

NOR'EASTER AFTERMATH

# Thousands still without power

## Napping toddler spared as tree falls through roof

**By Christine Dunn**  
Journal Staff Writer

CUMBERLAND — Ryan Lipson is convinced that if it wasn't for the post-and-beam construction of his circa-1720 house, his 18-month-old child might have been killed when a tree uprooted

by high winds crashed through his roof on Friday afternoon.

"The only thing holding that [tree] up is the way this home was built," Lipson said Saturday afternoon, surveying the damage to his property, including a smashed garage, at 735 Nate Whipple

SEE HOUSE, A4



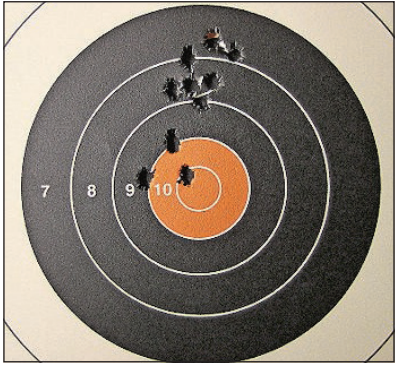
The house holding up a tree at 735 Nate Whipple Highway, Cumberland. [THE PROVIDENCE JOURNAL / CHRISTINE DUNN]

## East Bay, S. County hit especially hard

**By Patrick Anderson, Paul Parker and Christine Dunn**  
Journal Staff Writers

PROVIDENCE — More than 70,000 Rhode Island customers remained without electricity Saturday night as recovery efforts in the aftermath of a powerful nor'easter ramped up. The work is expected to last a few days

SEE STORM, A4



The results of one set of the author's firing at the Pine Ridge Indoor Shooting Range in Exeter. [THE PROVIDENCE JOURNAL / GLENN OSMUNDSON]

## The dark allure of shooting an AR-15



MARK PATINKIN

An editor suggested I shoot an AR-15 for a story, and I was surprised at my reaction.

I said it sounded cool.

I heard the same from anti-gun friends — they wished they could try it, too.

I suppose it's insensitive to speak that way of an assault weapon right now.

But it turns out the AR-15 and its cousins comprise the most popular rifle in America. I found estimates of 8 million to 15 million in circulation.

