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15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE EASTERN DISTRICT OF CALIFORNIA

17 NATURAL RESOURCES DEFENSE)
18 COUNCIL, *et al.*,)

19 Plaintiffs,)

20 v.)

21 KENNETH LEE SALAZAR, in his official)
capacity as Secretary of Interior, *et al.*,)

22 Defendants.)

23 _____)
24 SAN LUIS & DELTA-MENDOTA WATER)
AUTHORITY, *et al.*,)

25 Defendant-Intervenors.)

26 ANDERSON-COTTONWOOD IRRIGATION)
27 DISTRICT, *et al.*,)

28 _____)
Joined Parties.)

Case No. 05-CV-01207 OWW GSA

**PARTIES' SECOND STIPULATION AND
ORDER RE: MOTION FOR ATTORNEYS'
FEES**

1 To facilitate settlement discussions regarding Plaintiffs' claim for attorneys' fees and costs in
2 this case, Plaintiffs Natural Resources Defense Council, *et al.* ("Plaintiffs") and Defendants Kenneth
3 Lee Salazar, Secretary of Interior, *et al.* ("Federal Defendants") jointly move this Court to stay
4 briefing on Plaintiffs' motion for an award of attorneys' fees and costs for 90 days. In support of
5 this motion, Plaintiffs and Federal Defendants stipulate as follows:

6 1. Judgment was entered in this case on September 23, 2009. Doc. 873. On October 8,
7 2009, the Court entered an order extending the deadline for Plaintiffs to file a motion for attorneys'
8 fees, costs and other expenses to December 22, 2009, assuming no appeal. Doc. 875. Subsequently,
9 several parties timely appealed, including Plaintiffs and Federal Defendants, suspending the timeline
10 for filing a motion for fees, costs and other expenses. Doc. 881; Doc. 883.

11 2. Concurrently with this joint motion and stipulation, Plaintiffs have filed a motion for
12 an award of attorneys' fees and costs for their work on this litigation. Before filing their motion for
13 award of attorneys' fees and costs, Plaintiffs presented Federal Defendants with a confidential
14 request to settle their claim, which request includes the amount sought to date, an itemized statement
15 of the actual time expended by attorneys, experts, and other personnel representing or appearing on
16 behalf of the Plaintiffs, and the rates at which fees and other expenses were computed. Federal
17 Defendants are, thus, in receipt of the information specified by EAJA, 28 U.S.C. § 2412(d)(1)(B), as
18 well as Local Rule 293, and will not be prejudiced by Plaintiffs deferring the filing of memoranda,
19 evidentiary and other materials supporting their motion at this time.

20 3. Discussions regarding Plaintiffs' request are ongoing, and Plaintiffs and Federal
21 Defendants seek additional time to attempt to settle Plaintiffs' claims without unnecessarily
22 burdening the Court. Plaintiffs and Federal Defendants agree that briefing and argument on
23 Plaintiffs' claim for fees and costs may be unnecessary in light of the parties' intent to attempt to
24 settle Plaintiffs' claim.

25 4. Accordingly, Plaintiffs and Federal Defendants agree that further proceedings on
26 Plaintiffs' motion for an award of fees and costs, including the filing of memoranda and evidentiary
27 and other materials supporting that motion, should be stayed for 90 days. At that time, Plaintiffs and
28 Federal Defendants will either jointly propose a briefing schedule to address Plaintiffs' motion for

1 fees and costs, or the parties shall otherwise apprise this Court of the status of Plaintiffs' motion and
2 any request for action by this Court. If the parties are unable to reach a settlement of Plaintiffs'
3 claim, Plaintiffs will supplement their motion for award of attorneys' fees and costs with
4 documentation of all time and expenses sought, including the additional time spent in seeking fees.

5 Based on the joint stipulation set forth above, the parties respectfully request that this Court
6 stay briefing and argument on Plaintiffs' concurrently filed motion for an award of attorneys' fees
7 and costs for 90 days from the date of the Court's order granting such stay, in the manner provided
8 above.

9 Respectfully submitted this 29th day of July, 2010.

10
11 DATED: July 29, 2010

/s/ Trent W. Orr
TRENT W. ORR

12 Attorney for Plaintiffs

/s/ Katherine S. Poole
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Natural Resources Defense Council

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20 /s/ Bradley Oliphant (as authorized 7/29/10)
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IT IS SO ORDERED.

Dated: July 30, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE