

MAR 05 2013

MOLLY C. DWYER, CLERK  
U.S. COURT OF APPEALS

**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  
DISTRICT 1004; BEVERLY F. ANDREOTTI;  
BANTA-CARBONA IRRIGATION DISTRICT;  
PATTERSON IRRIGATION DISTRICT;  
WEST SIDE IRRIGATION DISTRICT;  
BYRON BETHANY IRRIGATION DISTRICT;  
CARTER MUTUAL WATER COMPANY;**

No. 09-17661

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

**ORDER**

**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; WINDSWEPT 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.

**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.