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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

COALITION FOR A SUSTAINABLE)
DELTA, BELRIDGE WATER STORAGE)
DISTRICT, BERRENDA MESA WATER)
DISTRICT, LOST HILLS WATER)
DISTRICT, WHEELER RIDGE-MARICOPA)
WATER STORAGE DISTRICT, and DEE)
DILLON,)

Plaintiffs,)

v.)

DONALD KOCH, in his official)
capacity as Director of the)
California Department of Fish)
and Game,)

Defendants.)

CENTRAL DELTA WATER AGENCY, et)
al.,)

Defendant-Intervenors,)

CALIFORNIA SPORTFISHING)
PROTECTION ALLIANCE, et al.,)

Defendant-Intervenors,)

_____)

1:08-cv-0397 OWW GSA
(Related to Case Numbers
1:05-cv-1207 OWW GSA and
1:06-cv-0245 OWW GSA

SCHEDULING CONFERENCE ORDER

Discovery Cut-Off: 5/15/09

Non-Dispositive Motion
Filing Deadline: 5/29/09

Dispositive Motion Filing
Deadline: 6/15/09

Settlement Conference Date:
5/27/09 10:00 Ctrm. 10

Pre-Trial Conference Date:
8/31/09 11:00 Ctrm. 3

Trial Date: 10/14/09 9:00
Ctrm. 3 (CT-8 days)

I. Date of Scheduling Conference.
November 4, 2008.
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1 II. Appearances Of Counsel.

2 Nossaman LLP by Paul S. Weiland, Esq., appeared on behalf of
3 Plaintiffs.

4 Clifford T. Lee, Esq., and Deborah A. Wordham, Esq.,
5 appeared on behalf of Defendant Donald Koch, Director of the
6 California Department of Fish and Game.

7 Michael B. Jackson, Esq., appeared on behalf of Defendant-
8 Intervenors California Sportfishing Protection Alliance,
9 California Striped Bass Association and Northern California
10 Council of the Federation of Fly Fishers.

11 Nomellini, Grilli & McDaniel by Daniel A. McDaniel, Esq.,
12 appeared on behalf of Defendant-Intervenors Central Delta Water
13 Agency, South Delta Water Agency, Honker Cut Marine, Inc., Rudy
14 Mussi, and Robert Souza.

15 III. Summary of Pleadings.

16 1. The striped bass was introduced into the Delta more
17 than 100 years ago and is alleged by Plaintiffs to prey on a
18 number of the native fish species including the endangered
19 Sacramento River winter-run chinook salmon, the threatened
20 Central Valley spring-run chinook salmon, the threatened Central
21 Valley steelhead, and the threatened delta smelt (collectively
22 the "Listed Species"). In 1999 the California Department of Fish
23 and Game estimated that the striped bass consume approximately 6
24 percent of the Sacramento River winter-run chinook salmon
25 population, 3 percent of the Central Valley spring-run chinook
26 salmon population, and 5.3 percent of the delta smelt population.
27 Plaintiffs believe that these estimates understate the actual
28 impact of striped bass predation. While Defendants believe that

1 these estimates are inaccurate, they also believe that there is
2 not enough information to determine whether the estimates
3 overstate or understate the impact of striped bass predation.
4 Defendant Donald Koch, the Director of the California Department
5 of Fish and Game, enforces striped bass sport-fishing regulations
6 that limit the take of striped bass. The striped bass sport-
7 fishing regulations at issue prohibit sports anglers from taking
8 striped bass less than 18 inches in length or taking more than
9 two striped bass in excess of 18 inches in length ("striped bass
10 sport-fishing regulations").

11 2. Plaintiffs allege that Defendant Donald Koch's
12 enforcement of the striped bass sport-fishing regulations result
13 in the unlawful take of the endangered Sacramento River winter-
14 run chinook salmon, threatened Central Valley spring-run chinook
15 salmon, threatened Central Valley steelhead, and threatened delta
16 smelt, violating Section 9 of the Endangered Species Act.

17 3. Plaintiffs pray for a declaration that the striped
18 bass sport-fishing regulations violate Section 9 of the
19 Endangered Species Act; that Defendant Donald Koch be enjoined
20 from enforcing the striped bass sport-fishing regulations; and
21 that the Court award such other relief as it deems just and
22 proper. Defendants pray that Plaintiffs' complaint for
23 declaratory and injunctive relief be dismissed; that Plaintiffs
24 take nothing; that judgment be awarded against Plaintiffs and in
25 favor of Defendants; and that the Court award such other relief
26 as may be deemed just and proper.

