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07-CV-01791-WV

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

NW Coalition for Alternatives to Pesticides, et al.  
  
Plaintiffs,  
  
v.  
  
National Marine Fisheries Service,  
  
Defendant.

NO. 07-1791-RSL

STIPULATION AND [PROPOSED] ORDER TO AMEND THE STIPULATED SETTLEMENT AGREEMENT AFFIRMED BY THIS COURT ON AUGUST 1, 2008

Plaintiffs Northwest Coalition for Alternatives to Pesticides, et al. ("Plaintiffs") and Defendant National Marine Fisheries Service ("NMFS") declare as follows:

WHEREAS, Plaintiffs filed a Complaint (Dkt. No. 1) in the above-captioned case on November 5, 2007, in the District Court for the Western District of Washington;

WHEREAS, Plaintiffs and NMFS entered into a Stipulated Settlement Agreement (Dkt. No. 20) in the above-captioned case on July 30, 2008;

WHEREAS, this Court affirmed the Stipulated Settlement Agreement and issued an Order of Dismissal (Dkt. No. 21) in the above-captioned case on August 1, 2008;

WHEREAS, the schedule attached to the Stipulated Settlement Agreement (Exhibit 1 to Dkt. No. 21) requires NMFS to issue Biological Opinion 3 on June 30, 2010, and Biological Opinions 4, 5 and 6 on November 30, 2010;

Stipulation to Amend the Stipulated Settlement Agreement and Order of Dismissal

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WHEREAS, Paragraph 5 of the Stipulated Settlement Agreement provides that:

Defendants represent that they intend to make every effort to comply with the terms of this Stipulation in good faith. If, however, through unforeseen circumstances, events should change after the Stipulation becomes effective, Defendants will notify all other parties of record as soon as reasonably possible of the change and the reason therefor. The parties agree to attempt to work reasonably toward a mutually acceptable solution. In the event a solution is reached, the parties shall jointly move this Court to amend the Stipulation, as the parties agree that this Stipulation may be amended or modified only by order of this Court.

NOW, THEREFORE, IT IS STIPULATED BY AND BETWEEN THE PARTIES AS FOLLOWS:

1. Due to the complexity of Biological Opinions 3, 4, 5 and 6, NMFS has determined that it needs additional time to issue these Biological Opinions.
2. In light of the above, the parties agree that NMFS will issue the final Biological Opinion 3 no later than August 31, 2010, and the final Biological Opinions 4, 5 and 6 no later than January 31, 2011. The dates in the schedule related to Biological Opinions 7, 8 and 9 are unchanged.

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Dated: February 18, 2010

IGNACIA S. MORENO, Assistant Attorney General  
JEAN E. WILLIAMS, Chief  
SETH M. BARSKY, Assistant Chief  
U.S. Department of Justice  
Environment & Natural Resources Division  
Wildlife & Marine Resources Section  
Ben Franklin Station, P.O. Box 7369  
Washington, D.C. 20044-7369  
Telephone: (202) 353-0339  
Facsimile: (202) 305-0275

*s/ Erik Petersen*


ERIK E. PETERSEN

STEPHEN D. MASHUDA  
Earthjustice  
705 Second Avenue, Suite 203  
Seattle, Washington 98104-1711  
(206)343-7340

*s/ Stephen Mashuda\**

STEPHEN D. MASHUDA  
\*Plaintiffs' counsel authorized Defendant's counsel to sign  
on his behalf on February 18, 2010.

IT IS SO AGREED AND AFFIRMED,

DATED: Feb. 25, 2010 

Honorable Robert S. Lasnik  
Chief Judge, United States District Court

Stipulation to Amend the Stipulated Settlement  
Agreement and Order of Dismissal

U.S. Department of Justice  
P.O. Box 7369  
Washington, D.C. 20044-7369