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 12 ECOLOGICAL RIGHTS FOUNDATION

13
 14 UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

15 ECOLOGICAL RIGHTS FOUNDATION,

Civil No. 3:10-CV-00121-RS

16 Plaintiff,

17 v.

18 STIPULATION AND ~~PROPOSED~~
 ORDER REGARDING BRIEFING
 19 SCHEDULE FOR MOTION TO
 DISMISS

20 PACIFIC GAS AND ELECTRIC COMPANY.
 21 Defendant.
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1 **STIPULATION**

2 WHEREAS, on August 25, 2010, Defendant Pacific Gas & Electric Company (“PG&E”)
3 filed Defendant’s Motion to Dismiss Plaintiff’s Third Amended Complaint for Lack of Subject
4 Matter Jurisdiction and Failure to State a Claim and Proposed Order (Docket Doc. 67) (“Motion to
5 Dismiss”);

6 WHEREAS, on September 7, 2010, the Court issued an order continuing the hearing on the
7 Motion to Dismiss until December 2, 2010, “subject to further rescheduling upon conclusion of the
8 parties’ meet and confer negotiations that are to be held pursuant to this order.” Docket Doc. 76 at 3
9 (“Order”);

10 WHEREAS, the Order required the parties to meet and confer to discuss three questions,
11 including whether the legal issues in dispute in this case could most efficiently be resolved on a
12 motion to dismiss rather than a motion for summary judgment;

13 WHEREAS, the parties exchanged letters on September 13 and 14, 2010 in which they
14 agreed that the legal issues in dispute could most efficiently be resolved in PG&E’s pending Motion
15 to Dismiss;

16 WHEREAS, the parties have exchanged their initial thoughts regarding the other two
17 questions raised by the Court’s Order and scheduled an additional meet and confer session to seek
18 agreement on those matters;

19 WHEREAS, because PG&E’s Motion to Dismiss is currently pending and Plaintiff is ready
20 to respond, the parties believe the Motion to Dismiss should be rescheduled at this time;

21 NOW, THEREFORE, the parties do hereby stipulate, by and through counsel, that:

- 22 1. The hearing on PG&E’s Motion to Dismiss should be calendared for October
23 21, 2010 to correspond with the Case Management Conference, or another date at the
24 Court’s convenience;
- 25 2. Plaintiff’s Opposition brief should be due on September 30, 2010;
- 26 3. PG&E’s Reply brief should be due on October 7, 2010; and
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1 Dated: September 17, 2010

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PROPOSED ORDER

On September 17, 2010, Plaintiff Ecological Rights Foundation and Defendant Pacific Gas & Electric Company filed a Stipulation and Proposed Order Regarding Briefing Schedule for Motion to Dismiss (“the Stipulation”). Having considered the Stipulation, and good cause appearing, the Court hereby GRANTS the Stipulation and orders as follows:

The hearing on PG&E’s pending Motion to Dismiss (Docket Doc. 67) shall be set for at 11:00 a.m. October 21, 2010. Plaintiff’s Opposition brief shall be filed September 30, 2010. PG&E’s Reply brief shall be filed October 7, 2010.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: __ 9/17 _____, 2010



RICHARD SEEBORG
United States District Judge