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Honorable Rosanna Malouf Peterson

Attorney for Plaintiff

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

COLUMBIA RIVERKEEPER,)

Plaintiff,)

v.)

UNITED STATES BUREAU OF)

RECLAMATION; and ESTEVAN)

LÓPEZ, in his official capacity as)

the Commissioner of the United)

States Bureau of Reclamation,)

Defendants.)

No. 2:16-CV-00236-RMP

JOINT MOTION FOR
DISMISSAL WITHOUT
PREJUDICE

2/21/2017

Without Oral Argument

The parties hereby jointly move this Court to dismiss this case without prejudice pursuant to Federal Rule of Civil Procedure 41. In support of this Joint Motion, the parties state as follows.

JOINT MOTION FOR DISMISSAL
WITHOUT PREJUDICE - 1

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1 Plaintiff Columbia Riverkeeper (“Riverkeeper”) filed the Complaint in this
2 matter on June 29, 2016. The Complaint alleges that the United States Bureau of
3 Reclamation and its Commissioner (collectively, the “Bureau”) discharge
4 pollutants from the Grand Coulee Dam Project that the Bureau owns and operates
5 in Washington, allegedly in violation of section 301(a) of the CWA, 33 U.S.C. §
6 1311(a). The Complaint seeks declaratory and injunctive relief and an award of
7 litigation expenses, including attorney fees.
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11 As this Court is aware, Riverkeeper and the Bureau (collectively, the
12 “Parties”) have been involved in settlement discussions in an effort to resolve this
13 case without further, protracted litigation. Those negotiations have resulted in the
14 Parties’ execution of a Settlement Agreement that is being filed as an attachment to
15 the [Proposed] Order of Dismissal Without Prejudice that is being submitted
16 herewith.
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19 As set forth in the Settlement Agreement, the Parties entered into the
20 Settlement Agreement without any admission of fact or law. The Parties consider
21 the Settlement Agreement to be fair, adequate and reasonable. Accordingly, the
22 Parties believe that entering into the Settlement Agreement rather than engaging in
23 additional litigation is in the interest of the public, the Parties and judicial
24 economy.
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1 The Settlement Agreement provides that this Court shall retain jurisdiction
2 over this case for the purpose of resolving those disputes over which Riverkeeper
3 or the Bureau may petition the Court pursuant to the Settlement Agreement. *See*
4 Settlement Agreement, Sec. IV, ¶ 9(b); *and see Kokkonen v. Guardian Life Ins. Co.*
5 *of Am.*, 511 U.S. 375 (1994). The validity of the Settlement Agreement is premised
6 upon this Court's entry of the [Proposed] Order of Dismissal Without Prejudice
7 submitted herewith. *See* Settlement Agreement, Sec. III, ¶ 7. Upon entry of the
8 [Proposed] Order of Dismissal Without Prejudice, this case will be dismissed
9 without prejudice.
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13 NOW THEREFORE, the Parties, by and through their undersigned counsel,
14 jointly request that the Court enter the attached [Proposed] Order of Dismissal
15 Without Prejudice, and thereby order that:
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18 (1) Subject to and in accordance with the terms and conditions of the
19 Settlement Agreement filed as an attachment to the [Proposed] Order of Dismissal
20 Without Prejudice, this case is dismissed without prejudice pursuant to Federal
21 Rule of Civil Procedure 41; and
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23 (2) Subject to and in accordance with Section IV, paragraph 9(b) of the
24 above-referenced Settlement Agreement, this Court shall retain jurisdiction over
25 this case for the purpose of resolving those disputes for which Riverkeeper or the
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1 Bureau may petition the Court. *See Kokkonen v. Guardian Life Ins. Co. of Am.*,
2 511 U.S. 375 (1994).

3
4 RESPECTFULLY SUBMITTED this 19th day of January, 2017.

5 JOHN C. CRUDEN
6 Assistant Attorney General
7 Environment and Natural Resources Division

8 By: s/ Mark A. Nitzyski

9 Mark A. Nitzyski
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20 *Attorneys for the Federal Defendants*

21 KAMPMEIER & KNUTSEN, PLLC

22 By: s/ Brian A. Knutsen

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28 *Attorney for Plaintiff Columbia Riverkeeper*

29 JOINT MOTION FOR DISMISSAL
WITHOUT PREJUDICE - 4

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CERTIFICATE OF SERVICE

I hereby certify that on January 19, 2017, 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 attorneys of record.

s/ Brian A. Knutsen
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