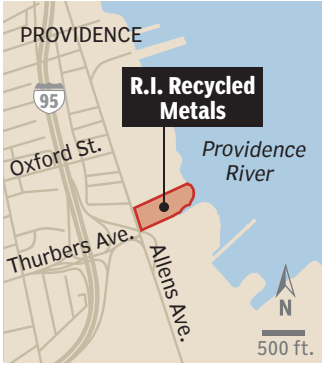
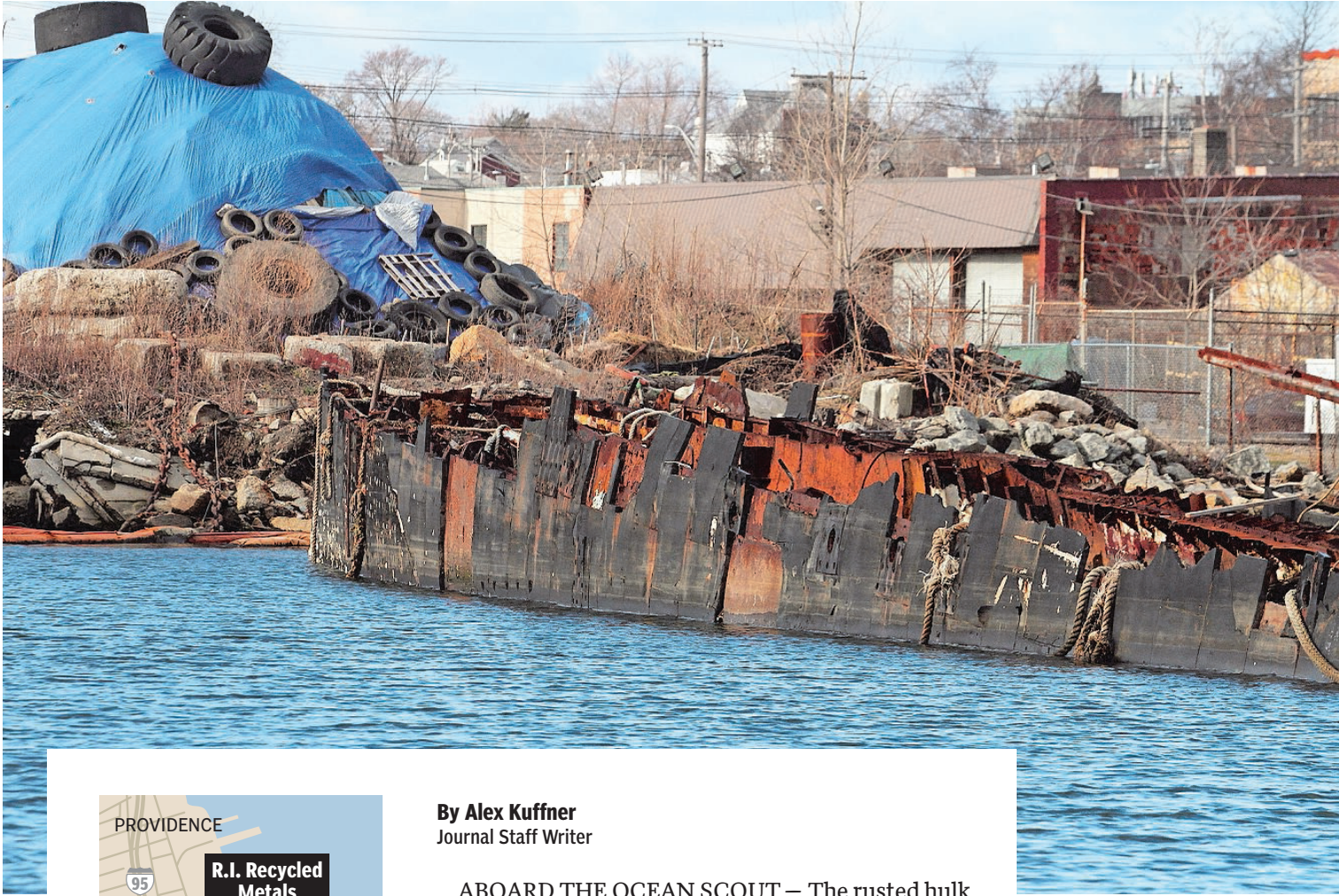
I wondered what the allure was, so I drove to the Pine Ridge Indoor Shooting Range in Exeter, a warehouse-size building with a gun shop, a shooting range and an unlikely owner.

**His name is Mike Aiello**, and he opened Pine Ridge two years ago, after a career as cook and co-owner at his other property — the Bon Vue Inn tavern, next to Aunt Carrie's in Narragansett.

SEE PATINKIN, A7

# HAS RHODE ISLAND STARVED ITS WATCHDOG?

Critics contend the DEM has lost too much staffing to fulfill its role as the state's environmental guardian. The agency says it's found ways to remain effective: speeding up remediation, doing educational outreach and scoring legal precedents that pay off in widespread compliance.



THE PROVIDENCE JOURNAL

**By Alex Kuffner**  
Journal Staff Writer

**ABOARD THE OCEAN SCOUT** — The rusted hulk of the sunken ferry Boston Belle juts out of the Providence River, signaling the approach to the waterfront location of Rhode Island Recycled Metals.

The beleaguered Belle has company. Closer to the shoreline are more derelict vessels the company has bought to take apart for scrap metal. The tugboat Akron rests somewhere on the river bottom, invisible in the murky waters, while an old hopper barge floats next to the jagged remnants of a Soviet-era submarine whose top half has been sheared off, leaving behind a shell half-submerged in the mud.

A second barge has been dragged out of the river into a rough-hewn "graving dock" carved out of the shoreline. Tall piles of excavated dirt sit under tarps on either side.

The scene in late December at R.I. Recycled Metals on Allens Avenue, in Providence. In the foreground is the half-demolished hull of the Russian submarine Juliett 484, and in the background, covered by blue tarps, is soil that the business dug from the riverbank, a contaminated brownfields site. [THE PROVIDENCE JOURNAL / BOB BREIDENBACH]

SEE DEM, A12

### Inside

- The DEM keeps a secret list of the 10 worst cases it is pursuing.
- The agency's educational outreach pays off in compliance.

