

1 Submitted by:
2 IGNACIA S. MORENO, Assistant Attorney General
3 United States Department of Justice
4 Environment & Natural Resources Division
5 SETH M. BARSKY, Chief
6 S. JAY GOVINDAN, Assistant Chief
7 ROBERT P. WILLIAMS, Trial Attorney
8 ETHAN CARSON EDDY, Trial Attorney
9 Wildlife and Marine Resources Section
10 Benjamin Franklin Station, P.O. Box 7369
11 Washington, D.C. 20044-7369
12 Telephone: (202) 305-0202 / Facsimile: (202) 305-0275

13 *Attorneys for Federal Defendants*

14 UNITED STATES DISTRICT COURT
15 EASTERN DISTRICT OF CALIFORNIA

16 CASE NO. 1:09-cv-00407-OWW-DLB

17 THE DELTA SMELT
18 CONSOLIDATED CASES

19 **Scheduling Order Regarding Plaintiffs’
20 Motion For Injunctive Relief**

21 On May 19, 2011, Plaintiffs filed a Case Management Statement laying out a proposed
22 briefing schedule for their upcoming motion to enjoin implementation of Action 4 of the
23 Reasonable and Prudent Alternative in the 2008 Delta Smelt Biological Opinion. *See* Docket
24 No. 886. On May 31, 2011, Federal Defendants and Defendant-Intervenors (“Defendant
25 Parties”) filed a Response that included an alternative proposed briefing schedule. *See* Docket
26 No. 890. The matter came on for consideration at a status conference held on June 1, 2011. All
27 parties were represented as indicated on the record. Having considered the parties’ written
28 proposals and the arguments of counsel, the Court ORDERS as follows:

1 Jurisdictional Briefing

- 2 • Plaintiffs’ motion to enjoin RPA Action 4 (without merits briefing), proposed order, and
3 brief setting forth the jurisdictional basis for Plaintiffs’ motion shall be due June 8, 2011.
4 Plaintiffs’ jurisdictional brief shall be no more than 10 pages.
- 5 • Defendant Parties’ responsive brief on jurisdictional issues shall be due June 15, 2011.
6 Defendant Parties’ jurisdictional brief shall be no more than 10 pages.
- 7 • Plaintiffs’ reply brief on jurisdictional issues shall be due at noon on June 17, 2011.
8 Plaintiffs’ reply brief shall be no more than 5 pages.
- 9 • A hearing on jurisdictional issues is set for June 20, 2011 at 2:00pm in Courtroom 3. The
10 Court authorizes any party to appear telephonically.

11 Merits Briefing

- 12 • Plaintiffs’ opening merits brief in support of their motion to enjoin RPA Action 4,
13 including all supporting declarations with the exception described below, shall be due on
14 June 16, 2011. Plaintiffs’ merits brief shall be no more than 25 pages.
- 15 • The supporting declaration of Plaintiffs’ witness who is unavailable until June 14, 2011
16 shall be due June 20, 2011.
- 17 • Defendants’ merits opposition brief shall be due July 1, 2011. Defendants’ merits brief
18 shall be no more than 25 pages.
- 19 • Plaintiffs’ merits reply brief shall be due July 15, 2011. Plaintiffs’ merits reply brief shall
20 be no more than 10 pages.
- 21 • An evidentiary hearing is set for July 26-29, 2011 commencing each day at 8:30am in
22 Courtroom 3.

23 Unless otherwise specified above, the Court’s standing order requiring all materials to be filed on
24 or before 4:30pm Pacific time on the date they are due applies. The page limits stated herein
25 apply to all Plaintiffs and the Plaintiff-Intervenor, collectively, and to the Defendants and
26 Defendant-Intervenors, collectively, except that any joinder filed in support of a primary brief
27 that does not raise additional argument shall not be included in the page limits. Should the Court
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1 determine in an Opinion or Order issued after this Order that it lacks jurisdiction over the merits
2 of Plaintiffs' motion to enjoin Action 4, any remaining briefing or hearing dates shall be vacated.

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5 IT IS SO ORDERED.

6 Dated: June 3, 2011

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE