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10 UNITED STATES DISTRICT COURT
 11 EASTERN DISTRICT OF CALIFORNIA
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13 THE DELTA SMELT CASES)
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 14)
 15 SAN LUIS & DELTA-MENDOTA WATER)
 AUTHORITY, et al. v. SALAZAR, et al.)
 16 _____)
 17 STATE WATER CONTRACTORS v.)
 18 SALAZAR, et al.)
 _____)
 19)
 20 COALITION FOR A SUSTAINABLE)
 DELTA, et al. v. UNITED STATES FISH)
 21 AND WILDLIFE SERVICE, et al.)
 _____)
 22)
 23 METROPOLITAN WATER DISTRICT v.)
 UNITED STATES FISH AND WILDLIFE)
 24 SERVICE, et al.)
 _____)
 25)
 26 STEWART & JASPER ORCHARDS, et al. v.)
 UNITED STATES FISH AND WILDLIFE)
 27 SERVICE, et al.)
 _____)
 28)

Case No.: 1:09-cv-407 OWW DLB

**PARTIAL
 FINAL JUDGMENT**

PARTIAL JUDGMENT

Case No. 1:09-cv-407 OWW DLB

1 Claim Six of Plaintiffs Stewart & Jasper Orchards, *et al.*'s (Plaintiffs) Complaint for
2 Declaratory and Injunctive Relief alleged that application of Sections 7(a)(2) and 9 of the
3 Endangered Species Act to the delta smelt is an invalid exercise of Congress' Commerce Clause
4 authority (Commerce Clause claim). *Stewart & Jasper Orchards, et al. v. United States Fish*
5 *and Wildlife Service, et al.*, 1:09-cv-892 OWWB DLB (Doc. 1). *Stewart & Jasper Orchards*
6 was consolidated with four other, related matters on June 24, 2009, under case No. 1:09-cv-407
7 OWW DLB, *The Delta Smelt Consolidated Cases* (Doc. 120).

8 In accordance with: (1) the Court's November 10, 2009, order (*The Delta Smelt*
9 *Consolidated Cases*, Doc. 339) denying Plaintiffs' motion for summary judgment on their
10 Commerce Clause claim and granting the United States Fish and Wildlife Service *et al.*'s
11 (Federal Defendants) and Natural Resources Defense Council *et al.*'s cross-motions for
12 summary judgment on Plaintiffs' Commerce Clause claim, and (2) the Court's December 10,
13 2009, memorandum decision and order (*The Delta Smelt Consolidated Cases*, Doc. 460)
14 granting Plaintiffs' motion for entry of final judgment on their Commerce Clause claim
15 pursuant to Federal Rule of Civil Procedure 54(b),

16 IT IS HEREBY ORDERED that (1) final judgment is entered in favor of Federal
17 Defendants and Defendant Intervenors on Plaintiffs' Commerce Clause claim, and (2)
18 Plaintiffs' Commerce Clause claim is CERTIFIED to the Court of Appeals for the Ninth
19 Circuit, as there is no just reason for delay.

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23 IT IS SO ORDERED.

24 Dated: December 29, 2009

/s/ OLIVER W. WANGER
United States Senior District Judge

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PARTIAL JUDGMENT

Case No. 1:09-cv-407 OWW DLB