

FILED

DEC 01 2009 *me*

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
DEPUTY CLERK

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

COUNCIL FOR ENDANGERED SPECIES ACT
RELIABILITY,

2:09-CV-02875 JAM GGH
2:09-CV-03154 JAM GGH

Plaintiff,

ORDER REASSIGNING RELATED
CASES

v.

KEN SALAZAR, as Secretary of the
United States Department of the
Interior, et al.,

Defendants.

CENTER FOR BIOLOGICAL DIVERSITY,

Plaintiff,

v.

KEN SALAZAR, as Secretary of the
Interior, and UNITED STATES FISH
AND WILDLIFE SERVICE,

Defendants.

These related cases, *Council for Endangered Species Act
Reliability v. Salazar*, 2:09-CV-02875 JAM GGH ("CESAR") and *Center
for Biological Diversity v. Salazar*, 2:09-cv-3154 JAM GGH ("CBD"),
both concern the United States' Fish and Wildlife Service's ("FWS")
failure to issue a 12-month finding in response to a petition seeking
to reclassify the delta smelt (*hypomesus transpacificus*) from
"threatened" to "endangered" under the Endangered Species Act

Center for Biological Diversity et al v. Salazar et al

Doc. 9

1 ("ESA"). Although the *CESAR* and *CBD* complaints narrowly challenge
2 Federal Defendants' failure to abide by certain statutory deadlines,
3 both the *CESAR* and *CBD* complaints seek injunctive relief. Among
4 other things, the *CESAR* complaint alleges that "[w]ithout the
5 additional protections made available by listing the delta smelt as
6 'endangered,' the species is more likely to continue its decline
7 since the current evaluations being performed by the FWS are
8 inadequate to ensure its survival." *CESAR*, Doc. 1 at ¶11.

10 Issues related to protection of the delta smelt and effects of
11 the protective measures imposed by FWS's 2008 Biological Opinion on
12 Proposed Coordinated Operations of the Central Valley Project ("CVP")
13 and State Water Project ("SWP") are before the court in the *Delta*
14 *Smelt Consolidated Cases*, 1:09-CV-00407 OWW DLB, and have been
15 actively litigated for more than two years. All aspects of the
16 biology, ESA liability, and past and present status of the species
17 have been and are being litigated. The requests for injunctive
18 relief in *CERES* and *CBD* implicate many of the same factual issue.

20 To avoid inconsistent judgments and advance the interests of
21 judicial efficiency and economy, the *CESAR* and *CBD* cases are
22 reassigned from the docket of United States District Judge John A.
23 Mendez, to the docket of United States District Judge Oliver W.
24 Wanger pursuant to Local Rule 83 123(c) ("If the Judge to whom the
25 action with the lower or lowest number has been assigned determines
26 that assignment of the actions to a single Judge is likely to effect
27
28

1 a savings of judicial effort or other economies, that Judge is
2 authorized to enter an order reassigning all higher numbered related
3 actions to himself or herself.").

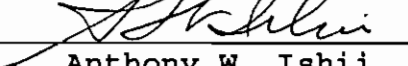
4 The Court hereby REASSIGNS these actions from District Judge
5 John A. Mendez to District Judge Oliver W. Wanger and REASSIGNS these
6 actions from Magistrate Judge Gregory G. Hollows to Magistrate Judge
7 Dennis L. Beck.

8
9 The parties will be notified of the new case numbers upon
10 completion of the transfer process.

11
12 SO ORDERED

13 Dated: November 23, 2009 /s/ Oliver W. Wanger
14 Oliver W. Wanger
United States District Judge

15
16 Dated: December 1, 2009 /s/ John A. Mendez
17 John A. Mendez
United States District Judge, Concurring

18
19 Dated: December 1, 2009 
20 Anthony W. Ishii
Chief Judge, Concurring