

FOR PUBLICATION

**UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT**

NATURAL RESOURCES DEFENSE
COUNCIL; CALIFORNIA TROUT; SAN
FRANCISCO BAYKEEPER; FRIENDS OF
THE RIVER; THE BAY INSTITUTE, all
non-profit organizations,

Plaintiffs-Appellants,

and

METROPOLITAN WATER DISTRICT OF
SOUTHERN CALIFORNIA,
Plaintiff in Related Case,

v.

KENNETH LEE SALAZAR, in his
official capacity as Secretary of the
Interior; DAN ASHE, in his official
capacity as Director of the U.S. Fish
and Wildlife Service; MICHAEL L.
CONNOR, in his official capacity as
Commissioner of the U.S. Bureau of
Reclamation; ANDERSON-
COTTONWOOD IRRIGATION
DISTRICT; PACIFIC REALTY
ASSOCIATES, LP; RECLAMATION

No. 09-17661

D.C. No.
1:05-cv-01207-
OWW-GSA

ORDER

DISTRICT 1004; BEVERLY F. ANDREOTTI; BANTA-CARBONA IRRIGATION DISTRICT; PATTERSON IRRIGATION DISTRICT; WEST SIDE IRRIGATION DISTRICT; BYRON BETHANY IRRIGATION DISTRICT; CARTER MUTUAL WATER COMPANY; HOWALD FARMS, INC.; MAXWELL IRRIGATION DISTRICT; MERIDIAN FARMS WATER COMPANY; OJI BROTHERS FARMS, INC.; HENRY D. RICHTER; SUTTER MUTUAL WATER Co.; TISDALE IRRIGATION AND DRAINAGE COMPANY; WINDSWEEP LAND AND LIVESTOCK COMPANY; CITY OF REDDING; COELHO FAMILY TRUST; EAGLE FIELD WATER DISTRICT; MERCY SPRINGS WATER DISTRICT; ORO LOMA WATER DISTRICT; CONAWAY PRESERVATION GROUP; DEL PUERTO WATER DISTRICT; WEST STANISLAUS IRRIGATION DISTRICT; FRESNO SLOUGH WATER DISTRICT; JAMES IRRIGATION DISTRICT; TRANQUILLITY IRRIGATION DISTRICT; CHRISTO D. BARDIS; ABDUL RAUF; TAHMINA RAUF; SACRAMENTO RIVER RANCH, LLC; FRED TENHUNFELD; FAMILY FARM ALLIANCE,

Defendants-Appellees,

SAN LUIS & DELTA-MENDOTA
WATER AUTHORITY; WESTLANDS
WATER DISTRICT; CALIFORNIA
FARM BUREAU FEDERATION; STATE
WATER CONTRACTORS; CALIFORNIA
DEPARTMENT OF WATER
RESOURCES; GLENN-COLUSA
IRRIGATION DISTRICT; NATOMAS
CENTRAL MUTUAL WATER
COMPANY; PELGER MUTUAL WATER
COMPANY; PLEASANT GROVE-
VERONA MUTUAL WATER
COMPANY; RECLAMATION DISTRICT
108; RIVER GARDEN FARMS
COMPANY; PRINCETON-CODORA-
GLENN IRRIGATION DISTRICT;
PROVIDENT IRRIGATION DISTRICT;
KERN COUNTY WATER AGENCY,

Defendant-Intervenors-Appellees.

Filed March 5, 2013

ORDER

KOZINSKI, Chief Judge:

Upon the vote of a majority of nonrecused active judges, it is ordered that this case be reheard en banc pursuant to Federal Rule of Appellate Procedure 35(a) and Circuit Rule

35–3. The three-judge panel opinion shall not be cited as precedent by or to any court of the Ninth Circuit.

Judges Berzon and Ikuta did not participate in the deliberations or vote in this case.