27 4. Certain Defendants allege the following affirmative
28 defenses:

1 a. The provisions of the Central Valley Project
2 Improvement Act ("CVPIA") pertaining to anadromous fish, which
3 are defined in the Act to include striped bass, are a bar to the
4 invalidation of regulatory provisions protecting striped bass
5 populations based on the Endangered Species Act. (Only the
6 Central Delta Defendants.)

7 b. The Plaintiffs failed to join the U.S. Fish and
8 Wildlife Service, an indispensable party. (Only the Central
9 Delta Defendants).

10 c. The Plaintiffs lack constitutional standing.
11 (Both Defendant Donald Koch and the Central Delta Defendants.)

12 d. The Plaintiffs lack prudential standing. (Only
13 the Central Delta Defendants.)

14 e. Defendant Donald Koch is entitled to absolute
15 immunity under the doctrine of legislative immunity. (Only the
16 Central Delta Defendants.)

17 f. The Plaintiffs' claims are barred by the Tenth
18 Amendment to the Constitution. (Both Defendant Donald Koch and
19 the Central Delta Defendants.)

20 g. The Plaintiffs' claims fail to state sufficient
21 facts to state a claim for relief. (Both Defendant Donald Koch
22 and the Central Delta Defendants.)

23 5. The Sportfishing Defendants have not asserted any
24 affirmative defenses.

25 IV. Orders Re Amendments To Pleadings.

26 1. The parties do not presently contemplate amending the
27 pleadings.

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1 V. Factual Summary.

2 A. Admitted Facts Which Are Deemed Proven Without Further
3 Proceedings.

4 1. Coalition for a Sustainable Delta is an
5 association.

6 2. Belridge Water Storage District, Berrenda Mesa
7 Water District, Lost Hills Water District, Wheeler Ridge-Maricopa
8 Water Storage District are California public entities authorized
9 under the Water Code of the State of California.

10 3. Dee Dillon is an individual, a water user, and
11 resident of the San Joaquin/Sacramento Delta.

12 4. Donald Koch is the Director of the California
13 Department of Fish and Game.

14 5. California Sportfishing Protection Alliance is a
15 501(c)(3) non-profit association. Fishery protection
16 environmental intervenors are also 501(c)(3) non-profit
17 associations.

18 6. The two water agency intervenors are California
19 public entities.

20 7. Honker Cut Marine is a California corporation.

21 8. Rudy Mussi and Robert Souza are individuals who
22 reside in and use the Delta.

23 9. The Sacramento River winter-run chinook salmon,
24 Central Valley spring-run chinook salmon, Central Valley
25 steelhead, and delta smelt are all listed as threatened or
26 endangered under the Endangered Species Act.

27 10. The Central Valley Project Improvement Act states
28 that "[t]he Secretary, immediately upon the enactment of this

1 title, shall operate the Central Valley Project to meet all
2 obligations under the state and federal law, including but not
3 limited to the federal Endangered Species Act, 16 U.S.C. § 1531,
4 et seq., and all decisions of the California State Water
5 Resources Control Board establishing conditions on applicable
6 licenses and permits for the project. The Secretary, in
7 consultation with other State and Federal agencies, Indian
8 tribes, and affected interests, is further authorized and
9 directed to: (1) develop within three years of enactment and
10 implement a program which makes all reasonable efforts to ensure
11 that, by the year 2002, natural production of anadromous fish in
12 Central Valley rivers and streams will be sustainable, on a long-
13 term basis, at levels not less than twice the average levels
14 attained during the period of 1967-1999 ..."

15 B. Contested Facts.

16 1. Striped bass prey on Sacramento River winter-run
17 chinook salmon, Central Valley spring-run chinook salmon, Central
18 Valley steelhead, and delta smelt.

19 2. As a result of the striped bass sport-fishing
20 regulations, there are more striped bass in the Delta than if the
21 striped bass sport-fishing regulations had never been adopted and
22 implemented.

23 3. The striped bass sport-fishing regulations protect
24 and promote the striped bass population in the Delta.

25 4. If the striped bass population in the Delta
26 increases, striped bass consumption of the Sacramento River
27 winter-run chinook salmon, Central Valley spring-run chinook
28 salmon, Central Valley steelhead, and/or delta smelt will

1 increase.

2 5. None of the Plaintiffs, separately or
3 conjunctively, has suffered any actual or imminent injury in
4 fact.

5 6. The Plaintiffs' claimed injuries, separately or
6 conjunctively, are not causally connected to Defendant Donald
7 Koch's enforcement of the striped bass sport-fishing regulations.

8 7. Invalidation of the striped bass sport-fishing
9 regulations will not redress any or all of the Plaintiffs'
10 claimed injuries.

11 8. Striped bass are the most significant predator of
12 chinook salmon and delta smelt.

13 9. Striped bass predation of the Listed Species has a
14 significant, adverse population-level effect on the survival and
15 recovery of the Listed Species.

16 10. The enforcement of the striped bass sport-fishing
17 regulations maintains an artificially high population level of
18 striped bass in the Delta.

19 11. The enforcement of the striped bass sport-fishing
20 regulations artificially increase striped bass predation of the
21 Listed Species.

22 12. The enforcement of the striped bass sport-fishing
23 regulations harm the population of the Listed Species and the
24 Delta ecosystem.

25 13. The striped bass sport-fishing regulations have
26 reduced State Water Project water that is available and delivered
27 from the Delta to the Coalition and water district Plaintiffs.

28 14. Reduced predation by striped bass on Listed

1 Species will result in an improved Delta ecosystem.

2 15. Self-sustaining populations of the Listed Species
3 coexisted with striped bass for decades.

4 16. Export pumping has a negative effect on fish
5 populations in the Delta.

6 17. Reduced Delta outflows have a negative effect on
7 fish populations in the Delta.

8 18. The 1967 through 1991 average annual population of
9 striped bass in the Delta was 1,252,259.

10 19. The 1992 through 2005 average annual population of
11 striped bass in the Delta was 969,262.

12 20. The 1967 through 1991 average annual population of
13 Central Valley chinook salmon was 497,240.

14 21. The 1992 through 2005 average annual population of
15 Central Valley chinook salmon was 477,312.

16 22. The 1967 through 1991 average annual population of
17 winter-run chinook salmon was 54,417.

18 23. The 1992 through 2005 average annual population of
19 winter-run chinook salmon was 88,086.

20 24. The 1967 through 1991 average annual population of
21 spring-run chinook salmon was 34,425.

22 25. The 1992 through 2005 average annual population of
23 spring-run chinook salmon was 16,350.

24 26. The 1967 through 1991 average annual population of
25 fall-run chinook salmon was 374,217.

26 27. The 1992 through 2005 average annual population of
27 fall-run chinook salmon was 432,103.

28 28. The 1967 through 1991 average annual population of

1 late fall-run chinook salmon was 34,182.

2 29. The 1992 through 2005 average annual population of
3 late fall-run chinook salmon was 20,772.

4 30. The U.S. Fish and Wildlife Service has established
5 a doubling goal pursuant to the CVPIA of 2,500,000 for striped
6 bass in the Delta.

7 31. The U.S. Fish and Wildlife Service has established
8 a doubling goal pursuant to the CVPIA of 990,000 for all races of
9 Central Valley chinook salmon.

10 32. The U.S. Fish and Wildlife Service has established
11 a doubling goal pursuant to the CVPIA of 110,000 for winter-run
12 chinook salmon.

13 33. The U.S. Fish and Wildlife Service has established
14 a doubling goal pursuant to the CVPIA of 68,000 for spring-run
15 chinook salmon.

16 34. The U.S. Fish and Wildlife Service has established
17 a doubling goal pursuant to the CVPIA of 750,000 for fall-run
18 chinook salmon.

19 35. The U.S. Fish and Wildlife Service has established
20 a doubling goal pursuant to the CVPIA of 68,000 for late fall-run
21 chinook salmon.

22 VI. Legal Issues.

23 A. Uncontested.

24 1. Jurisdiction exists under 28 U.S.C. § 1331 and 16
25 U.S.C. § 1540(c)(g).

26 2. Venue is proper under 28 U.S.C. § 1391(b) and 16
27 U.S.C. § 1540(g)(3)(A).

28 3. Applicable Federal or State Law: Plaintiffs,

1 Defendant Donald Koch, and the Sportfishing Defendants agree that
2 Section 9 of the Endangered Species Act, which prohibits the
3 taking of endangered or threatened species, and Section 5.75 of
4 Title 14 of the California Code of Regulations, which prohibits
5 sports anglers from taking striped bass less than 18 inches in
6 length or more than two striped bass in excess of 18 inches in
7 length, with certain geographic exceptions not applicable here,
8 are the core federal and state laws at issue in this matter.

