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 3 Environment and Natural Resources Division
 4 U.S. Department of Justice
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12 ATTORNEYS FOR PLAINTIFF
 13 UNITED STATES OF AMERICA

14 UNITED STATES DISTRICT COURT
 15 NORTHERN DISTRICT OF CALIFORNIA

16 UNITED STATES OF AMERICA and PEOPLE
 17 OF THE STATE OF CALIFORNIA *ex rel.*
 18 CALIFORNIA STATE WATER RESOURCES
 19 CONTROL BOARD and CALIFORNIA
 20 REGIONAL WATER QUALITY CONTROL
 21 BOARD, SAN FRANCISCO BAY REGION,
 22 Plaintiffs,
 23 v.
 24 EAST BAY MUNICIPAL UTILITY DISTRICT,
 25 Defendant.

Case No. C-09-0186-RS

[Complaint Filed: January 15, 2009]

26 UNITED STATES OF AMERICA and PEOPLE
 27 OF THE STATE OF CALIFORNIA *ex rel.*
 28 CALIFORNIA STATE WATER RESOURCES
 29 CONTROL BOARD and CALIFORNIA
 30 REGIONAL WATER QUALITY CONTROL
 31 BOARD, SAN FRANCISCO BAY REGION,
 32 Plaintiffs,
 33 v.
 34 CITY OF ALAMEDA, ET AL.,
 35 Defendants.

Case No. C-09-5684-RS

**STIPULATION AND ~~PROPOSED~~
 ORDER CONSOLIDATING
 RELATED CASES**

[Complaint Filed: December 3, 2009]

1 Pursuant to Federal Rule of Civil Procedure 42, the parties to these two related cases, by
2 and through their respective counsel, hereby stipulate as follows:

3 1. These cases involve common questions of law and fact concerning the Clean
4 Water Act, the State of California's Porter-Cologne Water Quality Control Act and their
5 application to the sewer system in the wastewater service area of East Bay Municipal Utility
6 District ("EBMUD"), the defendant in Case No. C-09-0186-RS (the "EBMUD case"). EBMUD
7 owns and operates the wastewater treatment plant ("WWTP") near the eastern end of the Bay
8 Bridge, as well as the interceptor pipes ("Interceptor") that transport wastewater to the WWTP
9 and, during severe wet weather events, to three wet weather treatment facilities ("WWFs").

10 2. The defendants in Case No. C-09-5684-RS (the "Satellites case") -- the cities of
11 Alameda, Albany, Berkeley, Emeryville, Oakland and Piedmont and the Stege Sanitary District,
12 which serves the city of El Cerrito, Kensington and portions of the City of Richmond
13 (collectively, the "Satellites") -- own and operate the collection systems that collect wastewater
14 and transport it to EBMUD's Interceptor.

15 3. These cases concern (a) discharges from the WWFs, (b) sanitary sewer overflows
16 ("SSOs"), and (c) how best to address both. The parties are currently in negotiations designed to
17 achieve a consensual resolution, but regardless of whether those negotiations succeed or the
18 issues must be resolved by litigation, the parties agree that resolution is best achieved by a
19 coordinated Order governing both EBMUD's and the Satellites' portions of the interconnected
20 East Bay sewer system.


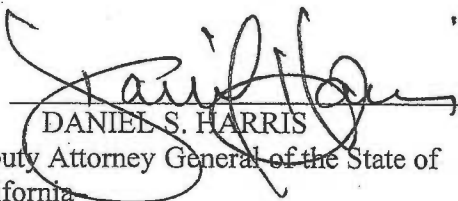
21 4 If the cases proceeded to trial separately, that would result in an undue
22 burdensome duplication of labor and expense. Consolidation is likely to save judicial resources.

23 5. Therefore, the parties jointly request that the Court consolidate the two actions for
24 all purposes.

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26 [signatures on following pages]
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Plaintiffs in Both Cases

UNITED STATES OF AMERICA By:  PATRICIA L. HURST Senior Counsel Environmental Enforcement Section Environment and Natural Resources Division U.S. Department of Justice	PEOPLE OF THE STATE OF CALIFORNIA <i>ex rel.</i> CALIFORNIA STATE WATER RESOURCES CONTROL BOARD and CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD, SAN FRANCISCO BAY REGION By:  DANIEL S. HARRIS Deputy Attorney General of the State of California
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Defendant in EBMUD Case No. C-09-0186-RS

EAST BAY MUNICIPAL UTILITY DISTRICT By: _____ JONATHAN D. SALMON Attorney Office of General Counsel East Bay Municipal Utility District	
---	--

Defendants in Satellites Case No. C-09-5684-RS

City of Alameda By: _____ STEPHANIE GARRABRANT-SIERRA Assistant City Attorney Alameda City Attorney's Office	City of Albany By: _____ KENTON L. ALM Meyers, Nave, Riback, Silver & Wilson
City of Berkeley By: _____ ZACHARY D. COWAN Berkeley City Attorney	City of Emeryville By: _____ MICHAEL G. BIDDLE Emeryville City Attorney

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Plaintiffs in Both Cases

UNITED STATES OF AMERICA

By: _____
PATRICIA L. HURST
Senior Counsel
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

PEOPLE OF THE STATE OF CALIFORNIA
ex rel. CALIFORNIA STATE WATER
RESOURCES CONTROL BOARD and
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD, SAN
FRANCISCO BAY REGION

By: _____
DANIEL S. HARRIS
Deputy Attorney General of the State of
California

Defendant in EBMUD Case No. C-09-0186-RS

EAST BAY MUNICIPAL UTILITY
DISTRICT


By: _____
JONATHAN D. SALMON
Attorney
Office of General Counsel
East Bay Municipal Utility District

