

Sydney Morning Herald - Letters To The Editor

15th December, 2010 - *unpublished*

Coxs River

The Blue Mountains Conservation Society (BMCS) is a large environmental group with 900 members and has been working hard since 1961 to promote ecological sustainability and to preserve the natural environment, including the unique resources of the Blue Mountains. We oppose human activities that degrade and destroy that environment.

BMCS participates in the Sydney Catchment Authority's Streamwatch Program and our members, on a volunteer basis, perform monitoring of water quality at various sites, including along the Coxs River. A large part of the Coxs River catchment is protected and valued for its flora and fauna, endangered species and cultural heritage. It is part of the Blue Mountains World Heritage Area and is one of the largest rivers supplying water to Warragamba Dam, Sydney's major water supply reservoir.

Wallerawang Power Station is currently permitted to discharge 105 million litres of waste water per week into a watercourse that flows into the Coxs River.

In 2007, our monitoring results indicated alarming levels of salt and heavy metals, including copper, boron, aluminium, fluoride, zinc and arsenic, in the Coxs River downstream of the Wallerawang Power Station.

In 2008 BMCS engaged Dr Ian Wright, a freshwater ecology expert, to perform similar monitoring. Dr Wright's monitoring confirmed our results and indicated that the level of copper was 30 - 58 times higher than the natural background copper levels of the Coxs River. This is also 2.6 - 5 times higher than the Australian Guidelines for an ecosystem such as the Coxs River.

Armed with these results, BMCS asked the EPA to take action against Delta Electricity. It declined.

BMCS was left with no option but to commence a case in the Land and Environment Court to get an injunction restraining Delta from continuing to pollute the Coxs River. That case was commenced in June 2009 with the help of the Environmental Defender's Office.

Shortly after BMCS showed Delta the evidence of Dr Wright, the EPA took steps to require Delta to start monitoring levels of these heavy metals. Delta then embarked on the first of a series of tactics reminiscent of attrition warfare.

First Delta asked the Court to make BMCS provide security for its costs of defending the case. BMCS did - \$20,000 of its own money from fundraising and the operation of its native plant nursery.

Given the public interest nature of the case and its importance, the Land and Environment Court capped the costs recoverable by either party at \$20,000. Delta appealed this to the Court of Appeal.

While the Court of Appeal considered its decision, the EPA required Delta to introduce a works program to reduce salinity and heavy metals in its discharge waters, including installing a reverse osmosis plant. In October the Court of Appeal dismissed Delta's appeal against the capped costs. Delta changed their legal team and then tried to adjourn the case.

In November (17 months after the case commenced), Delta's new legal team tried to have our case dismissed from the Court as being *"frivolous, vexatious or an abuse of the Court's process"*.

Over the last 18 months, Delta has at times agreed we have an arguable case and at other times flat out denied that it is causing water pollution.

Each week that passes Delta can pump 105 million litres of waste water into the Coxs River. The Court has reserved its decision on whether the case should be struck out.

Yesterday the Government announced that TRUEnergy has *"promised to provide \$240 million for capital improvements at the Wallerawang power station, which Mr Roozendaal said would no longer need to be funded by the state"*.

Does this free up the purse for Delta to drag this case out for as long as it can, with significant further costs to the State in legal fees and untold damage to the Coxs River?

In the past Delta has argued that, *"it must defend its reputation and preserve its business assets, in the interests of all stakeholders, in an orderly and economic way"*.

If only BMCS had an extra \$240 million to preserve the environmental assets of the Coxs River and the Blue Mountains World Heritage Area.

Tara Cameron
President

Blue Mountains Conservation Society