

1 STEVEN SUGARMAN, NM 5717 (*pro hac vice*)  
 2 347 County Road 55A  
 3 Cerrillos, NM 87010  
 4 (505) 672-5082  
 5 stevensugarman@hotmail.com

6 JAMES J. TUCHTON, Cal. 150908  
 7 6439 E. Maplewood Ave.  
 8 Centennial, CO 80111  
 9 (720) 301-3843  
 10 jtutchtonlo@gmail.com

11 *Attorneys for Plaintiff*

12 (Additional counsel listed on next page)

13  
 14 **UNITED STATES DISTRICT COURT**  
 15 **FOR THE EASTERN DISTRICT OF CALIFORNIA**  
 16  
 17 **SACRAMENTO DIVISION**

	)	
CONSERVATION CONGRESS,	)	No. 2:13-CV-01977-JAM-DB
	)	
Plaintiff,	)	<b>JOINT STIPULATION AND ORDER</b>
	)	<b>TO STAY PLAINTIFF’S MOTION</b>
v.	)	<b>FOR ATTORNEY FEES AND</b>
	)	<b>COSTS</b>
UNITED STATES FOREST SERVICE and	)	
UNITED STATES FISH AND WILDLIFE	)	
SERVICE,	)	
	)	Hon. John A. Mendez
Federal Defendants,	)	
	)	
and	)	
	)	
TRINITY RIVER LUMBER CO.,	)	
	)	
Defendant-Intervenor.	)	
	)	

1 JEFFREY H. WOOD  
2 Acting Assistant Attorney General  
3 United States Department of Justice  
4 Environment & Natural Resources Division

5 TYLER L. BURGESS, DC 1025617  
6 Natural Resources Section  
7 PO Box 7611  
8 Washington, DC 20044-7611  
9 (202) 616-4119

10 tyler.burgess@usdoj.gov  
11 SETH M. BARSKY, Chief  
12 S. JAY GOVINDAN, Assistant Chief  
13 ANDREA GELATT, Cal. 262617

14 Wildlife & Marine Resources Section  
15 PO Box 7611  
16 Washington, DC 20044-7611  
17 (202) 305-0210

18 andrea.gelatt@usdoj.gov

19 *Attorneys for Federal Defendants*

20  
21 The parties now jointly stipulate to stay briefing of Plaintiff's motion for attorney fees  
22 and costs, which Plaintiff filed simultaneously with this stipulation. In support of this  
23 stipulation, Plaintiff and Federal Defendants state as follows:

24 1. Plaintiff intends to seek an award of attorney's fees and costs under the Equal  
25 Access to Justice Act ("EAJA") and under the Endangered Species Act ("ESA") citizen suit  
26 provision.

27 2. This Court entered judgment in this matter on May 30, 2017. ECF No. 142.

28 3. Plaintiff noticed its appeal to the Ninth Circuit on May 31, 2017. ECF No. 143.

4. Under Local Rule 293, "[m]otions for awards of attorneys' fees to prevailing  
parties pursuant to statute shall be filed not later than twenty-eight (28) days after entry of final  
judgment."

1           5.       EAJA requires a party to file an application for fees and other expenses within 30  
2 days of an unappealable final judgment. 28 U.S.C. § 2412(d)(1)(B). A “final judgment” under  
3 EAJA is “a judgment that is final and not appealable.” *Id.* § 2412(d)(2)(G).

4           6.       Under the ESA citizen suit provision, “[u]nless a statute or a court order provides  
5 otherwise,” an application for attorney’s fees and expenses must “be filed no later than 14 days  
6 after the entry of judgment.” *See* Fed. R. Civ. P. 54(d)(2)(B)(i).

7           7.       Because Plaintiff has noticed an appeal, the Court’s May 30, 2017, Judgment is  
8 not final for purposes of EAJA or the ESA citizen suit provisions.

9           8.       Plaintiff has filed its motion for attorney’s fees and costs in an abundance of  
10 caution to comply with the technical requirements of Local Rule 293.

11           9.       Federal Defendants oppose Plaintiff’s motion for attorney’s fees and costs and  
12 assert that Plaintiff’s motion is premature and Plaintiff should file a revised motion at the  
13 appropriate time.

14           10.      It is within the Court’s power to stay briefing on Plaintiff’s motion to conserve the  
15 resources of the Court and the parties. *See Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936)  
16 (“[T]he power to stay proceedings is incidental to the power inherent in every court to control the  
17 disposition of the causes on its docket with economy of time and effort for itself, for counsel, and  
18 for litigants.”).

19           For these reasons, and for good cause shown, the parties stipulate as follows and request  
20 that the Court approve this stipulation:

21           1.       Briefing on Plaintiff’s motion for attorney’s fees and costs is stayed and  
22 all current deadlines are vacated.

1           2.       Within fourteen (14) days of issuance of the Ninth Circuit’s mandate, or other  
2 resolution of the appellate proceedings in this case, the parties will submit a Joint Status Report  
3 to address further proceedings on Plaintiff’s motion for attorney’s fees and costs.  
4

5                       Respectfully submitted this 16<sup>th</sup> day of June, 2017.  
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7           /s/ Steven Sugarman  
8 STEVEN SUGARMAN, NM 5717  
9 (*pro hac vice*)  
10 347 County Road 55A  
11 Cerrillos, NM 87010  
12 (505) 672-5082  
13 stevensugarman@hotmail.com

14 JAMES J. TUCHTON, Cal. 150908  
15 6439 E. Maplewood Ave.  
16 Centennial, CO 80111  
17 (720) 301-3843  
18 jtughtonlo@gmail.com

19 *Attorneys for Plaintiff*

JEFFREY H. WOOD  
Acting Assistant Attorney General  
United States Department of Justice  
Environment & Natural Resources Division  
/s/ Tyler L. Burgess (with permission on June  
15, 2017)

TYLER L. BURGESS, DC 1025617  
Trial Attorney  
Natural Resources Section  
PO Box 7611  
Washington, DC 20044-7611  
(202) 616-4119  
tyler.burgess@usdoj.gov

SETH M. BARSKY, Chief  
S. JAY GOVINDAN, Assistant Chief  
ANDREA GELATT, Cal. 262617  
Trial Attorney  
Wildlife & Marine Resources Section  
PO Box 7611  
Washington, DC 20044-7611  
(202) 305-0210  
andrea.gelatt@usdoj.gov

JAMES L. ROSEN, Cal. 200064  
Senior Counsel  
Pacific Region  
Office of the General Counsel  
United States Department of Agriculture  
630 Sansome St., Suite 1040  
San Francisco, CA 94111  
(415) 744-2743  
Jamie.Rosen@ogc.usda.gov

*Attorneys for Federal Defendants*

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The Court having considered the stipulation of the parties, IT IS SO ORDERED.

Dated: 6/19/2017

/s/ John A. Mendez  
Hon. John A. Mendez  
United States District Court Judge