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15 **UNITED STATES DISTRICT COURT**
16 **EASTERN DISTRICT OF CALIFORNIA**

18 AQUALLIANCE; CALIFORNIA
SPORTFISHING PROTECTION
19 ALLIANCE; CALIFORNIA WATER
IMPACT NETWORK; CENTRAL DELTA
20 WATER AGENCY; SOUTH DELTA
WATER AGENCY,

21 Petitioners and Plaintiffs,

22 v.

23 THE UNITED STATES BUREAU OF
24 RECLAMATION; SAN LUIS & DELTA-
MENDOTA WATER AUTHORITY; U.S.
25 DEPARTMENT OF THE INTERIOR;
DAVID BERNHARDT, in his official
26 capacity; U.S. FISH AND WILDLIFE
SERVICE; and DOES 1 – 100,

27 Defendants and Respondents.
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Case No. 2:20-cv-00959-JAM-DMC

NOTICE OF RELATED CASES

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1 AQUALLIANCE, et al.,
2 Plaintiffs,
3 v.
4 UNITED STATES BUREAU OF
RECLAMATION, et al.,
5 Defendants.
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Case No. 1:14-cv-00945-LJO-BAM
NOTICE OF RELATED CASES

7 AQUALLIANCE, et al.,
8 Plaintiffs,
9 v.
10 THE UNITED STATES BUREAU OF
RECLAMATION, et al.,
11 Defendants.
12

Case No. 1:15-cv-00754-LJO-BAM
NOTICE OF RELATED CASES

13 CONSOLIDATED DELTA SMELT CASES
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Lead Case No. 1:09-cv-00407-LJO-BAM
Member Cases:
1:09-cv-422-LJO-DLB
1:09-cv-631-LJO-DLB
1:09-cv-892-LJO-DLB
Partially Consolidated With:
1:09-cv-480-LJO-GSA
1:09-cv-1201-LJO-DLB
NOTICE OF RELATED CASES

20 CONSOLIDATED SALMONID CASES
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Case No. 1:09-cv-01053-LJO-DLB
Consolidated With:
1:09-cv-01090-OWW-DLB
1:09-cv-01378-OWW-SMS
1:09-cv-01520-OWW-SMS
1:09-cv-01580-OWW-DLB
1:09-cv-01625-OWW-SMS
NOTICE OF RELATED CASES

1 NATURAL RESOURCES DEFENSE
2 COUNCIL, et al.,

3 Plaintiffs,

4 v.

5 DAVID BERNHARDT, Acting Secretary,
6 U.S. Department of the Interior, et al.,

7 Defendants.

Case No. 1:05-cv-01207-DAD-EPG

NOTICE OF RELATED CASES

8 PACIFIC COAST FEDERATION OF
9 FISHERMEN'S ASSOCIATIONS, et al.,

10 Plaintiffs,

11 v.

12 CARLOS M. GUTIERREZ, in his official
13 capacity as Secretary of Commerce, et al.,

14 Defendants.

Case No. 1:06-cv-00245-OWW-GSA

NOTICE OF RELATED CASES

15 PACIFIC COAST FEDERATION OF
16 FISHERMEN'S ASSOCIATIONS, et al.,

17 Plaintiffs,

18 v.

19 WILBUR ROSS, in his official capacity as
20 Secretary of Commerce; et al.,

21 Defendants.

Case No. 1:20-cv-00431-DAD-EPG

NOTICE OF RELATED CASES

22 THE CALIFORNIA NATURAL
23 RESOURCES AGENCY, THE
24 CALIFORNIA ENVIRONMENTAL
25 PROTECTION AGENCY, et al.,

26 Plaintiffs,

27 v.

28 WILBUR ROSS, in his official capacity as
Secretary of Commerce; et al.,

Defendants.

Case No. 1:20-cv-00426-DAD-EPG

NOTICE OF RELATED CASES

1 Pursuant to Local Rule 123 and Federal Rule of Civil Procedure 83, the undersigned counsel
2 respectfully notify the parties and the Court that the case *AquAlliance, et al. v. United States Bureau*
3 *of Reclamation, et al.*, Case No. 2:20-cv-00959-JAM-DMC (“*AquAlliance III*”) recently filed in the
4 United States District Court for the Eastern District of California, is related to at least eight other
5 actions also on file in this Court. These cases and the reasons they are related are described below:

6 1) *AquAlliance III* is related to *AquAlliance, et al. v. United States Bureau of*
7 *Reclamation, et al.*, Case No. 1:14-cv-00945-LJO-BAM (“*AquAlliance I*”), filed in this Court.
8 *AquAlliance I* challenged the United States Bureau of Reclamation’s (“Reclamation”)
9 implementation of temporary water transfers in 2014 under the National Environmental Policy Act
10 (“NEPA”) and Administrative Procedures Act (“APA”). *AquAlliance III* is related to *AquAlliance I*
11 because the cases: (1) involve Reclamation and the San Luis & Delta-Mendota Water Authority
12 (“SLDMWA”) as defending parties and AquAlliance and the California Sportfishing Protection
13 Alliance as plaintiffs, (2) raise similar legal claims and questions regarding Reclamation’s
14 obligations under NEPA when approving and assisting in water transfers, (3) implicate water
15 transfers conveyed through the Central Valley Project (“CVP”) and potential claims for injunctive
16 relief against delivery of transfer water to CVP contractors, (4) involve similar questions of fact
17 regarding how the CVP operates and moves water from areas north of the Delta to areas south of
18 the Delta when implementing water transfers, and (5) involve similar questions of fact regarding the
19 alleged environmental effects of such water transfers. In *AquAlliance I*, this Court denied a motion
20 for preliminary injunction on July 11, 2014 (see *AquAlliance I*, Doc. No. 75) and all other petitioners
21 subsequently stipulated to a dismissal of that case, which this Court entered on August 1, 2014 (see
22 *AquAlliance I* Doc. No. 77).

23 2) *AquAlliance III* is related to *AquAlliance, et al. v. United States Bureau of*
24 *Reclamation, et al.*, Case No. 1:15-cv-00754-LJO-BAM (“*AquAlliance II*”), filed in this Court.
25 *AquAlliance II* challenged Reclamation and SLDMWA’s long-term environmental review of a
26 range of potential water transfers under NEPA, the APA, and the California Environmental Quality
27 Act (“CEQA”). *AquAlliance III* is related to *AquAlliance II* because the cases: (1) involve
28 Reclamation and SLDMWA as defending parties and AquAlliance, California Sportfishing

1 Protection Alliance, the Central Delta Water Agency, and the South Delta Water Agency as
2 plaintiffs, (2) raise similar legal claims and questions regarding Reclamation’s obligations under
3 NEPA and SLDMWA’s obligations under CEQA when approving and assisting in water transfers,
4 (3) implicate water transfers conveyed through the CVP and potential claims for injunctive relief
5 against delivery of transfer water to CVP contractors, (4) involve similar questions of fact regarding
6 how the CVP operates and moves water from areas north of the Delta to areas south of the Delta
7 when implementing water transfers, and (5) involve similar questions of fact regarding the alleged
8 environmental effects of such water transfers. On July 5, 2018, this Court entered judgment in
9 *AquAlliance II* vacating Reclamation and SLDMWA’s approval of the water transfer project at issue
10 (see *AquAlliance II* Doc No. 85).

11 3) *AquAlliance III* is related to *San Luis & Delta-Mendota Water Authority, et al. v.*
12 *Salazar, et al.*, 1:09-cv-00407-LJO-BAM (“*Consolidated Delta Smelt Cases*”), filed in this Court.
13 The *Consolidated Delta Smelt Cases* involved challenges to a 2008 biological opinion regarding its
14 analysis of the effects of CVP operations on delta smelt. The *Consolidated Delta Smelt Cases* are
15 related to *AquAlliance III* because the cases: (1) involve Reclamation and the United States Fish and
16 Wildlife Service (“FWS”) as defendants, (2) involve similar questions of fact and law regarding
17 how the CVP operates and the legal obligations of Reclamation in operating the CVP, and (3)
18 involve similar questions of fact regarding the alleged effect of CVP and State Water Project
19 (“SWP”) operations on listed species. The *Consolidated Delta Smelt Cases* were appealed after
20 judgments were entered on decisions by this Court. On appeal, the Ninth Circuit affirmed in part
21 and reversed in part, and remanded the cases back to this Court for further proceedings (see 747
22 F.3d 581, 654). This Court issued a final judgment on the 2008 biological opinion in conformance
23 with the Ninth Circuit’s rulings in October 2014, and the case was closed in March 2016 (see
24 *Consolidated Delta Smelt Cases* Doc. Nos. 1135, 1169).

25 4) *AquAlliance III* is related to *San Luis & Delta-Mendota Water Authority, et al. v.*
26 *Locke, et al.*, Case No. 1:09-cv-01053-LJO-BAM (“*Consolidated Salmonid Cases*”), filed in this
27 Court. The *Consolidated Salmonid Cases* involved challenges to a 2009 biological opinion
28 regarding its analysis of the effects of CVP operations on salmon. The *Consolidated Salmonid Cases*

1 are related to *AquAlliance III* because the cases: (1) involve Reclamation as a defendant, (2) involve
2 similar questions of fact and law regarding how the CVP operates and the legal obligations of
3 Reclamation in operating the CVP, and (3) involve similar questions of fact regarding the alleged
4 effect of CVP and SWP operations on listed species. The *Consolidated Salmonid Cases* were
5 appealed, and on appeal, the Ninth Circuit affirmed in part and reversed in part, and remanded the
6 cases back to this Court for further proceedings (see 776 F.3d 971, 1010). This Court issued a final
7 judgment on the 2009 biological opinion in conformance with the Ninth Circuit’s rulings in May
8 2015, and the case was closed in March 2016 (see *Consolidated Salmonid Cases* Nos. 774, 795).

9 5) *AquAlliance III* is related to *Natural Resources Defense Council, et al. v. Bernhardt,*
10 *et al.*, Case No. 1:05-cv-01207-DAD-EPG (“*NRDC v. Bernhardt*”), filed in this Court. *NRDC v.*
11 *Bernhardt* initially involved challenges to a 2005 biological opinion regarding its analysis of the
12 effects of CVP operations on delta smelt. After multiple amendments to the complaint, the
13 remaining claim involves a challenge to CVP operations in 2014 and 2015 that allegedly caused
14 illegal take of listed salmon under the federal Endangered Species Act. *NRDC v. Bernhardt* is related
15 to *AquAlliance III* because the cases: (1) involve Reclamation and FWS as defendants, (2) involve
16 similar questions of fact and law regarding how the CVP operates and the legal obligations of
17 Reclamation in operating the CVP, and (3) involve similar questions of fact regarding the alleged
18 effect of CVP and SWP operations on listed species. *NRDC v. Bernhardt* was appealed. The Ninth
19 Circuit reversed the judgment and remanded to this Court for further proceedings (see 749 F.3d 776,
20 785). The remanded *NRDC v. Bernhardt* case is currently pending in this Court before the Honorable
21 Judge Drozd.

22 6) *AquAlliance III* is related to *Pacific Coast Federation of Fishermen’s Associations*
23 *v. Gutierrez*, Case No. 1:06-cv-00245-OWW-GSA (“*PCFFA v. Gutierrez*”), filed in this Court.
24 *PCFFA v. Gutierrez* involved challenges to a 2004 biological opinion regarding its analysis of the
25 effects of CVP operations on salmon. *PCFFA v. Gutierrez* is related to *AquAlliance III* because the
26 cases: (1) involve Reclamation as a defendant, (2) involve similar questions of fact and law
27 regarding how the CVP operates and the legal obligations of Reclamation in operating the CVP, and
28 (3) involve similar questions of fact regarding the alleged effect of CVP and SWP operations on

1 listed species. This Court issued a final judgment on the 2004 biological opinion in September 2009,
2 and the case was closed in January 2011 (see *PCFFA v. Gutierrez* Doc. Nos. 458, 477).

3 7) *AquAlliance III* is related to *Pacific Coast Federation of Fishermen’s Associations,*
4 *et al. v. Ross, et al.*, Case No. 1:20-cv-00431-DAD-EPG (“*PCFFA v. Ross*”), filed in this Court. In
5 *PCFFA v. Ross*, plaintiffs are challenging two biological opinions issued in October 2019—the
6 Biological Opinion on Long-term Operation of the CVP and SWP (“2019 NMFS BiOp”) issued by
7 the National Marine Fisheries Service (“NMFS”), and the Biological Opinion For the Reinitiation
8 of Consultation on the Coordinated Operations of the CVP and SWP (“2019 FWS BiOp”) issued by
9 the United States Fish and Wildlife Service (“FWS”). *PCFFA v. Ross* is related to *AquAlliance III*
10 because the cases: (1) involve Reclamation and FWS as defendants, (2) involve similar questions of
11 fact and law regarding how the CVP operates and the legal obligations of Reclamation in operating
12 the CVP, and (3) involve similar questions of fact regarding the alleged effect of CVP and SWP
13 operations on listed species. *PCFFA v. Ross* is currently pending in this Court before the Honorable
14 Judge Drozd.

15 8) *AquAlliance III* is related to *California Natural Resources Agency, et al. v. Ross, et*
16 *al.*, Case No. 1:20-cv-00426-DAD-EPG (“*CNRA v. Ross*”), filed in this Court. In *CNRA v. Ross*, the
17 State is challenging the 2019 NMFS BiOp and 2019 FWS BiOp. *CNRA v. Ross* is related to
18 *AquAlliance III* because the cases: (1) involve Reclamation and FWS as defendants, (2) involve
19 similar questions of fact and law regarding how the CVP operates and the legal obligations of
20 Reclamation in operating the CVP, and (3) involve similar questions of fact regarding the alleged
21 effect of CVP and SWP operations on listed species. *CNRA v. Ross* is currently pending in this Court
22 before the Honorable Judge Drozd.

23 The above described cases include similar legal and factual issues involving CVP operations
24 and Reclamation’s obligations under NEPA and other laws, the terms and analyses used to describe
25 CVP operations, the history of the CVP, environmental issues related to CVP operations, competing
26 demands on CVP water, and the beneficial uses dependent on CVP water. Accordingly, assignment
27 of the cases described above to a single Judge and/or Magistrate Judge is likely to avoid substantial
28 duplication of labor and effect a savings of judicial effort and other economies.

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DATED: June 18, 2020

KRONICK, MOSKOVITZ, TIEDEMANN & GIRARD
A Professional Corporation

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