9 While the Central Delta Defendants agree that the provisions of
10 the Endangered Species Act and California Code of Regulations are
11 at issue in this matter, they also assert that various provisions
12 of the federal Central Valley Project Improvement Act, Pub. L.
13 102-575 106 Stat. 4600, Title 34, 106 Stat. 4706-31 (1992), are
14 at issue in this matter.

15 4. Take: Section 9 of the Endangered Species Act prohibits
16 unauthorized take (which means to harass, harm, pursue, hunt,
17 shoot, wound, kill, capture or collect, or to attempt to engage
18 in such conduct) of an endangered or threatened species.

19 5. Because the Sacramento River winter-run chinook salmon
20 is listed as an endangered species, the prohibition on
21 unauthorized take in Section 9 of the Endangered Species Act
22 applies to the Sacramento River winter-run chinook salmon.

23 6. The U.S. Fish and Wildlife Service and National Marine
24 Fisheries Service have extended the take prohibition from Section
25 9 to the threatened Central Valley spring-run chinook salmon, the
26 threatened Central Valley steelhead, and the threatened delta
27 smelt.

28 7. Regulations: Striped bass sport-fishing regulations

1 bar sports anglers from taking striped bass less than 18 inches
2 in length or more than two striped bass in excess of 18 inches in
3 length, with certain geographic exceptions not applicable here.

4 8. Legislative Immunity: To the extent that Donald Koch
5 is responsible for the enforcement of the striped bass sport-
6 fishing regulations, he is not entitled to legislative immunity.

7 9. Enforcement: The California Department of Fish and
8 Game is responsible for the enforcement of the striped bass
9 sport-fishing regulations.

10 B. Contested.

11 1. All affirmative defenses and remaining legal
12 issues are disputed.

13 2. Single Take Prohibited: It is a violation of the
14 Endangered Species Act to take a single endangered Sacramento
15 River winter-run chinook salmon, threatened Central Valley
16 spring-run chinook salmon, threatened Central Valley steelhead,
17 or threatened delta smelt without prior take authorization from
18 the National Marine Fisheries Service (for the Sacramento River
19 winter-run chinook salmon, Central Valley spring-run chinook
20 salmon, or Central Valley steelhead) or U.S. Fish and Wildlife
21 Service (for the delta smelt). (Disputed by all Defendants.)

22 3. Regulatory Take: It is a violation of the
23 Endangered Species Act for a government or government agency or
24 entity to take a federally listed species through the exercise of
25 its regulatory authority without first receiving take
26 authorization from either the U.S. Fish and Wildlife Service (for
27 the delta smelt) or National Marine Fisheries Service (for the
28 Sacramento River winter-run chinook salmon, Central Valley

1 spring-run chinook salmon, or Central Valley steelhead).

2 (Disputed by Defendant Donald Koch and the Central Delta
3 Defendants.)

4 4. Increasing Predator Population: It is a violation
5 of the Endangered Species Act for a government or government
6 agency or entity to exercise its regulatory authority in a manner
7 that increases the population of a species that preys on listed
8 species without first receiving take authorization from either
9 the U.S. Fish and Wildlife Service (for the delta smelt) or
10 National Marine Fisheries Service (for the Sacramento River
11 winter-run chinook salmon, Central Valley spring-run chinook
12 salmon, or Central Valley steelhead).

13 5. Intent of Regulations: The striped bass sport-
14 fishing regulations are intended to limit the take of striped
15 bass in order to protect the striped bass population.

16 6. CVPIA: The CVPIA defines "anadromous fish" to
17 include striped bass in Section 3403(a), and Section 3406(b)(1)
18 of the CVPIA requires the Secretary of the Interior, to "develop
19 within three years of enactment and implement a program which
20 makes all reasonable efforts to ensure that, by the year 2002,
21 natural production of anadromous fish in Central Valley rivers
22 and streams will be sustainable, on a long-term basis, at levels
23 not less than twice the average levels attained during the period
24 of 1967-1991." There are many other requirements of the CVPIA
25 applicable to striped bass as anadromous fish.

26 VII. Consent to Magistrate Judge Jurisdiction.

27 1. The parties have not consented to transfer the
28 case to the Magistrate Judge for all purposes, including trial.

1 VIII. Corporate Identification Statement.

2 1. Any nongovernmental corporate party to any action in
3 this court shall file a statement identifying all its parent
4 corporations and listing any entity that owns 10% or more of the
5 party's equity securities. A party shall file the statement with
6 its initial pleading filed in this court and shall supplement the
7 statement within a reasonable time of any change in the
8 information.