Pages A12-13

## R.I. had a hand in 'Black Panther'

A West Warwick native helped persuade Marvel Comics to give the black superhero his own series, and a North Providence native and URI grad is a co-editor of the blockbuster film. **F1**



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# DEM keeps list of 10 worst cases private

Save The Bay complains, but agency says document would reveal legal strategy

By Alex Kuffner  
Journal Staff Writer

PROVIDENCE — Save The Bay says that as the number of violation notices issued by the Rhode Island Department of Environmental Management has dropped off, the agency has begun to withhold information on

enforcement actions that it had regularly shared with the group.

In 2014 and 2016, the environmental advocacy group filed public records requests with the DEM seeking more information on numbers of violation notices and court actions.

The agency shared some

documents with Save The Bay and referred the group to the agency’s website for other public information, but would not provide what the environmental group described as a “top 10 list of the most egregious cases” under consideration for court action.

The list, which is prepared by the agency as a matter of course, is protected because it is a working document and could reveal legal strategy, the DEM’s response said.

The attorney general’s office denied Save The Bay’s appeal, siding with the DEM.

“The documents are working tools used by DEM’s compliance and legal staff to strategize, prioritize, and track matters requiring legal action by the Department,” DEM director Janet Coit said in a statement. “The attorney general has twice affirmed that the information Save The Bay was requesting was clearly protected by

attorney/client privilege.”

Much of the information sought by Save The Bay — though not the specific cases on the “top 10 list” — was included in annual reports released in the past by the DEM’s Office of Compliance and Inspection, but the last of those reports came out in 2013.

Coit says she decided to stop them because the reports were time-consuming to write and a burden on staff. Staffing in the office had fallen from 45

full-time equivalents in 2001 to 24 by 2011, when Coit was appointed to head the DEM. It now stands at 23.

Despite the staffing constraints, the DEM is restructuring the annual reports. Coit says it’s important to inform the public about enforcement actions and to share information about outreach efforts to head off violations. The agency’s efforts in 2017 will be summarized in a report to be released later this month.

## DEM

From Page A1

“That’s all material that’s considered contaminated,” says Michael Jarbeau, Narragansett Baykeeper with the environmental group Save The Bay. “Who knows what’s in it.”

Recycled Metals never applied for a permit to dig out the shoreline, authorities say, instead doing the work surreptitiously days after the state filed a lawsuit against the company alleging a history of polluting the river that flows into Narragansett Bay.

As his boat bobs in the water on a chilly December morning, Jarbeau is asked how the business was able to get away with what would have been a blatant violation of the law.

“Because nobody is holding them accountable,” he says.

It’s been six years since the state Department of Environmental Management first cited Recycled Metals for polluting the Providence River, yet the site is still in use today as the case against the scrap-metal company grinds on through the courts with no end in sight.

Save The Bay says the case is emblematic of a stuttering enforcement regime at the DEM. It contends that businesses flout the law, taking their chances that Rhode Island’s chief environmental watchdog, weakened by more than a decade of staff cuts, won’t catch them and, if it does, will let them off with a slap on the wrist.

Environmental advocates point to other recent cases in which they say the agency allowed polluters to get away with violations for years before taking meaningful action:

- The former Pond View recycling center in East Providence, accused of generating dust and noise disturbances in nearby neighborhoods;

- The sand and gravel operation in Westerly known by the name of onetime owner Copar Quarries, which aroused similar complaints;

- The state Department of Transportation’s protracted failure to manage polluted stormwater runoff.

The DEM reached a resolution in each one of those cases, but to critics of the agency, the results were either incomplete or tardy.

“You don’t just get those pollutants back,” says Save The Bay attorney Kendra Beaver.

Beaver worked as a lawyer at the DEM for 11 years and rose to the positions of chief legal counsel and assistant director at the agency before leaving in 1997. She cites two sets of numbers in support of her group’s position that enforcement by the agency has degraded over time.

First, budgeted staffing in the agency’s Office of Compliance and Inspection has been slashed over the course of multiple governors’ administrations. The number of full-time equivalent positions in the Bureau of Environmental Protection, which includes the office, was 216.6 in 2006 and is now 172.3. The office itself lost a third of its



The main deck of the junked ferry Boston Belle rises above the Providence River against the backdrop of the downtown skyline.

[PROVIDENCE JOURNAL PHOTOS / BOB BREIDENBACH]



Michael Jarbeau, Narragansett Baykeeper for the environmental advocacy group Save The Bay, says the DEM did not hold R.I. Recycled Metals accountable for digging up a contaminated section of riverbank so it could haul junk vessels from the Providence River. Behind him is a barge awaiting its turn in the “graving dock” of the scrap yard.

workforce in that time.

And second, hand in hand with the staff cuts, has been a reduction in the number of violation notices issued by the agency, dropping from 74 to 48 over the same period.

Save The Bay argues that the decline in staff has caused the reduction in violation notices.

“The only plausible explanation for the chronic failure to enforce the law,” the group writes in a recent report, “is the lack of staff.”

**DEM Director Janet Coit** says she understands some of the group’s frustration. Until her appointment in 2011, she headed the Rhode Island office of The Nature Conservancy, a national environmental group with a high profile in the state that often works with Save The Bay.

But Coit says it can be misleading to compare past enforcement statistics with current numbers.

For one, as attitudes have shifted and businesses, especially, have focused more on being environmentally responsible, the total number of violations has generally dropped, according to Coit and Terrence Gray, associate director for environmental protection and a 31-year veteran of the agency.

The violations that arise aren’t being ignored, they

say. Some, however, are being handled in a different way.

Soon after Coit took charge, the agency created an alternate process to handle violations in an effort to cut down on staff time and administrative costs. Instead of being issued a formal notice — or NOV — the accused could opt for an “expedited compliance notice” and agree to fix any deficiencies within 60 days. If the problems aren’t solved, an NOV is the next step.

When expedited citations are included, the total number of enforcement actions in recent years is closer to those from a decade ago.

“Back in the day, we had one tool, the notice of violation. That was it,” Gray says. “You can’t fix everything with a hammer. Right now, we have a lot more tools in our toolbox. We’re saving the hammer for the biggest problems.”

The hammer has been an effective tool in some of the biggest cases the agency has faced in recent years, Gray and Coit say — including the three cited above by critics:

- After numerous complaints, the DEM issued a violation notice to the stone quarry in Westerly’s Bradford village that operated under the Copar name from 2010 to 2015. Under a consent order, the piles of dust

containing the carcinogen silica, which were one focus of neighbors’ air-quality complaints, were removed or capped.

- As for the Pond View operation in the Rumford section of East Providence, which recycled construction debris to the ire of nearby residents, the DEM pulled its license in 2015 and secured a court order to have any residual piles of waste removed. The business was forced to scale back after the city won a separate case against it.

- The state Department of Transportation, after years of violating clean water laws by failing to prevent polluted stormwater from running off state roads into local waterways, agreed in 2015 to spend \$112 million over a decade to comply with a consent decree negotiated with the DEM and federal authorities.

The resolution of that last case was an important precedent that gave the DEM leverage to reach stormwater agreements with Providence, Warwick and other municipalities, says Coit.

“Cities and towns have fallen in line since then,” she says.

**But not everyone** has been happy with the results in those cases. Neighbors of the Westerly quarry still complain about it. And East Providence residents say the

former Pond View site still hasn’t been cleaned up and that the follow-through from the DEM has been inadequate.

Peter Oppenheimer, who lives in Rumford and has followed the recycling center case closely, says the problem isn’t just about staffing at the DEM. He says it also lies in state environmental laws that lack teeth.

“They need real power to control the situation,” he says of the DEM. “The laws are not good at enabling them to do that.”

About every five years, the U.S. Environmental Protection Agency reviews each state’s enforcement of federal laws on air, water, waste and hazardous materials. The most recent available report for Rhode Island, released in 2014, gave the DEM high marks overall.

