

1 COUNSEL IDENTIFICATION AT END  
2  
3  
4  
5  
6  
7

8 UNITED STATES DISTRICT COURT  
9 EASTERN DISTRICT OF CALIFORNIA

10 CONSOLIDATED SALMON CASES

11 SAN LUIS & DELTA-MENDOTA WATER  
12 AUTHORITY, et al. v. GARY F. LOCKE,  
13 et al. (Case No. 1:09-cv-1053)

14 STOCKTON EAST WATER DISTRICT v.  
15 NOAA, et al. (Case No. 1:09-cv-1090)

16 STATE WATER CONTRACTORS v.  
17 GARY F. LOCKE, et al.  
18 (Case No. 1:09-cv-1378)

19 KERN COUNTY WATER AGENCY, et al.  
20 v. U.S. DEPARTMENT OF COMMERCE,  
21 et al. (Case No. 1:09-cv-1520)

22 OAKDALE IRRIGATION DISTRICT, et al.  
23 v. U.S. DEPARTMENT OF COMMERCE,  
24 et al. (Case No. 1:09-cv-2452)

25 METROPOLITAN WATER DISTRICT OF  
26 SOUTHERN CALIFORNIA v. NMFS, et al.  
27 (Case No. 1:09-cv-1625)

28 CASE NOS.

1:09-cv-1053-OWW-DLB  
1:09-cv-1090-OWW-DLB  
1:09-cv-1378-OWW-DLB  
1:09-cv-1520-OWW-DLB  
1:09-cv-2452-OWW-DLB  
1:09-cv-1625-OWW-SMS

**STIPULATION AND ORDER  
AMENDING SUMMARY JUDGMENT  
SCHEDULE**

Judge: Honorable Oliver W. Wanger

1           WHEREAS the Hearing in the Consolidated Delta Smelt Cases on Plaintiffs' Motion for  
2 Summary Judgment is continued to July 8 and 9, 2010, all parties in this action, by and through  
3 their respective counsel of record, as identified below, hereby stipulate to amend the briefing and  
4 hearing schedule on the cross-motions for summary judgment as follows:

5           1.       Plaintiffs and Plaintiff-in-Intervention California Department of Water Resources  
6 ("DWR") shall file any motions regarding party experts by **June 4, 2010**.

7           2.       Federal Defendants and Defendant Intervenors shall file any opposition to motions  
8 regarding party experts by **June 18, 2010**.

9           3.       Plaintiffs and DWR shall file any reply to motions regarding party experts by **June**  
10 **25, 2010**.

11           4.       The hearing on the parties' motion for party experts shall be held on **July 8, 2010**,  
12 commencing at 9:00 a.m.

13           5.       Plaintiffs and DWR shall file their motions for summary judgment by **August 6,**  
14 **2010**.

15           6.       Federal Defendants and Defendant Intervenors shall file any opposition to motions  
16 for summary judgment and any cross-motions for summary judgment by **September 13, 2010**.

17           7.       Plaintiffs and DWR shall file any reply to motions for summary judgment and  
18 oppositions to cross-motions for summary judgment by **October 4, 2010**.

19           8.       Federal Defendants and Defendant Intervenors shall file replies to cross-motions  
20 for summary judgment by **October 25, 2010**.

21           9.       The hearing on the parties' motions for summary judgment is continued to  
22 **November 18-19, 2010**, commencing at 9:00 a.m. Extended time has been reserved on the  
23 Court's calendar for the hearing.

24           Federal Defendants and Defendant Intervenors do not oppose, in principal, the extensions  
25 of the briefing and hearing schedule set forth above, but are concerned that the proposed  
26 adjustments could delay resolution of the merits to the point that a second round of preliminary  
27 injunctive relief may be sought. In the event such motions are filed, Federal Defendants and  
28 Defendant Intervenors would oppose the appropriateness of those motions based on scheduling

{00237286; 1}

1 concerns and reserve the right to seek relief from the briefing schedule presented in this  
2 stipulation. Plaintiffs and DWR acknowledge this reservation, but do not agree that any such  
3 opposition or relief from the above briefing schedule would be necessary or appropriate.

4 **SO STIPULATED**

5 Dated: June 3, 2010

DIEPENBROCK HARRISON

A Professional Corporation  
KRONICK, MOSKOVITZ, TIEDEMANN &  
GIRARD, A Law Corporation

8 By: /s/ [Eileen M. Diepenbrock]  
9 EILEEN M. DIEPENBROCK  
DANIEL J. O'HANLON

10 Attorneys for Plaintiffs  
11 SAN LUIS & DELTA-MENDOTA WATER  
AUTHORITY; WESTLANDS WATER DISTRICT

12 Dated: June 3, 2010

WESTLANDS WATER DISTRICT

14 By: /s/ [Thomas W. Birmingham] (as authorized)  
15 THOMAS W. BIRMINHAM  
16 Attorneys for Plaintiff  
WESTLANDS WATER DISTRICT

