

**MEMO ENDORSED**



CENTER for BIOLOGICAL DIVERSITY

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April 1, 2021

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 4/2/2021

By ECF

Honorable Valerie E. Caproni  
U.S. District Judge  
Thurgood Marshall U.S. Courthouse  
40 Foley Square  
New York, NY 10007

Re: *National Audubon Soc’y et al v. U.S. Dep’t of the Interior, et al.*, 18 Civ. No. 4601 (VEC) (consolidated with *Natural Resources Defense Council, Inc. et al v. U.S. Dep’t of the Interior, et al.*, 18 Civ. No. 4596 (VEC) and *State of New York, et al. v. U.S. Dep’t of the Interior et al.*, 18 Civ. No. 8084 (VEC))

Dear Judge Caproni:

I represent plaintiffs in the above-captioned *National Audubon Society et al.* case. Three of the plaintiffs in that case—American Bird Conservancy, Center for Biological Diversity, and Defenders of Wildlife (“Moving Plaintiffs”)—are filing a motion for attorneys’ fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412 (EAJA). The motion is being filed in accordance with EAJA’s deadline. *Id.* §§ 2412(d)(1)(A), (d)(2)(G) (requiring that an EAJA application be submitted “within thirty days of final judgment in the action,” defined as a “judgment that is final and not appealable”). At the same time, I have conferred with counsel for Defendants, and we are in agreement that it would serve the interests of judicial economy and efficiency for us to explore the possibility of a resolution of the EAJA claim without further involvement by the Court.

Accordingly, Moving Plaintiffs and Defendants hereby request that the motion for attorneys’ fees and costs be held in abeyance for a period of 60 days from the date of this filing. If a settlement of the EAJA claim is reached during that period, Moving Plaintiffs will promptly notify the Court that the pending motion is being withdrawn as moot. If a settlement is not reached during the 60-day period, the parties will file a joint status report indicating whether they seek additional time to complete negotiations or, instead, are proposing a schedule for completion of briefing on the motion.

We thank the Court for its consideration of this matter.



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Respectfully submitted,

/s/ Eric R. Glitzenstein

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Defenders of Wildlife

Application GRANTED. The Court will hold in abeyance Plaintiffs' motion for attorneys' fees and costs until June 1, 2021. Not later than June 1, 2021, the parties must either file a notice of settlement, with Plaintiffs withdrawing the motion as moot, or file a status update requesting an extension of time or proposing a briefing schedule.

SO ORDERED.

  
4/2/2021

HON. VALERIE CAPRONI  
UNITED STATES DISTRICT JUDGE