

1 SAM HIRSCH, Acting Assistant Attorney General  
 2 SETH M. BARSKY, Chief  
 3 S. JAY GOVINDAN, Assistant Chief  
 4 DANIEL J. POLLAK, Trial Attorney  
 5 U.S. Department of Justice  
 6 Environment and Natural Resources Division  
 7 Wildlife and Marine Resources Section  
 8 Ben Franklin Station  
 9 P.O. Box 7611  
 10 Washington, DC 20044-7611  
 11 (202) 305-0210  
 12 (202) 305-0275 (fax)

*Additional counsel listed on signature page*

Attorneys for Federal Defendants

11 **UNITED STATES DISTRICT COURT FOR THE**  
 12 **EASTERN DISTRICT OF CALIFORNIA**

14 YUBA COUNTY WATER AGENCY, et al.  
 15  
 16 Plaintiffs,  
 17 v.  
 18 NATIONAL MARINE FISHERIES  
 19 SERVICE, et al.  
 20 Defendants.

CASE NO. 2:13-cv-00042-MCE-CKD

**STIPULATION AND ORDER DISMISSING  
 CASE WITHOUT PREJUDICE**

22 Whereas, on January 9, 2013, Plaintiff Yuba County Water Agency (“Plaintiff”) filed its  
 23 Complaint in this action against Federal Defendants National Marine Fisheries Service; United  
 24 States Department of Commerce; Penny Pritzker, in her official capacity as Secretary of  
 25 Commerce;<sup>1</sup> William Stelle, in his official capacity as Administrator for National Marine

26 \_\_\_\_\_

27 <sup>1</sup> Penny Pritzker is automatically substituted for Rebecca M. Blank as Secretary of Commerce  
 28 pursuant to Federal Rule of Civil Procedure 25(d).

1 Fisheries Service’s newly created West Coast Region;<sup>2</sup> United States Army Corps of Engineers;  
2 Lietenant General Thomas P. Bostick, in his official capacity as Commanding General, of U.S.  
3 Army Corps of Engineers; and Colonel Michael Farrell,<sup>3</sup> in his official capacity as District  
4 Commander, Sacramento District, U.S. Army Corps, of Engineers (collectively, “Federal  
5 Defendants”);

6           Whereas, on May 25, 2013, the Court granted the motions to intervene of Plaintiff-  
7 Intervenors State Water Contractors; Nevada Irrigation District; Pacific Gas and Electric  
8 Company; Brophy Water District; and Hallwood Irrigation Company (collectively, “Plaintiff-  
9 Intervenors”) (ECF No. 49);

10           Therefore, pursuant to Federal Rule of Civil Procedure 41(a)(1)(A)(ii), which provides  
11 that an action may be dismissed by plaintiffs without order of court by filing a stipulation of  
12 dismissal signed by all parties who have appeared in the action, Federal Defendants, Plaintiff,  
13 and Plaintiff-Intervenors, by and through their attorneys, hereby stipulate that this action shall be,  
14 and is, dismissed without prejudice.

15           The dismissal shall be as to all claims in Yuba County Water Agency’s Complaint for  
16 Declaratory and Injunctive Relief, ECF No. 1; State Water Contractors’ Complaint in  
17 Intervention, ECF No. 38; Nevada Irrigation District’s Complaint in Intervention, ECF No. 50;  
18 Pacific Gas and Electric Company’s Complaint for Declaratory and Injunctive Relief, ECF No.  
19 51; and Brophy Water District and Hallwood Irrigation Company’s Complaint in Intervention,  
20 ECF No. 54.

21           Each party shall bear its own fees and costs in connection with this action.

22           Respectfully submitted this 10th day of September, 2014.

23 ///

24 \_\_\_\_\_  
25 <sup>2</sup> William Stelle is substituted for Rodney McInnis as the Administrator of NMFS's newly  
26 created West Coast Region.

27 <sup>3</sup> Col. Michael Farrell is automatically substituted for as Col. William J. Leady, P.E. as District  
28 Commander, Sacramento District, U.S. Army Corps, of Engineers, pursuant to Federal Rule of  
Civil Procedure 25(d).

