

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

JEFFREY K. LEE (BAR NO. 212465)
WILLIAM D. CONNELL (BAR NO. 89124)
KATHRYN C. CURRY (BAR NO. 157099)
GCA LAW PARTNERS LLP
1891 Landings Drive
Mountain View, CA 94043
Telephone: (650) 428-3900
Facsimile: (650) 428-3901
Email: jlee@gcalaw.com
Email: bconnell@gcalaw.com
Email: kcurry@gcalaw.com

LAYNE FRIEDRICH (BAR NO. 195431)
DREVET HUNT (BAR NO. 240487)
LAWYERS FOR CLEAN WATER, INC.
1004 O'Reilly Avenue
San Francisco, CA 94129
Telephone: (415) 440-6520
Facsimile: (415) 440-4155
Email: layne@lawyersforcleanwater.com
Email: drev@lawyersforcleanwater.com

Attorneys for Plaintiffs HUMBOLDT
BAYKEEPER, and ECOLOGICAL RIGHTS
FOUNDATION

*Additional Plaintiffs' counsel of record listed
below*

DOWNEY BRAND LLP
CLIFTON J. MCFARLAND (Bar No. 136940)
ANDREW L. COLLIER (Bar No.191137)
GREGORY T. BRODERICK (Bar No. 220871)
621 Capitol Mall, 18th Floor
Sacramento, CA 95814-4686
Telephone: (916) 444-1000
Facsimile: (916) 444-2100
cmcfarland@downeybrand.com
acollier@downeybrand.com
gbroderick@downeybrand.com

Attorneys for Defendant CUE VI, LLC

Paul P. "Skip" Spaulding III (Bar No. 83922)
R. Christopher Locke (Bar No. 101704)
Matthew Bostick (Bar No. 268563)
FARELLA, BRAUN + MARTEL
235 Montgomery Street
San Francisco, CA 94104
Telephone: (415) 954-4400
Facsimile: (415) 954-4480
sspaulding@farella.com
clocke@farella.com
mbostick@fbm.com

Attorneys for Defendant
UNION PACIFIC RAILROAD COMPANY

Additional Defendants' counsel of record listed below

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

HUMBOLDT BAYKEEPER, a program of
Ecological Rights Foundation, and
ECOLOGICAL RIGHTS FOUNDATION, a
non-profit corporation,

Plaintiffs,

v.

UNION PACIFIC RAILROAD COMPANY,
a Delaware corporation, NORTH COAST
RAILROAD AUTHORITY, a state agency,
and CUE VI, LLC, an Alaska limited liability
company,

Defendants.

Civil Case No.: C 06-02560 JSW (MEJ)

**STIPULATION SETTLING PLAINTIFFS'
MOTION FOR FEES AND COSTS
INCURRED FOR DEPOSITIONS OF
DEFENDANTS' NON-DISCLOSED
WITNESSES;
~~PROPOSED~~ ORDER**

Judge: Honorable Jeffrey S. White

Trial Date: August 30, 2010

1 Michelle Smith (Bar No. 233515)
Humboldt Baykeeper
2 217 E Street
Eureka, CA 95501
3 Telephone: (707) 268-0665
Facsimile: (707) 268-8901
4 Email: michelle@humboldtbaykeeper.org

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

11 Attorneys for Plaintiffs HUMBOLDT BAYKEEPER
12 and ECOLOGICAL RIGHTS FOUNDATION
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27

1 Plaintiffs Humboldt Baykeeper and Ecological Rights Foundation (“Plaintiffs”) and
2 Defendants CUE VI, LLC and Union Pacific Railroad Company (collectively “the Parties”) submit
3 this Stipulation Settling Plaintiffs’ Motion for Payment of Fees And Costs Incurred For Depositions
4 of Defendants’ Non-Disclosed Witnesses and [Proposed] Order.

5 WHEREAS, Plaintiffs’ Motion for Payment of Fees And Costs Incurred For Depositions of
6 Defendants’ Non-Disclosed Witnesses came before the Magistrate Judge Maria-Elena James on July
7 29, 2010;

8 WHEREAS, the Parties came to a mutual agreement settling Plaintiffs’ Motion;

9 The Parties hereby stipulate to the following:

10 Defendants CUE VI, LLC and Union Pacific Railroad Company agree to reimburse Plaintiffs
11 for their fees and costs associated with preparation for and taking of the depositions of the witnesses
12 (“Deposition Fees and Costs”) by making payment of Eighty Six Thousand Dollars (\$86,000) no
13 later than August 30, 2010. This payment shall fully and finally settle any and all claims by
14 Plaintiffs for reimbursement of Deposition Fees and Costs, as well as all fees and costs for
15 negotiations with Defendants to settle the Deposition Fees and Costs incurred, and the briefing and
16 motion proceedings on the Deposition Fees and Costs.

