

1 James P. Walsh (CA State bar No. 184620)
 2 Gwen Fanger (CA State bar No. 191161)
 3 DAVIS WRIGHT TREMAINE LLP
 4 505 Montgomery Street, Suite 800
 5 San Francisco, California 94111
 6 Telephone: (415) 276-6500
 7 Facsimile: (415) 276-6599
 8 budwalsh@dwt.com
 9 gwenfanger@dwt.com

7 *Attorneys for Plaintiffs*

8 IGNACIA S. MORENO, Assistant Attorney General
 9 MEREDITH L. FLAX, Senior Trial Attorney (D.C. Bar No. 468016)
 10 U.S. Department of Justice
 11 Environment & Natural Resources Division
 12 Wildlife & Marine Resources Section
 13 Ben Franklin Station, P.O. Box 7369
 14 Washington, D.C. 20044-7369
 15 Telephone: (202) 305-0404
 16 Facsimile: (202) 305-0275
 17 meredith.flax@usdoj.gov

15 *Attorneys for Defendants*

16 IN THE UNITED STATES DISTRICT COURT
 17 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 18 San Francisco Division

20 PACIFIC DAWN, L.L.C., *et al.*,)
 21 Plaintiffs,)
 22 v.)
 23 JOHN BRYSON *et al.*,)
 24 Defendants.)
 25 _____)

3:10-cv-04829-TEH
 STIPULATION REGARDING AWARD
 OF ATTORNEYS' FEES AND COSTS

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1 WHEREAS on October 25, 2010, Plaintiffs Pacific Dawn, L.L.C., *et al.* (“Plaintiffs”),
2 initiated the above-captioned lawsuit challenging decisions made by Federal Defendants, John
3 Bryson, *et al.* (“Defendants”), to approve a limited access privilege program for the trawl sector
4 of the Pacific groundfish fishery; and

5 WHEREAS the Court granted summary judgment in Plaintiffs’ favor on the first and
6 second causes of action in Plaintiffs’ First Amended Complaint on December 22, 2011 (ECF No.
7 49), issued an order on remedy on February 21, 2012 (ECF No. 60), and issued judgment on
8 February 22, 2012 (ECF No. 61); and

9 WHEREAS on March 22, 2012, Plaintiffs filed a motion for attorneys’ fees and costs
10 pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, (ECF No. 62); and

11 WHEREAS on March 26, 2012, the Court vacated Plaintiffs’ motion for attorneys’ fees
12 and costs and ordered the parties to meet and confer regarding Plaintiffs’ request for fees and
13 costs (ECF No. 66); and

14 WHEREAS on April 10, 2012, Plaintiffs provided Defendants with a revised request for
15 attorneys’ fees and costs; and

16 WHEREAS Plaintiffs and Defendants, by and through their authorized representatives,
17 and without any admission or final adjudication of the issues of fact or law with respect to
18 Plaintiffs’ claim for attorneys’ fees and costs, have reached a settlement of this matter that they
19 consider to be a just, fair, adequate, and equitable resolution of the disputes set forth in Plaintiffs’
20 motion for attorneys’ fees and costs;

21 NOW, THEREFORE, IT IS STIPULATED BY AND BETWEEN PLAINTIFFS AND
22 DEFENDANTS AS FOLLOWS:

23 1. Defendants agree to settle Plaintiffs’ entire claim for costs and attorneys’ fees in
24 the above-captioned litigation for a total of \$75,000.00. Defendants agree to pay the entire
25 amount to James P. Walsh, Davis Wright Tremaine, 505 Montgomery Street, Suite 800
26 San Francisco, California 94111 on behalf of Plaintiffs in this action. Plaintiffs agree to furnish
27 Defendants with the information necessary to effectuate this payment. Defendants agree to
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1 process the fee payment within 20 days of receipt of the necessary information from Plaintiffs or
2 the approval of this Stipulation by the Court, whichever is later.

3 2. Plaintiffs agree to accept payment of \$75,000.00 in full satisfaction of any and all
4 claims for attorneys' fees and costs of litigation to which Plaintiffs may be entitled with respect
5 to the above-captioned litigation, through and including the date of this Stipulation.

6 3. The parties agree that this Stipulation was negotiated in good faith and it
7 constitutes a settlement of claims that were vigorously contested, denied, and disputed by the
8 parties. By entering into this Stipulation, the parties do not waive any claim or defense.

9 4. By entering into this Stipulation, Defendants do not waive any right to contest
10 fees claimed by Plaintiffs or Plaintiffs' counsel, including the hourly rate, in any future litigation.
11 Further, this Stipulation as to attorneys' fees and costs has no precedential value and shall not be
12 used as evidence in any other attorneys' fees litigation.

13 5. Nothing in this Stipulation shall be interpreted as, or shall constitute, a
14 commitment or requirement that Defendants are obligated to pay any funds exceeding those
15 available, or take any action in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or
16 any other appropriations law.

17 IT IS SO STIPULATED.

18 Respectfully submitted: June 21, 2012

19
20 /s/ James P. Walsh
21 JAMES P. WALSH
22 DAVIS WRIGHT TREMAINE

23 **Attorney for Plaintiffs**

24 IGNACIA S. MORENO, Assistant Attorney General

25 /s/ Meredith L. Flax
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MEREDITH L. FLAX, Senior Trial Attorney
D.C. Bar No. 468016
U.S. Department of Justice
Environment & Natural Resources Division
Wildlife & Marine Resources Section

Attorneys for Defendants

PURSUANT TO STIPULATION, IT IS SO ORDERED.

06/25/2012

Date

THELTON
United States

