 5. Agencies have inherent authority to review past decisions and to revise,  
6 replace, or repeal a decision to the extent permitted by law and supported by a  
7 reasoned explanation. *FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515  
8 (2009); *Motor Vehicle Mfrs. Ass’n v. State Farm Mutual Auto. Ins. Co.*, 463 U.S. 29,  
9 42 (1983) (“*State Farm*”); *Sierra Club v. Van Antwerp*, 560 F. Supp. 2d 21, 23  
10 (D.D.C. 2008). An agency’s interpretation of a statute it administers is not “carved  
11 in stone” but must be evaluated “on a continuing basis,” for example, “in response to  
12 . . . a change in administrations.” *Nat’l Cable & Telecomm. Ass’n v. Brand X*  
13 *Internet Servs.*, 545 U.S. 967, 981 (2005) (internal quotation marks and citations  
14 omitted).  
15

16  
17 6. Federal Defendants and Plaintiffs request a stay of proceedings for 60 days to  
18 give appropriate officials adequate time to review the final rules and determine how  
19 they would like to proceed with this litigation. Accordingly, Federal Defendants  
20 and Plaintiffs respectfully request that the Court enter an order staying this case  
21 for a period of 60 days and vacating the deadlines in the amended case management  
22 order. At the end of the stay, the Parties will provide a joint status report proposing  
23 further proceedings.  
24

25  
26 7. Granting this motion will not prejudice any party, will conserve the Parties’  
27 resources, and will promote the interest of judicial economy.

1 For the foregoing reasons, the Parties respectfully request that the Court  
2 stay this case for 60 days and vacate the remaining deadlines. Upon expiration of  
3 the stay, the Parties will file a joint status report proposing further proceedings.

4  
5 DATED: February 9, 2021.

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10 /s/ Coby Howell.

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\* In compliance with Civil Local Rule 5-1(i), the filer of this document attests that all signatories listed have concurred in the filing of this document.

[PROPOSED] ORDER

PURSUANT TO STIPULATION, IT IS SO ORDERED:

Dated \_\_\_\_\_:

\_\_\_\_\_  
The Honorable Jon S. Tigar

**CERTIFICATE OF SERVICE**

I hereby certify that 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/ Coby Howell  
COBY HOWELL, Senior Attorney