

1 Christopher Sproul (State Bar No. 126398)
 Jodene Isaacs (State Bar No. 226895)
 2 ENVIRONMENTAL ADVOCATES
 5135 Anza Street
 3 San Francisco, California 94121
 Telephone: (415) 533-3376, (510) 847-3467
 4 Facsimile: (415) 358-5695
 Email: csproul@enviroadvocates.com
 5 Email: jisaacs@enviroadvocates.com

6
 7 William Verick (State Bar No. 140972)
 Klamath Environmental Law Center
 Fredric Evenson (State Bar No. 198059)
 8 Law Offices of Fredric Evenson
 424 First Street
 9 Eureka, California 95501
 Telephone: (707) 268-8900
 10 Facsimile: (707) 268-8901
 Email: wverick@igc.org, ecorights@earthlink.net

11 Attorneys for Plaintiff
 12 ECOLOGICAL RIGHTS FOUNDATION

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 14 UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA

15 ECOLOGICAL RIGHTS FOUNDATION,

Civil No. 4:09-CV-03704-SBA

16 Plaintiff,

17 v.

18 PACIFIC GAS AND ELECTRIC COMPANY.

STIPULATION AND ~~PROPOSED~~
 ORDER GRANTING PLAINTIFF
 LEAVE TO FILE SECOND AMENDED
 COMPLAINT

19 Defendant.
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STIPULATION

WHEREAS, on September 13, 2009, Plaintiff Ecological Rights Foundation filed its First Amended Complaint for Declaratory Relief and Civil Penalties (“First Amended Complaint”) asserting claims against Defendant Pacific Gas & Electric Company (“PG&E”) under the Clean Water Act (“CWA”), CWA section 505(a)(1), 33 U.S.C. § 1365(a)(1), and the Resource Conservation and Recovery Act (“RCRA”), RCRA section 7002(a)(1)(B), 42 U.S.C. § 6972 (a)(1)(B);

WHEREAS, on January 10, 2010, Plaintiff served a supplemental Notice of Violations of Federal Law and Notice of Intent to Begin Citizen Enforcement Action (“Supplemental Notice Letter”) on PG&E, Pacific Bell Telephone Company (“Pacbell”), the U.S. Environmental Protection Agency, relevant State agencies, and others, as required by the notice provisions of the CWA and RCRA. *See* CWA section 505(b), 33 U.S.C. § 1365(b); RCRA section 7002(b)(2)(A), 42 U.S.C. 6972 (b)(2)(A);

WHEREAS, the Supplemental Notice Letter provided notice of Plaintiff’s intent to assert claims against Pacbell under the CWA and RCRA after the expiration of the applicable 90-day waiting period;

WHEREAS, the 90-day waiting period has now expired;

WHEREAS, Plaintiff and PG&E have agreed that Plaintiff should be granted leave to file a Second Amended Complaint to add claims against Pacbell under the CWA and RCRA;

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

1. Plaintiff should be granted leave to amend to file the Second Amended Complaint;
2. PG&E will not be obligated to file an Answer or otherwise plead to the First Amended Complaint;
3. PG&E’s Answer or other responsive pleading to the Second Amended Complaint will be due on the date that Pacbell’s Answer or other responsive pleading is due;
4. Pacbell’s Answer or other responsive pleading to the Second Amended

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Complaint will be due in accordance with the schedule established by the Federal Rules of Civil Procedure.

Dated: May 28, 2010

/s/ Bradley Rochlen
Bradley S. Rochlen
Foley & Lardner LLP
321 North Clark Street, Ste. 2800
Chicago, IL 60654
(312) 832.4906
brochlen@foley.com
ATTORNEYS FOR DEFENDANT
PG&E

Christopher a. sproul

Christopher Sproul
Environmental Advocates
5135 Anza Street
San Francisco, CA 94121
(415) 386-6709
csproul@enviroadvocates.com
ATTORNEYS FOR PLAINTIFF
ECOLOGICAL RIGHTS
FOUNDATION

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ORDER

Plaintiff is granted leave to file the Second Amended Complaint, ~~will be deemed filed on the date it is lodged with the Court~~ which shall be filed within five days of the date this Order is filed. PG&E will not be obligated to file an Answer or otherwise plead to the First Amended Complaint. PG&E’s Answer or other responsive pleading to the Second Amended Complaint will be due on the date that Pacific Bell Telephone Company’s (“Pacbell”) Answer or other responsive pleading is due. Pacbell’s Answer or other responsive pleading to the Second Amended Complaint will be due in accordance with the schedule established by the Federal Rules of Civil Procedure.

The telephonic Case Management Conference currently scheduled for July 15, 2010 is CONTINUED to **September 15, 2010 at 3:00 p.m.** The parties shall meet and confer prior to the conference and shall prepare a joint Case Management Conference Statement which shall be filed no later than ten (10) days prior to the Case Management Conference that complies with the Standing Order for All Judges of the Northern District of California and the Standing Order of this Court. Plaintiff shall be responsible for filing the statement as well as for arranging the conference call. All parties shall be on the line and shall call (510) 637-3559 at the above indicated date and time.

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated: 6/21/10


SAUNDRA BROWN ARMSTRONG
United States District Judge

