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11 Attorneys for Plaintiff-in-Intervention
12 Stockton East Water District

13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE EASTERN DISTRICT OF CALIFORNIA

15 SAN LUIS & DELTA-MENDOTA WATER) 1:97-cv-6140 OWW DLB
16 AUTHORITY,) 1:98-cv-5261-OWW DLB
17) (Consolidated)
18 Plaintiff,)
19 v.) **STIPULATION AND APPLICATION FOR**
20) **ORDER FOR DISMISSAL WITHOUT**
21 UNITED STATES OF AMERICA, et al.,) **PREJUDICE PURSUANT TO FEDERAL**
22) **RULE OF CIVIL PROCEDURE 41(a)**
23 Defendants.)

24 SAVE THE SAN FRANCISCO BAY)
25 ASSOCIATION, et al.,)
26)
27 Plaintiff,)
28 v.)
29 UNITED STATES DEPARTMENT OF THE)
30 INTERIOR, et al.,)
31 Defendants.)

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2 WHEREAS, Plaintiff San Luis and Delta Mendota Water Authority initiated this action
3 in 2007. This Court granted Plaintiff in Intervention Stockton East Water District's ("SEWD")
4 motion to intervene in 1998. SEWD filed its Amended Complaint for Injunctive Relief on
5 December 1, 1999 (Docket # 267). SEWD's Amended Complaint included five claims for
6 relief.

7 WHEREAS, claims one and two of SEWD's Amended Complaint were finally resolved
8 by the Court's Partial Final Judgment entered on March 20, 2002 (Docket # 491) and related
9 appeals.

10 WHEREAS, on May 24, 2006 SEWD filed its Supplemental Complaint for Injunctive
11 Relief (Docket #648), essentially bringing claims three, four and five from its Amended
12 Complaint current. To date, the various motions for summary judgment decided by the court
13 have not addressed claims three, four and five from SEWD's Amended Complaint, or as brought
14 current through SEWD's Supplemental Complaint of May 2006.

15 WHEREAS, SEWD no longer desires to pursue claims three, four and five of its
16 Amended Complaint, or any of the claims in its Supplemental Complaint and has agreed with the
17 United States et al. (the "Federal Defendants") to dismiss these claims, without prejudice,
18 pursuant to Fed. R. Civ. P. 41(a)(2), each party to bear its own fees and costs, provided that
19 SEWD is permitted to remain an intervenor in the action with respect to the remaining claims of
20 the other parties. This dismissal will resolve all remaining claims between SEWD and the
21 Federal Defendants in this action.

22 THEREFORE, the parties request that the Court dismiss without prejudice counts three,
23 four and five of SEWD's Amended Complaint and all claims in SEWD's Supplemental
24 Complaint of May 2006, but allow SEWD to remain an intervenor in the action with respect to
25 the remaining claims of the other parties.

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1 IT IS SO STIPULATED.

2 Dated: September 4, 2009

HERUM CRABTREE
A California Professional Corporation

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5 By: /s/ Jennifer L. Spaletta
6 JENNIFER L. SPALETTA
7 Attorneys for Plaintiff-in-Intervention
STOCKTON EAST WATER DISTRICT

8 Dated: September 4, 2009

U.S. DEPARTMENT OF JUSTICE
ENVIRONMENT AND NATURAL RESOURCES
DIVISION

9
10
11 By /s/ Charles R. Shockey
12 CHARLES R. SHOCKEY
13 Attorneys for Federal Defendants

14
15 **ORDER**

16 IT IS SO ORDERED.

17
18 Dated: 09/23/09

/s/ Oliver W. Wanger
OLIVER W. WANGER
United States District Judge