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**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

CENTER FOR FOOD SAFETY and CENTER
FOR ENVIRONMENTAL HEALTH,

Plaintiffs,

v.

SONNY PERDUE, Secretary of Agriculture;
BRUCE SUMMERS, Administrator,
Agricultural Marketing Service; and the
UNITED STATES DEPARTMENT OF
AGRICULTURE,

Defendants.

Case No. 4:18-cv-04633-HSG

**PLAINTIFFS' REQUEST FOR
VOLUNTARY DISMISSAL BY
COURT ORDER**

Pursuant to Federal Rule of Civil Procedure 41(a)(2), Plaintiffs Center for Food Safety and Center for Environmental Health state as follows through undersigned counsel:

1. On July 29, 2016, Congress enacted the 2016 Federal Bioengineered Food Disclosure Standards Act (the Act), 7 U.S.C. § 1639 *et seq.*, legislation requiring, *inter alia*, the Secretary of Agriculture to establish, within two years, a national uniform mandatory disclosure standard for bioengineered foods, 7 U.S.C. § 1639b(a).

1 2. Defendants, Sonny Perdue, Bruce Summers, and the United States Department of
2 Agriculture (collectively USDA), did not issue the final rules establishing the disclosure
3 standard by the July 29, 2018 deadline specified by the Act.

4 3. On August 1, 2018, Plaintiffs filed this action, alleging that USDA violated the
5 Act by missing the express deadline, and seeking relief from the Court to ensure USDA
6 promptly finished its rulemaking process and issued the final rule implementing the Act.

7 4. On September 6, 2018, Plaintiffs moved for summary judgment, arguing there
8 are no issues of material fact and the only legal issue is that USDA missed the statutory
9 deadline. *See* Pls.' Mot. for Summ. J., ECF No. 15, at 1.

10 5. In response, on September 20, 2018, in its opposition to Plaintiffs' motion for
11 summary judgment, USDA stated its intent to issue the final rules as soon as practicable after
12 the 90-day review period, mandated by Executive Order 12,866, was complete. Defs.' Opp'n to
13 Pls.' Mot. for Summ. J., ECF No. 18, at 1.

14 6. On October 3, 2018, the Parties jointly stipulated to continue the case pending
15 the resolution of rulemaking and publication of the final rules in the Federal Register. ECF No.
16 26. This Court stayed the case on October 4, 2018 and ordered that the Parties meet and confer
17 and file a joint status report by December 3, 2018. ECF No. 27.

18 7. Parties filed their joint report on December 3, 2018, stating that on November 20,
19 2018, the Office of Management and Budget completed its review of the final regulations
20 implementing the Act, and informing the Court that USDA would promptly submit the final
21 rules for publication in the Federal Register. ECF No. 29. The Court approved the joint
22 stipulation and ordered the Parties to meet and confer and file a further status report with the
23 Court on or before January 4, 2019. ECF No. 30.

24 8. On December 21, 2018, USDA published the final rules establishing the new
25 National Bioengineered Food Disclosure Standard, which will become effective on February 19,
26 2019. USDA, National Bioengineered Food Disclosure Standard, 83 Fed. Reg. 65814 (Dec. 21,
27 2018). On January 4, 2019, the Parties filed a joint status report with the Court noting the same.
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9. With the December 21, 2018 publication of the final rules implementing the Act and establishing the national mandatory bioengineered food disclosure standard, Plaintiffs have secured the relief they sought when they filed the instant action. ECF No. 1 ¶¶ 70-72. Accordingly, Plaintiffs request that the Court dismiss the action in its entirety, pursuant to Fed. R. Civ. P. 41(a)(2) and enter an order dismissing the case on that basis. Defendants will suffer no prejudice from dismissal. *See Smith v. Lenches*, 263 F.3d 972, 975 (9th Cir. 2001) (“A district court should grant a motion for voluntary dismissal under Rule 41(a)(2) unless a defendant can show that it will suffer some plain legal prejudice as a result.”).

Dated: January 4, 2019

Respectfully Submitted,

/s/ George Kimbrell
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[PROPOSED] ORDER

Because the Plaintiffs have secured their requested relief, the promulgation and publication in the Federal Register of the final rules implementing the 2016 Federal Bioengineered Food Disclosure Standards Act, 7 U.S.C. § 1639 *et seq.*, the above Request for Voluntary Dismissal is approved and the case is hereby DISMISSED with prejudice.

IT IS SO ORDERED.

Dated:

Honorable Haywood S. Gillam

UNITED STATES DISTRICT JUDGE