Defendants in Satellites Case No. C-09-5684-RS

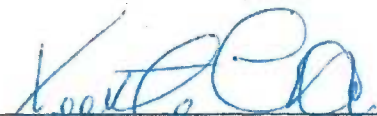
City of Alameda

By: 
STEPHANIE GARRABRANT-SIERRA
Assistant City Attorney
Alameda City Attorney's Office

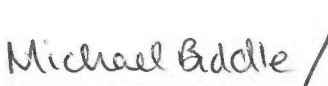
City of Berkeley

By: 
ZACHARY D. COWAN
Berkeley City Attorney

City of Albany

By: 
KENTON L. ALM
Meyers, Nave, Riback, Silver & Wilson

City of Emeryville

By:  / by PLH
MICHAEL G. BIDDLE
Emeryville City Attorney

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Plaintiffs in Both Cases

UNITED STATES OF AMERICA

By: _____
PATRICIA L. HURST
Senior Counsel
Environmental Enforcement Section
Environment and Natural Resources Division
U.S. Department of Justice

PEOPLE OF THE STATE OF CALIFORNIA
ex rel. CALIFORNIA STATE WATER
RESOURCES CONTROL BOARD and
CALIFORNIA REGIONAL WATER
QUALITY CONTROL BOARD, SAN
FRANCISCO BAY REGION

By: _____
DANIEL S. HARRIS
Deputy Attorney General of the State of
California

Defendant in EBMUD Case No. C-09-0186-RS

EAST BAY MUNICIPAL UTILITY
DISTRICT

By: _____
JONATHAN D. SALMON
Attorney
Office of General Counsel
East Bay Municipal Utility District

Defendants in Satellites Case No. C-09-5684-RS

City of Alameda

By: _____
STEPHANIE GARRABRANT-SIERRA
Assistant City Attorney
Alameda City Attorney's Office

City of Albany

By: _____
KENTON L. ALM
Meyers, Nave, Riback, Silver & Wilson

City of Berkeley

By: _____
ZACHARY D. COWAN
Berkeley City Attorney

City of Emeryville


By: _____
MICHAEL G. BIDDLE
Emeryville City Attorney

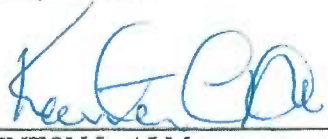
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City of Oakland

By: _____
CELSO D. ORTIZ
Deputy City Attorney
Oakland City Attorney's Office
Stege Sanitary District

City of Piedmont

By: 
KENTON L. ALM
Meyers, Nave, Riback, Silver & Wilson

By: 
KENTON L. ALM
Meyers, Nave, Riback, Silver & Wilson

Intervenors in Both Cases

Our Children's Earth Foundation

By: _____
CHRISTOPHER A. SPROUL
Environmental Advocates

San Francisco Baykeeper

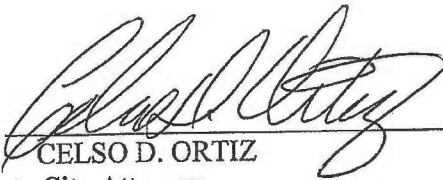
By: _____
JASON R. FLANDERS
San Francisco Baykeeper

So Ordered.

Dated: May __, 2013

HONORABLE RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE

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City of Oakland	City of Piedmont
By:  CELSO D. ORTIZ Deputy City Attorney Oakland City Attorney's Office Stege Sanitary District	By: _____ KENTON L. ALM Meyers, Nave, Riback, Silver & Wilson
By: _____ KENTON L. ALM Meyers, Nave, Riback, Silver & Wilson	
Intervenors in Both Cases	
Our Children's Earth Foundation	San Francisco Baykeeper
By: _____ CHRISTOPHER A. SPROUL Environmental Advocates	By: _____ JASON R. FLANDERS San Francisco Baykeeper

So Ordered.


Dated: May __, 2013

HONORABLE RICHARD SEEBORG
UNITED STATES DISTRICT JUDGE

1 2 3 4 5 6 7 8 9 10	City of Oakland By: _____ CELSO D. ORTIZ Deputy City Attorney Oakland City Attorney's Office Stege Sanitary District	City of Piedmont By: _____ KENTON L. ALM Meyers, Nave, Riback, Silver & Wilson
11 12 13 14 15 16	Intervenors in Both Cases	
	Our Children's Earth Foundation By: <u>Christopher A. Sproul</u> CHRISTOPHER A. SPROUL Environmental Advocates	San Francisco Baykeeper By: <u>s/ Jason Flanders</u> JASON R. FLANDERS San Francisco Baykeeper

17 So Ordered.

19 Dated: May 20, 2013



 HONORABLE RICHARD SEEBORG
 UNITED STATES DISTRICT JUDGE

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PROOF OF SERVICE BY ELECTRONIC FILING/SERVICE

I, Patricia L. Hurst, declare that I am over the age of eighteen years and not a party to this action. I am an employee of the United States Department of Justice and my business address is 601 D Street, NW, Washington DC 20004. On May 20, 2013, I served the following document(s) in these related cases (Nos. C-09-0186-RS and C-09-5684-RS):

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STIPULATION AND [PROPOSED] ORDER CONSOLIDATING RELATED CASES

I (1) caused said document to be Electronically Filed and Served through the CourtLink system to those parties on the Service List maintained on Courtlink's Website for the two cases captioned above and (2) also emailed the document to the party representatives listed below. The file transmission was reported as complete and a copy of the "JusticeLink Filing Receipt" page will be maintained with the original document(s) in our office.

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I declare under penalty of perjury under the laws of the District of Columbia that the foregoing is true and correct. Executed on May 10, 2013, at Washington, DC.

/s/ Patricia L. Hurst
PATRICIA L. HURST