

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,

No. C 06-02560 JSW

Plaintiffs,

v.

UNION PACIFIC RAILROAD COMPANY,
et al.,

**ORDER REGARDING CUE VI,
LLC’S MOTION ON PLAINTIFF’S
FIRST CLAIM**

Defendants.

Defendant CUE VI, LLC (“CUE VI”) filed a document entitled motion for judgment on the pleadings and noticed it to be heard on a Monday, during the pretrial conference. CUE VI’s motion is improper for several reasons. This Court holds hearings on civil motions on Friday mornings, not Monday afternoons. The only motions the Court hears at pretrial conferences are motions *in limine*. Moreover, as CUE VI mentions in its motion, the Court has already addressed the issue raised in its motion. Therefore, CUE VI should have filed a motion for leave to file a motion for reconsideration, not a new motion for judgment on the pleadings. Nevertheless, CUE VI does point to authority issued after the Court ruled on this issue. A motion for reconsideration may be made on one of three grounds, including the emergence of a change of law. Civ. L.R. 7-9(b). Therefore, despite the fact that CUE VI could have moved for reconsideration *over three years ago*, CUE VI states a legitimate ground for moving for reconsideration. Although the Court does not condone CUE VI’s lengthy delay in moving on

1 this issue, because the rule does not set a deadline to move for reconsideration as long as
2 judgement has not been entered, the Court GRANTS CUE VI leave to file a motion for
3 reconsideration. Moreover, in light of the imminent pretrial conference and trial, the Court will
4 not require CUE VI to refile its motion as a properly noticed motion for reconsideration.
5 Instead, the Court will construe the motion for judgment on the pleadings as one for
6 reconsideration.

7 The Court ORDERS that Plaintiffs shall file an opposition to CUE VI's motion for
8 reconsideration by no later than July 8, 2010 and CUE VI shall file a reply, if any, by no later
9 than July 15, 2010. Because the Court does not have any available Friday hearings before the
10 pretrial conference, the Court will only set a hearing if necessary after reviewing the papers.

11 **IT IS SO ORDERED.**

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13 Dated: June 24, 2010



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE

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