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**UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
EUGENE DIVISION**

KELSEY CASCADIA ROSE JULIANA, *et al.*, Case No. 6:15-CV-01517-TC

Plaintiffs,

v.

UNITED STATES OF AMERICA, *et al.*,

Defendants.

**DEFENDANTS' UNOPPOSED
MOTION FOR EXTENSION OF
DEADLINE TO RESPOND TO
PLAINTIFFS' MOTION IN LIMINE
SEEKING JUDICIAL NOTICE OF
FEDERAL GOVERNMENT
DOCUMENTS**

Expedited Hearing Requested

Defendants respectfully move this Court to extend the deadline for Defendants to file a response to Plaintiffs' Motion in Limine Seeking Judicial Notice of Federal Government Documents (ECF No. 254) by 12 days to July 24. Defendants have conferred with counsel for Plaintiffs regarding this motion and the request for an expedited hearing. Plaintiffs do not oppose this motion and the request for an expedited hearing. In addition, having conferred, the Defs.' Mot. for Ext. of Deadline to Respond to Pls.' Mot. in Limine Seeking Judicial Notice

parties do not believe that oral argument on Plaintiffs' Motion in Limine Seeking Judicial Notice of Federal Government Documents is necessary, but, should the Court require oral argument, the parties are prepared to argue the Motion in Limine during the week of August 6, at the Court's convenience.

On June 28, 2018, Plaintiffs filed a Motion in Limine Seeking Judicial Notice of Federal Government Documents. ECF No. 254. The Motion asks the Court to take judicial notice of 386 documents purportedly produced by the federal government. *See* ECF No. 254-1. These documents were purportedly produced by many different agencies and organizations within the federal government, including the Council on Environmental Quality, the Department of Energy, the Government Accountability Office, the United Nations, the White House, Congress, the Environmental Protection Agency, the Office of Management and Budget, the Department of Agriculture, the Department of State, the Department of the Interior, the Department of Transportation, the Department of Defense, the Federal Energy Regulatory Commission, the U.S. Census Bureau, and the Federal Aviation Administration. *Id.* Under the Local Rules, Defendants' response to the Motion is currently due July 12, 2018. LR 7-1(e)(1).

Defendants require additional time to respond to the Motion because they have had technical difficulties accessing the exhibits attached to the Motion. The exhibits to the Motion—the 386 documents for which Plaintiffs seek judicial notice—were uploaded to ECF in two large files. ECF Nos. 270 & 299. Defendants repeatedly tried but were unable to download the exhibit files from ECF or LexisNexis CourtLink because the files were too large. After realizing they could not access the files on ECF, on July 7, 2018, Defendants asked Plaintiffs for copies of the exhibits. Plaintiffs provided copies of the exhibits on the evening of July 9, 2018.

After receiving the exhibits from Plaintiffs, Defendants had to identify and organize them in a manner that would allow for efficient review by the many federal agencies implicated in the documents. This proved a challenge because the ECF numbers on the exhibits (e.g., ECF No. 270-7, ECF No. 299-14) do not match the numbers that Plaintiffs used to identify the exhibits in their appendices to the Motion identifying the exhibits, which numbered the exhibits from 1 to 386. *See* ECF No. 254-1. Even within the appendices, the documents are not listed entirely in order. For example, Appendix 1 jumps from exhibit 38 to exhibit 376, and exhibit 386 is listed on page 3 of Appendix 2 between exhibits 56 and 57. ECF No. 254-1 at 7, 12. In addition, the documents were not uploaded to ECF in the order that they appear in the appendices. For example, Exhibit 1 per the appendices is located in ECF No. 299-190. Nor do the documents have cover pages containing the numbers used to identify them on the appendices. And some ECF files contain multiple documents. For example, documents 5 and 7 on the appendices appear in ECF No. 299-194, whereas document 6 is contained in ECF No. 299-195. As a result of these complications, Defendants have spent and are continuing to spend significant time locating each document and matching the documents to the entries on the appendices.

Because Defendants have encountered difficulties accessing the exhibits and organizing them in a usable fashion, Defendants respectfully request an extension of the deadline to file their response to Plaintiffs' Motion from July 12 to July 24. These exhibits contain the purported federal government documents for which Plaintiffs request judicial notice, and are therefore vital to Defendants' review of and response to the Motion. Because the documents were purportedly produced by so many different agencies and organizations, after organizing the documents in a more manageable fashion, counsel for Defendants have had to parse out which documents

require review by which agency or organization. Though Defendants have tried to review the 386 documents as efficiently as possible, they require additional time to complete that review.

A short 12-day extension of the deadline for Defendants' response will not prejudice the parties and will ultimately benefit the litigation by allowing Defendants sufficient time to review the documents and determine whether they have any objections regarding the authenticity of each. For documents for which Defendants have no objections, this process will allow the Court to take judicial notice of the documents without further dispute between the parties. The process will therefore narrow any remaining disputes regarding these documents.

Dated: July 11, 2018

Respectfully submitted,

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