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PG&E loses bid to dismiss water contamination suit

Westlaw News & Insight
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Pacific Gas & Electric Co. has failed to win dismissal of an environmental group's lawsuit seeking to force the company to get permits for more than two dozen storage facilities that allegedly discharge contaminated storm water.

Judge Richard Seeborg of the U.S. District Court for the Northern District of California said the Ecological Rights Foundation sufficiently pleaded claims that "industrial activities" at the sites are subject to National Pollution Discharge Elimination System's permit requirements.

However, the judge said he might reach a different conclusion at a later stage in the proceeding when faced with a more developed record.

The suit targets 31 "corporation yards and service centers" in Northern California that PG&E purportedly uses to store vehicles, equipment, material and supplies.

The sites support the utility's primary business as a provider of electricity and natural gas.

The suit says the sites are in violation of the Clean Water Act because the "industrial activities" conducted there allegedly contaminate storm water. The plaintiff says PG&E has no NPDES permits to justify its discharge activities.

Section 402(p) of the Clean Water Act requires NPDES permits for any "discharge associated with industrial activity."

PG&E, as a generator of solid waste, also is violating the Resource Conservation and Recovery Act, 42 U.S.C. § 6972(a)(1)(B), the suit says.

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