CORPORATION

COUNSEL IDENTIFICATION AT END 1 2 3 UNITED STATES DISTRICT COURT 4 EASTERN DISTRICT OF CALIFORNIA – FRESNO DIVISION 5 6 SAN LUIS & DELTA-MENDOTA WATER Case Nos.: 7 AUTHORITY et al. v. GARY F. LOCKE et al. (Case No. 1:09-cv-1053) 1:09-cy-01053-OWW-DLB 8 1:09-cv-01090-OWW-DLB 9 1:09-cv-01378-OWW-DLB 1:09-cv-01520-OWW-DLB STOCKTON EAST WATER DISTRICT v. 1:09-cv-02452-OWW-DLB 10 NOAA et al. (Case No. 1:09-cv-1090) 1:09-cv-01625-OWW0DLB 11 STATE WATER CONTRACTORS v. GARY F. STIPULATION AND ORDER RE: 12 LOCKE et al. (Case No. 1:09-cv-1378) RELIEF FROM REQUIREMENT OF **LOCAL RULE 56-260 RE: FILING** 13 OF SEPARATE STATEMENTS KERN COUNTY WATER AGENCY et al. v. 14 U.S. DEPARTMENT OF COMMERCE et al. Judge: Honorable Oliver W. Wanger (Case No. 1:09-cv-1520) 15 16 OAKDALE IRRIGATION DISTRICT et al. v. U.S. DEPARTMENT OF COMMERCE et al. 17 (Case No. 1:09-cv-2452) 18 THE METROPOLITAN WATER DISTRICT 19 OF SOUTHERN CALIFORNIA v. NATIONAL 20 MARINE FISHERIES, et al. (Case No. 1:09-cv-1625) 21 22 23 24 25 26 27 28 {00199447; 1} DIEPENBROCK HARRISON STIPULATION RE: SEPARATE STATEMENTS OF

UNDISPUTED MATERIAL FACTS; [PROPOSED] ORDER

1	The undersigned parties, the	nrough their respective counsel indicated below, agree and
2	stipulate that they are relieved from Eastern District Local Rule 56-260 requirement regarding	
3	filing separate statements of undisp	outed material facts in support of their motions for summary
4	judgment and/or summary adjudica	tion.
5	Dated: October 27, 2009	DIEPENBROCK HARRISON.
6		A Professional Corporation KRONICK, MOSKOVITZ, TIEDEMANN &
7		GIRARD, A Law Corporation
8		By: <u>/s/ [Eileen M. Diepenbrock]</u> EILEEN M. DIEPENBROCK
9		DANIEL J. O'HANLON
10		Attorneys for Plaintiffs SAN LUIS & DELTA-MENDOTA WATER
11		AUTHORITY; WESTLANDS WATER DISTRICT
12	Dated: October 27, 2009	BEST BEST & KRIEGER LLP
13		By: /s/ [Gregory K. Wilkinson] (as authorized) GREGORY K. WILKINSON
14		STEVEN M. ANDERSON PAETER E. GARCIA
15		MELISSA R. CUSHMAN Attorneys for Plaintiff
16		STATE WATER CONTRACTORS
17	Dated: October 27, 2009	NOSSAMAN LLP
18		By: /s/ [Paul S. WeilandI] (as authorized) ROBERT D. THORNTON
19		PAUL S. WEILAND AUDREY HUANG
20		Attorneys for Plaintiffs' KERN COUNTY WATER AGENCY and COALITION FOR A SUSTAINABLE
21		DELTA
22	Dated: October 27, 2009	HERRUM CRABTREE
23	Buted. Getosel 21, 2003	A Professional Corporation
24		By: /s/ [Jennifer L. Spaletta] (as authorized)
25		JENNIFER L. SPALETTA Attorneys to Plaintiff
26		STOCKTON EAST WATER DISTRICT
27		
28 ROCK	{00199447; 1}	-1-
	<del></del>	

Dated: October 27, 2009   O'LAUGHLIN & PARIS LLP			
WILLIAM C. PARIS III Attorney for Plaintiffs  Dated: October 27, 2009  MORRISON & FOERSTER, LLP  THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  By: /s//Christopher J. Carrl (as authorized) EDGAR B. WASHBURN CHRISTOPHER I. CARR WILLIAM M. SLOAN KAREN L. TACHIKI LINUS MASQUREDIS Attorneys for Plaintiff THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  By: /s//Christopher J. Carrl (as authorized) EDGAR B. WASHBURN CHRISTOPHER I. CARR WILLIAM M. SLOAN KAREN L. TACHIKI LINUS MASQUREDIS Attorneys for Plaintiff THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  Dated: October 27, 2009  EDMUND G. BROWN JR. Attorney General of the State of California  By: /s//Daniel S. Harris/ (as authorized) DANIEL S. HARRIS Deputy Attorney General Attorneys for Real Parties in Interest CALIFORNIA DEPARTMENT OF WATER RESOURCES AND ITS DIRECTOR, LESTER SNOW  JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNeill (as authorized) BRIDGET KENNEDY McNeill (as authorized) BRIDGET KENNEDY McNeill (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8" Floor Denver, CO 80294 Ph. 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov	1	Dated: October 27, 2009	O'LAUGHLIN & PARIS LLP
Attorney for Plaintiffs OAKDALE IRRIGATION DISTRICT AND SOUTH SAN JOAQUIN IRRIGATION DISTRICT  Dated: October 27, 2009  MORRISON & FOERSTER, LLP  THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  By: **Is! * IChristopher J. Carr!* (as authorized)* EDGAR B. WASHBURN CHRISTOPHER I. CARR WILLIAM M. SLOAN KAREN L. TACHIK! LINUS MASOUREDIS Attorneys for Plaintiff THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  Dated: October 27, 2009  EDMUND G. BROWN JR. Autorney General of the State of California  By: **Is! * IDaniel S. Harris!* (as authorized)* DANIEL S. HARRIS Deputy Attorney General Attorneys for Real Parties in Interest CALIFORNIA DEPARTMENT OF WATER RESOURCES AND ITS DIRECTOR, LESTER SNOW  JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNeil! (as authorized) BRIDGET KENNEDY McNeil. (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8th Floor Denver, CO 80294 Ph. 303-844-1484/Fax: 303-844-1350 bridget.meneil@usdoj.gov  [00199447: 1]  -2-	2		
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Dated: October 27, 2009  MORRISON & FOERSTER, LLP  THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  By: /s/ {Christopher J. Carr} (as authorized) EDGAR B. WASHBURN CHRISTOPHER J. CARR WILLIAM M. SLOAN KAREN L. TACHIKI LINUS MASOUREDIS Attorneys for Plaintiff THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  Dated: October 27, 2009  EDMUND G. BROWN JR. Attorney General of the State of California  By: /s/ {Daniel S. Harris} (as authorized) DANIEL S. HARRIS Deputy Attorney General Attorneys for Real Parties in Interest CALIFORNIA DEPARTMENT OF WATER RESOURCES AND ITS DIRECTOR, LESTER SNOW  JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNeIL, Trial Attorney  By: /s/ {Bridget Kennedy McNeil} (as authorized) BRIDGET KENNEDY McNeIL (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8th Floor Denver, CO 80294 Ph: 303-844-1484/Fax; 303-844-1350 bridget.meneil@usdoj.gov	4		OAKDALE IRRIGATION DISTRICT AND
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By: /s/ [Christopher J. Carr] (as authorized) EDGAR B. WASHBURN CHRISTOPHER J. CARR WILLIAM M. SLOAN KAREN L. TACHIKI LINUS MASOUREDIS Attorneys for Plaintiff THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  Dated: October 27, 2009  EDMUND G. BROWN JR. Attorney General of the State of California  By: /s/ [Daniel S. Harris] (as authorized) DANIEL S. HARRIS Deputy Attorney General Attorneys for Real Parties in Interest CALIFORNIA DEPARTMENT OF WATER RESOURCES AND ITS DIRECTOR, LESTER SNOW  JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief BRIDGET KENNEDY McNeil (as authorized) By: /s/ [Pridget Kennedy McNeil (as authorized) By: /s/ [Pridget Kennedy McNeil (as authorized) By: /s/ [Pridget Kennedy McNeil (as authorized) Brioget McNeil (as authorized) Brioget McNeil (as authorized) Brioget McNeil (as authorized) Brioget McNeil (as	6	Dated: October 27, 2009	MORRISON & FOERSTER, LLP
OF SOUTHERN CALIFORNIA  By: /s/ [Christopher J. Carr] (as authorized) EDGAR B. WASHBURN CHRISTOPHER J. CARR WILLIAM M. SLOAN KAREN L. TACHIKI LINUS MASOUREDIS Attorneys for Plaintiff THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  Dated: October 27, 2009 EDMUND G. BROWN JR. Attorney General of the State of California  By: /s/ [Daniel S. Harris] (as authorized) DANIEL S. HARRIS Deputy Attorney General Attorneys for Real Parties in Interest CALIFORNIA DEPARTMENT OF WATER RESOURCES AND ITS DIRECTOR, LESTER SNOW  Dated: October 27, 2009 JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNEIL, Trial Attorney  By: /s/ [Bridget Kennedy McNeil] (as authorized) BRIDGET KENNEDY McNEIL (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8 <sup>th</sup> Floor Denver, CO 80294 Ph. 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov	7		THE METROPOLITAN WATER DISTRICT
