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Environmental Groups Challenge Railroad's Failure to Review Impacts

Two North Coast citizens' groups filed legal actions in Marin County Superior Court today seeking to set aside the North Coast Rail Authority's (NCRA's) recent environmental impact report (EIR) for its failure to address the impacts of rebuilding and operating the rail line from Arcata to Lombard.

Californians for Alternatives to Toxics (CATs) Executive Director Patty Clary said, "the public was locked out of decision making for a project that impacts neighborhoods and health, our water and the environment." CATs lawsuit says the NCRA hasn't even tried to address existing toxic hotspots or to keep toxins out of watercourses when the railroad resumes operations. "The law requires that we be fully informed, that hazards be identified and safer options devised. That's what we're asking for," Clary said.

"We are gravely concerned the NCRA, a public agency, and the Northwestern Pacific Railroad Company (NWP Co.), the private company that has leased the entire railroad for the next century, are doing their best to avoid real environmental review of the gravel train they want the public to pay for," said Scott Greacen, North Coast Director of Friends of the Eel River.

Though the agency and the company now deny it in their EIR, Friends of the Eel River say the facts show they still plan to rebuild the railroad through the Eel River Canyon and dig an open pit mine on the banks of the Wild and Scenic Eel River. "They are seeking desperately to avoid giving the public a hard look at the impacts of not just rebuilding a railroad through some of the most unstable ground on the continent, but of building a gravel train to make Island Mountain and Humboldt County the gravel suppliers to the West Coast," Greacen said.

Key Points about the NCRA and NWP Co.

After three state agencies sued the rail agency over cleanup of the entire line, the NCRA signed a Consent Decree in 1999 promising to take specific measures to protect water quality and clean up toxic spill areas. More than a decade later, the NCRA has yet to fulfill those promises.

Compliance with the California Environmental Quality Act (CEQA) is a condition of the NCRA's funding from the California Transportation Commission. When the City of Novato challenged the NCRA's failure in an earlier instance to look at the whole railroad as a single project, the NCRA asserted it need not comply with California environmental law at all. The judge disagreed, and the lawsuit was later settled with another consent decree.

Under a lease agreement that was negotiated in secret and kept from public view, and which one member of the NCRA Board of Directors has criticized as "unfair" and "one-

sided,” the NWP Co. has options to assume effective control of the entire rail line from Humboldt Bay to Lombard for up to 99 years. The public has promised, through the NCRA, to raise money to pay to rebuild and repair the line. The company would make lease payments to the agency if and when it made five million dollars a year in net profits.

The proposed Island Mountain mine, located in an extremely remote corner of Trinity County, would be a 350 acre open pit mine immediately adjacent to the Wild and Scenic Eel River. The Island Mountain mine was the centerpiece of the business plan presented by the NWP Co. when it was awarded the operator lease by the NCRA, as well as in seeking state funding through the California Transportation Commission. Island Mountain contains a large volume of very hard construction-grade rock.

The history of the rail line, the most credible assessments of its economic viability, and the NCRA and NWP’s own actions and statements all show that the small section of line that the railroad is now re-opening cannot hope to run at a profit. All evidence suggests that the railroad intends to reopen the northern parts of the rail line as soon as funding can be found and will continue to make every effort to avoid environmental review.

Coho salmon, chinook salmon, and steelhead trout are listed under the Endangered Species Act in both the Russian and Eel Rivers. Salmonids in the Russian River are critically endangered. In the Eel, signs of natural recovery in the river and its fisheries could be completely overwhelmed by unsustainable railroad reconstruction.