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10 Attorneys for Plaintiff SIERRA CLUB

11 ISMAIL J. RAMSEY (CABN 189820)
12 United States Attorney
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22 Attorneys for Defendants U.S. DEPARTMENT OF
23 HOMELAND SECURITY and U.S. CUSTOMS
24 AND BORDER PROTECTION

25 UNITED STATES DISTRICT COURT
26 NORTHERN DISTRICT OF CALIFORNIA
27 SAN FRANCISCO DIVISION

28 SIERRA CLUB,) Case No. 17-cv-05273-KAW
29 Plaintiff,)
30 v.) **NOTICE OF SETTLEMENT**
31 U.S. DEPARTMENT OF HOMELAND)
32 SECURITY and U.S. CUSTOMS AND)
33 BORDER PROTECTION,)
34 Defendants.)

35 PLEASE TAKE NOTICE that Plaintiff Sierra Club (“Plaintiff” or “Sierra Club”) and
36 Defendants United States Department of Homeland Security (“DHS”) and U.S. Customs and Border
37 Protection (“CBP”) (collectively “Defendants”) have agreed to a settlement in full of the above-

1 captioned matter. The parties have finalized and executed a written agreement memorializing the
2 settlement, which is attached hereto. A stipulation of dismissal with prejudice will be filed
3 following receipt by Plaintiff's attorney of the settlement payment.

4 The parties anticipate that the stipulation of dismissal will be filed before the next scheduled
5 Case Management Conference, which is set for July 18, 2023. *See* Dkt. No. 89. In the event the
6 parties are unable to file the stipulation of dismissal on or before July 11, 2023, they will submit a
7 joint status report and request to continue the Case Management Conference by that date.

8 In compliance with Civil Local Rule 5-1(h)(3), the filer of this document attests under
9 penalty of perjury that all signatories have concurred in the filing of this document.

10 DATED: May 15, 2023

SIERRA CLUB

11 */s/ Andrea Issod*

ANDREA ISSOD
12 JOSHUA SMITH

13 Attorneys for Plaintiff

14 DATED: May 15, 2023

ISMAIL J. RAMSEY
United States Attorney

15 */s/ Pamela T. Johann*

16 PAMELA T. JOHANN
Assistant United States Attorney

17 Attorneys for Defendants
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Attachment

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24 AND BORDER PROTECTION

25 UNITED STATES DISTRICT COURT
26 NORTHERN DISTRICT OF CALIFORNIA
27 SAN FRANCISCO DIVISION

28 SIERRA CLUB,) Case No. 17-cv-05273-KAW
29)
30 Plaintiff,)
31) **SETTLEMENT AGREEMENT**
32 v.)
33)
34 U.S. DEPARTMENT OF HOMELAND)
35 SECURITY and U.S. CUSTOMS AND)
36 BORDER PROTECTION,)
37)
38 Defendants.)

39 IT IS HEREBY STIPULATED by and between the undersigned Plaintiff Sierra Club
40 (“Plaintiff” or “Sierra Club”) and Defendants United States Department of Homeland Security
41 (“DHS”) and U.S. Customs and Border Protection (“CBP”) (collectively “Defendants”), by and

1 through their respective attorneys, as follows:

2 1. Defendants shall pay \$13,000 (thirteen thousand dollars and no cents) to Plaintiff in
3 full and complete satisfaction of Plaintiff's claims for attorneys' fees, costs, and litigation expenses
4 under the Freedom of Information Act ("FOIA"), 5 U.S.C. § 552, as amended, in the above-
5 captioned matter. This payment shall constitute full and final satisfaction of any and all of Plaintiff's
6 claims for attorneys' fees, costs, and litigation expenses in the above-captioned matter, and is
7 inclusive of any interest. Payment of this money will be made by electronic funds transfer.
8 Defendants will begin processing payment within 10 days from the date that this Settlement
9 Agreement is executed by all the signatories, Defendant receives the signed Stipulation of Dismissal,
10 and Plaintiff provides all necessary information in order to effectuate payment, whichever is later.
11 Defendants will make all reasonable efforts to make payment within 30 days of the date that it
12 begins processing payment but cannot guarantee payment within that time frame.

13 2. Upon the execution of this Settlement Agreement, Plaintiff and its successors or
14 assigns hereby releases and forever discharges Defendants, their successors, the United States of
15 America ("United States"), and any department, agency, or establishment of the United States, and
16 any officers, employees, agents, successors, or assigns of such department, agency, or establishment,
17 from any and all claims and causes of action that Plaintiff asserts or could have asserted in this
18 litigation, or which hereafter could be asserted by reason of, or with respect to, or in connection
19 with, or which arise out of, the specific FOIA requests on which this action is based, including but
20 not limited to all past, present, or future claims for attorneys' fees, costs, or litigation expenses in
21 connection with the above-captioned litigation.

22 3. The provisions of California Civil Code Section 1542 are set forth below:

23 "A general release does not extend to claims that the creditor or releasing party does not
24 know or suspect to exist in his or her favor at the time of executing the release and that, if
25 known by him or her, would have materially affected his or her settlement with the debtor or
released party."

26 Plaintiff, having been apprised of the statutory language of Civil Code Section 1542 by its attorney,
27 and fully understanding the same, nevertheless elects to waive the benefits of any and all rights
28 Plaintiff may have pursuant to the provision of that statute and any similar provision of federal law.

