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9 UNITED STATES DISTRICT COURT
10 EASTERN DISTRICT OF CALIFORNIA
11

12 AMY GRANAT; CORKY LAZZARINO; SIERRA)
ACCESS COALITION; CALIFORNIA OFF-ROAD)
13 VEHICLE ASSOCIATION; THE COUNTY OF)
PLUMAS; and THE COUNTY OF BUTTE,)

14 Plaintiffs,)
15)

16 v.)

17 UNITED STATES DEPARTMENT OF)
AGRICULTURE, a federal agency; TOM VILSACK,)
in his official capacity as Secretary of the UNITED)
18 STATES DEPARTMENT OF AGRICULTURE;)
UNITED STATES FOREST SERVICE, a federal)
19 agency; THOMAS L. TIDWELL, in his official)
capacity as Chief of the UNITED STATES FOREST)
20 SERVICE; RANDY MOORE, in his official capacity)
as PACIFIC SOUTHWEST REGIONAL FORESTER;)
21 ALICE CARLTON, in her official capacity as the)
former PLUMAS NATIONAL FOREST)
22 SUPERVISOR; and EARL FORD, in his official)
capacity as PLUMAS NATIONAL FOREST)
23 SUPERVISOR,)

24 Defendants.)
25)
26)
27)
28)

No. 2:15-cv-00605-MCE-DAD

**PLAINTIFFS' OPPOSITION TO
FEDERAL DEFENDANTS'
MOTION TO DISMISS OR,
ALTERNATIVELY, FOR
SUMMARY JUDGMENT
ON THE FREEDOM OF
INFORMATION ACT
(FOIA) CLAIM**

Date: July 9, 2015
Time: 2:00 p.m.
Courtroom: 7, 14th Floor
Judge: Hon. Morrison C. England, Jr.

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7 *Cervantz v. Sullivan*, 719 F. Supp. 899 (E.D. Cal. 1989)

8 (citing 2A J. Moore, J. Lucas & G. Grotheer, Moore’s

9 Federal Practice, (2d ed. 1987)), *reversed on other grounds*,

10 *Cervantz v. Sullivan*, 963 F.2d 229 (9th Cir. 1992). 4

11 *Fiduccia v. U.S. Dep’t of Justice*, 185 F.3d 1035 (9th Cir. 1999). 8

12 *Gilmore v. U.S. Dep’t of Energy*, 33 F. Supp. 2d 1184 (N.D. Cal. 1998). 6

13 *Hajro v. U.S. Citizenship & Immigration Servs.*,

14 832 F. Supp. 2d 1095 (N.D. Cal. 2011). 7

15 *Long v. IRS*, 693 F.2d 907 (9th Cir. 1982) 6

16 *Munger, Tolles & Olsen, LLP o/b/o Am. Mgmt. Services LLC*

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18 58 F. Supp. 3d 1050 (C.D. Cal. 2014). 1, 6-7

19 *Oregon Natural Desert Ass’n v. Guiterrez*,

20 409 F. Supp. 2d 1237 (D. Or. 2006). 6

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23 *Sullivan By and Through Sullivan v. Vallejo City Unified Sch. Dist.*,

24 731 F. Supp. 947 (E.D. Cal. 1990) (citing *Baker v. Carr*,

25 369 U.S. 186 (1962)). 4-5

26 *Valesquez v. DEA Headquarters Unit*, 2013 WL 686727 (S.D. Cal. Feb. 25, 2013). 7

27 *Yonemoto v. Dep’t of Veterans Affairs*, 305 Fed. Appx. 333 (9th Cir. 1986). 8

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24 5 U.S.C. § 552. 1

25 § 552(a)(4)(E). 6

26 § 552(a)(6)(A)(ii)(I). 5

27 Fed. R. Civ. P. 56(c). 5

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Regulation

2005 Travel Management Rule, 36 C.F.R. Part 212. 1

INTRODUCTION

1
2 Plaintiffs filed their complaint on March 18, 2015, alleging twelve causes of action against
3 the Federal Defendants, challenging the August 2010 Plumas National Forest Public Motorized
4 Travel Management Plan Record of Decision and Final Environmental Impact Statement, which
5 implements provisions of the 2005 Travel Management Rule, 36 C.F.R. Part 212. Doc. 1. On
6 May 29, 2015, the Federal Defendants filed their Motion to Dismiss / Motion for Summary
7 Judgment with regard to the twelfth cause of action, namely the alleged violations of the Freedom
8 of Information Act (“FOIA”), 5 U.S.C. § 552, in connection with FOIA requests made by Plaintiff
9 Sierra Access Coalition on November 21, 2010, November 24, 2010, and September 2, 2011 (the
10 “Three FOIA Requests”). Doc. 11-1. Also on May 29, 2015, the Federal Defendants filed their
11 Partial Answer regarding the other eleven causes of action. Doc. 12.

