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9
10 IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

11 **THE CONSOLIDATED SALMONID CASES**

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13 **SAN LUIS & DELTA-MENDOTA WATER**
AUTHORITY; WESTLANDS WATER
14 **DISTRICT v. GARY F. LOCKE, as Secretary**
of the United States Department of
15 **Commerce; et al.**

16 **STOCKTON EAST WATER DISTRICT, et**
al. v. NATIONAL OCEANIC AND
17 **ATMOSPHERIC ADMINISTRATION, et al.**

18 **STATE WATER CONTRACTORS v. GARY**
19 **F. LOCKE, Secretary, et al.**

20 **KERN COUNTY WATER AGENCY, et al. v.**
21 **UNITED STATES DEPARTMENT OF**
COMMERCE, et al.

22 **OAKDALE IRRIGATION DISTRICT, et al.**
23 **v. UNITED STATES DEPARTMENT OF**
COMMERCE, et al.

24 **THE METROPOLITAN WATER**
25 **DISTRICT OF SOUTHERN CALIFORNIA**
26 **v. NATIONAL MARINE FISHERIES**
SERVICE, et al.

1:09-cv-1053 OWW-DLB
1:09-cv-1090 OWW-DLB
1:09-cv-1378 OWW-DLB
1:09-cv-1520 OWW-SMS
1:09-cv-1580 OWW-DLB
1:09-cv-1625 OWW-SMS

RESPONSE OF DEFENDANT-
INTERVENOR CALIFORNIA
DEPARTMENT OF WATER
RESOURCES TO THE FEDERAL
DEFENDANTS' NOTICE OF
ALLOCATION INCREASE [DOC. 617]
AND THE COURT'S MARCH 28, 2011
MINUTE ORDER [DOC. 618]

1 The Defendant-Intervenor California Department of Water Resources (DWR) does not
2 oppose or object to the Plaintiffs' Kern County Water Agency, Coalition for a Sustainable Delta,
3 Metropolitan Water District, and State Water Contractor determination that the Plaintiffs'
4 "pending requests for a temporary restraining order ("TRO") and preliminary injunction to enjoin
5 implementation of Reasonable and Prudent Alternative ("RPA") Action IV.2.1 are moot at
6 present." However, DWR, like the Plaintiffs, reserves the right to seek a TRO and/or
7 preliminary injunction in the event that Action IV.2.1 constrains State Water Project operations in
8 the future.

9 This morning, DWR became aware of Vernalis flow forecast information prepared for
10 consideration by Vernalis Adaptive Management Plan (VAMP) participants at a VAMP biology
11 and hydrology meeting scheduled for today. Concurrent with this pleading, DWR has filed the
12 declaration of John Leahigh, DWR's chief of State Water Project Operations Planning, which
13 includes and summarizes this VAMP Vernalis flow forecast information. Mr. Leahigh does not
14 contest the reasonableness of the U.S. Bureau of Reclamation's Vernalis flow forecast for April
15 of this year. However, based upon his professional experience and upon the recently received
16 VAMP Vernalis flow forecast, Mr. Leahigh concludes that "the Reclamation Vernalis flow
17 forecast for May is dependent upon uncertain hydrology, and therefore contains too many
18 uncertainties to reliably project that the May flows will be at or above 21,750 cfs." Leahigh Dec.
19 at ¶ 8.

20 Dated: March 29, 2011

Respectfully submitted,

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25 /s/ Clifford T. Lee
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