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Court of Appeals Denies Railroad's Latest Attempt To Avoid Trial Over Environmental Impacts of North Coast Rail Line

A California Court of Appeals has denied yet another attempt by the operator of a Northcoast railroad line to avoid facing trial in cases brought by environmental groups seeking court review of a state-financed environmental report.

The First District Court of Appeals wrote "(u)nder the unique circumstances of this case, the court declines to intervene," rejecting claims by the Northwestern Pacific Railroad Company (NWP Co.) that the railroad is exempt from complying with the California Environmental Quality Act (CEQA) in rebuilding a failed rail line. The line is owned by a state agency, the North Coast Railroad Authority (NCRA), which awarded NWP Co. a lease that could give the company control of the line for more than a century without paying a cent to the public.

"This is yet another case of polluters using every possible dodge to avoid cleaning up their messes," said Patty Clary, executive director of Californians for Alternatives to Toxics, or CATs, "and it shows how so often polluters' complaints about complying with California's environmental laws are really crocodile tears from deep-pocketed corporate interests that use endless delays and huge legal costs to crush citizens' groups' challenges."

The Northwestern Pacific Railroad Company (NWP Co.) is a privately held company whose owners include its general counsel, former Congressman Doug Bosco. Bosco's longtime chief of staff, Mitch Stogner, serves as Executive Director of the NCRA. After the NCRA obtained more than \$3 million in California taxpayer funds to address the potentially significant environmental impacts of rebuilding the rail line, the NCRA and NWP Co. argued the NCRA's Environmental Impact Report (EIR) cannot be reviewed by California courts. The Court of Appeals' denial of NWP Co.'s appeal suggests the higher court takes seriously the district court's concern that the NCRA has tried to play "fast and loose with the courts."

"Now the district and appellate courts have rejected the NCRA's argument that they can't be held accountable for the CEQA analysis that California taxpayers paid for," said Scott Greacen, Executive Director of Friends of the Eel River. "So what we'll hear next is that they have no plans to rebuild the line through the Eel River Canyon. But the NCRA and NWP Co.'s own repeated statements of policy show the opposite is true. And it's particularly difficult to see how that claim squares with the demand Mr. John Williams of the NWP Co. made only weeks ago, when he convinced the NCRA board to block a fish passage restoration project at Woodman Creek, about five miles north of Dos Rios in the Eel River Canyon, until proponents come up with more than seven million dollars for a new bridge. Why is the NCRA blocking the Department of Fish and Wildlife's highest priority fish passage project in the region if they have no plans to rebuild that stretch of the rail line?"

The NCRA has gone to extraordinary lengths to deny their responsibility to identify and address the potential environmental impacts of rebuilding the failed rail line from Humboldt Bay to the San Francisco Bay. This underscores CATs' and FOER's long-stated concerns that the public railroad agency intends to ignore the environmental effects of rebuilding the failed rail line, despite the potential for serious harms, including impacts to waterways from toxic pollutants and to the three species of salmonids in the Eel River protected under the Endangered Species Act.

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