

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

Civil Action No. 13-cv-01723 RBJ

HIGH COUNTRY CITIZENS' ADVOCATES,
WILDEARTH GUARDIANS, and SIERRA CLUB,

Plaintiffs,

v.

UNITED STATES FOREST SERVICE,
UNITED STATES DEPARTMENT OF AGRICULTURE,
UNITED STATES BUREAU OF LAND MANAGEMENT,
UNITED STATES DEPARTMENT OF THE INTERIOR,
DANIEL JIRÓN, in his official capacity as Regional Forester for the U.S. Forest
Service's Rocky Mountain Region,
SCOTT ARMENTROUT, in his official capacity as Supervisor of the Grand Mesa,
Uncompahgre, and Gunnison National Forests, and
RUTH WELCH, in her official capacity as the Bureau of Land Management's Colorado
State Office Acting Director,

Defendants, and

ARK LAND COMPANY, INC., and
MOUNTAIN COAL COMPANY, L.L.C.,

Intervenor-Defendants.

**STIPULATION, AGREEMENT,
AND PROPOSED ORDER SETTLING PLAINTIFFS' CLAIMS FOR
ATTORNEYS' FEES, EXPENSES, AND COSTS**

Subsequent to this Court's September 11, 2014 Order on remedy and Order entering final judgment in this case (Dkt. ## 101 and 102), Plaintiffs High Country Conservation Advocates *et al.* ("Plaintiffs") filed their timely Application for Attorneys' Fees and Expenses and a separate Bill of Costs in this matter on December 10, 2014 (Dkt. ## 105 and 106). Plaintiffs and Federal Defendants, the U.S. Forest Service, *et al.* ("Federal Defendants"), hereby submit this Stipulation to resolve Plaintiffs' claim for attorneys' fees, expenses, and costs in the above-captioned case. Federal Defendants and Plaintiffs stipulate and agree as follows:

1. Federal Defendants shall pay Plaintiffs \$232,273.20 in full and complete satisfaction of any and all claims, demands, rights, and causes of action, pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412(d), or any other statute and/or common law theory, for attorneys' fees, expenses, and costs incurred by Plaintiffs, individually and/or severally, in connection with the above-captioned case.

2. Federal Defendants shall make the \$232,273.20 payment required by Paragraph 1 of this Stipulation by electronic funds transfer to Earthjustice. Counsel for Plaintiffs will provide to the undersigned counsel for the Federal Defendants the information needed to process the electronic funds transfers by Federal Defendants.

3. Within twenty-one business days after entry of this Stipulation or Plaintiffs' provision of the information required under Paragraph 2, whichever is later, the Federal Defendants shall submit all paperwork necessary for processing the \$232,273.20 payment

required by Paragraph 1 of this Stipulation.

4. Plaintiffs shall provide confirmation of the receipt of the payment to undersigned counsel for Federal Defendants within fourteen (14) days of receipt of the payment specified in Paragraph 1.

5. Plaintiffs represent that the proper entity to receive payment pursuant to this Stipulation is Earthjustice and that the payment information provided pursuant to Paragraph 2, above, is the correct information to effect such payment. Plaintiffs and Plaintiffs' counsel release and hold Federal Defendants harmless from any liability for attorneys' fees, expenses, costs, or other claims that might be made as to any apportionment of the payment amount to Plaintiffs and Plaintiffs' counsel. Except for the obligations specifically required of Federal Defendants under this Stipulation, Plaintiffs agree to hold Federal Defendants harmless in any litigation, further suit, or claim arising from the payment of the agreed-upon \$232,273.20 settlement amount as provided herein.

6. Receipt of the payment specified in Paragraph 1 shall operate as a release of any and all claims for attorneys' fees, expenses, and costs incurred in connection with Plaintiffs' Application for Attorneys' Fees and Expenses and separate Bill of Costs in this matter (Dkt. ## 105 and 106) and for any and all attorneys' fees, expenses, and costs incurred in connection with the above-captioned case.

7. Under 31 U.S.C. §§ 3711, 3716; 26 U.S.C. § 6402(d); 31 C.F.R. §§ 285.5, 901.3; and other authorities, the United States will offset against the attorney fee award

Plaintiffs' delinquent debts to the United States, if any. *See Astrue v. Ratliff*, 560 U.S. 586 (2010).

8. This Stipulation shall not be interpreted as or constitute a commitment or requirement that the Federal Defendants obligate or pay funds in violation of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other law or regulation, or be construed to deprive a federal official of the authority to revise, amend, or promulgate regulations.

9. This Stipulation does not represent an admission by any party to any fact, claim, or defense in any issue in this lawsuit. This Stipulation has no precedential value and shall not be used as evidence of such in any litigation except litigation to enforce the terms of this Stipulation.

10. This Stipulation represents the entirety of the Federal Defendants' and Plaintiffs' commitments with regard to settlement of Plaintiffs' claim for attorneys' fees, expenses, and costs in this action. The terms of this agreement shall become effective upon entry of an order by the Court approving this Stipulation.

11. The undersigned representatives of Plaintiffs and Federal Defendants certify that they are fully authorized by the party or parties whom they represent to enter into all the terms and conditions of this Stipulation.

12. The Court shall retain jurisdiction solely to enforce and oversee compliance with the terms and conditions of this Stipulation and Court Order. *See Kokkonen v. Guardian Life Ins. Co. of America*, 511 U.S. 375 (1994).

SO STIPULATED:

FOR THE PLAINTIFFS

/s/ Edward B. Zukoski

EDWARD B. ZUKOSKI
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FOR THE FEDERAL DEFENDANTS

DATED: March 6, 2015

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/s/David B. Glazer

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Attorneys for Federal Defendant

Pursuant to Stipulation, **IT IS SO ORDERED** this 6th day of March, 2015

A handwritten signature in black ink, appearing to read "Brooke Jackson", written in a cursive style.

R. BROOKE JACKSON
United States District Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 6, 2015, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following e-mail addresses:

For the Plaintiffs:

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For the Intervenors:

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Dated: March 6, 2015

/s/David B. Glazer
David B. Glazer