

O. KENT MAHER (Nev. Bar No. 316)

kent@winnemuccalaw.com

PO Box 130

33 W Fourth Street

Winnemucca, Nevada 89446

Ph: (775) 623-5277

Fax: (775) 623-2468

Local Counsel for Plaintiffs

DOMINIC M. CAROLLO (Or. Bar. No. 093057)

Pro Hac Vice

dcarollo@carollolegal.com

Carollo Law Group LLC

Mail: P.O. Box 2456

Roseburg, OR 97470

Office: 2315 Old Highway 99 South

Roseburg, OR 97471

Ph: (541) 957-5900

Fax: (541) 957-5923

Attorneys for Plaintiffs

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

BARTELL RANCH, LLC, a Nevada limited liability company and **EDWARD BARTELL**,

Plaintiffs

vs.

ESTER M. MCCULLOUGH, Winnemucca District Manager, **BUREAU OF LAND MANAGEMENT**,

Defendants,

and

LITHIUM NEVADA CORP.,
Defendant-Intervenor.

Case No.: 3:21-cv-00080-MMD-CLB

**JOINT MOTION BY BARTELL
PLAINTIFFS AND FEDERAL
DEFENDANTS FOR STAY OF BRIEFING
OF BARTELL PLAINTIFFS' EAJA
MOTION**

1 Plaintiffs Bartell Ranch and Edward Bartell (“Bartell Plaintiffs”) and Federal Defendants
2 the United States Bureau of Land Management and Ester M. McCullough (“Defendants”) hereby
3 move to stay briefing on Bartell Plaintiffs’ Motion/Petition for Attorneys’ Fees under the Equal
4 Access to Justice Act (“EAJA”) to allow for settlement discussions on the motion to proceed.

5 Bartell Plaintiffs filed their motion/petition for attorneys’ fees under EAJA on November
6 10, 2023. Defendants’ response is therefore due November 24, 2023. Bartell Plaintiffs and
7 Defendants desire an amicable resolution of Bartell Plaintiffs’ EAJA motion. Bartell Plaintiffs’
8 motion is a “placeholder” designed to satisfy the EAJA motion deadline while allowing the parties
9 to negotiate over fees. *See Greenpeace v. Stewart*, No. 17-35945, 2020 WL 2465321, *4-5 (9th
10 Cir. Commissioner, May 12, 2020) (approving use of EAJA placeholder motion).

11 Bartell Plaintiffs and Defendants will quickly engage in negotiations to try and resolve
12 Bartell Plaintiffs’ EAJA motion. While negotiations are ongoing Bartell Plaintiffs and Defendants
13 propose to stay all briefing. In the event that settlement negotiations are unsuccessful, Bartell
14 Plaintiffs and Defendants will inform the Court and file a joint schedule which would allow Bartell
15 Plaintiffs to amend its EAJA motion, submit supporting evidence, and create a briefing schedule.

16 Bartell Plaintiffs and Defendants move the Court for an order finding:

- 17 1. That briefing on Bartell Plaintiffs’ EAJA motion is stayed;
- 18 2. Bartell Plaintiffs and Defendants will submit a status report updating the Court on the
19 progress of EAJA negotiations within 60 days of the Court’s order on this Joint Motion;
20 and
- 21 3. If settlement is unsuccessful, Bartell Plaintiffs and Defendants will file a joint schedule for
22 Bartell Plaintiffs to amend their EAJA motion, submit additional supporting evidence, and
23 creating a briefing schedule.

1 Respectfully submitted this 13th day of November, 2023.

2 /s/ Dominic M. Carollo

3 DOMINIC M. CAROLLO (Or. Bar. No. 093057)

4 *Pro Hac Vice*

5 dcarlo@carollolegal.com

6 Carollo Law Group LLC

7 Mail: P.O. Box 2456

8 Roseburg, OR 97470

9 Office: 2315 Old Highway 99 South

10 Roseburg, OR 97471

11 Ph: (541) 957-5900

12 *Of Attorneys for Plaintiffs*

O. Kent MAHER (Nev. Bar No. 316)

kent@winnemuccalaw.com

PO Box 130

33 W Fourth Street

Winnemucca, Nevada 89446

Ph: (775) 623-527

Of Attorneys for Plaintiffs

13 /s/ Michael K. Robertson

14 Michael K. Robertson (DC Bar 1017183)

15 Trial Attorney, U.S. Department of Justice, Natural Resources Section

16 P.O. Box 7611

17 Washington, D.C. 20044-7611

18 202-305-9609

19 michael.robertson@usdoj.gov

20 *Attorney for Federal Defendants*

CERTIFICATE OF SERVICE

I hereby certify that on November 13, 2023 I filed the foregoing **JOINT MOTION BY BARTELL PLAINTIFFS AND FEDERAL DEFENDANTS FOR STAY OF BRIEFING OF BARTELL PLAINTIFFS' EAJA MOTION** using the United States District Court CM/ECF, which caused all counsel of record to be served electronically.

/s/Dominic Carollo
DOMINIC M. CAROLLO (Or. Bar No. 093057)
[Pro Hac Vice]

Attorneys for Plaintiffs

IT IS SO ORDERED.

DATED: November 13, 2023



CHIEF U.S. DISTRICT JUDGE
MIRANDA M. DU