

HOOD RIVER NEWS

Meadows answers lawsuit

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Hood River County and Mt. Hood Meadows, Ltd., are challenging what they perceive as another "futile" legal move to overturn their recent land exchange.

The two parties contend that the Hood River Valley Residents Committee (HRVRC) and Mike McCarthy, one of its members, are attempting to take "another bite of the apple" by seeking to change a court dismissal of their case.

"Having failed to convince this court of the adequacy of their petition, petitioners now ask for leave to file an amended pleading, asserting matters that could have been filed before this court's ruling," wrote Teunis Wyers, county general counsel, in the legal brief he filed on behalf of both respondents last week.

The latest round of arguments will be heard by Circuit Court Judge Donald Hull at 3 p.m. on Thursday. The HRVRC and McCarthy will be represented by the Cascade Resources Advocacy Group (CRAG), a Portland-based public interest law firm. CRAG attorneys Ralph Bloemers and Chris Winters will ask Hull to reverse his previous denial of their "writ of review" request for court scrutiny of the deal.

Meadows and the county are questioning the legitimacy of new claims by the HRVRC and McCarthy that they have been personally injured by the trade because of lost recreational rights. In addition, the HRVRC alleges that the trade harms its mission to protect resource land and, thereby, negatively affects its ability to attract volunteers and members necessary for financial support. McCarthy, who resides in the southern sector of the county where the exchange took place, is also citing concerns that the historical water rights of his family have been threatened.

"The flaw in petitioners' new assertion is that the new allegations could be made with respect to any decision regarding county lands," stated Wyers.

He said if the HRVRC argument is allowed to prevail, the land-use watchdog group could sue for every decision made by the county regarding public lands. In addition, Wyers said that McCarthy is only one of many thousands of people who have enjoyed Mt. Hood and the surrounding public lands and cannot show that the exchange caused the loss of a "unique" right. Wyers said that McCarthy has also failed to provide proof that the exchange itself would affect his water rights. The county and Meadows are asking that more specifics be required on how the timberland trade itself has caused the alleged "injuries" if HRVRC and McCarthy prevail in their request for reconsideration.

In late May, Hull ruled that the writ of review only applied to a quasi-judicial decision that had been made by the county and the land trade had been enacted in a legislative capacity. He also found that neither petitioner had "standing" to file a lawsuit because they had not been personally injured by the land exchange.

At issue is the county's decision last fall to trade 640 acres near the southern border for 785 acres owned by Meadows in the same vicinity. Both HRVRC and McCarthy contend that trade violated the public interest because the appraisal of the timber land did not factor in Meadows public intent to build a destination resort on the property which borders its Cooper Spur Inn holdings.

The county and Meadows argue that state law requires that forest appraisals be based on the "highest and best" existing use and not on speculation over a development proposal that has not even been submitted.

Both Meadows and the county also contend that the two new 20-year-old Attorney General opinions presented by CRAG in support of its case are not applicable since they apply to general land exchanges and not forest trades as strictly defined in modern statutes.

Just in case CRAG is unsuccessful about changing Hull's stand, Bloemers plans to ask that the entry of the final decision be held pending the hearing on a new "declaratory judgment" backup lawsuit that was filed on May 31. He said that move would prevent the clock from winding down on the appeal period for one matter while arguments were being waged over almost the exact same issues.

Bloemers contends that the dispute could be settled more cost-effectively if the county would agree to redo the exchange to allow for more public input.