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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

ALLIANCE FOR THE WILD ROCKIES, Plaintiff, v. ENVIRONMENTAL PROTECTION AGENCY, Defendant.	CV 17-64-DLC STIPULATION OF DISMISSAL

The Parties Stipulate as follows:

1. Plaintiff Alliance for the Wild Rockies ("Alliance") filed suit on May 16, 2017 alleging Defendant Environmental Protection Agency's ("EPA") violation of the Endangered Species Act Section 7(a)(2) by failing to reinitiate consultation regarding the effects of the remedial operations of the Silver Bow Creek/Butte

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Area Superfund Site ("SBCBA") on designated bull trout critical habitat. Doc 1 at 2.

2. In its Complaint, Alliance requested this Court to order Defendant to reinitiate and complete consultation on the remedial operations of the SBCBA. Doc 1 at 7.

3. EPA maintains that it has been in and continues to be in compliance with all applicable federal environmental laws at the SBCBA and that this Court does not have jurisdiction to review this case.

4. On August 30, 2017, the Court granted a stay in this case to allow EPA to focus on the ongoing Section 7 consultation. Doc 14

5. On December 8, 2017 EPA filed an unopposed motion to extend the stay to allow EPA to complete its biological assessment for the ongoing remedial actions at the Silver Bow Creek/Butte Area Superfund Site as part of its Section 7 consultation with the U.S. Fish & Wildlife Service under the Endangered Species Act. Doc 15.

6. On December 11, 2017, the Court extended the stay in this case until February 19, 2018 to allow EPA to continue working on the ongoing Section 7 consultation. Doc 16.

7. EPA maintains that it did not waive any argument or defense by entering into that stay.

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8. On January 31, 2018, EPA transmitted its biological assessment for the current remedial activities at the SBCBA to the U.S. Fish and Wildlife Service.

9. Alliance maintains that EPA has provided the relief Alliance requested in its Complaint.

10. Pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), the Parties stipulate to a dismissal with prejudice of all claims in Alliance's May 16, 2017 Complaint.

11. Alliance reserves its right to file for attorneys' fees and costs pursuant to 16 U.S.C. §1540(g)(4); *Ass'n of Cal. Water Agencies v. Evans,* 386 F.3d 879 (9th Cir. 2004); and L.R. 54. EPA reserves its rights to oppose Alliance's request.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

ALLIANCE FOR THE WILD ROCKIES, Plaintiff, v. ENVIRONMENTAL PROTECTION AGENCY, Defendant.	CV 17-64-DLC ORDER

Pursuant to the Parties' Stipulation of Dismissal, this case is dismissed with prejudice.

ORDERED this ____ day of _____ 2018.

_____
Dana L. Christiansen, Chief Judge
United States District Court

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