

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO
Judge William J. Martínez**

Civil Action No. 15-cv-01259-WJM-KLM

CENTER FOR BIOLOGICAL DIVERSITY,

Plaintiff,

v.

SALLY JEWELL, Secretary of the Department of the Interior, and
U.S. FISH AND WILDLIFE SERVICE,

Defendants.

ORDER APPROVING STIPULATION OF DISMISSAL PURSUANT TO RULE 41(a)(2)

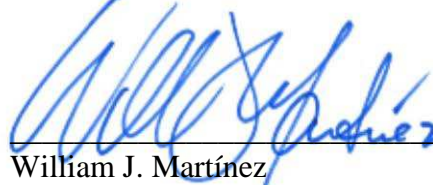
It is ordered that the terms and conditions of the parties' Stipulated Dismissal (ECF No. 13) are hereby adopted as an ORDER of this Court. Therefore:

1. The Court dismisses this case pursuant to Rule 41(a)(2) of the Federal Rules of Civil Procedure.
2. Notwithstanding this dismissal, nothing in the Stipulated Dismissal precludes Plaintiff from challenging application of the attorney-client privilege to the documents withheld or redacted under 5 U.S.C. § 552(b)(5) in the event Plaintiff files suit in federal district court regarding FWS's October 1, 2014 ESA decision that listing the Rio Grande cutthroat trout as endangered is not warranted.
3. Plaintiff is entitled to recover its reasonable attorney fees and costs in this action under FOIA, 5 U.S.C. § 552(a)(4)(E)(1). The parties are finalizing an agreement to resolve attorney's fees and costs. The parties shall file a status report on or before October 21, 2015,

describing whether they have reached an agreement regarding attorneys' fees and costs.¹ The Court retains jurisdiction to resolve the issue of attorney fees and costs. See Kokkonen v. Guardian Life Ins. Co. of America, 511 U.S. 375 (1994).

Dated this 16th day of October, 2015.

BY THE COURT:



William J. Martínez
United States District Judge

¹ The parties' proposed order contained this sentence: "To ensure completion of this agreement, the October 21, 2015 deadline (ECF Doc. 9) for filing a Notice of Settlement or a Status Report informing the Court that the parties wish to proceed with this litigation remains in place." The Court rejects this sentence because it is inconsistent with the order of dismissal in ¶ 1, *supra*.