9 IX. Discovery Plan and Cut-Off Date.

10 1. All parties agree that the Rule 26(a)(1)(c) initial
11 disclosures shall be made on or before November 18, 2008.

12 2. The parties are ordered to complete all discovery on or
13 before May 15, 2009.

14 3. The parties are directed to disclose all expert
15 witnesses, in writing, on or before March 19, 2009. Any rebuttal
16 or supplemental expert disclosures will be made on or before
17 April 20, 2009. The parties will comply with the provisions of
18 Federal Rule of Civil Procedure 26(a)(2) regarding their expert
19 designations. Local Rule 16-240(a) notwithstanding, the written
20 designation of experts shall be made pursuant to F. R. Civ. P.
21 Rule 26(a)(2), (A) and (B) and shall include all information
22 required thereunder. Failure to designate experts in compliance
23 with this order may result in the Court excluding the testimony
24 or other evidence offered through such experts that are not
25 disclosed pursuant to this order.

26 4. The provisions of F. R. Civ. P. 26(b)(4) shall
27 apply to all discovery relating to experts and their opinions.
28 Experts may be fully prepared to be examined on all subjects and

1 opinions included in the designation. Failure to comply will
2 result in the imposition of sanctions.

3 5. Proposed changes in the timing, form, or requirement
4 for disclosures required under Federal Rules of Civil Procedure
5 26(a): The parties stipulate to provide initial disclosures by
6 November 18, 2008, in accordance with Fed. R. Civ. P.

7 26(a)(1)(C). While the parties do anticipate calling expert
8 witnesses at trial, as well as possibly submitting expert
9 declarations in support of dispositive motions, they do not
10 anticipate modifying the content of the written report that is
11 required under Fed. R. Civ. P. 26(a)(2)(B). As for the timing of
12 expert disclosures, the parties agree to provide expert
13 disclosures by March 19, 2009.

14 6. Changes which should be made in the limitations on
15 discovery imposed under Fed. R. Civ. P. 30, 31, and/or 35: None
16 anticipated.

17 7. Outline of the subjects on which discovery may be
18 needed: The parties plan to propound written interrogatories,
19 requests for admissions, and requests for production within the
20 next 10 to 20 days. Plaintiffs' written discovery will focus on
21 the affirmative defenses and denials asserted in Defendants'
22 Answers. Defendants' written discovery will focus on the
23 allegations of the First Amended Complaint. The parties
24 anticipate the need to take expert and percipient depositions.

25 8. Conducting discovery in phases: Other than setting
26 March 19, 2009, as the deadline for expert disclosures, the
27 parties do not believe that discovery should be conducted in
28 phases. The parties agree to a discovery cutoff of May 15, 2009.

1 As such, all responses to discovery and expert and percipient
2 depositions must be completed by May 15, 2009. All hearings on a
3 discovery motion must be completed by June 15, 2009.

4 X. Pre-Trial Motion Schedule.

5 1. All Non-Dispositive Pre-Trial Motions, including any
6 discovery motions, will be filed on or before May 29, 2009, and
7 heard on July 10, 2009, at 9:00 a.m. before Magistrate Judge Gary
8 S. Austin in Courtroom 10.

9 2. In scheduling such motions, the Magistrate
10 Judge may grant applications for an order shortening time
11 pursuant to Local Rule 142(d). However, if counsel does not
12 obtain an order shortening time, the notice of motion must comply
13 with Local Rule 251.

14 3. All Dispositive Pre-Trial Motions are to be
15 filed no later than June 15, 2009, and will be heard on July 27,
16 2009, at 10:00 a.m. before the Honorable Oliver W. Wanger, United
17 States District Judge, in Courtroom 3, 7th Floor. In scheduling
18 such motions, counsel shall comply with Local Rule 230.

19 XI. Pre-Trial Conference Date.

20 1. August 31, 2009, at 11:00 a.m. in Courtroom 3, 7th
21 Floor, before the Honorable Oliver W. Wanger, United States
22 District Judge.

23 2. The parties are ordered to file a Joint Pre-
24 Trial Statement pursuant to Local Rule 281(a)(2).

25 3. Counsel's attention is directed to Rules 281
26 and 282 of the Local Rules of Practice for the Eastern District
27 of California, as to the obligations of counsel in preparing for
28 the pre-trial conference. The Court will insist upon strict

1 compliance with those rules.

