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13 UNITED STATES DISTRICT COURT

14 EASTERN DISTRICT OF CALIFORNIA

15 SAN LUIS & DELTA-MENDOTA)	CASE NO. 1:09-CV-1053-OWW-DLB
16 WATER AUTHORITY; WESTLANDS)	
DISTRICT,)	
)	
17 Plaintiffs,)	STIPULATION TO ADD CASE TO
)	FEDERAL DEFENDANTS' MOTION
18 v.)	TO CONSOLIDATE
)	
19 LOCKE, <i>et al.</i> ,)	Hearing: August 31, 2009
)	Time: 10:00 A.M.
20 Defendants.)	Ctrm: 3
)	Judge: Hon. Oliver W. Wanger

21
 22 On July 29, 2009, Federal Defendants moved to consolidate the above-captioned case
 23 and Stockton East Water District v. NOAA, No. 1:09-CV-1090-OWW-DLB. See Docket No.
 24 26. Plaintiffs filed a response on August 14, 2009. See Docket No. 29.

25 On August 6, 2009, a new case was filed challenging the NMFS 2009 biological opinion,
 26 the same agency action at issue in the above-captioned case and the Stockton East cases. See

27 Stipulation
 28 NO. 1:09-CV-1053-OWW-DLB

State Water Contractors v. Locke, et al., No. 1:09-CV-1378-OWW-SMS. On August 12, 2009, the State Water Contractors filed a Notice of Related Case, stating that their challenge is related to the above-captioned case because the challenges “both involve the same parties (Defendants); both cases are based on the same and similar claims (Defendants’ violations of the ESA and other laws in preparing, approving and enforcing the 2009 OCAP BiOp); both cases involve the same transaction or event (Defendants’ preparation, approval and enforcement of the 2009 OCAP BiOp); and both cases involve similar questions of fact and law such that their assignment to the same Judge is likely to effect a substantial savings of judicial effort.” See State Water Contractors v. Locke, No. 1:09-CV-1378, Docket No. 11-2 at 8. The same arguments are raised with respect to the relationship between the State Water Contractors case and the Stockton East case. Id. at 9.

Federal Defendants agree with the statements in the State Water Contractors’ Notice of Related Case and assert that this challenge meets the consolidation factors outlined in our Motion to Consolidate. As with consolidation of the cases named in our Motion, the Plaintiffs in all three cases “agree that some consolidation of the matters is desirable.” See Docket No. 29 at 1. *[Placeholder for pls’ desired reservation language]*.

Accordingly, the parties in all three matters hereby stipulate that the State Water Contractors case be added to Federal Defendants’ Motion to Consolidate, set for hearing on August 31, 2009, and that the State Water Contractors case management conference be advanced to the date and time set for the case management conferences in the San Luis and Stockton East cases (September 10, 2009, 8:15 A.M.).

IT IS SO ORDERED

Dated: August 28, 2009

/s/ Oliver W. Wanger

 The Hon. Oliver W. Wanger

Respectfully submitted this 20th day of August, 2009.

/s/Eileen Diepenbrock (per auth. to Bridget McNeil)
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Stipulation

NO. 1:09-CV-1053-OWW-DLB

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CERTIFICATE OF SERVICE

I hereby certify that on the 20th day of August, 2009, I filed a true and correct copy of the foregoing Stipulation to Add Case to Federal Defendants' Motion to Consolidate with the Court' CM/ECF system, which will generate a Notice of Filing on the following:

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