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16 **IN THE UNITED STATES DISTRICT COURT**  
17 **FOR THE DISTRICT OF ARIZONA**

18 Center for Biological Diversity, et al.,

No. CV-12-8176-PCT-SMM

19 Plaintiff,

20 v.

**UNOPPOSED MOTION FOR EXTENSION  
OF TIME FOR DEFENDANT TO FILE ITS  
REPLY BRIEF  
(First Request)**

21 United States Forest Service,

22 Defendant.

23 Defendant the United States Forest Service (“Forest Service”) hereby requests an  
24 extension of time of 28 days to file its reply brief in support of its motion to dismiss in  
25 the above-titled action. The Forest Service seeks an extension to and including March  
26 25, 2013. The relief requested in this motion is unopposed. In further support of this  
27 motion, the Forest Service states the following:  
28

- 1           1. In this action brought under the citizen suit provision of the Resource  
2           Conservation and Recovery Act (“RCRA”) at 42 U.S.C. § 6972(a)(1)(B),  
3           Plaintiffs seek a declaration by this Court pursuant to 28 U.S.C. § 2201 that the  
4           Forest Service has contributed and is contributing to the past and present  
5           disposal of solid or hazardous waste presenting an imminent and substantial  
6           endangerment to human health or the environment. Compl. at 14. Plaintiffs  
7           also seek an injunction pursuant to 28 U.S.C. § 2202 enjoining the Forest  
8           Service from causing or contributing to such an imminent or substantial  
9           endangerment within the Kaibab National Forest. *Id.* at 15.
- 10          2. Plaintiffs filed their Complaint on September 5, 2012. Doc. 1. The United  
11          States Attorney was served on September 10, 2012. Pursuant to Federal Rule  
12          of Civil Procedure 12(a)(2), the Forest Service’s answer or other response to  
13          the Complaint was originally due no later than November 9, 2012.
- 14          3. On October 17, 2012, the Forest Service moved for an extension of 21 days, to  
15          and including November 30, 2012, to file an answer or other response to  
16          Plaintiffs’ Complaint. Doc. 18. The Court granted that motion in an order  
17          entered on October 29, 2012. Doc. 19.
- 18          4. On November 30, 2012, the Forest Service moved for an additional extension  
19          of 14 days, to and including December 14, 2012. Doc. 40. The Court granted  
20          that motion in an order entered on November 30, 2012. Doc. 41.
- 21          5. On December 14, 2012, the Forest Service moved to dismiss this case pursuant  
22          to Federal Rules of Civil Procedure 12(b)(1) and (6). Doc. 46.
- 23          6. On January 14, 2013, Plaintiffs sought an extension of time of 20 days to  
24          respond to the motion to dismiss, to and including February 5, 2013. Doc. 50.  
25          The Court granted that motion by order dated January 16, 2013. Doc. 53.
- 26          7. On February 5, 2013, Plaintiffs sought leave to file a significantly overlength  
27          opposition to the motion to dismiss. Doc. 61; *see also* Doc. 62 (lodged  
28          proposed opposition). The Court granted that motion by order dated February

1 6, 2013. Doc. 63. The Forest Service's reply is presently due on February 25,  
2 2013.

3 8. The Forest Service requires an extension of time for several reasons, namely:  
4 a) to properly respond to the several arguments raised by Plaintiffs in their 27  
5 page opposition, and recognizing that this case presents issues of first  
6 impression under RCRA; b) to allow undersigned counsel sufficient time to  
7 draft the reply brief in light of other pressing briefing deadlines; c) to allow  
8 sufficient time for interagency coordination (*see* 42 U.S.C. § 6972(b)(2)(A));  
9 and d) to allow sufficient time for review at the Forest Service and the  
10 Department of Justice, as certain key reviewers will be on leave in mid-March,  
11 2013. The Forest Service does not presently anticipate that a further extension  
12 of time will be necessary.

13 9. Undersigned counsel for the Forest Service has conferred with Plaintiffs'  
14 counsel, and is informed that Plaintiffs do not oppose the relief requested in  
15 this motion.

16 10. A proposed order is attached to this filing, and immediately following the  
17 filing of this unopposed motion, the Forest Service will submit, via electronic  
18 mail, a proposed order to chambers.

19 The Forest Service respectfully requests that the Court extend the deadline to file  
20 its reply brief in support of its motion to dismiss an additional 28 days, until March 25,  
21 2013.

22 Respectfully submitted this 22nd day of February, 2013.

23  
24 IGNACIA S. MORENO  
25 Assistant Attorney General  
26 Environment and Natural Resources Division

27 /s/ Dustin J. Maghamfar  
28 DUSTIN J. MAGHAMFAR  
United States Department of Justice

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**CERTIFICATE OF SERVICE**

I hereby certify that on this 22nd day of February, 2013, I caused the attached document to be electronically transmitted to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Center for Biological Diversity, et al.,

Plaintiff,

v.

United States Forest Service,

Defendant.

No. CV-12-8176-PCT-SMM

**[PROPOSED] ORDER**

Before the Court is Defendant's Unopposed Motion for an Extension of Time to File its Reply Brief (First Request). (Doc. \_\_.)

Defendant requests an additional twenty-eight days in which to submit its reply brief in support of its motion to dismiss (Doc. 46), and asserts that Plaintiffs have no objection. (Doc. \_\_ at 3.)

Accordingly, having considered the Motion and good cause appearing,

**IT IS HEREBY ORDERED GRANTING** the Motion for Extension of Time. (Doc. \_\_). Defendant shall file its reply brief in support of its motion to dismiss (Doc. 46) on or before **March 25, 2013**.