12 With their Motion to Dismiss / Motion for Summary Judgment, the Federal Defendants
13 included a declaration of Elizabeth A. Schramel (the “Schramel Declaration”). In her declaration,
14 Ms. Schramel asserts that the Federal Defendants provided timely responses to the Three FOIA
15 Requests. Enclosed herewith is the declaration of Corky Lazzarino, Executive Director of Plaintiff
16 Sierra Access Coalition, challenging those assertions and stating that the information was not
17 provided in a timely manner. Accordingly, there is a genuine issue of material fact regarding
18 whether the Federal Defendants timely responded to the Three FOIA Requests.

19 The Federal Defendants assert in their motion that, at the very least, they have provided the
20 requested information as part of the Schramel Declaration and that, therefore, the FOIA claim is
21 moot. Assuming arguendo that the requested information was provided as part of the Schramel
22 Declaration, the assertion that the FOIA claim is moot is without merit. Plaintiffs are entitled to
23 an opportunity to show that the Federal Defendants failed to supply the requested information in
24 a timely manner, thereby establishing their right to a declaratory judgment on the FOIA claim, as
25 well as the right to concomitant attorneys fees under the FOIA. Accordingly, because a declaratory
26 ruling on the FOIA issue “could change the legal relationship between the parties,” the FOIA claim
27 is not moot. *Munger, Tolles & Olsen, LLP o/b/o Am. Mgmt. Services LLC d/b/a Pinnacle v. United*
28 *States Dep’t of the Army*, 58 F. Supp. 3d 1050, 1054 n.1 (C.D. Cal. 2014).

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STATEMENT OF FACTS

1
2 On November 21, 2010, Plaintiff Lazzarino made a FOIA request to the Forest Service for
3 a copy of the Mixed Use Analysis for all routes within Plumas National Forest that were being
4 reclassified from Maintenance Level 3 to Level 2. Compl. ¶ 194. The Federal Defendants assert
5 that the information was timely produced. Schramel Decl. ¶ 5. The Plaintiffs assert that the
6 information was not timely produced. Lazzarino Decl. ¶ 6. Accordingly, there is a genuine issue
7 of material fact regarding whether the Federal Defendants complied with the FOIA in connection
8 with the request for information dated November 21, 2010, regarding the Mixed Use Analysis.

9 On November 24, 2010, Plaintiff Lazzarino made a FOIA request to the Forest Service for
10 a copy of the consultations with the U.S. Fish and Wildlife Service regarding the red-legged frog
11 and a copy of the peer review document written by Plumas National Forest. Compl. ¶ 196. The
12 Federal Defendants assert that a CD containing the requested information was hand-delivered to
13 Plaintiff Lazzarino at a meeting on December 7, 2010. Schramel Decl. ¶ 8. The Plaintiffs assert
14 that no such CD was provided to Plaintiff Lazzarino on December 7, 2010, or on any other date,
15 and that no documentation responsive to the request was timely produced. Lazzarino Decl. ¶ 7.
16 Accordingly, there is a genuine issue of material fact regarding whether the Federal Defendants
17 complied with the FOIA in connection with the request for information regarding the red-legged
18 frog.

19 As part of the FOIA requested dated November 24, 2010, Plaintiff Lazzarino requested
20 backup data for the Visitor Survey (table 12, Sec 3.2.4.1 in the Final Environmental Impact
21 Statement for the Plumas National Forest Travel Management), including the location of the
22 surveys the protocol used. Compl. ¶ 196. The Federal Defendants assert that a document
23 containing the requested information was hand-delivered by Ms. Schramel to Ms. Lazzarino during
24 their meeting on December 7, 2010. Schramel Decl. ¶ 9. The Plaintiffs assert that no such
25 document was provided to Ms. Lazzarino during such meeting or at any other time, and that no
26 documentation responsive to the request was timely produced. Lazzarino Decl. ¶ 8. Accordingly,
27 there is a genuine issue of material fact regarding whether the Federal Defendants timely complied
28 with the FOIA in connection with the request for information regarding the Visitor Survey.