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KAREN L. TACHIKI LINUS MASOUREDIS Attorneys for Plaintiff THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  Dated: October 27, 2009  EDMUND G. BROWN JR. Attorney General of the State of California  By: /s/ [Daniel S. Harris] (as authorized) DANIEL S. HARRIS Deputy Attorney General Attorneys for Real Parties in Interest CALIFORNIA DEPARTMENT OF WATER RESOURCES AND ITS DIRECTOR, LESTER SNOW  Dated: October 27, 2009  JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNeill (as authorized) BRIDGET KENNEDY McNeill (as authorized) BRIDGET KENNEDY McNeill (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8th Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov	10		CHRISTOPHER J. CARR
Attorneys for Plaintiff THE METROPOLITAN WATER DISTRICT OF SOUTHERN CALIFORNIA  Dated: October 27, 2009  EDMUND G. BROWN JR. Attorney General of the State of California  By: /s/ [Daniel S. Harris] (as authorized) DANIEL S. HARRIS Deputy Attorney General Attorneys for Real Parties in Interest CALIFORNIA DEPARTMENT OF WATER RESOURCES AND ITS DIRECTOR, LESTER SNOW  Dated: October 27, 2009  JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNeill (as authorized) BRIDGET KENNEDY McNeill (as authorized) BRIDGET KENNEDY McNeill (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8th Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov	11		KAREN L. TACHIKI
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Dated: October 27, 2009  EDMUND G. BROWN JR.  Attorney General of the State of California  By: /s/   Daniel S. Harris  (as authorized) DANIEL S. HARRIS Deputy Attorney General Attorneys for Real Parties in Interest CALIFORNIA DEPARTMENT OF WATER RESOURCES AND ITS DIRECTOR, LESTER SNOW  Dated: October 27, 2009  JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNEIL, Trial Attorney  By: /s/   Bridget Kennedy McNeil   (as authorized) BRIDGET KENNEDY McNEIL (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8th Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov	13		
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DANIEL S. HARRIS Deputy Attorney General Attorneys for Real Parties in Interest CALIFORNIA DEPARTMENT OF WATER RESOURCES AND ITS DIRECTOR, LESTER SNOW  Dated: October 27, 2009  JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNEIL, Trial Attorney  By: /s/ [Bridget Kennedy McNeil] (as authorized) BRIDGET KENNEDY McNEIL (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8th Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov  [00199447; 1]  -2-	15	Dated: October 27, 2009	
DANIEL S. HARRIS Deputy Attorney General Attorneys for Real Parties in Interest CALIFORNIA DEPARTMENT OF WATER RESOURCES AND ITS DIRECTOR, LESTER SNOW  Dated: October 27, 2009  JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNEIL, Trial Attorney  By: /s/ [Bridget Kennedy McNeil] (as authorized) BRIDGET KENNEDY McNEIL (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8 <sup>th</sup> Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov  [00199447; 1]  -2-	16		By: /s/ [Daniel S. Harris] (as authorized)
Attorneys for Real Parties in Interest CALIFORNIA DEPARTMENT OF WATER RESOURCES AND ITS DIRECTOR, LESTER SNOW  Dated: October 27, 2009  JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNEIL, Trial Attorney  By: /s/   Bridget Kennedy McNeil   (as authorized) BRIDGET KENNEDY McNEIL (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8 <sup>th</sup> Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov  [00199447:1]	17		DANIEL S. HARRIS
Dated: October 27, 2009  Dated: October 27, 2009  Dated: October 27, 2009  JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNEIL, Trial Attorney  By: /s/ [Bridget Kennedy McNeil] (as authorized) BRIDGET KENNEDY McNEIL (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8 <sup>th</sup> Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov  -2 -	18		Attorneys for Real Parties in Interest
JOHN C. CRUDEN, Acting Assistant Attorney General JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNEIL, Trial Attorney  By: /s/ [Bridget Kennedy McNeil] (as authorized) BRIDGET KENNEDY McNEIL  (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8 <sup>th</sup> Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov  [00199447; 1]  - 2 -	19		
JEAN E. WILLIAMS, Section Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNEIL, Trial Attorney  BRIDGET KENNEDY McNeil] (as authorized) BRIDGET KENNEDY McNEIL  (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8 <sup>th</sup> Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov  [00199447; 1]  PARTICIPATION Chief SETH M. BARSKY, Assistant Section Chief BRIDGET KENNEDY McNeil] (as authorized) BRIDGET KENNEDY McNeil BRIDGET KENNEDY McNeil Sauthorized  Physical Section 1961 Stout St., 8 <sup>th</sup> Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 Bridget.mcneil@usdoj.gov	20	Datad: Oatobar 27, 2000	IOHN C CRUDEN Acting Assistant Attornov Congrel
BRIDGET KENNEDY McNEIL, Trial Attorney  By: /s/ [Bridget Kennedy McNeil] (as authorized) BRIDGET KENNEDY McNEIL (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8 <sup>th</sup> Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov  - 2 -	21	Dated. October 27, 2009	JEAN E. WILLIAMS, Section Chief
BRIDGET KENNEDY McNEIL  (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8 <sup>th</sup> Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov  [00199447; 1]  [00199447; 1]  [00199447; 1]	22		
24 (CO State Bar 034299) U.S. Department of Justice Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8 <sup>th</sup> Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov  [00199447; 1] -2 -	23		By: /s/ [Bridget Kennedy McNeil] (as authorized)
Environmental and Natural Resources Division Wildlife & Marine Resources Section 1961 Stout St., 8 <sup>th</sup> Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov  [00199447; 1] -2 -	24		(CO State Bar 034299)
26 1961 Stout St., 8 <sup>th</sup> Floor Denver, CO 80294 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov  28 {00199447; 1} -2 -	25		Environmental and Natural Resources Division
27 Ph: 303-844-1484/Fax: 303-844-1350 bridget.mcneil@usdoj.gov  28 {00199447; 1} -2 -	26		1961 Stout St., 8 <sup>th</sup> Floor
28   {00199447; 1} - 2 -	27		•
BROCK Comments of the comments	28		
SON STIPULATION RE: SEPARATE STATEMENTS OF UNDISPUTED MATERIAL FACTS;		-	

1		WILLIAM I CHADIDO TELLAG	
2		WILLIAM J. SHAPIRO, Trial Attorney (CO State Bar 030929)	
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6		Attorneys for the Federal Defendants	
7			
8	Dated: October 27, 2009	By: /s/ [Erin M. Tobin] (as authorized) MICHAEL R. SHERWOOD	
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10		Earthjustice	
11		Attorneys for Defendant-Intervenors CALIFORNIA TROUT, FRIENDS OF THE RIVER, NATURAL	
12		RESOURCES DEFENSE COUNCIL, NORTHERN CALIFORNIA COUNCIL OF THE FEDERATION OF	
13		FLY FISHERS, PACIFIC COAST FEDERATION OF	
14		FISHERMEN'S ASSOCIATIONS/INSITITUTE FOR FISHERIES RESOURCES, SACRAMENTO RIVER	
15		PRESERVATION TRUST, SAN FRACISCO BAYKEEPER, THE BAY INSTITUTE, WINNEMEN WINTU TRIBE	
16		WINTU TRIDE	
17	5		
18	Dated: October 27, 2009	By: /s/ [Katherine S. Poole] (as authorized)  KATHERINE S. POOLE	
19		DOUG OBEGI Natural Resources Defense Council	
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21		Tel: 415-875-6100/Fax: 415-875-6151	
22		Attorneys for Defendant-Intervenor NRDC	
23			
		SO ORDERED	
24			
25	Dated:10/29/2009	/s/ OLIVER W. WANGER	
26		Honorable Oliver O. Wanger United States District Court Judge	
27		- -	
28	{00199447; 1}	- 3 -	
DIEPENBROCK HARRISON A PROFESSIONAL		ATE STATEMENTS OF UNDISPUTED MATERIAL FACTS;	
CORPORATION	[PROPOSED] ORDER		

1	IDENTIFICATIO	ON OF COUNSEL
2		
3	DANIEL J. O'HANLON (SBN 122380) WILLIAM T. CHISUM (SBN 142580)	GREGORY K. WILKINSON (SBN 054809) STEVEN M. ANDERSON (SBN 186700)
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