

FOOD & WATER WATCH, *et al.*,  
Petitioners,  
v.  
U.S. ENVIRONMENTAL  
PROTECTION AGENCY,  
Respondent.

Petitioners Food & Water Watch, *et al.*, and Respondent United States Environmental Protection Agency (“EPA”) (collectively, “the Parties”), jointly submit this Stipulation regarding the claims pending before the Court.

Pursuant to these settlement negotiations, the Parties hereby stipulate and agree to the following:

1. Respondent EPA shall respond to the Administrative Petition by August 15, 2023.
2. The Parties agree to file a Joint Status Report summarizing the status of the case and proposing any further proceedings by August 22, 2023. The Parties agree that this case should remain in abeyance through and including August 22, 2023.
3. If EPA responds to the Administrative Petition by August 15, 2023, Petitioners shall file a motion to withdraw the Mandamus Petition by August 29, 2023.
4. The parties agree that any judicial challenge to EPA's response to the Administrative Petition must be brought in a new action.
5. Nothing in the terms of this Stipulation shall be construed to limit or modify the discretion accorded EPA by the Clean Water Act or general principles of administrative law, nor shall it in any way be deemed to limit EPA's discretion in determining the appropriate response to the Administrative Petition.
6. Except as provided in this Stipulation, none of the parties hereto waives or relinquishes any legal rights, claims, or defenses it may have. Nothing in this Stipulation shall be construed as an admission of any issue of fact or law nor as a waiver or limitation regarding any claim or defense, on any grounds, related to any final action EPA may take with respect to the Administrative Petition.

7. EPA's commitment in this Stipulation to respond to the Administrative Petition is subject to the availability of appropriated funds applicable for such purpose. No provision of this Stipulation shall be interpreted as or constitute a commitment or requirement that EPA obligate or pay funds in contravention of the Anti-Deficiency Act, 31 U.S.C. § 1341, or any other provision of law.

8. Petitioners have submitted to EPA an informal demand for attorneys' fees and costs pursuant to the Equal Access to Justice Act ("EAJA"). The Parties are attempting to negotiate a resolution to Petitioners' claim as to the amount of fees due. Petitioners reserve their right to pursue a claim for EAJA attorneys' fees and costs if the Parties do not reach a settlement. EPA reserves its defenses to such a claim.

Dated: March 30, 2023

Respectfully submitted,

/s/ Emily Miller

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