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2 As part of the FOIA request dated November 24, 2010, Plaintiff Lazzarino requested a map
3 for R.S. 2477 roads in Plumas National Forest. Compl. ¶ 196. The Federal Defendants assert that,
4 at the December 7, 2010, meeting, Ms. Schramel provided a copy of the 1916 forest map to
5 Ms. Lazzarino. Schramel Decl. ¶ 10. The Plaintiffs do not dispute that fact. However, the Federal
6 Defendants also assert that Ms. Schramel suggested to Ms. Lazzarino that Ms. Lazzarino obtain
7 older maps from the Plumas County Museum and that Ms. Lazzarino informed Ms. Schramel that
8 she already had copies of those older maps. Schramel Decl. ¶ 10. The Plaintiffs assert that
9 Ms. Lazzarino did not advise Ms. Schramel that she had copies of any older maps. Lazzarino
10 Decl. ¶ 9. Further, The Federal Defendants assert that responsive information was provided to a
11 Mr. Rex Fisher, “another high profile member of the group now known as SAC, in a 2007 FOIA
12 response by the Forest Service.” Schramel Decl. ¶ 11. The Plaintiffs assert that Mr. Fisher is not
13 a plaintiff in this case and that any information that may have been provided to him was provided
14 to him in his individual capacity, and that he has not shared any such information with the
15 Plaintiffs. Lazzarino Decl. ¶ 10. Accordingly, there is a genuine issue of material fact regarding
16 whether the Federal Defendants timely complied with the FOIA in connection with the request for
17 maps predating 1916 relating to R.S. 2477 roads.

18 On September 2, 2011, Plaintiff Lazzarino made a request to the Forest Service for all
19 contacts, warnings, and citations issued in the Sly Creek reservoir area between August 17, 2011,
20 and August 31, 2011, relating to OHV use. Compl. ¶ 198. The Federal Defendants assert that “the
21 FOIA Coordinator believes that she provided this information to Ms. Lazzarino in 2011.”
22 Fed. Defs.’ Mem. of P. & A. at 4. See Schramel Decl. ¶ 15. The document referred to by the
23 Federal Defendants is, in fact, an internal email of the Forest Service, *id.*, and there is no proof that
24 it was sent to Plaintiff Lazzarino. Moreover, the Plaintiffs assert that they did not receive the
25 document. Lazzarino Decl. ¶ 10. Accordingly, there is a genuine issue of material fact regarding
26 whether the Federal Defendants timely complied with the FOIA in connection with this request.

27 The Federal Defendants assert that, “[o]n December 17, 2010, the FOIA Coordinator
28 received an email from Ms. Lazzarino thanking her for expediting FOIA requests.” Fed. Defs.’

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1 Mem. of P. & A. at 3. But that email had nothing to do with the FOIA requests set forth in the
2 complaint; rather, it refers to an unrelated matter dealing with firewood in the forest. Lazzarino
3 Decl. ¶ 11. As such it has no probative value in connection with the issues raised in the Motion
4 to Dismiss / Motion for Summary Judgment.

5 Finally, the Federal Defendants assert that, in an email dated January 7, 2011,
6 Ms. Lazzarino “sent another email thanking the FOIA Coordinator and others at the Forest Service
7 for sending documents to her.” Fed. Defs.’ Mem. of P. & A. at 4. But that email was sent at a time
8 when Ms. Lazzarino “believed the Forest Service would properly respond to [her] FOIA requests
9 dated November 21, 2010, and November 24, 2010. It was also written nine months before [her]
10 FOIA request dated September 2, 2011.” Lazzarino Decl. ¶ 12. After the Forest Service refused
11 to respond to her FOIA requests, no such laudatory emails were sent to the Forest Service.
12 Accordingly, the fact that the email was sent at a time when Ms. Lazzarino reasonably expected
13 a response to the Three FOIA Requests at issue here has no relevance to the issue of whether the
14 Forest Service failed to timely respond to those requests.

