

United States District Court
Northern District of California

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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

**CALIFORNIANS FOR ALTERNATIVES TO
TOXICS,**

Plaintiff,

vs.

KERNEN CONSTRUCTION CO., ET AL.,

Defendants.

CASE NO. 16-cv-04007-YGR

**ORDER OF REFERENCE TO CALIFORNIA
ATTORNEY GENERAL REQUESTING
SUBMISSION RE: PROPOSITION 65 CLAIM**

Re: Dkt. No. 66

TO ALL PARTIES AND THE ATTORNEY GENERAL FOR THE STATE OF CALIFORNIA:

Plaintiff Californians for Alternatives to Toxics brings this action against defendant companies located in Humboldt County claiming violations of the federal Clean Water Act and California’s Proposition 65. The parties filed cross motions for summary judgment with regard only to the Proposition 65 claim. (Dkt. Nos. 66, 73.) On May 16, 2017, the Court held oral arguments on both motions. Given the statewide issues of concern, the Court provides notice of these proceedings and an opportunity for the Attorney General to comment. Neither party objects.

Thus:

In connection with defendants’ motion for summary judgment (Dkt. No. 66), the parties dispute whether defendants’ compliance with a permit issued by the State Water Resources Control Board satisfies the requirements of California Health & Safety Code section 25249.9, which provides an exemption to the prohibition on discharges contained in section 25249.5. The Court finds that input from the Attorney General on such issues would be beneficial with respect to its adjudication of the same.

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Accordingly, the Court **REFERS** this matter to the Attorney General for his perspective on the issues set forth in defendants’ motion for summary judgment. Within thirty (30) days of this Order, the Court requests that the Attorney General either file (i) a brief setting forth the Attorney General’s position on such issues or (ii) a notice indicating that the Attorney General declines to do so. The Clerk shall cause a copy of this Order to be served upon the Attorney General for the State of California.

IT IS SO ORDERED.

Dated: May 17, 2017



YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE