

1 DANIEL J. O’HANLON, State Bar No. 122380
 HANSPETER WALTER, State Bar No. 244847
 2 REBECCA R. AKROYD, State Bar No. 267305
 KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
 3 A Professional Corporation
 400 Capitol Mall, 27th Floor
 4 Sacramento, CA 95814
 Telephone: (916) 321-4500
 5 Facsimile: (916) 321-4555

6 EILEEN M. DIEPENBROCK, State Bar No. 119254
 JONATHAN R. MARZ, State Bar No. 221188
 7 DIEPENBROCK ELKIN LLP
 500 Capitol Mall, Suite 2200
 8 Sacramento, CA 95814
 Telephone: (916) 492-5000
 9 Facsimile: (916) 446-2640

10 Attorneys for Plaintiff
 SAN LUIS & DELTA-MENDOTA WATER

11

12

13

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

14

15

16 SAN LUIS & DELTA-MENDOTA WATER
 AUTHORITY; WESTLANDS WATER
 17 DISTRICT,

18 Plaintiffs,

19 v.

20 UNITED STATES DEPARTMENT OF THE
 INTERIOR, et al.,

21 Defendants.
 22

Case No. 1:11-cv-00952-LJO-GSA

**STIPULATION AND ORDER
 REGARDING MOTION FOR
 ATTORNEYS’ FEES AND OTHER
 EXPENSES**

Judge: Hon. Lawrence J. O’Neill

23

24

25

26

27

28

1 To facilitate settlement discussions regarding Plaintiff San Luis & Delta-Mendota Water
2 Authority's ("Authority") claim for attorneys' fees and other expenses in this case, the Authority and
3 Defendants United States Department of Interior, Sally Jewell, Secretary of Interior, et al.
4 ("Defendants") jointly move this Court to stay briefing on the Authority's motion for an award of
5 attorneys' fees and other expenses for 120 days. In support of this motion, the Authority and
6 Defendants stipulate as follows:

7 1. The Court entered judgment in this action on March 25, 2015. Doc. 115. Defendants
8 filed a Notice of Appeal on May 22, 2015. Doc. 116. Defendants subsequently filed a motion for
9 voluntary dismissal of the appeal on September 14, 2015. On September 15, 2015, the Ninth Circuit
10 Court of Appeals issued an order granting Federal Defendants' motion to dismiss the appeal, and
11 dictated that the order "shall serve as and for the mandate of this court." Doc. 119. The Ninth
12 Circuit's order represents the "final order disposing of any appeal" and September 15, 2015 is
13 therefore the date of "final judgment" in this action. *See* Doc. 119; *see also* 28 U.S.C. §
14 2412(d)(1)(B).

15 2. Concurrently with this joint motion and stipulation, the Authority has filed a motion for
16 an award of attorneys' fees and other expenses for this litigation. Before filing the motion for award
17 of attorneys' fees and other expenses, the Authority presented Defendants with a confidential request
18 to settle its claim, which request includes the amount sought to date, an itemized statement of the
19 actual time expended by attorneys, experts, and other personnel representing or appearing on behalf of
20 the Authority, the rates at which fees and other expenses were computed, and an itemized statement of
21 other expenses incurred in the litigation. Defendants are, thus, in receipt of the information specified
22 by the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d)(1)(B), as well as Local Rule 293,
23 and will not be prejudiced by the Authority deferring the filing of memoranda, evidentiary and other
24 materials supporting its motion at this time.

25 3. Discussions regarding the Authority's request are ongoing, and the Authority and
26 Defendants seek additional time to attempt to settle the Authority's claims without unnecessarily
27 burdening the Court. The Authority and Defendants agree that briefing and argument on the
28 Authority's claim for fees and other expenses may be unnecessary in light of the parties' intent to

1 attempt to settle the Authority's claim.

2 4. Accordingly, the Authority and Defendants agree that further proceedings on the
3 Authority's motion for an award of fees and other expenses, including the filing of further memoranda
4 and evidentiary and other materials supporting that motion, and any opposition thereafter, should be
5 stayed for 120 days to allow for settlement discussions.

6 5. At the conclusion of 120 days, the Authority and Defendants will apprise the Court of
7 any settlement or further requested action, or jointly propose a briefing schedule to address the
8 Authority's motion for fees and other expenses if there has been no settlement. That schedule will
9 provide for the Authority to supplement its motion for award of attorneys' fees and other expenses
10 with documentation of all time and expenses sought, including the additional time spent in seeking
11 fees, opposition by Defendants, and reply by the Authority, with a hearing if the Court deems a
12 hearing necessary.

13 Based on the joint stipulation set forth above, the parties respectfully request that this Court
14 stay briefing and argument on the Authority's concurrently filed motion for an award of attorneys'
15 fees and other expenses for 120 days from the date of the Court's order granting such stay, in the
16 manner provided above.

17 Respectfully submitted this 14th day of October, 2015.

18 Dated: October 14, 2015

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
DIEPENBROCK ELKIN LLP

19

20

21

By: /s/ Daniel J. O'Hanlon
Daniel J. O'Hanlon
Eileen M. Diepenbrock
Attorneys for Plaintiff SAN LUIS & DELTA-
MENDOTA WATER AUTHORITY

22

23

24

25

26

27

28

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

Dated: October 14, 2015

BENJAMIN B. WAGNER
United States Attorney

J. EARLENE GORDON
Assistant United States Attorney

JOHN C. CRUDEN
Assistant Attorney General

By: /s/ Devon Lehman McCune
DEVON LEHMAN McCUNE
Senior Attorney
U.S. Department of Justice
Environment & Natural Resources Division
Attorneys for Defendants

IT IS SO ORDERED
Dated: October 16, 2015

/s/ Lawrence J. O'Neill
United States District Judge