15 STANDARD OF REVIEW

16 Generally, where a defendant files a motion to dismiss contending that the allegations of
17 jurisdiction contained in a complaint are insufficient on their face to demonstrate jurisdiction, the
18 factual allegations of the complaint are presumed to be true. Such motions will be granted only if
19 the plaintiff fails to allege an element necessary for subject matter jurisdiction. *Cervantz v.*
20 *Sullivan*, 719 F. Supp. 899, 903 (E.D. Cal. 1989) (citing 2A J. Moore, J. Lucas & G. Grotheer,
21 Moore’s Federal Practice, ¶ 12.07, at 12.46-47 (2d ed. 1987)), *reversed on other grounds*, *Cervantz*
22 *v. Sullivan*, 963 F.2d 229 (9th Cir. 1992).

23 A complaint alleging federal question jurisdiction will be dismissed for lack of subject
24 matter jurisdiction only in three types of instances: (1) the cause does not “arise under” the United
25 States Constitution or any federal statute or regulation, (2) there is no case or controversy, as
26 required by Article III of the United States Constitution, or (3) the cause is not described by any
27 jurisdictional statute. *Sullivan By and Through Sullivan v. Vallejo City Unified Sch. Dist.*,
28 731 F. Supp. 947, 949 (E.D. Cal. 1990) (citing *Baker v. Carr*, 369 U.S. 186, 198 (1962)).

1 In turn, summary judgment is appropriate only when “the pleadings, depositions, answers
2 to interrogatories, and admissions on file, together with the affidavits, if any, show that there is no
3 genuine issue as to any material fact and that the moving party is entitled to judgment as a matter
4 of law.” Fed. R. Civ. P. 56(c); *see Celotex Corp. v. Catrett*, 477 U.S. 317, 323-34 (1986). To
5 prevail, the government must demonstrate the absence of a genuine dispute of material fact.
6 *Id.* at 323. The nonmoving party then bears the burden of showing that there is a genuine dispute
7 of material fact. *Id.*

8 **ARGUMENT**

9 **THE COMPLAINT STATES VALID CLAIMS AGAINST THE**
10 **UNITED STATES DEPARTMENT OF AGRICULTURE FOR**
11 **VIOLATION OF THE FREEDOM OF INFORMATION ACT,**
12 **THESE CLAIMS HAVE NOT BEEN MOOTED AND,**
13 **THEREFORE, THE MOTION TO DISMISS / MOTION**
14 **FOR SUMMARY JUDGMENT SHOULD BE DENIED**

15 The FOIA requires agencies to respond to document requests within 20 days of receipt.
16 5 U.S.C. § 552(a)(6)(A)(ii)(I). As set forth in the Statement of Facts, there is a genuine issue of
17 material fact regarding the issue of whether the Forest Service provided timely responses to the
18 Plaintiffs’ FOIA requests. Accordingly, the Motion to Dismiss / Motion for Summary Judgment
19 should be denied. *See Celotex Corp.*, 477 U.S. at 323-34. Furthermore, as set forth *infra* in this
20 Section, the FOIA claim is not moot and, therefore, there is a controversy regarding the Forest
21 Service’s timely compliance with the FOIA. *See Sullivan*, 731 F. Supp at 949.

22 The Federal Defendants argue that, even if the documents had not been provided in a timely
23 manner, they were included as exhibits to the Schramel Declaration, as part of the Motion to
24 Dismiss / Motion for Summary Judgment and that, because they have now been provided in this
25 litigation, the FOIA claim is moot. The argument is without merit.

26 The Plaintiffs assert that the FOIA responses were not timely, and that they were required
27 to institute this litigation against the Federal Defendants in order to obtain the responses. Lazzarino
28 Decl. ¶ 13. Plaintiffs are entitled to the opportunity to *show* that the responses were not timely and,
upon such a showing, to obtain a declaration from this Court that the government did not provide
timely responses. If the Plaintiffs were to obtain such a declaration, they would be entitled to their

