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10 UNITED STATES DISTRICT COURT
 11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
 12 OAKLAND DIVISION

13 ASSOCIATION OF IRRITATED)
 14 RESIDENTS, an unincorporated association,)

15 Plaintiff,)

16 v.)

17 UNITED STATES ENVIRONMENTAL)
 PROTECTION AGENCY, LISA P.)
 JACKSON, in her official capacity as)
 Administrator of the United States)
 Environmental Protection Agency, and)
 19 WAYNE NASTRI, in his official capacity as)
 20 Regional Administrator for Region IX of the)
 United States Environmental Protection)
 Agency, ^{1/})

22 Defendants.)
 23)
 24)
 25)

Case No. 08-cv-05650 CW

**STIPULATION TO STAY THE
 CASE PENDING PUBLIC
 COMMENT ON THE PROPOSED
 CONSENT DECREE**

AND

ORDER THEREON AS MODIFIED

26 ^{1/} Stephen L. Johnson was previously named as the lead defendant in this case in his
 27 official capacity as Administrator of the United States Environmental Protection Agency.
 Pursuant to Fed. R. Civ. P. 25(d), his successor, Lisa P. Jackson, is automatically substituted.
 28 Defendant Wayne Nastri no longer holds the position of Regional Administrator for Region IX
 of the United States Environmental Protection Agency; his successor, however, has not yet been
 chosen, and he therefore remains a named defendant in this action.

1 WHEREAS, on December 18, 2008, Plaintiff Association of Irritated Residents filed the
2 above-captioned matter against the United States Environmental Protection Agency (“EPA”),
3 alleging that EPA has failed to undertake certain nondiscretionary duties under the Clean Air
4 Act, 42 U.S.C. §§ 7401-7671q, and that such alleged failures are actionable under section
5 304(a)(2) of the Clean Air Act, 42 U.S.C. § 7604(a)(2);

6 WHEREAS, on May 29, 2009, EPA lodged a proposed Consent Decree with the Court,
7 which would fully resolve the claims alleged against EPA in Plaintiff’s complaint;

8 WHEREAS, before the proposed Consent Decree can be entered by the Court, EPA must
9 provide notice of the Consent Decree in the Federal Register and an opportunity for public
10 comment pursuant to section 113(g) of the Clean Air Act, 42 U.S.C. § 7413(g);

11 WHEREAS, the EPA Administrator will promptly consider any written comments
12 received on the proposed Consent Decree and, if none of the comments disclose facts or
13 considerations which indicate that the Decree is inappropriate, improper, inadequate, or
14 inconsistent with the requirements of the Clean Air Act, EPA will move for the Court’s entry of
15 the Consent Decree;

16 NOW THEREFORE, pursuant to Local Rules 6-2 and 7-12, the parties, by and through
17 their undersigned counsel, hereby stipulate to stay the case pending EPA’s consideration of
18 public comments on the proposed Consent Decree. The stay shall remain in effect until EPA
19 either moves for entry of the Consent Decree, or thirty days after the close of the public
20 comment period as noticed in the Federal Register pursuant to section 113(g) of the Clean Air
21 Act, 42 U.S.C. § 7413(g), whichever is earlier.

22 **COUNSEL FOR PLAINTIFF:**

23 Dated: June 2, 2009

24 /s/ Brent Newell (with permission)
25 BRENT NEWELL
26 MARYBELLE NZEGWU
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*Counsel for Plaintiff Association of Irritated
Residents*

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COUNSEL FOR DEFENDANTS:

Dated: June 2, 2009

JOHN C. CRUDEN
Acting Assistant Attorney General
Environment & Natural Resources Division

/s/ Rochelle L. Russell
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PURSUANT TO STIPULATION, IT IS SO ORDERED. THE CASE MANAGEMENT CONFERENCE IS CONTINUED FROM 6/30/09 TO 9/15/09 AT 2:00 P.M.

6/10/09

Dated: _____



CLAUDIA WILKEN
UNITED STATES DISTRICT JUDGE

1 **CERTIFICATE OF SERVICE**

2 I certify that on June 2, 2009, a true and correct copy of the foregoing **STIPULATION**
3 **TO STAY THE CASE PENDING PUBLIC COMMENT ON THE PROPOSED**
4 **CONSENT DECREE** was served electronically via the Court's e-filing system to Counsel of
5 Record.

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7 /s/ Rochelle L. Russell
8 ROCHELLE L. RUSSELL

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