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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA
TUCSON DIVISION**

COALITION FOR SONORAN DESERT
PROTECTION; CENTER FOR
BIOLOGICAL DIVERSITY; FRIENDS
OF IRONWOOD FOREST; and TUCSON
AUDUBON SOCIETY;

Plaintiffs,

v.

FEDERAL HIGHWAY
ADMINISTRATION; and KARLA
PETTY, acting in her official capacity as
DIVISION ADMINISTRATOR,
FEDERAL HIGHWAY
ADMINISTRATION, ARIZONA;

Defendants,

and

ARIZONA DEPARTMENT OF
TRANSPORTATION,

Intervenor-Defendant.

Case No. 4:22-cv-00193-JCH

**JOINT STIPULATION DISMISSING
PLAINTIFFS' FISH AND WILDLIFE
COORDINATION ACT (16 U.S.C. §
663) CLAIM**

JOINT STIPULATION

Plaintiffs' third claim in this case asserts that Defendants' Tier 1 approval for the proposed Interstate-11 ("I-11") Project in Arizona violates the Fish and Wildlife Coordination Act, 16 U.S.C. § 663. ECF No. 1 at 41. Plaintiffs allege that the use of the Tucson Mitigation Corridor for the I-11 Project would defeat the initial purpose of the Mitigation Corridor's acquisition—to provide a wildlife corridor for the movement of wildlife, and thus would violate 16 U.S.C. § 663(d). *Id.*

Plaintiffs brought their Fish and Wildlife Coordination Act claim, in part, because 23 U.S.C. 139(l)(1) contains a 150-day statute of limitations: "Notwithstanding any other provision of law, a claim arising under Federal law seeking judicial review of a permit, license, or approval issued by a Federal agency for a highway or public transportation capital project shall be barred unless it is filed within 150 days after publication of a notice in the Federal Register announcing that the permit, license, or approval is final pursuant to the law under which the agency action is taken, unless a shorter time is specified in the Federal law pursuant to which judicial review is allowed."

Defendants moved to dismiss Plaintiffs' Fish and Wildlife Coordination Act claim as unripe. ECF No. 18 at 9-10. Defendants assert that Plaintiffs seek judicial review of a deferred rather than final decision because Defendants have not yet selected the West Option for the I-11 Project. *Id.*

Because Plaintiffs and Defendants agree that Plaintiffs' Fish and Wildlife Coordination Act claim will not be time-barred should Defendants choose to move forward with the I-11 Project using the West Option, Plaintiffs are willing to dismiss their Fish and Wildlife Coordination Act claim in this case.

Plaintiffs hereby dismiss their Fish and Wildlife Coordination Act claim without prejudice.

DATED: September 20, 2022

Respectfully submitted,

/s/ Wendy Park

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/s/ Robert D. Thornton with permission
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CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of September, 2022, a copy of the foregoing Joint Stipulation was filed via the Court's electronic case filing (ECF) system, which will send notice to all counsel of record.

/s/ Wendy Park
Wendy Park