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1 attorneys fees in connection with their efforts to obtain it. 5 U.S.C. § 552(a)(4)(E) (authorizing the
2 award of “reasonable attorneys fees and other litigation costs . . . in which the complainant has
3 substantially prevailed.”). “Thus, a declaratory judgment that the [government] unreasonably
4 delayed responding to Plaintiff’s FOIA request could change the rights and other legal relations
5 between the parties.” *Munger*, 58 Fed. Supp. 3d at 1054. (Internal quotation marks excluded.)
6 Accordingly, there is a continuing case or controversy regarding the issue of whether the Forest
7 Service violated the FOIA by failing to provide timely responses to the Three FOIA Requests.
8 Here, the exhibits to the Schramel Declaration, filed with the Federal Defendants’ Motion to
9 Dismiss / Motion for Summary Judgment, were not filed until nearly five years after the FOIA
10 requests were made. If that was the first time the documents were provided, which the Plaintiffs
11 have asserted, the delay is unreasonable. *See Long v. IRS*, 693 F.2d 907, 910 (9th Cir. 1982)
12 (“[U]nreasonable delays in disclosing non-exempt documents violate the intent and purpose of the
13 FOIA, and the courts have a duty to prevent these abuses.”). Indeed, courts in this Circuit have
14 held that periods much shorter than five years constitute unreasonable delays under the FOIA. *See*
15 *Oregon Natural Desert Ass’n v. Guitierrez*, 409 F. Supp. 2d 1237, 1248 (D. Or. 2006) (holding that
16 an eight-month delay was a “violation of FOIA, regardless of the final outcome of the request”)
17 (emphasis added); *Gilmore v. U.S. Dep’t of Energy*, 33 F. Supp. 2d 1184, 1188 (N.D. Cal. 1998)
18 (five-month delay violates FOIA).

19 Moreover, the Complaint asserts that the Forest Service “has continually failed to respond
20 to the [Three FOIA Requests.]” Compl. ¶¶ 194, 196, 198. In this regard, Plaintiff Lazzarino states
21 in her declaration:

22 I have found the Forest Service to have engaged in a pattern of delay in responding
23 to reasonable requests for information. This has occurred throughout the process
24 leading to the Final Environmental Impact Statement and Record of Decision in this
25 case, as well as through the administrative appeals process. For example, I have
26 repeatedly asked Forest Service employees, including Ms. Schramel, to respond to
27 the three FOIA requests. Each time, I was told that a response would be
28 forthcoming but it never was. That is the reason why we were forced to include the
FOIA claim in the complaint.

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1 | Lazzarino Decl. ¶ 13. *See Hajro v. U.S. Citizenship & Immigration Servs.*, 832 F. Supp. 2d 1095,
2 | 1107 (N.D. Cal. 2011) (“It is undisputed that a plaintiff may bring a claim alleging a pattern and
3 | practice of unreasonable delay in responding to FOIA requests.”) (Internal quotation marks
4 | omitted.)

5 | The cases cited by the Federal Defendants in support of their Motion to Dismiss / Motion
6 | for Summary Judgment are inapposite. In *Papa v. U.S.*, 281 F.3d 1004, 1013 (9th Cir. 2002), the
7 | court reversed and remanded the lower court’s dismissal of the FOIA claims, holding that such
8 | claims cannot be properly dismissed solely on the ground that the documents were ultimately
9 | produced in connection with the litigation. *Id.* at 1013-14. The Federal Defendants conveniently
10 | neglect to point out that important holding, while trumpeting a statement made by the *Papa* court¹
11 | that the *Munger* court correctly observed was “dictum in a case where timeliness under FOIA was
12 | not at issue.” 58 F. Supp. 3d at 1056. *See* Fed. Defs’ Mem. of P. & A. at 6. Here, timeliness is
13 | at issue.

14 | Furthermore, *Carter v. Veterans Admin.*, 780 F.2d 1479, 1481 (9th Cir. 1986), is
15 | distinguishable on its facts. In that case, the court held that the plaintiff’s request for *injunctive*
16 | *relief* “was mooted when the V.A. voluntarily mailed copies of the regulations to Carter.” Here,
17 | the Plaintiffs ask for a *declaratory judgment* that the Federal Defendants failed to comply with the
18 | FOIA in a timely manner. In addition, the *Carter* court stated:

19 | We also hold that Carter’s request for attorneys’ fees and costs was not mooted by
20 | the V.A.’s belated compliance with FOIA. We have previously noted that attorney
21 | fee issues are ancillary to the underlying action and survive independently under the
22 | court’s equitable jurisdiction.

