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

CONSOLIDATED SALMONID CASES

1:09-CV-01053 OWW DLB

**SAN LUIS & DELTA-MENDOTA
WATER AUTHORITY, et al. v.
LOCKE, et al.**

**ORDER RE PLAINTIFFS' MOTION
FOR TEMPORARY RESTRAINING
ORDER**

**STOCKTON EAST WATER
DISTRICT, et al. v. NOAA, et
al.**

**STATE WATER CONTRACTORS v.
LOCKE, et al.**

**KERN COUNTY WATER AGENCY, et
al. v. UNITED STATES
DEPARTMENT OF COMMERCE, et
al.**

**OAKDALE IRRIGATION DISTRICT,
et al. v. UNITED STATES
DEPARTMENT OF COMMERCE, et
al.**

**METROPOLITAN WATER DISTRICT
OF CALIFORNIA v. NATIONAL
MARINE FISHERIES SERVICE, et
al.**

This matter came on for hearing on February 2, 2010.

Plaintiffs San Luis & Delta-Mendota Water Authority
("Authority") and Westlands Water District ("Westlands")
(collectively "San Luis Plaintiffs") were represented by

1 Kronick, Moskovitz, Tiedemann & Girard by Daniel J.
2 O'Hanlon, Esq., K. Eric Adair, Esq., and Hanspeter
3 Walter, Esq. and Diepenbrock Harrison by Eileen M.
4 Diepenbrock, Esq. and Jon D. Rubin, Esq. Federal
5 Defendants, including the Secretary of the United States
6 Department of Commerce, Gary F. Locke, the United States
7 Department of Commerce, National Oceanic and Atmospheric
8 Administration's ("NOAA") National Marine Fisheries
9 Service ("NMFS"), Acting Assistant Administrator James W.
10 Balsiger, Administrator for the Southwest Region Rodney
11 R. McInnis, the United States Department of the Interior,
12 United States Bureau of Reclamation ("Reclamation"),
13 Commissioner of Reclamation Michael L. Connor, and Donald
14 R. Glaser, as Director of Reclamation, Mid-Pacific Region
15 were represented by Bridget Kennedy McNeil, Trial
16 Attorney, Wildlife and Marine Section, and William J.
17 Shapiro, Trial Attorney, Natural Resources Section, U.S.
18 Department of Justice. Defendant-Intervenors California
19 Trout, Friends of the River, Northern California Council
20 of the Federation of Fishermen's Associations/Institute
21 for Fisheries Resources, Sacramento River Preservation
22 Trust, San Francisco Baykeeper, The Bay Institute, and
23 Winnemen Wintu Tribe were represented by Earthjustice,
24 Erin M. Tobin and Michael R. Sherwood. Defendant-

1 Intervenor Natural Resources Defense Council was
2 represented by Katherine S. Poole and Doug A. Obegi,
3 Natural Resources Defense Council.

4 The Court has fully considered the briefs and
5 evidence filed in support of the Motion for Temporary
6 Restraining Order filed by San Luis Plaintiffs, and the
7 oral arguments, testimony and documents admitted in
8 evidence. Accordingly, the Court now enters the
9 following order:
10

11 IT IS HEREBY ORDERED that the Motion for Temporary
12 Restraining Order is GRANTED. The Court further ORDERS
13 as follows:

14 1. The United States Department of the Interior and
15 its Bureau of Reclamation and the National Marine
16 Fisheries Service, and all those acting for, under or in
17 concert with them, shall be and are hereby restrained and
18 enjoined from implementing Action IV.2.3 of the 2009
19 Salmonid Biological Opinion RPA. This Temporary
20 Restraining Order shall initially remain in place through
21 February 19, 2010, subject to a renewal by Plaintiffs
22 upon an affirmative showing that neither the species nor
23 their critical habitat will be jeopardized by continued
24 injunction of RPA Action IV.2.3.
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2. Plaintiffs shall post a bond in the amount of \$5,000.00.

3. This Temporary Restraining Order is issued without prejudice to Defendants showing changed conditions that threaten jeopardy to the species and their critical habitat.

SO ORDERED
Dated: February 5, 2010

/s/ Oliver W. Wanger
Oliver W. Wanger
United States District Judge