17 Dated: June 3, 2010

EDMUND G. BROWN JR., ATTORNEY  
GENERAL OF THE STATE OF CALIFORNIA

19 By: /s/ [Cecilia L. Dennis] (as authorized)  
20 CLIFFORD T. LEE  
21 CECILIA L. DENNIS  
22 ALLISON GOLDSMITH  
23 Deputies Attorney General  
Attorneys for Plaintiff in Intervention  
CALIFORNIA DEPARTMENT OF WATER  
RESOURCES

24 Dated: June 3, 2010

BEST BEST & KRIEGER, LLP

26 By: /s/ [Steven M. Anderson] (as authorized)  
27 GREGORY K. WILKINGSON  
28 STEVEN M. ANDERSON  
Attorneys for Plaintiff STATE WATER CONTRACTORS

1 Dated: June 3, 2010

O'LAUGHLIN & PARIS, LLP

3 By: /s/ [William C. Paris] (as authorized)  
4 WILLIAM C. PARIS

5 Attorneys for Plaintiff OAKDALE IRRIGATION  
6 DISTRICT and SOUTH SAN JOAQUIN IRRIGATION  
7 DISTRICT

8 Dated: June 3, 2010

MORRISON & FOERSTER, LLP

9 By: /s/ [Christopher J. Carr] (as authorized)  
10 CHRISTOPHER J. CARR  
11 WILLIAM M. SLOAN

12 Attorneys for Plaintiff METROPOLITAN WATER  
13 DISTRICT OF SOUTHERN CALIFORNIA

14 Dated: June 3, 2010

15 HERUM CRABTREE

16 By: /s/ [Jennifer Spaletta] (as authorized)  
17 JENNIFER SPALETTA

18 Attorneys for Plaintiff STOCKTON EAST WATER  
19 DISTRICT

20 Dated: June 3, 2010

21 NOSSAMAN LLP

22 By: /s/ [Paul S. Weiland] (as authorized)  
23 PAUL S. WEILAND  
24 AUDREY HUANG

25 Attorneys for Plaintiffs' KERN COUNTY WATER  
26 AGENCY and COALITION FOR A SUSTAINABLE  
27 DELTA

1 Dated: June 3, 2010

BRIDGET KENNEDY McNEIL, Trial Attorney  
BRADLEY H. OLIPHANT, Trial Attorney  
WILLIAM SHAPIRO, Trial Attorney

3 By: /s/ [Bridget Kennedy McNeil] (as authorized)  
4 BRIDGET KENNEDY McNEIL, Trial Attorney  
(CO State Bar 034299)  
5 U.S. Department of Justice  
6 Environmental and Natural Resources Division  
Wildlife & Marine Resources Section  
1961 Stout St., 8<sup>th</sup> Floor, Denver, CO 80294  
7 Ph: 303-844-1484/Fax: 303-844-1350  
bridget.mcneil@usdoj.gov

8 BRADLEY H. OLIPHANT  
9 (CA Bar No. 216468 )  
U.S. Department of Justice  
10 Environment & Natural Resources Division  
Wildlife & Marine Resources Section  
11 P.O. Box 7369  
Washington D.C. 20044-7369  
12 Ph: 202.305.0500 / Fax: 202.305.0275  
[bradley.oliphant@usdoj.gov](mailto:bradley.oliphant@usdoj.gov)

14 WILLIAM J. SHAPIRO, Trial Attorney  
(CO State Bar 030929)  
15 U.S. Department of Justice  
16 Environmental and Natural Resources Division  
Natural Resources Section  
17 501 I Street, Suite 9-700  
Sacramento, CA 95814  
Ph: 916-930-2207/ Fax: 916-930-2010  
[william.shapiro@usdoj.gov](mailto:william.shapiro@usdoj.gov)

19 Attorneys for the Federal Defendants

20 Dated: June 3, 2010

21 EARTHJUSTICE

22 By: /s/ [Erin M. Tobin] (as authorized)  
MICHAEL R. SHERWOOD  
ERIN M. TOBIN

23 Attorneys for Defendant-Intervenors CALIFORNIA  
TROUT, FRIENDS OF THE RIVER, NATURAL  
24 RESOURCES DEFENSE COUNCIL, NORTHERN  
CALIFORNIA COUNCIL OF THE FEDERATION OF  
FLY FISHERS, PACIFIC COAST FEDERATION OF  
25 FISHERMEN'S ASSOCIATIONS/INSTITUTE FOR  
FISHERIES RESOURCES, SACRAMENTO RIVER  
PRESERVATION TRUST, SAN FRANCISCO  
26 BAYKEEPER, THE BAY INSTITUTE, WINNEMEM  
27 WINTU TRIBE

1 Dated: June 3, 2010

NATURAL RESOURCES DEFENSE COUNCIL

2 By: /s/ [Katherine S. Poole] (as authorized)

3 KATHERINE S. POOLE

4 DOUG OBEGI

Natural Resources Defense Council

5 Attorneys for Defendant-Intervenor NRDC

6

7

8

9 IT IS SO ORDERED.

10 Dated: June 7, 2010

/s/ Oliver W. Wanger

11 UNITED STATES DISTRICT JUDGE

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28