22 | *Id.* Here, the Plaintiffs have requested attorneys fees in connection with the FOIA claim.
23 | Accordingly, the attorney fee request survives “independently under the court’s equitable
24 | jurisdiction.” *Id.*

25 | Similarly, the Federal Defendants’ citation to *Valesquez v. DEA Headquarters Unit*, 2013
26 | WL 686727 at *2 (S.D. Cal. Feb. 25, 2013) is inapposite. There, an agency employee submitted

27 | ¹ [T]he production of all nonexempt material, “however belatedly,” moots FOIA claims. *Papa*,
28 | 28 F.3d at 1013.

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1 a declaration that a reasonable search of agency records was conducted pursuant to the plaintiff's
2 FOIA request. The Plaintiff claimed that the documents actually provided had been forged. The
3 court held that a judicial inquiry regarding whether the documents were forged is beyond the scope
4 of judicial review under the FOIA, which requires a court to determine whether the documents
5 were timely produced pursuant to a reasonable search of agency records. *Id.* at 2-3. By contrast,
6 here the Plaintiffs make no claim that the documents produced with the Schramel declaration were
7 forged, only that the documents were not timely produced.

8 In *Yonemoto v. Dep't of Veterans Affairs*, 305 Fed. Appx. 333 (9th Cir. 1986), the
9 Department of Veterans Affairs redacted certain information when it produced documents in
10 response to plaintiff's FOIA request, and plaintiff initiated a lawsuit to require production.
11 Meanwhile, in a related administrative proceeding before the Equal Employment Opportunity
12 Commission (the "EEOC"), the EEOC produced the documents at issue. The court held that
13 because the complaint sought only the production of the documents, the claim was mooted because
14 the documents were actually produced to the plaintiff in the EEOC proceeding. By contrast, here,
15 the Plaintiffs seek a *declaration* that the documents were not timely produced.

16 The Federal Defendants cite *Spencer v. Kemna*, 523 U.S. 1, 7 (1998), because that case was
17 cited in the *Yonemoto* case. That case had nothing to do with the FOIA but involved the issue of
18 whether an incarcerated person's petition to be released from prison was mooted by his actual
19 release. Accordingly, the case is irrelevant to any issue in the instant proceeding.

20 Contrary to the inapposite cases cited by the Federal Defendants, the Ninth Circuit
21 addressed head-on the type of issue raised here by holding that "people who file Freedom of
22 Information Act requests in 1986, revised and clarified in 1993, cannot be made to wait until
23 2001." *Fiduccia v. U.S. Dep't of Justice*, 185 F.3d 1035, 1041 (9th Cir. 1999). Similarly, the
24 people who filed the Three FOIA Requests at issue in this case should not be required to wait for
25 five years to receive the requested information. Such a result here would encourage what the Ninth
26 Circuit has referred to as "the arrogance on the part of some government agencies in complying
27 with Congressionally mandated requirements to furnish citizens with documents appropriate under
28 the FOIA." *Carter*, 780 F.2d at 1481. By denying the Motion to Dismiss / Motion for Summary

1 Judgment, this Court would send a clear message to the Forest Service and other federal agencies
2 that making FOIA requestors wait five years for the requested documents will not shield the
3 government from declaratory judgment actions and payment of attorneys fees, and that the FOIA
4 requirement to produce *timely* responses is nondiscretionary. *See Bennett v. Spear*, 520 U.S. 154,
5 172 (1997) (administrative agencies must comply with nondiscretionary statutory mandates).
6 Accordingly, because there is a genuine issue of material fact regarding timeliness, and because the
7 issue has not been mooted, the Plaintiffs should be permitted to show that the Forest Service did
8 not provide timely responses to the Three FOIA Requests.

9 **CONCLUSION**

10 For these reasons, the Motion to Dismiss / Motion for Summary Judgment should be
11 denied.

12 DATED: June 24, 2015.

13 Respectfully submitted,

14 THEODORE HADZI-ANTICH
15 M. REED HOPPER

16 By /s/THEODORE HADZI-ANTICH
17 THEODORE HADZI-ANTICH

18 Attorneys for Plaintiffs
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CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2015, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Eastern District of California through the Court's CM/ECF system.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Court's CM/ECF system.

/s/THEODORE HADZI-ANTICH
THEODORE HADZI-ANTICH

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