

**IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

_____)	
SIERRA CLUB, et al.,)	
)	
Petitioners,)	
)	No. 13-73124
v.)	
)	
UNITED STATES)	STIPULATION OF VOLUNTARY
ENVIRONMENTAL PROTECTION)	DISMISSAL
AGENCY, et al.,)	
)	
Respondents,)	
)	
AVENAL POWER CENTER, LLC,)	
)	
Intervenor-Respondent.)	
_____)	

IT IS HEREBY STIPULATED AND AGREED by and between the parties that the above-captioned petition for review is voluntarily dismissed pursuant to Federal Rule of Appellate Procedure 42(b).

This petition for review challenged the decision by Respondent United States Environmental Protection Agency (“EPA”) to extend the deadline for commencing construction in Intervenor Avenal Power Center, LLC’s Prevention of Significant Deterioration (“PSD”) permit. Petitioners previously sought review of the PSD permit itself in Case No. 11-73342 (consolidated with Case No. 11-

73356). On August 12, 2014, this Court granted the petition for review and issued a judgment whereby the PSD permit was vacated and the matter remanded to EPA for further proceedings. *Sierra Club v. EPA*, 762 F.3d 971, 974 (9th Cir. 2014). The Court issued the formal mandate for that decision on October 7, 2014, attached here. More than ninety days have passed since entry of judgment, and no party has petitioned for rehearing or writ of certiorari.

With the underlying PSD permit having been vacated, the matter at issue here -- EPA's decision to extend the deadline in that PSD permit for commencing construction -- has no legal effect, and therefore this petition for review is now moot. Each party shall bear its own costs.

Respectfully Submitted,

/s/ Paul R. Court

PAUL R. CORT

Earthjustice

50 California Street, Suite 500

San Francisco, CA 94111

Tel: (415) 217-2000

Fax: (415) 217-2040

Counsel for Petitioners

JOHN C. CRUDEN

Assistant Attorney General

Environmental and Natural Resources

Division

/s/ John Thomas H. Do

JOHN THOMAS H. DO

United States Department of Justice

Environmental Defense Section

P.O. Box 7611

Washington, DC 20044

Tel: (202) 514-2593

Fax: (202) 514-8865

Counsel for Respondents

DAY CARTER & MURPHY LLP

/s/ Jane E. Luckhardt

Jane E. Luckhardt

Tracy K. Hunckler

3620 American River Drive, Suite 205

Sacramento, CA 95864

Tel: (916) 570-2500

Fax: (916) 570-2525

Counsel for Intervenor-Respondent