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 21 ECOLOGICAL RIGHTS FOUNDATION

22 UNITED STATES DISTRICT COURT
 23 NORTHERN DISTRICT OF CALIFORNIA

24 ECOLOGICAL RIGHTS FOUNDATION,

25 Plaintiff,

26 v.

27 PACIFIC GAS AND ELECTRIC COMPANY,

28 Defendant.

Civil No. CV-10-00121 RS

**STIPULATION AND ~~PROPOSED~~
 ORDER EXTENDING CASE
 MANAGEMENT DEADLINES
 AS MODIFIED BY THE COURT**

1 WHEREAS, on October 27, 2011, Plaintiff Ecological Rights Foundation ("ERF") filed
2 Plaintiff's Motion for Partial Summary Judgment on Standing (Docket No. 179). The hearing on the
3 Motion to Dismiss was scheduled for December 8, 2011.

4 WHEREAS, on October 27, 2011, Defendant Pacific Gas and Electric Company ("PG&E") filed
5 Defendant's Motion for Summary Judgment on ERF's Standing (Docket No. 181)The hearing on the
6 Motion to Dismiss was scheduled for December 8, 2011.

7 WHEREAS, the Motion to Dismiss was fully briefed by the parties. On December 2, 2011, the
8 Court ordered the hearing on the cross motions for summary judgment to be rescheduled to December
9 29, 2011.

10 WHEREAS, on December 5, 2011, the parties and the Court agreed to move the hearing on the
11 cross motions for summary judgment to January 19, 2011 to accommodate scheduling conflicts.

12 WHEREAS, on October 13, 2011, the Court approved the parties agreed upon bifurcated
13 approach to case management whereby the issue of Plaintiff's standing would first be subject to
14 summary judgment, after which cross motions for summary judgment related to Plaintiff's Clean Water
15 Act ("CWA") claim would be brought, followed by summary judgment motions related to Plaintiff's
16 Resource Conservation and Recovery Act ("RCRA") claims.

17 WHEREAS, according to the Court Order, the parties are scheduled to begin expert discovery
18 related to the four service centers. Plaintiff is required to disclose expert testimony and reports on
19 January 19, 2011. Defendants are required to disclose expert testimony and reports on February 26,
20 2012, and all expert discovery is scheduled to be completed by April 26, 2012.

21 WHEREAS, because of the pending cross motions for summary judgment on Plaintiff's standing,
22 the parties are not currently clear on which counts will or will not require expert testimony. The parties
23 believe judicial economy will best be served by finalizing the issue of Plaintiff's standing to bring the
24 CWA and RCRA claims before attempting to complete proceeding with expert discovery so that the
25 parties do not spend time and resources pursuing expert discovery of claims that are no longer in the
26 Complaint.

27 WHEREAS, the parties agree that staying rescheduling the deadlines to complete expert
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1 discovery and cross motions for summary judgment on the CWA claims at this time will allow the Court
2 to rule on the Motions for Summary Judgment and then allow the parties to proceed in a more orderly
3 fashion with expert discovery.

4 NOW, THEREFORE, the parties do hereby stipulate, by and through counsel, that the case
5 management schedule be adjusted as follows:

6
7 --March 1, 2012: Deadline for ERF to provide Rule 26 expert disclosures (including expert reports) from
8 any experts that it will use to support its motion for summary judgment concerning liability for ERF's
9 Clean Water Act ("CWA") claims.

10 -- April 5, 2012: Deadline for PG&E to provide Rule 26 expert disclosures (including expert reports and
11 rebuttal expert reports) from any experts that it will use to support its cross motion for summary
12 judgment concerning liability for ERF's CWA claims.

13 --April 26, 2012: Deadline for ERF to provide Rule 26 expert disclosures (including expert reports) from
14 any rebuttal experts that it will use to respond to PG&E's CWA liability experts.

15 --June 14, 2012: Cutoff to complete discovery concerning any expert disclosures of experts or personnel
16 who assisted the parties' CWA experts or were relied upon by these experts (including but not limited to
17 people who assisted in gathering or analyzing samples or provided information to the experts concerning
18 whether storm water runoff from the Facilities reaches waters of the United States).

19 --August 2, 2012: Cross motions for summary judgment on liability related to ERF's CWA claims due.

20 --September 13, 2012: Oppositions to cross motions for summary judgment on liability related to ERF's
21 CWA claims and evidentiary motions related to cross motions for summary judgment on liability related
22 to ERF's CWA claims due.

23 --October 4, 2012: Replies in support of cross motions for summary judgment on liability related to
24 ERF's CWA claims and oppositions to evidentiary motions related to cross motions for summary
25 judgment on liability related to ERF's CWA claims due.

26 --October 25, 2012: Replies in support of evidentiary motions related to cross motions for summary
27 judgment on liability related to ERF's CWA claims due.

1 --November 8, 2012, 10 A.M.: hearing on cross motions for summary judgment on liability related to
2 ERF's CWA claims.

3
4 The subsequent case schedule on ERF's Resource Conservation and Recovery Act ("RCRA") claim and
5 on remedy is to remain tied to the Court's issuance of a ruling on the parties cross motions for summary
6 judgment on liability related to ERF's CWA claims ("CWA Claims Ruling") as follows:

7 --10 weeks after the CWA Claims Ruling: Deadline for ERF to provide Rule 26 expert disclosures
8 (including expert reports) from any experts that it will use to support its motion for summary judgment
9 or trial claims concerning ERF's RCRA claim and remedy for the RCRA and CWA claims ("Remaining
10 Claims").

11 --16 weeks after the CWA Claims Ruling: Deadline for PG&E to provide Rule 26 expert disclosures
12 (including expert reports and rebuttal expert reports) from any experts that it will use to support its cross
13 motion for summary judgment or trial claims concerning the Remaining Claims.

14 --20 weeks after the CWA Claims Ruling: Deadline for ERF to provide Rule 26 expert disclosures
15 (including expert reports) from any rebuttal experts that it will use to respond to PG&E's Remaining
16 Claims experts.

17 --30 weeks after the CWA Claims Ruling: Cutoff to complete discovery concerning any expert
18 disclosures or experts or personnel who assisted the parties' related to the Remaining Claims or were
19 relied upon by these experts.

20 --39 weeks after the CWA Claims Ruling: Cross motions for summary judgment on the Remaining
21 Claims due.

22 --45 weeks after the CWA Claims Ruling: Oppositions to cross motions for summary judgment on the
23 Remaining Claims and evidentiary motions related to cross motions for summary judgment on the
24 Remaining Claims due.

25 --49 weeks after the CWA Claims Ruling: Replies in support of cross motions for summary judgment on
26 the Remaining Claims and oppositions to evidentiary motions related to cross motions for summary
27 judgment on the Remaining Claims due.

1 --52 weeks after the CWA Claims Ruling: replies in support of evidentiary motions related to cross
2 motions for summary judgment on the Remaining Claims due.


3 ~~10 A.M.~~ 1:30 PM
4 --55 weeks after the CWA Claims Ruling, ~~10 A.M.~~: hearing on cross motions for summary judgment on
5 the Remaining Claims.

6 DATED: December 15, 2011 /s/ Jodene Isaacs
7 Attorneys for Plaintiff
8 Ecological Rights Foundation

9 DATED: December 15, 2011 /s/ Bradley Rochlen
10 Attorneys for Defendant PG&E

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12 PURSUANT TO STIPULATION, IT IS SO ORDERED.

13
14 DATED: 12/15/11

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16 Honorable Richard Seeborg
17 United States District Judge
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