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10 **UNITED STATES DISTRICT COURT**
 11 **EASTERN DISTRICT OF CALIFORNIA**
 12 **SACRAMENTO DIVISION**

12)	
13	SOUTH YUBA RIVER CITIZENS LEAGUE,)	
)	
14	Plaintiffs,)	No. 2:06-cv-2845-LKK-JFM
)	
15	v.)	
)	
16	NATIONAL MARINE FISHERIES SERVICE,)	Stipulation and Order To Amend The
17	et al.,)	Court's July 26, 2011 Order (ECF No.
)	402)
18	Defendants)	
19)	

1 WHEREAS, on July 26, 2011, the Court issued its Order re interim measures, Doc. No.
2 402 (July 26, 2011) (“Order”);

3 WHEREAS, Interim Measure 5 of the Order requires the installation of locking metal
4 grates over all Daguerre Point Dam fish ladder bays within six weeks of the Order (September 5,
5 2011), Doc. No. 402 at 44;

6 WHEREAS, on August 18, 2011, the California Department of Fish & Game (“CDFG”)
7 wrote the Army Corps of Engineers (“Corps”) to “express concern over implementation” of
8 Interim Measures 5, and specifically that CDFG “is not in support of putting grates over the bays
9 on the lowermost section of the south fish ladder at Daguerre Point Dam,” in part due to the
10 desire of CDFG to maintain continued access to flow modification equipment designed to
11 improve fish passage conditions in the ladder;

12 WHEREAS, on August 23, 2011, Federal Defendants moved for reconsideration of the
13 requirement to put grates over the bays on the lowermost section of the south fish ladder at
14 Daguerre Point Dam and for an extension of the deadline to complete installation of the grates to
15 October 1, 2011;

16 WHEREAS, Federal Defendants subsequently clarified to Plaintiffs that CDFG staff
17 were concerned about the lower 8 bays on the south ladder and would like only those bays to
18 remain uncovered;

19 WHEREAS, following this clarification of the scope of the CDFG objections to the fish
20 grating measure, and due to Plaintiffs’ desire to ensure that CDFG has continued access to the
21 flow modification equipment in the south fish ladder, Plaintiffs will not oppose the Federal
22 Defendants’ request to be relieved of the obligation to install grates over the lower 8 bays of the
23 fish ladders; and

24 WHEREAS, the Corps will complete the installation of the remaining bay grates by no
25 later than September 14, 2011;

26 NOW THEREFORE, it is hereby stipulated between the parties that:

27 1. Plaintiffs will not oppose Federal Defendants’ request to be relieved of the
28 obligation to install grates over the lower 8 bays of the fish ladders; and

1 2. Federal Defendants will complete the installation of the other fish ladder grates by
2 no later than September 14, 2011.

3 3. The grating measure (Interim Measure 5) of the Order re interim measures should
4 be amended to remove the obligation to install grates over the lower 8 bays of the south fish
5 ladder at Daguerre Point Dam and allow completion of grate installation by September 14, 2011.

6 Dated: September 9, 2011

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12 By: /s/ Bradley H. Oliphant
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21 As authorized on September 9, 2011 By: /s/ Brian Orion
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1 As authorized on September 9, 2011

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ORDER

It is APPROVED and SO ORDERED. The grating measure (Interim Measure 5) of the Order re interim measures, Doc. No. 402 at 44, is amended to remove the obligation to install grates over the lower 8 bays of the south fish ladder at Daguerre Point Dam and allow completion of grate installation by September 14, 2011.

DATED: September 12, 2011


LAWRENCE K. KARLTON
SENIOR JUDGE
UNITED STATES DISTRICT COURT