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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

CONSOLIDATED SALMON CASES)	1:09-cv-1053 OWW DLB
)	1:09-cv-1090 OWW DLB
<u>SAN LUIS & DELTA-MENDOTA WATER</u>)	1:09-cv-1378 OWW DLB
AUTHORITY, et al. v. GARY F.)	1:09-cv-1520 OWW DLB
LOCKE, et al. (Case No. 1:09-cv-)	1:09-cv-2452 OWW DLB
1053))	1:09-cv-1625 OWW SMS
)	
<u>STOCKTON EAST WATER DISTRICT v.</u>)	TEMPORARY RESTRAINING ORDER
NOAA, et al. (Case No. 1:09-cv-)	
1090))	
)	
<u>STATE WATER CONTRACTORS v. GARY</u>)	
F. LOCKE, et al. (Case No. 1:09-)	
cv-1378))	
)	
<u>KERN COUNTY WATER AGENCY, et al.</u>)	
v. U.S. DEPARTMENT OF COMMERCE,)	
et al. (Case No. 1:09-cv-1520))	
)	
<u>OAKDALE IRRIGATION DISTRICT, et</u>)	
al. v. U.S. DEPARTMENT OF)	
COMMERCE, et al. (Case No. 1:09-)	
cv-2452))	
)	
<u>METROPOLITAN WATER DISTRICT OF</u>)	
SOUTHERN CALIFORNIA v. NMFS, et)	
al. (Case No. 1:09-cv-1625))	
)	

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 Kronkick, Moskovitz,

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

25 The Court has fully considered the briefs and evidence filed
26 in support of the Motion for Temporary Restraining Order filed by
27 San Luis Plaintiffs, and the oral arguments, testimony and
28 documents admitted in evidence. Accordingly, the Court now

1 enters the following order:

2 IT IS HEREBY ORDERED that the Motion for Temporary
3 Restraining Order is GRANTED. The Court further ORDERS as
4 follows:

5 1. The United States Department of the Interior and its
6 Bureau of Reclamation and the National Marine and Fisheries
7 Service, and all those acting for, under or in concert with them,
8 shall be and are hereby restrained and enjoined from implementing
9 Action IV.2.3 of the 2009 Salmonid Biological Opinion RPA. This
10 Temporary Restraining Order shall initially remain in place
11 through February 19, 2010, subject to a renewal by Plaintiffs
12 upon an affirmative showing that neither the species nor their
13 critical habitat will be jeopardized by continued injunction of
14 RPA Action IV.2.3.

15 2. Plaintiffs shall post a bond in the amount of
16 \$5,000.00.

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

20 4. This Temporary Restraining Order has been mooted by the
21 Bureau's intended actions in the Consolidated Delta Smelt Cases
22 and the announced implementation of RPA Action 2.

23

24 IT IS SO ORDERED.

25 Dated: February 12, 2010

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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