

1 JOHN C. CRUDEN, Acting Assistant Attorney General  
 JEAN E. WILLIAMS, Section Chief  
 LISA LYNNE RUSSELL, Assistant Section Chief  
 2 ETHAN CARSON EDDY, Trial Attorney (Cal. Bar No. 234217)  
 U.S. Department of Justice Environment & Natural Resources Division  
 3 Wildlife & Marine Resources Section  
 Ben Franklin Station  
 4 P.O. Box 7369  
 Washington, DC 20044-7369  
 5 Phone: (202) 305-0202  
 Fax: (202) 305-0275  
 6 Email: [ethan.eddy@usdoj.gov](mailto:ethan.eddy@usdoj.gov)

7 Attorneys for Defendants

8  
 9 Lisa T. Belenky (CA Bar No. 203225)  
 Justin Augustine (CA Bar No. 235561)  
 CENTER FOR BIOLOGICAL DIVERSITY  
 10 351 California Street, Suite 600  
 San Francisco, CA 94104  
 11 Telephone: (415) 436-9682 x 307  
 Facsimile: (415) 436-9683  
 12 [lbelenky@biologicaldiversity.org](mailto:lbelenky@biologicaldiversity.org)  
[jaugustine@biologicaldiversity.org](mailto:jaugustine@biologicaldiversity.org)

13 Attorneys for Plaintiffs

14  
 15 **IN THE UNITED STATES DISTRICT COURT**  
**FOR THE NORTHERN DISTRICT OF CALIFORNIA**  
 16 **SAN FRANCISCO DIVISION**

17 \_\_\_\_\_ )  
 18 CENTER FOR BIOLOGICAL )  
 DIVERSITY, *et al.*, )  
 19 Plaintiffs, )  
 v. )  
 20 U.S. FISH AND WILDLIFE SERVICE, *et* )  
 21 *al.*, )  
 22 Defendants. )  
 23 \_\_\_\_\_ )

No. C 09-0170 JSW  
**STIPULATED MOTION TO**  
**TRANSFER VENUE PURSUANT TO 28**  
**U.S.C. § 1404(a)**

24  
 25 Subject to the Court's approval, the parties hereby respectfully move and submit the  
 26 following stipulation pursuant to Civ. L.R. 7-12:  
 27  
 28

1 1. Plaintiffs filed this Endangered Species Act (“ESA”) lawsuit on January 14, 2009 and  
2 perfected service of process upon the United States Attorney for the Northern District of California  
3 on January 22, 2009.

4 2. This matter is a challenge to a final rule designating revised critical habitat for the  
5 Peirson’s milk-vetch, a plant listed as “threatened” under the ESA. *See* Revised Designation of  
6 Critical Habitat for *Astragalus magdalenae var. peirsonii* (Peirson’s milk-vetch), 73 Fed. Reg. 8,748  
7 (Feb. 14, 2008) (“Final Rule”).

8 3. On December 10, 2008, another challenge to the same Final Rule was filed against  
9 Defendants in the United States District Court for the Southern District of California. *See*  
10 *Maddalena v. U.S. Fish and Wildlife Serv.*, Civ. No. 08-2292 (S.D. Cal., filed Dec. 10, 2008) (Ex.  
11 A to Defs.’ Mot. To Transfer (Docket Entry #7)).

12 4. On February 3, 2009, Defendants moved this court to transfer this action to the  
13 Southern District of California. *See* Defs.’ Mot. To Transfer (Docket Entry #7).

14 5. On February 11, 2009, Defendants withdrew that motion, to facilitate the filing of  
15 this joint stipulated transfer motion. *See* Defs.’ Notice of Withdrawal (Docket Entry #9).

16 6. The parties agree that venue for this action is proper in the Southern District of  
17 California and that this action might have been brought there. *See* 28 U.S.C. § 1391(e)(2).

18 7. The parties agree that transfer to the Southern District of California is in the interest  
19 of justice, would promote efficiency for the parties and the Courts, and would avoid potentially  
20 conflicting rulings. *See* 28 U.S.C. § 1404.

21 8. In the event that this Court does not grant this stipulated motion to transfer this case  
22 to the United States District Court for the Southern District of California, defendants will re-file their  
23 Motion to Transfer Venue (Docket Entry #7).

24 WHEREFORE, the parties pray that this Court grant the Stipulated Motion to Transfer, and  
25 thereby transfer this matter to the United States District Court for the Southern District of California.  
26  
27

1 Dated: March 4, 2009

2 Respectfully Submitted,

3 JOHN C. CRUDEN, Acting Assistant Attorney General  
4 JEAN E. WILLIAMS, Section Chief  
5 LISA LYNNE RUSSELL, Assistant Section Chief

6 /s/ Ethan Carson Eddy  
7 ETHAN CARSON EDDY, Trial Attorney  
8 (Cal. Bar No. 237214)  
9 U.S. Department of Justice  
10 Environment & Natural Resources Division  
11 Wildlife & Marine Resources Section  
12 Ben Franklin Station, P.O. Box 7369  
13 Washington, DC 20044-7369  
14 Phone: (202) 305-0202  
15 Fax: (202) 305-0275  
16 Email: [ethan.eddy@usdoj.gov](mailto:ethan.eddy@usdoj.gov)

17 Attorneys for Defendants

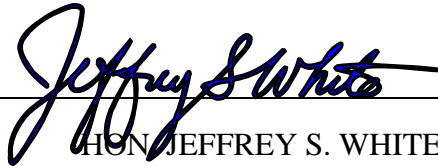
18 /s/ Lisa T. Belenky  
19 Lisa T. Belenky (CA Bar No. 203225)  
20 Justin Augustine (CA Bar No. 235561)  
21 CENTER FOR BIOLOGICAL DIVERSITY  
22 351 California Street, Suite 600  
23 San Francisco, CA 94104  
24 Telephone: (415) 436-9682 x 307  
25 Facsimile: (415) 436-9683  
26 [lbelenky@biologicaldiversity.org](mailto:lbelenky@biologicaldiversity.org)  
27 [jaugustine@biologicaldiversity.org](mailto:jaugustine@biologicaldiversity.org)

28 Attorneys for Plaintiffs

1 It is therefore ORDERED that the parties' stipulated motion to transfer venue shall be  
2 GRANTED. It is further ORDERED that this matter shall be transferred to the Southern District  
3 of California.

4 PURSUANT TO STIPULATION, IT IS SO ORDERED this 5<sup>th</sup> \_\_\_day of

5  
6 March \_\_\_\_\_, 2009.

7  
8  
9  
10  
11 

12 HON. JEFFREY S. WHITE

13 UNITED STATES DISTRICT JUDGE