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

WildEarth Guardians, et al.,
Plaintiffs,
v.
David Bernhardt, et al.,
Defendants.

No. CV-19-00441-TUC-CKJ
ORDER

Based on the Parties’ Joint Stipulation and Motion to Dismiss (Doc. 42), and finding good cause shown, the Court GRANTS the Joint Stipulation and Motion to Dismiss. The terms and conditions of the Joint Stipulation and Motion to Dismiss are incorporated into this Order.

IT IS SO ORDERED:

1. Within 5 business days the United States Fish and Wildlife Service (“Service”) will update the entry for the Sonoran Desert tortoise in the Environmental Conservation Online System (ECOS), effectively placing the Sonoran Desert tortoise back on the candidate list for Endangered Species Act (“ESA”) protection.
2. Within 18 months, the Service will submit to the Federal Register, a new 12-month finding for the Sonoran Desert tortoise, in accordance with the ESA.
3. This case is **DISMISSED WITH PREJUDICE** under Federal Rule of Civil Procedure 41(a)(2).

1 4. Notwithstanding this dismissal, Plaintiffs may seek reimbursement for costs of
2 litigation (including reasonable attorneys' fees) pursuant to section 11(g)(4) of the ESA,
3 16 U.S.C. § 1540(g)(4). The Service reserves its right to contest Plaintiffs' request for
4 reimbursement of costs (including attorneys' fees). The following schedule will control
5 for resolving Plaintiffs' request for reimbursement of costs (including attorneys' fees):

6 (a) within 45 days, Plaintiffs will provide the Service an itemization of the attorneys'
7 fees and costs it seeks to recover to allow the Service to assess whether settlement of such
8 claims is possible;

9 (b) within 45 days of the Service's receipt of this itemization, the Parties will notify
10 the Court whether they have reached a settlement on attorneys' fees and costs and, if so,
11 request approval of this agreement;

12 (c) if the Parties have not reached agreement on attorneys' fees and costs, Plaintiffs
13 will have 30 days from that date to file a motion for attorneys' fees and costs (briefing will
14 proceed as provided in the Local Civil Rules).

15 5. This Order may be modified by the Court upon good cause shown, consistent with
16 the Federal Rules of Civil Procedure, by written stipulation between the Parties filed with
17 and approved by the Court, or upon written motion filed by one of the parties and granted
18 by the Court. In the event that either party seeks to modify the terms of this Agreement,
19 including the deadlines specified in paragraphs 1-4, or in the event of a dispute arising out
20 of or relating to this Agreement, or in the event that either party believes that the other
21 party has failed to comply with any term or condition of this Agreement, the party seeking
22 the modification, raising the dispute, or seeking enforcement shall provide the other party
23 with notice of the claim. The parties agree that they will meet and confer (either
24 telephonically or in person) at the earliest possible time in a good-faith effort to resolve the
25 claim before seeking relief from the Court. If the parties are unable to resolve the claim
26 themselves, either party may seek relief from the Court.

27 6. In the event that the Service fails to meet a deadline specified in paragraphs 1-3 and
28 has not sought to modify it, Plaintiffs' first remedy shall be a motion to enforce the terms

1 of this Agreement, after following the dispute resolution procedures described above. This
2 Agreement shall not, in the first instance, be enforceable through a proceeding for contempt
3 of court.

4 7. The Court retains jurisdiction to enforce the terms of the Agreement and to decide
5 any applications for attorney's fees and costs.

6 8. All pending motions are DENIED AS MOOT.

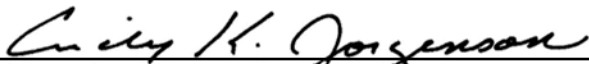
7 9. The Clerk of Court is directed to close this case.

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9 Dated this 31st day of July, 2020.

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Honorable Cindy K. Jorgenson
United States District Judge

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