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IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF CALIFORNIA	
TOK THE EASTERN DI	STRICT OF CALIFORNIA
PACIFIC COAST FEDERATION OF FISHERMEN'S ASSOCIATIONS/INSTITUTE) Case No. 1:06-cv-0245 OWW GSA
FOR FISHERIES RESOURCES, et al.,)) PARTIES' THIRD STIPULATION AND
Plaintiffs,) ORDER RE: MOTION FOR ATTORNEYS') FEES
V.)) (DOCUMENT #465)
CARLOS M. GUTIERREZ, in his official capacity as Secretary of Commerce <i>et al.</i> ,)
Defendants.)
SAN LUIS & DELTA-MENDOTA WATER))
AUTHORITY, et al.,	

To facilitate settlement discussions regarding Plaintiffs' claim for attorneys' fees and costs in this case, Plaintiffs Pacific Coast Federation of Fishermen's Associations/Institute for Fisheries Resources, *et al.* ("Plaintiffs") and Defendants Carlos M. Gutierrez, Secretary of Commerce, *et al.* ("Federal Defendants") stipulate and agree, and request that the Court enter an order, to stay briefing on Plaintiffs' motion for an award of attorneys' fees and costs for an additional 90 days. In support of this request, Plaintiffs and Federal Defendants stipulate as follows:

1. Judgment was entered in this case on September 9, 2009 (Doc. No. 458), and no party has taken a timely appeal. On September 18, 2009, pursuant to a stipulation by the parties, the Court entered an Order extending the deadline for Plaintiffs to file a motion for attorneys' fees and costs under Civil Local Rules 292 and 293 and Federal Rule of Civil Procedure 54(d)(2)(B) to be the same deadline as that for filing a motion under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, which was December 9, 2009. Doc. No. 461.

2. On December 8, 2009, Plaintiffs filed a motion for an award of attorneys' fees and costs for their work on this litigation. Doc. No. 465. No hearing date was set; instead, concurrently with the filing of the motion, Plaintiffs and Federal Defendants filed their Second Stipulation and Proposed Order Re: Motion for Attorneys' Fees (Doc. No. 464) which explained that before filing their motion for attorneys' fees Plaintiffs had presented Federal Defendants with a confidential letter request to settle their claim including specifics about the amount sought to date, and that settlement negotiations regarding Plaintiffs' claim were ongoing. Plaintiffs and Federal Defendants sought an additional 120 days [to April 13, 2010] before having to brief Plaintiffs' motion within which to pursue possible settlement. On December 14, 2009, the Court approved the parties second stipulation. Doc. No. 466.

3. Counsel for Plaintiffs in this matter is also lead counsel for Defendant-Intervenors Pacific Coast Federal of Fishermen's Associations, *et al.*, in the *Consolidated Salmon Cases*, Lead Case No. 09-cv-1053-OWW-DLB. Similarly, counsel for Federal Defendants is also lead counsel for Federal Defendants in the *Consolidated Salmon Cases*. In January, 2010, before Federal Defendants could respond to Plaintiffs' letter setting forth their attorney fee claim, plaintiffs in the

Parties' Third Stip. and Order Re: Mot. for Attorneys' Fees Case No. 1:06-CV-0245 OWW GSA

Consolidated Salmon Cases filed a motion for a Temporary Restraining Order, to which counsel for Plaintiffs and Federal Defendants in this case both had to respond. A series of hearings and subsequent motions for temporary and preliminary injunctive relief have followed, with further hearings set before this Court commencing March 30, 2009.

4. As a result, counsel for Federal Defendants has not yet been able to respond to Plaintiffs' fee letter and will not be able to do so until after the hearings in the *Consolidated Salmon Cases*, and any possible emergency appeals, have been completed.

5. Plaintiffs and Federal Defendants still hope to settle Plaintiffs' claim without unnecessarily burdening the Court, and agree that briefing and argument on Plaintiffs' motion for fees and costs may be unnecessary in light of the parties' intent to attempt to settle Plaintiffs' claim.

6. Accordingly, Plaintiffs and Federal Defendants agree that further proceedings on Plaintiffs' motion for an award of fees and costs, including the filing of memoranda and evidentiary and other materials supporting that motion, should be stayed for an additional 90 days. At that time, Plaintiffs and Federal Defendants will either jointly propose a briefing schedule to address Plaintiffs' motion for fees and costs, or the parties shall otherwise apprise this Court of the status of Plaintiffs' motion and any request for action by this Court. If the parties are unable to reach a settlement of Plaintiffs' claim, Plaintiffs will supplement their motion for award of attorneys' fees and costs with documentation of all time and expenses sought, including the fees and costs for additional time spent in seeking fees.

Based on the joint stipulation set forth above, the parties respectfully request that this Court stay briefing and argument on Plaintiffs' motion for an award of attorneys' fees and costs for an additional 90 days from the end of the current stay, or July 12, 2010.

Respectfully submitted this 26th day of March, 2010.

/s/ Michael R. Sherwood MICHAEL R. SHERWOOD TRENT W. ORR GEORGE TORGUN

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16		
17 18	Pursuant to the stipulation of the parties,	
19		
20	IT IS SO ORDERED.	
21	Dated: March 30, 2010	/s/ Oliver W. Wanger
22		UNITED STATES DISTRICT JUDGE
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