

1 MCGREGOR W. SCOTT
United States Attorney
2 EDMUND F. BRENNAN
Assistant U.S. Attorney
3 501 I Street, Suite 10-100
Sacramento, CA 95814
4 Telephone: (916) 554-2766

5 KELLY A. JOHNSON
Acting Assistant Attorney General
6 BARCLAY T. SAMFORD (NMBN 12323)
Trial Attorney
7 U.S. Department of Justice
Environment & Natural Resources Div.
8 Suite 945, North Tower
999 18th Street
9 Denver, CO 80202
Telephone: (303) 312-7362
10 Facsimile: (303) 312-7379
BENJAMIN H. LONGSTRETH (Member of NY Bar)
11 Trial Attorney
U.S. Department of Justice
12 Environment & Natural Resources Div.
P.O. Box 663
13 Washington, DC 20044-0663
Telephone: (202) 514-4353
14 Facsimile: (202) 305-0506

15 Attorneys for Federal Defendants

16 **IN THE UNITED STATES DISTRICT COURT**
17 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

18 EARTH ISLAND INSTITUTE, *et al.*,) CIV-F-03-6386-JKS-DLB
19 Plaintiffs,)
20 v.) **UNOPPOSED MOTION FOR**
21 NANCY RUTHENBECK, *et al.*,^{1/}) **EXTENSION OF TIME IN**
22 Defendants,) **WHICH TO FILE NOTICE OF APPEAL**
23) **EXPEDITED DISPOSITION REQUESTED**
24) **JAMES K. SINGLETON**
UNITED STATES DISTRICT JUDGE

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28 ^{1/} The original Defendant, District Ranger Del Pengilly, has retired and has been replaced by Acting District Ranger Nancy Ruthenbeck, who is automatically substituted pursuant to Federal Rule of Civil Procedure 25.

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1 Pursuant to Federal Rule of Appellate Procedure Rule 4(a)(5)(A) and Local Rule 6-144
2 Federal Defendants hereby request an extension of time of 30-days in which to file a Notice of
3 Appeal of this Court's July 2, 2005 decision on summary judgment. Counsel for Plaintiffs has
4 been contacted and indicates Plaintiffs do not oppose this motion.^{2/}

5 On July 2, 2005, this Court issued an order upholding in part and striking down in part
6 the Forest Service's Regulations governing notice, comment and appeal of agency decisions
7 (Appeals Rule). Judgment was entered on July 7, 2005. On July 26, 2005, Defendants moved
8 the Court to clarify or amend its order of July 2, 2005 after it became clear that the parties did
9 not agree on the nature and scope of the Court's order. In their reply in support of that motion,
10 Defendants also asked the Court for an interim stay of its order to allow the parties to brief the
11 issues presented and to allow the Court the opportunity to resolve those issues in a setting
12 outside of emergency motions practice. On July 28, 2005, Plaintiffs moved the Court to hold
13 Defendants in contempt for failure to abide by the Court's order of July 2, 2005. Both motions
14 are fully briefed and remain pending before the Court.

15 In the meantime, pursuant to the Federal Rule of Appellate Procedure Rule 4(a)(1)(B),
16 the time for noticing an appeal from the Court's July 2 Order, has continued to run, with a notice
17 currently due by September 6, 2005. Federal Rule of Appellate Procedure Rule 4(a)(5)(A)
18 provides that a district court may extend the deadline for filing an appeal by 30 days upon a
19 showing of "good cause." Fed. R. App. P. 4(a)(5)(A)(ii). Defendants respectfully submit that in
20 this instance good cause exists for this motion. Resolution of the two pending motions before
21 the Court will inform the parties' decisions regarding whether to appeal as well as the content of
22 any such appeal, and extending the appeal deadline will hopefully afford the Court time to
23 resolve those motions prior to the date the parties must notice an appeal. Defendants therefore
24 request that the Court extend the appeal period by an additional 30 days.^{3/}

25 _____
26 ^{2/} Defendants request expedited resolution of this motion so that this motion can be resolved
in advance of the expiration of the appeal period on September 6, 2005.

27 ^{3/} Defendants also respectfully reiterate their request that the Court stay its July 2, 2005 order
28 during its consideration of the pending motions. As set forth in Defendants' motion to clarify, and

1 Respectfully Submitted this 25th day of August, 2005.

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Assistant U.S. Attorney

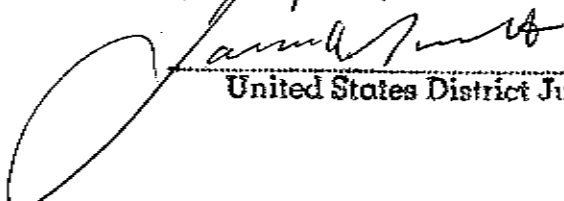
KELLY A. JOHNSON
Acting Assistant Attorney General

/s/ Barclay T. Samford
BARCLAY T. SAMFORD
BENJAMIN LONGSTRETH
Trial Attorneys
Environment and Natural Resources Division
United States Department of Justice

Attorneys for Defendants

It is so ORDERED

DATED: 8/29/05



United States District Judge

the accompanying declaration of Gloria Manning, the Court's order has a significant impact on Forest Service operations, and Defendants submit that a 30-day extension of the day for a notice of appeal coupled with an interim stay of the Court's order would afford the Court time to decide the issues presented by the pending motions, while eliminating any uncertainty arising from the parties' differing views on the July 2 order until the Court can clarify these matters. Plaintiffs indicate that while they do not oppose a 30-day extension of the deadline to file a Notice of Appeal, they do oppose an interim stay of the Court's July 2 Order.