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7 Attorneys for Defendant  
 8 LUNNY GRADING & PAVING, INC.

9 UNITED STATES DISTRICT COURT  
 10 NORTHERN DISTRICT OF CALIFORNIA

11 CALIFORNIA RIVER WATCH, a 501(c)(3),  
 12 non-profit, Public Benefit Corporation,

13 Plaintiff,

14 v.

15 LUNNY GRADING & PAVING, INC.;  
 16 DOES 1-10, Inclusive,

17 Defendant.

JST  
 Case No. 13-CV-03174-~~KAW~~

STIPULATION AND ~~[PROPOSED]~~  
 ORDER GRANTING STIPULATION TO  
 STAY PROCEEDINGS PENDING  
 EARLY NEUTRAL EVALUATION

18  
 19 PLEASE TAKE NOTICE that Plaintiff CALIFORNIA RIVER WATCH (“Plaintiff”) and  
 20 Defendant LUNNY GRADING AND PAVING (“Defendant”) (collectively, the “Parties”), by  
 21 and through their respective attorneys, stipulate and agree as follows:

22 **WHEREAS**, on July 29, 2013, Plaintiff filed a Complaint for Injunctive Relief,  
 23 Declaratory Relief, Civil Penalties, Restitution and Remediation pursuant to the Federal Water  
 24 Pollution Control Act, 33 U.S.C. § 1251, *et seq.*

25 **WHEREAS**, on October 3, 2013, Plaintiff filed a First Amended Complaint for  
 26 Injunctive Relief, Declaratory Relief, Civil Penalties, Restitution and Remediation pursuant to the  
 27 Federal Water Pollution Control Act, 33 U.S.C. § 1251, *et seq.*

1           **WHEREAS**, on September 17, 2013, the Court considered the Parties' Stipulation with  
2 Proposed Order Extending Time to October 28, 2013, and granted Defendant until October 28,  
3 2013, to file its first responsive pleading.

4           **WHEREAS**, the Parties have had a series of settlement communications since the filing  
5 of this action and are willing to attempt to reach a comprehensive settlement of all issues raised in  
6 this case;

7           **WHEREAS**, on September 9, 2013 and October 8, 2013, the Parties attended telephone  
8 conference calls with Howard Herman, Director of the Northern District Alternate Dispute  
9 Resolution ("ADR") program, to discuss ADR options.

10           **WHEREAS**, on October 8, 2013, the parties agreed that the Early Neutral Evaluation  
11 ("ENE") process would be the most productive ADR option for this action;

12           **WHEREAS**, on October 18, 2013, the Parties filed a Stipulation and Proposed Order  
13 Selecting the ENE process, agreeing to hold the ENE within 60 days after the date of the  
14 Plaintiff's site inspection, the results of which shall only be used for purposes of the ENE and not  
15 for purposes of the litigation;

16           **WHEREAS**, on October 18, 2013, this Court entered the Parties' Stipulation as the Order  
17 of the Court;

18           **WHEREAS**, the Parties agree that all further proceedings in the Action should be stayed  
19 in order to conduct the ENE;

20           **WHEREAS**, in the interest of promoting judicial economy and the orderly resolution of  
21 this matter, the Parties have chosen to voluntarily put this proceeding on hold in order to facilitate  
22 the final resolution of this matter; and

23           **WHEREAS**, for this reason, the Parties wish to stipulate to stay all proceedings as against  
24 all Parties in this matter.

25           **IT IS HEREBY STIPULATED AND AGREED** by the Parties, by and through their  
26 counsel of record, that

27           1.       By entering into this Stipulation, the Parties agree that all further proceedings in  
28 this matter, including the Case Management Statement, Case Management Conference, Federal

1 Rule of Civil Procedure scheduling requirement per 26(f), Defendant's first responsive pleading,  
2 discovery, pre-trial motions, and trial, shall be stayed until further order of this Court, pending the  
3 outcome of the ENE.

4 2. If the ENE is unsuccessful, the Parties hereby request that the Court issue an order  
5 lifting the stay and extending all discovery and pleading deadlines to dates that the Court deems  
6 reasonable for completion of discovery and motion practice.

7 3. The Parties respectfully request the Court to enter an Order to this effect.

8  
9 Dated: October 22, 2013

STOEL RIVES LLP

10  
11 By: /s/ Ryan Waterman  
12 Ryan Waterman  
13 Attorneys for Defendant LUNNY  
14 GRADING & PAVING, INC.

15 Dated: October 22, 2013

LAW OFFICE OF JACK SILVER

16 By: /s/ Jack Silver  
17 Jack Silver  
18 Attorneys for Plaintiff CALIFORNIA  
19 RIVER WATCH  
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**PROPOSED ORDER**

Upon consideration of the Parties' stipulation to stay proceedings pending Early Neutral Evaluation and good cause appearing,

**IT IS HEREBY ORDERED THAT:**

1. The proceedings in this action shall hereby be stayed, pending the conclusion of the ENE, or upon the cancellation of the ENE by any party.

2. The stay includes, but is not limited to:

(a) The Joint Case Management Statement that is currently due on October 23, 2013, and Case Management Conference, which is currently scheduled for November 6, 2013, shall be postponed ~~pending conclusion of the ENE;~~ and due February 5, 2014 and set for hearing on February 19, 2014 at 2:00 p.m.

(b) Defendant's first responsive pleading, which is currently due on October 28, 2013, shall be postponed pending conclusion of the ENE.

IT IS SO ORDERED.

Dated: October 22, 2013

