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Attorney for Defendant

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**

13	CENTER FOR BIOLOGICAL DIVERSITY,)	Case No. 11-cv-04779
14)	
15	<i>Plaintiff,</i>)	
16)	
17	v.)	
18)	
19	NATIONAL MARINE FISHERIES SERVICE,)	
20)	
)	
	<i>Defendant.</i>)	
)	

21 **STIPULATION AND ~~PROPOSED~~ ORDER TO AMEND THE STIPULATED**
22 **SETTLEMENT AGREEMENT AFFIRMED BY THIS COURT ON NOVEMBER 8, 2011**

23 Plaintiff Center for Biological Diversity (“Plaintiff”) and Defendant National Marine
24 Fisheries Service (“NMFS”) declare as follows:

25 WHEREAS, Plaintiff filed a Complaint (Dkt. No. 1) in the above-captioned case on
26 September 27, 2011, in the District Court for the Northern District of California;

27 WHEREAS, Plaintiff and NMFS entered into a Stipulated Settlement Agreement (Dkt.
28 No. 5) in the above-captioned case on September 27, 2011;

1 WHEREAS, this Court affirmed the Stipulated Settlement Agreement (Dkt. No. 10)
2 (“Agreement”) in the above-captioned case on November 8, 2011;

3 WHEREAS, the Agreement requires NMFS to issue a 12-Month Finding as to the 82
4 coral species for which it has made a positive 90-day finding under the Endangered Species Act
5 by April 15, 2012;

6 WHEREAS, Paragraph 3 of the Agreement provides that:

7 The Order entering this Stipulation may be modified by the Court upon good
8 cause shown, consistent with the Federal Rules of Civil Procedure, by written
9 stipulation between the Parties filed with and approved by the Court;

10 WHEREAS, there have been no prior requests for extension of the April 15, 2012
11 deadline;

12 WHEREAS, NMFS has determined that its decision-making process for the 12-Month
13 Finding would be strengthened if additional time is taken to publicly review, confirm, and
14 validate the information on which NMFS has relied to date and the scientific approach employed
15 thus far;

16 NOW, THEREFORE, IT IS STIPULATED BY AND BETWEEN THE PARTIES AS
17 FOLLOWS:
18

19 1. Paragraph 1 of the Agreement shall be modified to read as follows:

20 On or before December 1, 2012, NMFS shall submit to the *Federal Register* for
21 publication a 12-Month Finding as to the 82 coral species for which NMFS has
22 made its Positive 90-Day Finding.

23 2. On or before April 15, 2012, NMFS shall publish and request public comment on
24 its (a) Status Review Report of 82 Candidate Coral Species Petitioned Under the U.S.
25 Endangered Species Act; and (b) draft Management Report for 82 Corals Status Review under
26 the Endangered Species Act: Assessment of Existing Regulatory Mechanisms and Conservation
27 Efforts.
28

1 3. On the day that NMFS submits its 12-Month Finding to the *Federal*
2 *Register*, by December 1, 2012, pursuant to Paragraph 1 of the Agreement, NMFS shall
3 provide the Plaintiff a copy of the 12-Month Finding.
4

5 Respectfully submitted this 13th day of March, 2012.

6 IGNACIA S. MORENO
7 Assistant Attorney General
8 Environment & Natural Resources Division
9 United States Department of Justice

10 /s/ J. Brett Grosko
11 J. BRETT GROSKO (Maryland Bar)
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20 *Attorney for Defendant*

21 /s/ Miyoko Sakashita
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Attorney for Plaintiff

1 IS SO AGREED AND AFFIRMED,

2 Dated: March 14, 2012

3 
4 Honorable Elizabeth D. Laporte
U.S. Magistrate Judge

5
6 **CERTIFICATE OF SERVICE**

7 I hereby certify that I have caused the foregoing to be served upon counsel of record, as
8 indicated below, through the Court's electronic service system (ECF/CM):
9

10 Miyoko Sakashita: miyoko@biologicaldiversity.org

11 Catherine Cain Ware Kilduff: ckilduff@biologicaldiversity.org
12

13 Dated: March 13, 2012.
14

15 /s/ J. Brett Grosko
16 *Attorney for Defendant*
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