17 The Parties further agree that if payment is not timely made and paid in full by August 30,
18 2010, Plaintiffs will immediately notify the Honorable Maria-Elena James, and the Parties will be
19 prepared to appear before Judge James no later than September 3, 2010, or as soon thereafter as the
20 court’s calendar permits, for a hearing on the collection of the agreed-upon payment.

21 Dated: August 2, 2010

Respectfully submitted,

22 JEFFREY K. LEE (BAR NO. 212465)
23 WILLIAM D. CONNELL (BAR NO. 89124)
24 KATHRYN C. CURRY (BAR NO. 157099)
1891 Landings Drive
25 Mountain View, CA 94043
26 Phone No.: (650) 428-3900
27 Fax No.: (650) 428-3901
28 Email: jlee@gcalaw.com
Email: bconnell@gcalaw.com

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Layne Friedrich (Bar No. 195431)
Drevet Hunt (Bar No. 240487)
LAWYERS FOR CLEAN WATER, INC.
1004 O'Reilly Avenue
San Francisco, California 94129
Telephone: (415) 440-6520
Facsimile: (415) 440-4155
Email: layne@lawyersforcleanwater.com

By: /s/ Layne Friedrich
Attorneys for Plaintiffs
HUMBOLDT BAYKEEPER and ECOLOGICAL
RIGHTS FOUNDATION

August 2, 2010

Paul P. "Skip" Spaulding III (Bar No. 83922)
R. Christopher Locke (Bar No. 101704)
Matthew Bostick (Bar No. 268563)
FARELLA, BRAUN + MARTEL
235 Montgomery Street
San Francisco, CA 94104
Telephone: (415) 954-4400
Facsimile: (415) 954-4480
sspaulding@farella.com
clocke@farella.com
mbostick@fbm.com

By: /s/ R. Christopher Locke
Attorneys for Defendant
UNION PACIFIC RAILROAD COMPANY

August 2, 2010

DOWNEY BRAND LLP
CLIFTON J. MCFARLAND (Bar No. 136940)
ANDREW L. COLLIER (Bar No. 191137)
GREGORY T. BRODERICK (Bar No. 220871)
621 Capitol Mall, 18th Floor
Sacramento, CA 95814-4686
Telephone: (916) 444-1000
Facsimile: (916) 444-2100
cmcfarland@downeybrand.com
acollier@downeybrand.com
gbroderick@downeybrand.com

By: /s/ Gregory T. Broderick
Attorneys for Defendant CUE VI, LLC

ATTESTATION

I, Layne Friedrich, am counsel for Plaintiffs and the registered ECF user whose username and password are being used to file this Stipulated Request to Vacate and Continue Pretrial Conference and Associated Dates and [Proposed] Order. In compliance with General Order 45 X.B, I hereby attest that the above-identified counsel for Defendants concurred in this filing.

Dated: August 2, 2010

Respectfully submitted,

By: /s/ Layne Friedrich

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

PROPOSED ORDER

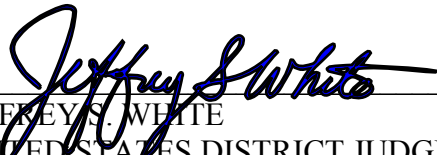
PURSUANT TO THE PARTIES STIPULATION, IT IS HEREBY ORDERED:

Defendants CUE VI, LLC and Union Pacific Railroad Company will reimburse Plaintiffs for their fees and costs incurred for depositions of Defendants' non-disclosed witnesses by making payment of Eighty Six Thousand Dollars (\$86,000) no later than August 30, 2010.

If payment is not timely made and paid in full by August 30, 2010, Plaintiffs shall notify the Honorable Maria-Elena James on August 30, 2010, and the Parties shall be prepared to appear before Judge James no later than September 3, 2010, or as soon thereafter as the court's calendar permits, for a hearing on the collection of the agreed-upon payment.

IT IS SO ORDERED.

Dated: August 12, 2010



JEFFREY S. WHITE
UNITED STATES DISTRICT JUDGE