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

SAM HIRSCH  
Acting Assistant Attorney General  
SETH M. BARSKY, Section Chief  
S. JAY GOVINDAN, Assistant Chief

/s/ Daniel Pollak  
DANIEL POLLAK  
Trial Attorney  
United States Department of Justice  
Environment & Natural Resources Division  
Wildlife & Marine Resources Section  
P.O. Box 7369, Ben Franklin Station  
Washington, D.C. 20044-7611  
Tel: (202) 305-0201  
Fax: (202) 305-0275

STACEY M. BOSSHARDT, Senior Attorney  
United States Department of Justice  
Environment & Natural Resources Division  
Natural Resources Section  
P.O. Box 7611, Ben Franklin Station  
Washington, D.C. 20044-7611  
Tel: (202) 514-2912  
Fax: (202) 305-0506

BRADLEY H. OLIPHANT, Trial Attorney  
United States Department of Justice  
Environment & Natural Resources Division  
Wildlife & Marine Resources Section  
999 18<sup>th</sup> St.  
South Terrace, Suite 370  
Denver, CO 80202  
Ph: 303-844-1381/Fax: 303-844-1350  
bradley.oliphant@usdoj.gov

**Attorneys for Federal Defendants**

/s/ Howard F. Wilkins III (as authorized on 9/09/14)  
HOWARD F. WILKINS III, SBN 203083  
L. ELIZABETH SARINE, SBN 285631  
REMY MOOSE MANLEY, LLP  
555 Capitol Mall, Suite 800  
Sacramento, California 95814  
Telephone: (916) 443-2745  
Facsimile: (916) 443-9017  
Email: hwilkins@rmmenvirolaw.com  
esarine@rmmenvirolaw.com

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

ALAN B. LILLY, SBN 107409  
BARTKIEWICZ, KRONICK & SHANAHAN P.C.  
1011 Twenty-Second Street  
Sacramento, California 95816  
Telephone: (916) 446-4254  
Facsimile: (916) 446-4018  
Email: abl@bkslawfirm.com

**Attorneys for the Plaintiff  
YUBA COUNTY WATER AGENCY**

/s/ Beth S. Ginsberg (as authorized on 9/09/14)  
MICHAEL N. MILLS, SBN 191762  
STOEL RIVES LLP  
500 Capitol Mall, Suite 1600  
Sacramento, CA 95814  
Telephone: (916) 447-0700  
Facsimile: (916) 447-4781  
Email: mnmills@stoel.com

BETH S. GINSBERG (Pro Hac Vice)  
STOEL RIVES LLP  
600 University Street, Suite 3600  
Seattle, WA 98101  
Telephone: (206) 624-0900  
Facsimile: (206) 386-7500  
Email: bsginsberg@stoel.com

**Attorneys for Intervenors  
NEVADA IRRIGATION DISTRICT**

/s/ Delia Guevara (as authorized on 9/09/14)  
WILLIAM V. MANHEIM, SBN 130182  
DELIA GUEVARA SBN 146822  
PACIFIC GAS AND ELECTRIC COMPANY  
Law Department  
P.O. Box 7442  
San Francisco, CA 94120-7442  
Telephone: (415) 973-4462  
Facsimile: (415) 973-5520  
Email: D2GU@pge.com

**Attorneys for Intervenors  
PACIFIC GAS AND ELECTRIC COMPANY**

1 /s/ Thomas M. Berliner (as authorized on 9/09/14)  
2 THOMAS M. BERLINER, SBN 83256  
3 JOLIE-ANNE S. ANSLEY, SBN 221526  
4 JUSTIN J. FIELDS, SBN 259491  
5 DUANE MORRIS LLP  
6 Spear Tower  
7 One Market Plaza, Suite 2200  
8 San Francisco, CA 94105-1127  
9 Email: tmberliner@duanemorris.com  
10 jsansley@duanemorris.com  
11 jfields@duanemorris.com

12 **Attorneys for Intervenors**  
13 **STATE WATER CONTRACTORS, INC.**

14 GALLERY & BARTON  
15 /s/ Jesse W. Barton (as authorized on 9/10/14)  
16 DANIEL F. GALLERY, SBN 27295  
17 JESSE W. BARTON, SBN 221337  
18 GALLERY & BARTON  
19 1112 I Street, Suite 240  
20 Sacramento, CA 95814  
21 Telephone: (916) 444-2880  
22 Facsimile: (916) 444-6915  
23 Email: dgallery@gallerybartonlaw.com  
24 jbarton@gallerybartonlaw.com


25 **Attorneys for Intervenors**  
26 **BROPHY WATER DISTRICT and**  
27 **HALLWOOD IRRIGATION COMPANY**

28 **ORDER**

The Court having read and considered the foregoing stipulation (ECF No. 83), pursuant to Federal Rule of Civil Procedure 41 this case is DISMISSED without prejudice. Each party shall bear its own fees and costs in connection with this action. The clerk shall administratively CLOSE this file.

IT IS SO ORDERED.

Dated: September 12, 2014

  
MORRISON C. ENGLAND, JR., CHIEF JUDGE  
UNITED STATES DISTRICT COURT