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Atherton sues Caltrain over electrification

by Barbara Wood / Almanac

Atherton has sued the Peninsula Corridor Joint Powers Board, alleging the agency improperly approved the environmental impact report on the project to electrify the Caltrain rail system.

Joining Atherton in the [lawsuit](#), filed in San Mateo County Superior Court on Monday, Feb. 9, is the Transportation Solutions Defense and Education Fund, a transit advocacy nonprofit, and the Community Coalition on High-Speed Rail, which is headed by former Atherton Mayor Jim Janz.

The lawsuit asks that the electrification project be stopped and the approval of the environmental report be rescinded until issues raised in the lawsuit are addressed.

Stuart Flashman, the attorney filing the suit, says the lawsuit is an attempt to force the Peninsula Corridor Joint Powers Board, the agency that runs Caltrain, to acknowledge the impacts the project will have on the Peninsula.

Atherton's City Council approved the lawsuit at a closed session Wednesday, Feb. 4, after considering a letter from Marian Lee, Caltrain's executive officer for the modernization project. Ms. Lee was responding to a Jan. 21 letter from Atherton Mayor Rick DeGolia asking Caltrain for a number of concessions regarding the electrification project.

The town had asked Caltrain to extend the period when the environmental report could be challenged, to give the town and Caltrain more time to negotiate. Caltrain said no, noting "that time will not materially change the responses" to the town's concerns.

The lawsuit says the environmental report is flawed in several ways, including its failure to address the cumulative impact of high-speed rail and electrification. The lawsuit says the projects must be considered together because approximately \$600 million of the projected \$1.5 billion cost of the electrification project is supposed to come from funding approved for high-speed rail by the voters in 2008.

Ms. Lee addressed this issue in her letter, saying that the projects are independent and that "electrification has been a fundamental assumption in the planning for the future of Caltrain long before high speed rail was proposed."

The lawsuit claims that the environmental report fails to take into consideration that the funding for the electrification project that will come from the high-speed rail bonds could be "subject to legal challenge" because that funding was not authorized by California voters and is not a permissible use of the funds.

Caltrain spokeswoman Jayme Ackemann said Caltrain has been "working with the 17 communities along the rail corridor to address and mitigate their issues and concerns related to electrification. All save Atherton are focused on collaboration as the best method for addressing these concerns," she said.

Menlo Park and Palo Alto both recently decided "not to litigate" she said, "citing the close working relationship they have with Caltrain as evidence of our commitment to addressing their concerns."

"The issues Atherton has are no different than those concerns raised by other communities along the corridor," Ms. Ackemann said. "We are disappointed to see that rather than working with Caltrain collaboratively the town of Atherton has chosen this expensive path."

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