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

**COALITION FOR A SUSTAINABLE
DELTA, BELRIDGE WATER STORAGE
DISTRICT, BERRENDA MESA WATER
DISTRICT, LOST HILLS WATER
DISTRICT, WHEELER RIDGE-MARICOPA
WATER STORAGE DISTRICT, and DEE
DILLON,**

Plaintiffs,

vs.

**JOHN McCAMMAN, DIRECTOR,
CALIFORNIA DEPARTMENT OF FISH
AND GAME,**

Defendant,

CENTRAL DELTA WATER AGENCY, et al.,

Defendant-Intervenors,

**CALIFORNIA SPORTFISHING
PROTECTION ALLIANCE, et al.,**

Defendant-Intervenors.

Case No.: 1:08-CV-00397-OWW-SKO
(Related to Case Nos. 1:05-CV-022-GSA and
1:06-CV-00245-OWW-GSA)

**ORDER RE PLAINTIFFS' MOTION FOR
SUMMARY JUDGMENT (DOC. 114)**

1 The Motion of plaintiffs Coalition for A Sustainable Delta, et al. (plaintiffs) for Summary
2 Judgment re Liability (Winter- and Spring-Run Salmon) and Standing came on for hearing on
3 June 23, 2010 at 1:00 p.m. Plaintiffs were represented by Paul Weiland, Henry Weinstock and
4 Ben Rubin, Nossaman LLP. Defendant John McCamman, Director, California Department of
5 Fish and Game (the State Defendant) was represented by Deputy Attorneys General Daniel Fuchs
6 and Clifford Lee, California Attorney General's Office. Intervenor Central Delta Water Agency
7 et al., were represented by Daniel McDaniel, Nomellini, Grilli & McDaniel. Intervenor
8 California Sportfishing Protection Alliance, et al., were represented by Michael Jackson.

9 Plaintiffs moved for summary judgment/adjudication that: (1) Plaintiff Dee Dillon has
10 standing; (2) the State Defendant's enforcement of the California Fish and Game Commission's
11 striped bass sportfishing regulations (14 Cal. Code Reg., § 5.75.) violates Section 9 of the
12 Endangered Species Act (16 U.S.C. §§ 1531 – 1599); and (3) the Central Valley Project
13 Improvement Act (CVPIA), Pub. L. 102-575, 106 Stat 4600 (1992), does not provide a legitimate
14 affirmative defense in this case.

15 After oral argument, and review and consideration of all the pleadings and papers submitted
16 in support of and opposition to said Motion, and in accordance with the Memorandum Decision
17 re Plaintiffs' Motion for Summary Judgment (Doc. 114) dated July 21, 2010 (Doc. 168),

18 THE COURT HEREBY ORDERS as follows:

19 Plaintiffs' motion for summary adjudication as to the injury-in-fact prong of Article III
20 standing is GRANTED, but as to all other aspects of standing, plaintiffs' motion is DENIED.

21 Plaintiffs' motion for summary judgment as to Section 9 liability is DENIED.

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Plaintiffs' motion for summary judgment as to the availability of an affirmative defense pursuant to the CVPIA is DENIED.

IT IS SO ORDERED.

Dated: July 27, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE