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12 Attorneys for the Federal Defendants

13 UNITED STATES DISTRICT COURT  
 14 EASTERN DISTRICT OF CALIFORNIA  
 15

16 STATE WATER CONTRACTORS,	)	CASE NO. 1:09-CV-1378-OWW-SMS
	)	
17 Plaintiffs,	)	<b>STIPULATION TO ADD CASE TO</b>
	)	<b>FEDERAL DEFENDANTS' MOTION</b>
18 v.	)	<b>TO CONSOLIDATE</b>
	)	
19 LOCKE, <i>et al.</i>	)	Hearing: August 31, 2009
	)	Time: 10:00 A.M.
20 Defendants.	)	Ctrm: 3
	)	Judge: Hon. Oliver W. Wanger

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 22 On August 6, 2009, the above-captioned action was filed, challenging the NMFS 2009  
 23 biological opinion, the same agency action at issue in Stockton East Water District v. NOAA,  
 24 No. 1:09-CV-1090-OWW-DLB and San Luis & Delta-Mendota Water Authority et al. v. Locke  
 25 et al. ("San Luis"), No. 1:09-CV-1053-OWW-DLB. On August 12, 2009, the State Water  
 26 Contractors filed a Notice of Related Case, stating that their challenge is related to the both the

27 Stipulation  
 28 NO. 1:09-CV-1378-OWW-SMS

1 Stockton East and San Luis cases because all cases involve the same parties, are based on the  
2 same or similar claims, involve the same transaction or event and involve similar questions of  
3 fact and law “such that their assignment to the same Judge is likely to effect a substantial savings  
4 of judicial effort.” See State Water Contractors v. Locke, No. 1:09-CV-1378, Docket No. 11-2  
5 at 8-9.

6 Federal Defendants agree with the statements in the State Water Contractors’ Notice of  
7 Related Case and have already moved to consolidate the Stockton East and San Luis cases.  
8 Federal Defendants assert that the above-captioned case meets the consolidation factors outlined  
9 in that motion. As with consolidation of the cases named in our Motion, the Plaintiffs in all three  
10 cases “agree that some consolidation of the matters is desirable.” See San Luis, Docket No. 29  
11 at 1. In this regard, the State Water Contractors Plaintiff is concerned that while "some  
12 consolidation" is appropriate, the issues raised in each of the cases are individual to those cases  
13 and that a wholesale merger of the actions is inappropriate. Accordingly, Plaintiff believes any  
14 consolidation Order must not prejudice the State Water Contractors' substantive or procedural  
15 rights, including their right to file separate briefs and make separate arguments in support of their  
16 case. Plaintiff joins in the Response to Federal Defendants' Motion to Consolidate heretofore  
17 filed by Plaintiffs San Luis & Delta Mendota Water Authority and Westlands Water District.  
18 See San Luis, Docket No. 29.

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

24 **IT IS SO ORDERED**

25 Dated: August 28, 2009

26 /s/ Oliver W. Wanger  
The Hon. Oliver W. Wanger

1 Respectfully submitted this 20th day of August, 2009.

2  
3 /s/Eileen Diepenbrock (per auth. to Bridget McNeil)  
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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:

Greg Wilkinson

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/s/ Bridget Kennedy McNeil