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6 Attorneys for Defendants CUE VI, LLC and  
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8 UNITED STATES DISTRICT COURT  
 9 NORTHERN DISTRICT OF CALIFORNIA

10 HUMBOLDT BAYKEEPER, a program of  
 Ecological Rights Foundation, and  
 11 ECOLOGICAL RIGHTS FOUNDATION, a  
 non-profit corporation,  
 12  
 Plaintiffs,  
 13  
 v.  
 14 UNION PACIFIC RAILROAD COMPANY, a  
 Delaware corporation, NORTH COAST  
 15 RAILROAD AUTHORITY, a state agency, and  
 16 CUE VI, LLC, an Alaska limited liability  
 company,  
 17  
 Defendants.  
 18

No. 06-02560 JSW WDB

**STIPULATION FOR BRIEFING  
 SCHEDULE AND CONTINUANCE  
 OF HEARING ON PLAINTIFFS’  
 MOTION TO COMPEL; SCHEDULE  
 FOR SITE INSPECTION;  
 [PROPOSED] ORDER**

19 On January 23, 2008, Humboldt Baykeeper and Ecological Rights Foundation (“Plaintiffs”)   
 20 filed a motion to compel discovery from defendants CUE VI, LLC and Union Pacific Railroad   
 21 Company (“Defendants”). Defendants would like additional time to respond to the motion given   
 22 the litigation dates in February. The parties discussed a briefing schedule and hearing date for   
 23 Plaintiffs’ motion as well as Plaintiffs’ Request for Inspection, Wet Weather. Plaintiffs also   
 24 discussed the problem with pushing the hearing date given the need to review responsive   
 25 documents should Plaintiffs’ motion be successful in time to file their opening motion for summary   
 26 judgment, which Judge White ordered be filed March 28, 2008.

27 Plaintiffs and Defendants, by and through their counsel, hereby stipulate to the following.

28 IT IS HEREBY STIPULATED AND AGREED that:

1           1.       The hearing on Plaintiffs' motion to compel should be continued from February 27,  
2 2008 until March 14, 2008 at 1:30 p.m. Defendants will file their opposition on or before February  
3 25, 2008 and Plaintiffs will file their reply on or before March 5, 2008.

4           2.       If Plaintiffs' motion to compel is granted, Defendants agree to produce responsive  
5 documents and discovery responses within 7 days of the Court's final decision, except for  
6 documents ordered to be produced responding to Plaintiffs' Third RFP to Union Pacific and Fourth  
7 RFP to CUE, which shall be produced within a reasonable time as ordered by the Court.

8           3.       Plaintiffs will complete their inspection on March 4, 2008 and will limit it in scope  
9 as to time and individuals attending. Specifically, the inspection will be limited to: observing the  
10 site and water flow during a rain event, determining where a pipe originating along the southern  
11 end of the Balloon Track in what has sometimes been referred to as the "Coors Lite culvert" ends;  
12 and collecting no more than 5 water samples and 1 sediment sample. Plaintiffs will provide a list  
13 of the persons to be attending the inspection by March 1, 2008. Plaintiffs will provide a release in  
14 the form previously used for each person entering the site. Plaintiffs will provide to Defendants  
15 copies of all videos, recordings, and test results obtained in connection with the investigation of  
16 where the pipe ends within 14 days of receipt.

17  
18 DATED: February 1, 2008.

LAWYERS FOR CLEAN WATER, INC.

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20  
21 By: \_\_\_\_\_/s/  
22 Layne Friedrich  
23 Attorneys for Plaintiffs HUMBOLDT  
24 BAYKEEPER and ECOLOGICAL RIGHTS  
25 FOUNDATION  
26  
27  
28

1 DATED: February 1, 2008.

BRISCOE IVESTER & BAZEL LLP

2  
3  
4 By: \_\_\_\_\_/s/  
Lawrence S. Bazel  
Attorneys for Defendants CUE VI, LLC and  
5 UNION PACIFIC RAILROAD COMPANY  
6

7 I, Lawrence Bazel, attest that the content of this document is acceptable to all persons  
8 required to sign this document.

9 DATED: February 1, 2008.

BRISCOE IVESTER & BAZEL LLP

10  
11 By: \_\_\_\_\_/s/  
12 Lawrence S. Bazel  
Attorneys for Defendants CUE VI, LLC and  
13 UNION PACIFIC RAILROAD COMPANY  
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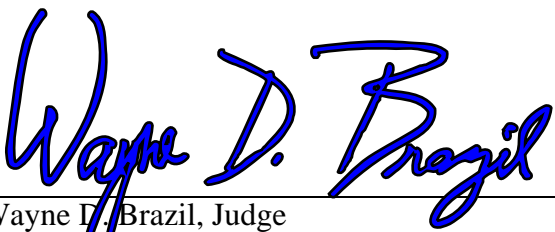
15 **[PROPOSED] ORDER**

16 GOOD CAUSE APPEARING, the hearing on Plaintiffs' motion to compel is continued  
17 from February 27, 2008 until March 14, 2008 at 1:30 p.m. Defendants will file their opposition on  
18 or before February 25, 2008 and Plaintiffs will file their reply on or before March 5, 2008.

19 The site inspection and document production shall be conducted as agreed above.

20 IT IS SO ORDERED.

21 DATED: 2/1, 2008

22  
23 By:   
Wayne D. Brazil, Judge  
24 United States District Court for the Northern  
District of California  
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