

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

CENTER FOR BIOLOGICAL DIVERSITY,

Plaintiff,

Case No: 21-00884 (EGS)

vs.

U.S. FISH AND WILDLIFE SERVICE ET
AL.,

Defendants.

JOINT MOTION TO ENTER INTO MEDIATION AND TO STAY PROCEEDINGS

The parties hereby move to stay all proceedings for 90 days and request that the Court refer this case and the two others listed below to the mediation program so the parties can explore the possibility of settling one or more of these matters in whole or in part. *See* LCvR 84.2(a).¹

Center for Biological Diversity v. Haaland et al., Civ. No. 20-00573
Center for Biological Diversity v. U.S. Fish and Wildlife Service et al., Civ No. 21-01045

Plaintiff in all three cases is the Center for Biological Diversity (“the Center”). Federal Defendants in this and another case—Civil Case No. 21-01045—include the U.S. Fish and Wildlife Service; Martha Williams, in her official capacity as Principal Deputy Director of the U.S. Fish and Wildlife Service; and Debra Haaland, in her official capacity as Secretary of the U.S. Department of the Interior. Federal Defendants in Civil Case No. 20-00573 are Debra Haaland, in her official capacity as Secretary of the U.S. Department of the Interior and Martha

¹ The parties are filing similar motions in the other two cases today.

Williams, in her official capacity as Principal Deputy Director of the U.S. Fish and Wildlife Service.

A. Summary of Case

At issue in this case are the Service's conclusion that it complied with ESA Section 4(b)(3)(B)(iii) in finding that listing 10 species as endangered or threatened is "warranted-but-precluded" by other listing activities, 16 U.S.C. § 1533(b)(3)(B)(iii). The Center filed its Complaint on April 1, 2021, and designated this matter as related to *In re Endangered Species Act Deadline Litigation*, MDL No. 2165, No. 10-mc-377 and other cases. ECF No. 3. Pending before the Court is a motion to intervene by Westlands Water District. ECF No. 11. The Service's current deadline to respond to the Center's Complaint and file any opposition to the Center's Notice of Related Cases is July 26, 2021. ECF No. 14.

B. Current Status

The parties have conferred via e-mail regarding these matters. At this time, the parties agree that it would be in the interest of judicial economy to enter into the Court's mediation program to explore the possibility of resolving some or all of Plaintiff's claims without the need for further litigation. The parties agree that this case, along with the two others noted above, would benefit from referral to a voluntary appointed mediator, as provided in Local Rule of Civil Procedure 84, regarding the Mediation Program of the United States District Court for the District of Columbia, for purposes of facilitating settlement discussions. The parties would like the opportunity to provide the Court's mediation staff with suggestions as to what experience or style may be most effective for the selected mediator.²

² See Frequently Asked Questions, District Court Mediation Program, <https://www.cadc.uscourts.gov/internet/home.nsf/Content/VL+-+Mediation+-+USDC+Mediation+FAQs+->

Each party has considered its client's respective goals in bringing or defending the litigation. In order to conserve both the parties' and judicial resources, the parties agree that mediation would be most appropriate at the outset of these actions. Accordingly, the parties propose a 90-day stay of all proceedings from the date of the Court's entry of a scheduling order to allow the parties to pursue mediation.

Dated: July 22, 2021

Respectfully submitted,

s/ Ryan Adair Shannon

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