2 XII. Motions - Hard Copy.

3 1. The parties shall submit one (1) courtesy paper copy to
4 the Court of any motions filed that exceed ten pages and any
5 motions that have exhibits attached. Exhibits shall be marked
6 with protruding numbered or lettered tabs so that the Court can
7 easily identify such exhibits.

8 XIII. Trial Date.

9 1. October 14, 2009, at the hour of 9:00 a.m. in Courtroom
10 3, 7th Floor, before the Honorable Oliver W. Wanger, United
11 States District Judge.

12 2. This is a non-jury trial.

13 3. Counsels' Estimate Of Trial Time:

14 a. 8 days.

15 4. Counsels' attention is directed to Local Rules
16 of Practice for the Eastern District of California, Rule 285.

17 XIV. Settlement Conference.

18 1. A Settlement Conference is scheduled for May 27, 2009,
19 at 10:00 a.m. in Courtroom 10 before the Honorable Gary S.
20 Austin, United States Magistrate Judge.

21 2. Unless otherwise permitted in advance by the
22 Court, the attorneys who will try the case shall appear at the
23 Settlement Conference with the parties and the person or persons
24 having full authority to negotiate and settle the case on any
25 terms at the conference.

26 3. Permission for a party [not attorney] to attend
27 by telephone may be granted upon request, by letter, with a copy
28 to the other parties, if the party [not attorney] lives and works

1 outside the Eastern District of California, and attendance in
2 person would constitute a hardship. If telephone attendance is
3 allowed, the party must be immediately available throughout the
4 conference until excused regardless of time zone differences.
5 Any other special arrangements desired in cases where settlement
6 authority rests with a governing body, shall also be proposed in
7 advance by letter copied to all other parties.

8 4. Confidential Settlement Conference Statement.

9 At least five (5) days prior to the Settlement Conference the
10 parties shall submit, directly to the Magistrate Judge's
11 chambers, a confidential settlement conference statement. The
12 statement should not be filed with the Clerk of the Court nor
13 served on any other party. Each statement shall be clearly
14 marked "confidential" with the date and time of the Settlement
15 Conference indicated prominently thereon. Counsel are urged to
16 request the return of their statements if settlement is not
17 achieved and if such a request is not made the Court will dispose
18 of the statement.

19 5. The Confidential Settlement Conference

20 Statement shall include the following:

21 a. A brief statement of the facts of the
22 case.

23 b. A brief statement of the claims and
24 defenses, i.e., statutory or other grounds upon which the claims
25 are founded; a forthright evaluation of the parties' likelihood
26 of prevailing on the claims and defenses; and a description of
27 the major issues in dispute.

28 c. A summary of the proceedings to date.

1 d. An estimate of the cost and time to be
2 expended for further discovery, pre-trial and trial.

3 e. The relief sought.

4 f. The parties' position on settlement,
5 including present demands and offers and a history of past
6 settlement discussions, offers and demands.

7 XV. Request For Bifurcation, Appointment Of Special Master,
8 Or Other Techniques To Shorten Trial.

9 1. None.

10 XVI. Related Matters Pending.

11 1. The Court previously determined that the following
12 cases are related: *NRDC v. Kempthorne*, 1:05-v-1207 OWW GSA, and
13 *PCFFA v. Gutierrez*, 1:06-cv-0245 OWW GSA.

14 XVII. Compliance With Federal Procedure.

15 1. The Court requires compliance with the Federal
16 Rules of Civil Procedure and the Local Rules of Practice for the
17 Eastern District of California. To aid the court in the
18 efficient administration of this case, all counsel are directed
19 to familiarize themselves with the Federal Rules of Civil
20 Procedure and the Local Rules of Practice of the Eastern District
21 of California, and keep abreast of any amendments thereto.

22 XVIII. Effect Of This Order.

23 1. The foregoing order represents the best
24 estimate of the court and counsel as to the agenda most suitable
25 to bring this case to resolution. The trial date reserved is
26 specifically reserved for this case. If the parties determine at
27 any time that the schedule outlined in this order cannot be met,
28 counsel are ordered to notify the court immediately of that fact

1 so that adjustments may be made, either by stipulation or by
2 subsequent scheduling conference.

3 2. Stipulations extending the deadlines contained
4 herein will not be considered unless they are accompanied by
5 affidavits or declarations, and where appropriate attached
6 exhibits, which establish good cause for granting the relief
7 requested.

8 3. Failure to comply with this order may result in
9 the imposition of sanctions.

10

11 IT IS SO ORDERED.

12 Dated: November 5, 2008

/s/ Oliver W. Wanger
UNITED STATES DISTRICT JUDGE

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