

1 JOSEPH W. COTCHETT  
(36324; jcotchett@cpmlegal.com)  
2 PHILIP L. GREGORY  
(95217; pgregory@cpmlegal.com)  
3 PAUL N. MCCLOSKEY  
(24541; pmccloskey@cpmlegal.com)  
4 **COTCHETT, PITRE & McCARTHY**  
840 Malcolm Road, Suite 200  
5 Burlingame, CA 94010  
Telephone: (650) 697-6000  
6 Facsimile: (650) 697-0577

7 SHARON E. DUGGAN  
(105108; foxsduggan@aol.com)  
8 **ATTORNEY AT LAW**  
370 Grand Avenue, Suite 5  
9 Oakland, CA 94610  
Telephone: 510-271-0825  
10 Facsimile: 510-271-0829

STUART GROSS  
(251019; sgross@gross-law.com)  
**GROSS LAW**  
The Embarcadero  
Pier 9, Suite 100  
San Francisco, CA 94111  
Telephone: 415-671-4628  
Facsimile: 415-480-6688

11 KEVIN P. BUNDY  
(231686; kbundy@biologicaldiversity.org)  
12 **CENTER FOR BIOLOGICAL**  
13 **DIVERSITY**  
351 California Street, Suite 600  
14 San Francisco, CA 94104  
Telephone: 415-436-9682 x313  
15 Facsimile: 415-436-9683

16 *Attorney for Petitioners and Plaintiffs*

17 UNITED STATES DISTRICT COURT  
18 NORTHERN DISTRICT OF CALIFORNIA  
19

20 BESS BAIR; et al.

21 Plaintiffs,

22 v.

23 STATE OF CALIFORNIA DEPARTMENT  
OF TRANSPORTATION, CINDY McKIM,  
24 in her official capacity as Director of the  
State of California Department of  
25 Transportation,

26 Defendants.

**Case No.3:10-CV-04360 WHA**

STIPULATION CONCERNING  
IMPLEMENTATION OF RICHARDSON  
GROVE OPERATIONAL IMPROVEMENT  
PROJECT; [PROPOSED] ORDER

27 THE PARTIES, Plaintiffs Bess Bair et al ("Plaintiffs"), and Defendants State of  
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1 California Department of Transportation ("Defendants" or "Caltrans") by and through their  
 2 respective counsel, stipulate as follows:

3 1. WHEREAS Plaintiffs filed a state court action challenging the Defendants'  
 4 approval of the Richardson Grove Operational Improvement Project ("Project") and failure to  
 5 comply with state environmental laws in the San Francisco Superior Court on June 17, 2010,  
 6 *Lotus et al. v. State of California Department of Transportation, et al.*, which was subsequently  
 7 transferred to the state Superior Court of Humboldt County and assigned Case No CV110002  
 8 ("State Action");

9 2. WHEREAS Plaintiffs filed this federal action challenging the Defendants'  
 10 approval of the Project and failure to comply with federal environmental and other laws in the  
 11 Northern District of California on September 27, 2010, *Bair et al. v. State of California*  
 12 *Department of Transportation, et al.*, assigned Case No CV 10-4360 WHA ("Federal Action");

13 3. WHEREAS both the State Action and Federal Action seek injunctive relief;

14 4. WHEREAS the Parties have conducted settlement discussions in the State Action,  
 15 have agreed to Alternative Dispute Resolution with a Federal Magistrate Judge in the Federal  
 16 Action, and are scheduled in the Federal Action for a Settlement Conference with Magistrate  
 17 Judge Elizabeth D. Laporte on July 8, 2011; and

18 5. WHEREAS the Parties desire resolution of both the State Action and the Federal  
 19 Action, whether by settlement or by determination of the merits,

20 NOW THEREFORE THE PARTIES AGREE AS FOLLOWS:

21 6. Federal Defendants agree to the following limits on Project implementation:

22 a. No advertising or otherwise soliciting bids for Project construction, vegetation  
 23 removal, or any project activity that will disturb or impact the physical  
 24 environment until after July 1, 2011;

25 b. No installation of Project construction facilities will occur until at least 30 days  
 26 after Project bids are awarded;

27 c. No Project construction will commence until 30 days after all Project bids are  
 28 awarded; and

d. No Project vegetation removal will occur until after commencement of Project construction, which shall not occur until 30 days after all Project bids are awarded.

7. Federal Defendants agree that no judicial proceedings for condemnation of land will occur for the Project.

8. Federal Defendants further agree to give Plaintiffs a minimum of 40 days advance written notice prior to taking any of the Project implementation actions specified in Paragraph 6 of this Stipulation, above.

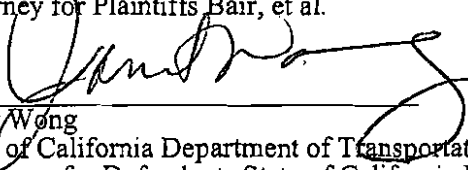
9. The Parties intend that the terms of this Stipulation and Order shall govern the State Action as well as this Federal Action, and the Parties agree to execute the necessary documents to obtain an order in the State Action approving the same terms as set forth herein.

10. This Stipulation may be signed in counterparts and facsimile signatures are deemed originals.

Dated: April <sup>12</sup> \_\_, 2011

  
Philip L. Gregory  
Cotchett Pitre & McCarthy  
Attorney for Plaintiffs Bair, et al.

Dated: April <sup>12</sup> \_\_, 2011

  
Janet Wong  
State of California Department of Transportation  
Attorneys for Defendants State of California Department of Transportation, et al.

## ORDER

THE PARTIES HAVING STIPULATED, IT IS ORDERED:

1. Federal Defendants will not:
  - a. advertise or otherwise solicit bids for Project construction, vegetation removal, or any project activity that will disturb or impact the physical environment until after July 1, 2011;
  - b. allow installation of Project construction facilities to occur until at least 30 days after Project bids are awarded;

1 c. allow Project construction to commence until 30 days after all Project bids are  
2 awarded; and

3 d. allow Project vegetation removal to occur until after commencement of Project  
4 construction.

5 2. Federal Defendants will not initiate judicial proceedings for condemnation of land  
6 for the Project.

7 3. Federal Defendants are required to give Plaintiffs a minimum of 40 days advance  
8 notice prior to taking any of the Project implementation actions specified in Paragraph 1 of this  
9 Order, above.

10  
11 Dated: April \_\_, 2011

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12 Hon. William H. Alsup  
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