“Rhode Island DEM performs an excellent job of taking timely and appropriate enforcement across all three media programs,” the assessment says.

But the report also raised concerns about staffing constraints at the state agency that may be hindering enforcement of the federal Clean Water Act.

Gov. Gina Raimondo has proposed additional DEM enforcement staff in past budgets — including positions focused on water pollution — but they weren’t approved by the General Assembly. Her proposal this year holds the line on staffing.

“The bottom line is they’re doing a very good job,” she says of the DEM. “If they had a couple more [employees], would they do a better job? Yes. If the legislature would do that, that would be a good thing. In the meantime, we’re going to do the best we can with the resources we have.”

**Despite the resolution** of other high-profile cases, the Recycled Metals saga drags on.

The company went into business in 2009 when it got the job salvaging the Russian submarine Juliett 484, which had once served as the set of a Harrison Ford movie and, until it sank in a nor’easter, a floating museum in Providence’s Collier Point Park.

## A ripple effect from agency’s outreach

By Alex Kuffner  
Journal Staff Writer

PROVIDENCE — Top officials at the state Department of Environmental Management say the agency is doing more than ever to educate businesses and train workers to prevent pollution.

They say the work is helping to change the culture in Rhode Island and is one factor in a recent decline in violation notices issued by the DEM. If there’s a poster child for the agency’s education outreach, it’s the program for sewage-treatment workers.

“It’s not a glamorous profession, but a critical one,” says Bill Patenaude, principal engineer with the DEM’s Office of Water Resources. “We take 120 million gallons of wastewater a day and make it clean enough to return to nature.”

Since 2007, Patenaude has been running the Wastewater Operator Leadership Boot Camp, a free, year-long program that offers workers from Rhode Island’s 19 major treatment plants a chance to learn from experts in the industry and work with scientists and environmental advocates.

There are classes about the importance of aquatic health to shellfishing, the impacts of climate change on the marine ecosystem and other subjects. The idea is to help plant operators understand the science behind what they’re doing and the implications in nature.

The boot camp has been highlighted in national industry publications. Every state in New England has followed Rhode Island’s lead and now offers similar education programs.

Terrence Gray, associate director for environmental protection at the DEM, compares the agency’s litany of training and education programs to community policing. The DEM figures out the most common problems — caused by junkyards, for example, or by gas stations with underground storage tanks — and then works with businesses to head them off before they arise.

“All that tuff is on the front end to minimize prosecutions down the line,” Gray says.

Patenaude says that programs like the wastewater boot camp break down the wall between the regulators and the regulated. People are more comfortable calling his office with questions or concerns.

So far, 61 treatment operators have gone through the program; 20 are in the current class, which wraps up in September.

Patenaude believes that educating workers has played a part in the unprecedented improvement in water quality in Narragansett Bay over the past decade.

“It’s to inspire participants to do the right thing when no one’s looking,” he says.



# With staffing down, department uses different tools

By Alex Kuffner  
Journal Staff Writer

Staffing at the state Department of Environmental Management has fallen steadily for more than a decade. The agency's Bureau of Environmental Protection, which is responsible for all enforcement efforts, hasn't been immune.

Since 2006, its staffing has dropped by 20 percent.

Over the same period, the number of notices of violation (NOVs) issued by the bureau has fluctuated, peaking at 122 in one year and dropping to 31 in another. Starting in 2014, an alternative to the NOV was issued, called an expedited citation, in which the accused party

agrees to quickly address a violation. Expedited citations have channeled numbers away from the NOV process, according to the DEM.

Since 2014, 282 citations have been issued under the new process, the majority for failing to phase out cesspools. Of the 72 citations in such areas as air pollution, water

pollution and waste disposal, violators have brought 86 percent back into compliance.

"We've done hundreds of these expedited citations, but we have fewer NOVs," DEM Director Janet Coit says. "Some of the big numbers have gone down as we've been successful using these other tools."

It may be overly simplistic

to make a direct link between the number of violation notices and the size of the staff at the agency. The number of NOVs has gone up and down even as staffing has steadily dropped.

If expedited citations are factored in, the numbers flatten out a little. In 2017, 48 NOVs were issued. When expedited citations are

included, the total climbs to 67, much closer to the 74 NOVs issued in 2006, before the new process was created.

