

1 BENJAMIN B. WAGNER  
United States Attorney  
2 JEFFREY J. LODGE  
Assistant United States Attorney  
3 2500 Tulare Street, Suite 4401  
Fresno, California 93721  
4 Telephone: (559) 497-4000  
Facsimile: (559) 497-4099  
5

6 Attorneys for the United States  
7

8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

10 CENTER FOR ENVIRONMENTAL SCIENCE, ) Case No. 1:15-cv-01862 SAB  
ACCURACY & RELIABILITY, a California )  
11 public interest organization, ) **STIPULATION OF SETTLEMENT**  
 ) **AND DISMISSAL; ORDER**  
12 Plaintiff, )  
 )  
13 v. )  
 )  
14 SALLY JEWELL, Secretary , U.S. Department )  
of the Interior, in her official capacity, DAN )  
15 ASHE, Director, U.S. Fish and Wildlife Service, )  
in his official capacity; and UNITED STATES )  
16 FISH AND WILDLIFE SERVICE, )  
17 Defendants. \_\_\_\_\_

18 Plaintiff Center for Environmental Science, Accuracy & Reliability (“Plaintiff”) and Defendant  
19 United States Fish and Wildlife Service, a component bureau of the United States Department of the  
20 Interior (“Defendant” or “FWS”),<sup>1</sup> by and through their respective counsel, hereby stipulate and agree as  
21 follows:

22 ///  
23 ///  
24 \_\_\_\_\_

25 <sup>1</sup> FOIA does not apply to Sally Jewell or Dan Ashe because they are individuals, not agencies.  
26 5 U.S.C. § 552(a)(4)(B); *see also Drake v. Obama*, 664 F.3d 774, 785–86 (9th Cir. 2011) (A  
27 FOIA plaintiff may not assert a claim against an individual federal official; the proper  
28 defendant is the agency); *Bothwell v. Brennan*, 2014 WL 953500. at \*5 (N.D. Cal. Mar. 6,  
2014) (dismissing the federal employee sued in an official capacity and finding the agency  
sufficiently identified in the body of the complaint). To the extent these individuals are  
named, the claims are dismissed with prejudice.



