

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

THE DELTA SMELT CASES
SAN LUIS & DELTA-MENDOTA WATER AUTHORITY, et al. v. SALAZAR, et al. (Case No. 1:09-cv-407)
STATE WATER CONTRACTORS v. SALAZAR, et al. (Case No. 1:09-cv-422)
COALITION FOR A SUSTAINABLE DELTA, et al. v. UNITED STATES FISH AND WILDLIFE SERVICE, et al. (Case No. 1:09-cv-480)
METROPOLITAN WATER DISTRICT v. UNITED STATES FISH & WILDLIFE SERVICE, et al. (Case No. 1:09-cv-631)
STEWART & JASPER ORCHARDS, et al. v. UNITED STATES FISH AND WILDLIFE SERVICE, et al. (Case No. 1:09-cv-892)
FAMILY FARM ALLIANCE v. SALAZAR, et al. (Case No. 1:09-cv-1201)

Case No. 1:09-cv-407-LJO-BAM
1:09-cv-422-LJO-DLB
1:09-cv-631-LJO-DLB
1:09-cv-892-LJO-DLB

Partially Consolidated With:
1:09-cv-480-LJO-GSA
1:09-cv-1201-LJO-DLB

FOURTH STIPULATION AND ORDER REGARDING MOTION FOR ATTORNEYS' FEES AND OTHER EXPENSES

The Hon. Lawrence J. O'Neill

To facilitate settlement discussions regarding Plaintiff San Luis & Delta-Mendota Water Authority's ("Authority") claim for attorneys' fees and other expenses in this case, the Authority and Defendants Sally Jewell, Secretary of the Department of the Interior, et al. ("Federal Defendants") have previously stipulated to, and the Court has ordered, a stay on briefing and argument of the Authority's motion for attorneys' fees and other expenses. Doc. 1144, Doc. 1149, Doc. 1152. These parties have reached a recommended agreement in principle to settle the Authority's fees claim, subject to review within the Department of Justice and the Department of the Interior. To allow additional time for the review of the proposed settlement, the Authority and Federal Defendants jointly request that this Court extend the stay on Authority's motion for attorneys' fees and other expenses for an additional 45 days, to January 29, 2016. The parties are

1 requesting the same extension of a stay on the Authority's pending motion for attorneys' fees in
2 the *Consolidated Salmon Cases*, Case 1:09-cv-1053-LJO-BAM, which these parties have likewise
3 settled in principle.

4 In support of this request, the Authority and Federal Defendants stipulate as follows:

5 1. On February 10, 2015, the Authority filed a motion for an award of attorneys' fees
6 and other expenses for this litigation. Doc. 1137.

7 2. On February 11, 2015, the Court approved the parties' stipulation to stay further
8 briefing and argument on the Authority's motion for attorneys' fees and other expenses until July
9 10, 2015, to allow for settlement discussions. Doc. 1144.

10 3. On June 5, 2015, the Court approved the parties' stipulation regarding the motion
11 for attorneys' fees and other expenses, under which the parties agreed to stay briefing and
12 argument on the Authority's motion for attorneys' fees until September 15, 2015. Doc. 1149.
13 That order directed the parties to apprise the Court of any settlement or further requested action, or
14 jointly propose a briefing schedule to address the Authority's motion for fees and other expenses if
15 there was no settlement, by the expiration of the stay.

16 4. On September 14, 2015, the Court approved the parties' stipulation regarding the
17 motion for attorneys' fees and other expenses, under which the parties agreed to stay briefing and
18 argument on the Authority's motion for attorneys' fees until December 15, 2015. Doc. 1152.

19 5. The Authority and Federal Defendants have reached a recommended agreement in
20 principle to settle the Authority's claim for fees and expenses. Before any settlement can be
21 concluded however, the proposed settlement terms must be reviewed and approved within the
22 Department of Justice and the Department of the Interior. If the recommended agreement is
23 eventually adopted, the Authority and Federal Defendants agree that further briefing and argument
24 on the Authority's claim for fees and other expenses, and a decision by the Court, will be
25 unnecessary. A stay will therefore conserve the parties' and the Court's resources.

26 6. Based on the joint stipulation set forth above, the parties respectfully request that
27 this Court extend the stay of briefing and argument on the Authority's motion for attorneys' fees
28 and other expenses until January 29, 2016. By that date, the parties will either report that

1 settlement has been completed and the Authority is withdrawing its motion for fees and expenses,
2 or request other action by the Court in the absence of a completed settlement.

3 Respectfully submitted this 14th day of December, 2015.

4 Dated: December 14, 2015 DIEPENBROCK ELKIN GLEASON, LLP
5 A Professional Corporation

6 By: /s/ Eileen M. Diepenbrock
7 Eileen M. Diepenbrock
8 Attorneys for Plaintiff, SAN LUIS & DELTA-
9 MENDOTA WATER AUTHORITY

10 Dated: December 14, 2015 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
11 A Professional Corporation

12 By: /s/ Daniel J. O'Hanlon
13 Daniel J. O'Hanlon
14 Attorneys for Plaintiff, SAN LUIS & DELTA-
15 MENDOTA WATER AUTHORITY

16 Dated: December 14, 2015 U.S. DEPARTMENT OF JUSTICE
17 Environmental & Natural Resources Division

18 By: /s/ William Shapiro
19 William Shapiro, Trial Attorney
20 Attorneys for FEDERAL DEFENDANTS

21 IT IS SO ORDERED.

22 Dated: December 15, 2015 /s/ Lawrence J. O'Neill
23 UNITED STATES DISTRICT JUDGE
24
25
26
27
28