One key number that is following a clear trend: the backlog of cases handled by the DEM's administrative adjudication division. From a high of 85 in 2011, it dropped to 34 last year as the agency and violators resolved cases.

## DEM

From Page A12

Recycled Metals set up shop on a former brownfields site, stretching from Allens Avenue to the Providence River, that was home to an electronics-recycling operation in the 1980s. The company had the submarine towed to the waters off the 12-acre property, and soon brought in other junked vessels.

Problems quickly followed. In 2010, DEM inspectors found that the company was discharging stormwater into the river without a permit. Later inspections found that it was dismantling cars without a permit. Recycled Metals even failed to get a permit for ship-breaking, the original purpose of the business.

The DEM issued violation notices and eventually reached a settlement with the company, requiring it to install a stormwater system to control runoff possibly tainted with heavy metals and oils, remove the vessels, and restore the site by the end of 2014. When the deadline passed without action, the agency and the attorney general's office filed suit in Superior Court.

That's when the company started digging out the shoreline, according to the attorney general's office, potentially compromising a cap over soils that may be contaminated with PCBs — polychlorinated biphenyls — and other toxic substances left over from the site's previous use.



The sunken ferry Boston Belle sits on the bottom of the Providence River just offshore of the Allens Avenue scrap yard operated by R.I. Recycled Metals. The company excavated a "graving dock" from the riverbank without a permit, the DEM says, digging surreptitiously into soil believed to be contaminated just days after being hit with a state lawsuit alleging a history of polluting the river at the head of Narragansett Bay. [THE PROVIDENCE JOURNAL / BOB BREIDENBACH]

"They should have gotten a permit, but they just went ahead and did it," said Assistant Attorney General Michael Rubin.

Issues continue to arise. Two years ago, a barge-mounted crane used by Recycled Metals started listing dangerously over a pipeline that crosses the Providence River, carrying drinking water to East Providence's 47,000 residents. Last summer, the company was fined \$20,000 for defying a court order prohibiting it

from taking in more cars.

The crane barge is gone now, and the first hopper barge that was in the graving dock a few weeks ago has been dismantled. The second scow is set to be dragged on shore in its place. The three other vessels are still in the river waiting their turn to be cut up.

When Recycled Metals went into business, it did so with the tacit approval of the DEM, argues Richard Nicholson, a lawyer for the company.

"They knew what they were

doing, they let them do it, and they were fine with it," he says of the agency's attitude toward his client.

He blames Save The Bay for politicizing the situation and says that the DEM bowed under the pressure. The excavation of the shoreline was allowed by the court and any contamination of the river has come from other properties, Nicholson says.

"DEM has not been as objective as we would like them to be," he says. "We think

they've been biased and very aggressive, to the detriment of my client."

Nicholson says that Recycled Metals plans to install a stormwater system so that the company can remain in operation. Progress so far to clean up the site has been significant, he says.

But Rubin, chief of the environmental unit in the attorney general's office until he retired on Wednesday, offered a different take.

"There is court-ordered

remediation and it is proceeding," he said, "but at a snail-like pace."

All the while, the company poses a threat to Narragansett Bay, says Save The Bay's Jarbeau.

On this December day, he's wary of pulling his boat closer to shore, not knowing what could be in the river's shallows. But from a distance he points out the damage to the shoreline and the vessels littering the nearby waters.

The site isn't hidden. It occupies a prominent place on the Providence waterfront, opposite the East Bay Bike Path and newly developed Kettle Point, on the East Providence bank of the river.

The case continues at a time when the Bay is cleaner than it's been in decades because Rhode Islanders have spent vast amounts of money on stormwater programs.

Jarbeau questions why there isn't more urgency to get Recycled Metals to do its part.

"It doesn't make sense that we allow them to use the river as a place to store their junk," he says.

With the lawsuit pending in the courts, Coit chooses her words carefully when asked about the company.

But she does say it's one of a small number of businesses that won't willingly follow environmental laws. Forcing them to comply can be difficult.

"It's been a frustrating and protracted process, no question," she says.




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