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11
 12 UNITED STATES DISTRICT COURT
 13
 14 NORTHERN DISTRICT OF CALIFORNIA (Oakland)

15
 16 STATE OF CALIFORNIA, et al.,

17 Plaintiffs,

18 vs.

19 HAALAND, et al.,

20 Federal Defendants.
 21

Case. No. 4:21-cv-00440-JST

**JOINT STATUS REPORT;
 STIPULATION AND
~~PROPOSED~~ ORDER**

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 23 Pursuant to Civil Local Rule 7-12 and 16-2, and a prior Stipulation and Order in this
 24 action, ECF 25, the Parties hereby provide this joint status report and stipulate to continue the
 25 stay of proceedings until September 15, 2022—the date Plaintiffs anticipate securing approvals
 26
 27

1 and filing a stipulated dismissal of this matter.¹ In support of the joint status report and
2 stipulation, the parties set forth the following reasons:

- 3 1. This case challenges Endangered Species Act (“ESA”) final rules promulgated by the
4 U.S. Fish and Wildlife Service (“FWS”) within the U.S. Department of the Interior,
5 and the National Marine Fisheries Service (“NMFS”) within the National Oceanic
6 and Atmospheric Administration, U.S. Department of Commerce (collectively, the
7 “Services”). *See* 85 Fed. Reg. 81411 (Dec. 16, 2020) (“Habitat Definition Rule”); 85
8 Fed. Reg. 82376 (Dec. 18, 2020) (“Habitat Exclusion Rule”).²
- 9 2. On January 19, 2021, Plaintiffs filed a complaint in this Court challenging both final
10 rules. ECF 1.
- 11 3. Shortly thereafter, President Biden issued an Executive Order that, among other
12 things, required the Services to review the Habitat Exclusion Rule and Habitat
13 Definition Rule. *See* Executive Order 13990, Protecting Public Health and the
14 Environment and Restoring Science to Tackle the Climate Crisis, 86 Fed. Reg. 7037
15 (Jan. 25, 2021). Following this review, the Services announced an intent to propose
16 rescinding the Habitat Exclusion Rule and Habitat Definition Rule. *See* Notice,
17 Regulation Revisions, www.fws.gov/endangered/improving_esa/regulation-revisions.html.
- 18 4. On June 30, 2021, and July 8, 2021, the Services respectively transmitted draft
19 proposed rescission rules (“Proposed Rescission Rules”) to the Office of Management
20 and Budget (“OMB”) for review under Executive Order 12866.

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22 ¹ On January 27, 2021, the Court related this case to three other related cases: *Center for*
23 *Biological Diversity v. Haaland*, No. 19-cv-05206, *California v. Haaland*, No. 19-cv-06013, and
Animal Legal Def. Fund v. Haaland, No. 19-cv-06812 (N.D. Cal).

24 ² Only the Department of the Interior promulgated the Habitat Exclusion Rule. In this
25 stipulation, the term “Services” refers to the Service or Services responsible for issuing
26 whichever rule the given sentence is discussing—in the context of the Habitat Definition Rule, it
27 refers to both FWS and NMFS while in the context of the Habitat Exclusion Rule, it refers to
FWS. Further, where the Habitat Exclusion Rule is solely at issue in this stipulation, the
commitments in this stipulation extend only to the Department of the Interior.

- 1 5. On September 15, 2021, this Court signed a stipulation proposed by the parties which
2 stayed this litigation until July 15, 2022 while the Services completed these
3 rulemakings.
- 4 6. On June 24, 2022, a final rule rescinding the Habitat Definition Rule was published in
5 the Federal Register, with an effective date of July 25, 2022. 87 Fed. Reg. 37,757.
- 6 7. On July 21, 2022, a final rule rescinding the Habitat Exclusion Rule was published in
7 the Federal Register, with an effective date of August 22, 2022. 87 Fed. Reg. 43,433.
- 8 8. Under appropriate conditions, a stay of the litigation can conserve the parties' and
9 Court's resources, and the Court therefore has discretion to stay the case pending the
10 completion of an ongoing rulemaking process. *See CMAX, Inc. v. Hall*, 300 F.2d
11 265, 268 (9th Cir. 1962) ("A district court has inherent power to control the
12 disposition of the causes on its docket in a manner which will promote economy of
13 time and effort for itself, for counsel, and for litigants."); *see also California v. U.S.*
14 *EPA*, 360 F. Supp. 3d 984, 993 (N.D. Cal. 2019) ("A district court's 'power to stay
15 proceedings is incidental to the power inherent in every court to control the
16 disposition of the causes on its docket with economy of time and effort for itself, for
17 counsel, and for litigants'") (quoting *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)).
- 18 9. Based on the foregoing, the parties agree that a continued stay of the litigation until
19 September 15, 2022 is warranted to allow both rulemakings to be effective, and for
20 Plaintiffs to secure the necessary approvals for a stipulated dismissal. On or before
21 September 15, 2022, and following the effective date of both rules, the parties plan to
22 file a stipulated dismissal of this matter.

23 WHEREFORE, based on the foregoing, the parties jointly request that the Court issue a stay of
24 the proceedings through September 15, 2022, under the conditions identified above.

1 DATED: July 29, 2022

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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 August 1, 2022

A handwritten signature in black ink, appearing to read "Jon S. Tigar", is written over a horizontal line.

The Honorable Jon S. Tigar

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