

United States District Court
For the Northern District of California

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

HUMBOLDT BAYKEEPER and
ECOLOGICAL RIGHTS FOUNDATION,

Plaintiffs,

v.

UNION PACIFIC RAILROAD COMPANY,
NORTH COAST RAILROAD AUTHORITY,
and CUE VI, LLC,

Defendants.

No. C 06-02560 JSW

**ORDER (1) DENYING
DEFENDANTS' MOTION TO
STAY AND (2) GRANTING
DEFENDANTS' MOTION IN THE
ALTERNATIVE TO CONTINUE
TRIAL DATE**

Now before the Court is Defendants' motion to stay, or in the alternative, to continue the trial date. Having considered the parties' papers, relevant legal authority, the record in this case, and having had the benefit of oral argument, the Court finds that Defendants have not demonstrated that a stay is warranted. Accordingly, the Court DENIES Defendants' motion for a stay. However, in light of the pregnancy of Melanie Tang and her intended maternity leave, the Court GRANTS Defendants' motion to continue the trial date. The pretrial conference will remain as scheduled on February 16, 2010. The Court HEREBY CONTINUES the first phase of the trial in this matter to August 30, 2010 at 8:00 a.m.

The Court FURTHER ORDERS the parties to submit joint status updates regarding the progress of the administrative proceedings, Defendants' permit applications, and Defendants' remedial work on the property every sixty days from the date of this Order. If the Court finds that Defendants have caused or contributed to delays in the administrative proceedings,

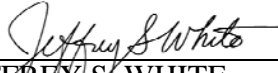
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permitting process or remedial work, the Court will consider advancing the trial date.

On August, 2, 2010, the Court will hold either a supplemental pretrial conference or a status conference to address any changes subsequent to the parties' submissions in connection with the February 16, 2010 pretrial conference. At this conference, the Court will address whether the liability portion of the trial should be conducted in phases, with the first phase being limited to issues of standing and mootness and to Plaintiffs' Clean Water Act claim. In the joint status updates due on April 30 and June 25, 2010, the parties shall address whether a supplemental pretrial conference would be beneficial, including what topics or issues should be addressed at such supplemental conference. The Court will determine the scope and format of the conference by further order.

IT IS SO ORDERED.

Dated: January 8, 2010



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE