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14 **UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

15 BAY.ORG d/b/a THE BAY INSTITUTE;)
16 NATURAL RESOURCES DEFENSE COUNCIL,)
17 INC.; and DEFENDERS OF WILDLIFE,)

Civ. No. 17-cv-01176-LJO-EPG

18 Plaintiffs,)

**Stipulation of Voluntary Dismissal
of Case**

19 v.)

20 DAVID BERNHARDT, in his official capacity)
21 as Secretary of the Interior; GREG)
22 SHEEHAN, in his official capacity as Acting)
Secretary of U.S. Fish and Wildlife Service; and)
23 U.S. FISH AND WILDLIFE SERVICE,)

24 Defendants,)

25 STATE WATER CONTRACTORS,)
26 METROPOLITAN WATER DISTRICT OF)
SOUTHERN CALIFORNIA, and CALIFORNIA)
27 DEPARTMENT OF WATER RESOURCES,)

28 Defendant-Intervenors.)

RECITALS

WHEREAS, on June 29, 2017, Plaintiffs Bay.org, Defenders of Wildlife, and Natural Resources Defense Council (together, Plaintiffs), filed a complaint against the Secretary of the Interior, Acting Director of the U.S. Fish and Wildlife Service, and U.S. Fish and Wildlife Service (FWS) (together, Defendants), alleging that FWS’s June 23, 2017 Biological Opinion for the California WaterFix project (WaterFix) violated the Administrative Procedure Act (APA), 5 U.S.C. § 706(2)(A).

WHEREAS, on May 3, 2019, the Court issued an order staying the case for 30 days in light of the U.S. Bureau of Reclamation and California Department of Water Resources’ letter to FWS stating that they were withdrawing their Biological Assessment for WaterFix and requesting that FWS withdraw its Biological Opinion;

WHEREAS, on May 6, 2019, FWS formally withdrew its Biological Opinion for WaterFix, and the parties agree that the Biological Opinion has no legal force or effect;

WHEREAS because the Biological Opinion is withdrawn, Plaintiffs’ APA claim against Defendants challenging the Biological Opinion is moot;

WHEREAS Federal Rule of Civil Procedure 41 permits a plaintiff to dismiss an action without court order “by filing . . . a stipulation of dismissal signed by all parties who have appeared,” Fed. R. Civ. P. 41(a)(1)(A)(ii).

STIPULATION

IT IS HEREBY STIPULATED by and between all parties who have appeared in the above-titled action, through their respective attorneys of record, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), that:

1. The June 23, 2017 FWS Biological Opinion for WaterFix has been withdrawn and has no legal force or effect;
2. Plaintiffs dismiss without prejudice the action in its entirety;
3. This dismissal is without an award of attorneys’ fees, interests, or costs to any party, and each side will bear their own attorney’s fees and costs.

1 DATED: May 10, 2019

/s/ Jolie McLaughlin
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9 DATED: May 10, 2019

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16 DATED: May 10, 2019

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22 DATED: May 10, 2019

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1 DATED: May 10, 2019

/s/ Clifford T. Lee

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing **Stipulation of Voluntary Dismissal of Case** with the Clerk of the Court for the United States District Court for the Eastern District of California by using the CM/ECF system. All participants in the case are registered CM/ECF users and will be served by the CM/ECF system.

I declare under penalty of perjury under the laws of the United States and the State of California that the foregoing is true and correct. Executed this May 10, 2019, in Chicago, Illinois.

/s/ Jolie McLaughlin

Jolie McLaughlin