

Toxic Cleanup Must Come Before Freight

By Patty Clary

Spring 2009

A recent newspaper opinion editorial which attacked a deputy attorney general who has threatened legal action if the North Coast Railroad Authority doesn't deal with the toxic mess littering its rail lines and yards, was way off track.

Actually, the attorney general's worst offense has been to allow the North Coast Rail Authority to ignore a court-sanctioned decree made 10 years ago to stop the discharge of toxic waste including waste left by Southern Pacific that California took on when it bought the rail corridor in 1991 with funds allocated by voter initiative.

Even at this late date, the attorney general isn't requiring that the NCRA stop all discharge of pollutants from the rail corridor, just that plans agreed upon by the NCRA all those years ago will finally be made and approved before operations can begin.

Eighty-plus years of neglect and disregard for the drinking water, wildlife and economy of our region have left their toxic mark on five counties and dozens of watersheds through which the railroad runs.

The situation is so grave that three state agencies joined together in 1997 to sue the NCRA to stop the discharge of chemicals spilled, burned, sprayed, dumped and buried throughout the rail corridor.

Despite the passage of years, many areas of the North Coast remain severely depressed because of the proximity to toxic sites owned and neglected by the NCRA. Now the rail authority, itself an agency of the state, wants to resume operations without restoring these blighted sites as it agreed.

What's more, to avoid living up to the terms of the decree, the NCRA has pleaded poverty as its limiting factor, an argument that convinced reluctant state regulators to hold off prosecution and even try to obtain money for the railroad.

Yet in a recent legal action brought by Novato, railroad authorities told the court they had never claimed that a shortage of funds has been the obstacle to dealing with the toxic chemicals despite written evidence they had made such claims for years.

Then, to add insult to injury, the NCRA settled the Novato lawsuit so that the original decree was trumped by the new agreement and did so without consulting the state agencies or the attorney general's office.

Under terms of the original decree, the NCRA must write plans for dealing with spills, waste storage, storm water and a dozen other critical concerns. That's only the first step. And it's the only step needed to start operation of the freight line.

In 10 years, the NCRA has not even begun to write those plans. For the NCRA or its supporters to cry foul at this point is typical of its history of obfuscation of the real problems associated with the

rail line. Sentimental visions of the charms of railroads and unsubstantiated claims of being green or good for the economy have, for too long, served as smoke screens to cover the deeply toxic aspects of its operations, past and present.

The last year this railroad made money was 1974 at the end of the old growth redwood economy and its future profitability is doubtful. Where then will the money come from to deal with the toxic burden the state took on when it formed the NCRA and bought the line?

That's the real question at the heart of the railroad dispute. Hiding our heads in the sand and blaming the messenger isn't going to help deal with this bitter pill. Some clarity, even just the laying of plans, would be a start.

Patty Clary is the programs and policy director for Californians for Alternatives to Toxics (CATS), based in Eureka. Clary grew up listening to the train horn from across a field in Santa Rosa and sometimes was late to school at St. Rose when the train blocked West 9th Street.

707.445.5100

<http://www.alt2tox.org>