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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

RAMON BOJORQUEZ SALCIDO,

Petitioner,

v.

**KEVIN CHAPPELL, Warden of California
State Prison at San Quentin,**

Respondent.

Case No. C 09-0586 MMC

**~~PROPOSED~~ ORDER REGARDING
PROCEDURAL MATTERS RELATED TO
THE MIXED FINALIZED PETITION
(DOC. 41)**

Based upon the stipulation of the parties, the Court adopts their proposed schedule for resolving procedural matters related to the mixed finalized petition (Doc. 41).

1. Within 30 days of the issuance of this Order, respondent shall file a motion to dismiss the mixed petition. *See O'Bremski v. Maass*, 915 F.2d 418, 420 (9th Cir. 1990); *see also Rose v. Lundy*, 455 U.S. 509, 522 (1982) (holding that for reasons of comity and federalism, district courts may not adjudicate mixed petitions).

2. Within 30 days of the filing of respondent's motion to dismiss the mixed petition, petitioner shall file his response and his motion for a stay so that he may present his unexhausted claims to the state court. *See Rhines v. Weber*, 544 U.S. 269, 273-78 (2005) (affirming the

1 authority of district courts to stay, rather than dismiss, mixed petitions governed by AEDPA
2 deadlines); *see also Kelly v. Small*, 315 F.3d 1063 (9th Cir. 2002).

3 3. Within 14 days of petitioner filing his response to the motion to dismiss and motion for a
4 stay, respondent shall file any reply to the response to the motion to dismiss and his response to
5 the motion for a stay.

6 4. Within 14 days of respondent's reply/response to the motion for a stay, petitioner shall
7 file any reply to the response to the motion for a stay.

8 5. The above motions will be decided on the pleadings.

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10 IT IS SO ORDERED.

11 DATED: March 11, 2013.

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14 MAXINE M. CHESNEY
15 United States District Judge
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