1 Plaintiff understands that, if the facts concerning any injuries, liability for damages pertaining
2 thereto, or liability for attorneys' fees, costs or litigation expenses are found hereafter to be other
3 than or different than the facts now believed by it to be true, this Settlement Agreement shall be and
4 remain effective notwithstanding such material difference.

5 4. Simultaneously with Plaintiff's execution of this Agreement, Plaintiff agrees to
6 execute a Stipulation of Dismissal in the form attached as Exhibit A. The Stipulation of Dismissal
7 shall jointly stipulate that the above-captioned action is dismissed in its entirety with prejudice
8 pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii). Plaintiff concurs in the filing of the
9 Stipulation of Dismissal by Defendants upon the receipt by Plaintiff's attorney of the payment
10 specified in paragraph 1.

11 5. The parties acknowledge that this Settlement Agreement is entered into solely for the
12 purpose of settling and compromising any remaining claims in this action without further litigation,
13 and it shall not be construed as evidence or as an admission of liability or fault on the part of
14 Defendants, the United States, or any of their past or present agents, servants, or employees
15 regarding any issue of law or fact, or regarding the truth or validity of any allegation or claim raised
16 in this action, or as evidence or as an admission by the Defendants regarding Plaintiff's entitlement
17 to attorneys' fees, costs, or other litigation expenses under FOIA. This Settlement Agreement shall
18 not be used in any manner to establish liability for fees or costs in any other case or proceeding
19 involving Defendants.

20 6. This Settlement Agreement is binding upon and inures to the benefit of the parties
21 hereto and their respective successors and assigns.

22 7. If any provision of this Settlement Agreement shall be held invalid, illegal, or
23 unenforceable, the validity, legality, and enforceability of the remaining provisions shall not in any
24 way be affected or impaired thereby.

25 8. This Settlement Agreement shall constitute the entire agreement between the parties,
26 and it is expressly understood and agreed that this Settlement Agreement has been freely and
27 voluntarily entered into by the parties hereto. The parties further acknowledge that no warranties or
28 representations have been made on any subject other than as set forth in this Settlement Agreement.

1 9. The persons signing this Settlement Agreement warrant and represent that they
2 possess full authority to bind the persons on whose behalf they are signing to the terms of the
3 Settlement Agreement.

4 10. This Settlement Agreement may not be altered, modified, or otherwise changed in
5 any respect except in writing, duly executed by all of the parties or their authorized representatives.

6 11. Each party hereby agrees that it has participated in the preparation of this Settlement
7 Agreement, had the opportunity to seek counsel regarding the contents of this Settlement
8 Agreement, is fully aware of and understands all of the terms of the Settlement Agreement and the
9 legal consequences thereof, and enters into this Settlement Agreement knowingly and voluntarily.
10 For purposes of construction, this Settlement Agreement shall be deemed to have been drafted by all
11 Parties to this Settlement Agreement and shall not, therefore, be construed against any party for that
12 reason in any subsequent dispute.

13 12. It is contemplated that this Settlement Agreement may be executed in several
14 counterparts, with a separate signature page for each party. All such counterparts and signature
15 pages, together, shall be deemed to be one document.

16 DATED: May 15, 2023

SIERRA CLUB

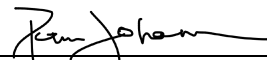


ANDREA ISSOD
JOSHUA SMITH

Attorneys for Plaintiff

20 DATED: May 15, 2023

ISMAIL J. RAMSEY
United States Attorney



PAMELA T. JOHANN
Assistant United States Attorney

Attorneys for Defendants

Exhibit A

1 ANDREA ISSOD (CABN 230920)
2 JOSHUA SMITH (ORBN 071757) *admitted pro hac vice*

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24 AND BORDER PROTECTION

25 UNITED STATES DISTRICT COURT
26 NORTHERN DISTRICT OF CALIFORNIA
27 SAN FRANCISCO DIVISION

28 SIERRA CLUB,) Case No. 17-cv-05273-KAW
29 Plaintiff,)
30 v.) **STIPULATION OF DISMISSAL WITH**
31 U.S. DEPARTMENT OF HOMELAND) **PREJUDICE**
32 SECURITY and U.S. CUSTOMS AND)
33 BORDER PROTECTION,)
34 Defendants.)

35 Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii) and the Settlement Agreement
36 entered into by the parties to this action, Plaintiff Sierra Club and Defendants United States
37 Department of Homeland Security and U.S. Customs and Border Protection hereby stipulate and

1 agree that the above-referenced action is voluntarily dismissed with prejudice. Each party shall bear
2 its own fees and costs, except as set forth in the parties' Settlement Agreement.

3 In compliance with Civil Local Rule 5-1(h)(3), the filer of this document attests under
4 penalty of perjury that each signatory has concurred in the filing of this document.

5 IT IS SO STIPULATED.

6 DATED: May __, 2023

SIERRA CLUB

7
8 _____
ANDREA ISSOD
JOSHUA SMITH

9 Attorneys for Plaintiff

10 DATED: May __, 2023

ISMAIL J. RAMSEY
United States Attorney

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PAMELA T. JOHANN
Assistant United States Attorney

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