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**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

CENTER FOR BIOLOGICAL DIVERSITY,

Plaintiff,

v.

HAALAND, ET AL,

Defendants,

and

IONEER USA CORPORATION

Defendant-Intervenor.

Case No. 2:20-cv-01812-JCM-NJK

**STIPULATED REQUEST FOR  
REVISED REMEDY ORDER**

1 This Stipulated Request for a Revised Remedy Order is entered into by and between the  
2 Plaintiff Center for Biological Diversity (“Plaintiff”); Federal Defendants Debra Haaland, in her  
3 official capacity as Secretary of the United States Department of the Interior; Martha Williams,  
4 in her official capacity as Principal Deputy Director of the United States Fish and Wildlife  
5 Service (“FWS”); and FWS; and Defendant-Intervenor Ioneer USA Corporation. Plaintiff,  
6 Federal Defendants, and Defendant-Intervenor (collectively, the “parties”) have reached  
7 agreement and respectfully ask the Court to enter the attached proposed revised remedy order  
8 (“Remedy Order”). In support of their request, the parties state the following:

10 1. On April 21, 2021, the Court granted summary judgment for Plaintiff on the third  
11 claim of its Amended Complaint, ECF No. 11, and ordered FWS to “submit a proposed listing  
12 rule and proposed critical habitat rule for the [Tiehm’s buckwheat], within 30 days of this order,  
13 for publication in the Federal Register.” ECF No. 42 at 16 (“April 21 Order”). The Court entered  
14 judgment that same day. ECF No. 43.

16 2. On April 28, 2021, Defendants filed an Emergency Motion to Amend or Alter the  
17 Judgment (“59(e) Motion”) on the grounds that the Court exceeded its remedial authority by  
18 ordering FWS to complete a proposed listing rule and proposed critical habitat determination by  
19 May 21, 2021, rather than a 12-month finding. ECF No. 44. Defendants filed a motion for stay  
20 of judgment and order pending resolution of Defendants’ motion, ECF No. 45, which the Court  
21 granted on April 30, 2021. ECF No. 47. Plaintiff filed its opposition to the 59(e) Motion on May  
22 6, 2021, arguing in support of the Court’s April 21 Order. ECF No. 49. Defendants filed a Reply  
23 in Support of Defendants’ 59(e) Motion on May 9, 2021, replying to Plaintiff’s arguments and  
24 including a Declaration. ECF No. 50. On May 9, 2021, the parties also filed a Joint Motion for  
25 Extension of Time for Court’s Ruling, requesting an additional week to work towards a  
26 stipulation that would remove the need for the Court to rule on the 59(e) Motion. ECF No. 51.

1           3. The parties have reached agreement on a revised remedy order that would avoid the  
2 need for the Court to resolve their dispute and request that the Court enter the proposed Remedy  
3 Order for the Court's grant of summary judgment for Plaintiff's third claim of its Amended  
4 Complaint.

5           4. The proposed Remedy Order requires that Federal Defendants shall submit to the  
6 Federal Register no later than May 31, 2021, a 12-month finding pursuant to 16 U.S.C §  
7 1533(b)(3)(B) that listing the Tiehm's buckwheat is either "warranted" or "not warranted." *See*  
8 Remedy Order Term A.

9           5. The proposed Remedy Order requires that, if FWS makes a "warranted" 12-month  
10 finding, Federal Defendants shall submit to the Federal Register no later than September 30,  
11 2021, a proposed listing rule pursuant to 16 U.S.C. § (b)(5)(A)(i). *See* Remedy Order Term B.

12           6. The proposed Remedy Order requires that, if FWS makes a "warranted" 12-month  
13 finding, and designating critical habitat is prudent and determinable, Defendants shall submit to  
14 the Federal Register no later than January 31, 2022, a proposed critical habitat determination  
15 pursuant to 16 U.S.C. § 1533(a)(3)(A)(i). If, however, the Office of Management and Budget  
16 determines the proposed critical habitat determination is a "significant regulatory action" under  
17 Executive Order 12,866, Federal Defendants shall have until May 2, 2022, to submit the  
18 proposed critical habitat determination to the Federal Register. *See* Remedy Order Term C.

19           7. Therefore, the parties respectfully request that the Court enter the proposed Remedy  
20 Order related to the remedy for the Court's grant of summary judgment for Claim 3 of Plaintiff's  
21 Amended Complaint relating to the Tiehm's buckwheat. The parties are deviating from LR IA 6-  
22 2 because of the special circumstances of the requested remedy, and thus are providing the  
23 proposed Remedy Order as an attachment to this stipulation.  
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1 Dated: May 17, 2021

2 Respectfully submitted,

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21 **CERTIFICATE OF SERVICE**

22 I hereby certify that on May 17, 2021, I electronically filed and served the foregoing with  
23 the Clerk of the Court for the United States District Court for the District of Nevada using the  
24 CM/ECF system.

25 */s/Anthony D. Ortiz*  
26 *Attorney for Federal Defendants*