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25 IN THE UNITED STATES DISTRICT COURT
26 FOR THE EASTERN DISTRICT OF CALIFORNIA

27 PACIFIC COAST FEDERATION OF) Case No. 1:06-CV-0245 OWW GSA
28 FISHERMEN’S ASSOCIATIONS/INSTITUTE)
FOR FISHERIES RESOURCES, *et al.*,)
Plaintiffs,) STIPULATION TO SETTLE ATTORNEYS’
v.) FEES AND COSTS AND ORDER
CARLOS M. GUTIERREZ, in his official)
capacity as Secretary of Commerce *et al.*,)
Defendants.)
SAN LUIS & DELTA-MENDOTA WATER)
AUTHORITY, *et al.*,)
Defendant-Intervenors.)

WHEREAS the Court entered Final Judgment in this case on September 9, 2009 (Doc. 458);
and

1 WHEREAS, on September 18, 2009, pursuant to a stipulation by the parties, the Court
2 entered an Order extending the deadline for Plaintiffs to file a motion for attorneys' fees and costs to
3 December 9, 2009 (Doc. No. 461); and

4 WHEREAS, on December 8, 2009, Plaintiffs filed a Motion for Award of Attorney's Fees
5 and Costs against Federal Defendants (Doc. 465); and

6 WHEREAS, counsel for Plaintiffs and Federal Defendants ("the Parties") have subsequently
7 engaged in extensive, good faith and confidential settlement negotiations concerning Plaintiffs'
8 claims for attorneys' fees and costs; and

9 WHEREAS, the Parties have reached a settlement of Plaintiffs' claims for attorneys' fees and
10 costs;

11 NOW THEREFORE, in the interests of judicial economy and to avoid litigating the pending
12 motion for attorneys' fees and costs, Plaintiffs and Federal Defendants, for good and valuable
13 consideration, the adequacy of which is hereby acknowledged, hereby stipulate and agree as follows:

14 1. Federal Defendants agree to settle Plaintiffs' claims for costs and attorneys' fees for
15 the amount of \$2,193,500;

16 2. Plaintiffs agree to accept payment of \$2,193,500 in full satisfaction of any and all
17 claims for attorneys' fees and costs of litigation to which they allege they are entitled through the
18 date of execution of this Stipulation, including any claims for fees related to the preparation of
19 Plaintiffs' fee application or this Stipulation. Plaintiffs release Federal Defendants from any and all
20 claims regarding attorneys' fees and costs in this case, through the date of execution of this
21 Stipulation.

22 3. Payment shall be made to Earthjustice, counsel for Plaintiffs, using an electronic fund
23 transfer into the Earthjustice Attorney Client Trust Account Fund, The Mechanics Bank, Richmond
24 CA. Plaintiffs' counsel shall provide the appropriate account number to counsel for the Federal
25 Defendants.

26 4. Federal Defendants agree to submit all necessary paperwork to the Department of the
27 Treasury's Judgment Fund Office, pursuant to 16 U.S.C. § 1540(g)(4), within ten (10) business days
28 of receipt of the signed court order approving this Stipulation.

1 5. Any obligations of the United States to expend funds under this Stipulation are
2 subject to the availability of appropriations in accordance with the Anti-Deficiency Act, 31 U.S.C. §
3 1341. This Stipulation shall not be construed to require the United States to obligate or pay funds in
4 contravention of said Anti-Deficiency Act, 31 U.S.C. § 1341.

5 6. The undersigned representatives of the Parties certify that they are fully authorized by
6 the party or parties whom they represent to enter into the terms and conditions of this Stipulation and
7 to legally bind the Parties to it.

8 7. This Stipulation is executed solely for the purpose of compromising and settling
9 Plaintiffs' claims for attorneys' fees and costs. Nothing in this Stipulation shall constitute, or be
10 construed to constitute, a precedent in any other context. Nothing in this stipulation shall constitute,
11 or be construed to constitute, an admission of liability on the part of the Federal Defendants as to
12 Plaintiffs' claims for attorneys' fees and costs settled herein, or an admission on the part of Plaintiffs
13 that the settlement payment is sufficient consideration for Plaintiffs' claims for attorneys' fees and
14 costs. Nothing in this Stipulation shall constitute, or be construed to constitute, an admission of
15 liability or waiver of any defense on the part of the Federal Defendants as to Plaintiffs' claims in the
16 underlying action.

17 Accordingly, the parties respectfully request that this Court approve the Stipulation as stated
18 above.

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20 Respectfully submitted this 21st day of January, 2011.

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/s/ Michael R. Sherwood
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Attorneys for Plaintiffs

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/s/ Katherine S. Poole
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27 **ORDER**

28 Having considered the foregoing Stipulation, and good cause appearing in support thereof,
the foregoing Stipulation is HEREBY APPROVED. IT IS SO ORDERED.

IT IS SO ORDERED.

Dated: January 24, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE