

Residents appeal court dismissal

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Mike McCarthy and the Hood River Valley Residents' Committee are appealing a two-time court dismissal of their challenge over a land exchange between the county and Mt. Hood Meadows, Ltd.

Meanwhile, Meadows and the county have each filed a response to the petitioners' local backup lawsuit that lists the same arguments in a different legal format.

"HRVRC has the preservation of the rural nature and value of our productive farm community as one of its central tenets, and therefore we will pursue this matter to secure a hearing on the merits," said McCarthy, a HRVRC member.

The Cascade Resources Advocacy Group, a Portland-based law firm representing the HRVRC and McCarthy, are seeking to have a higher state court overturn Circuit Court Judge Donald's Hull second denial to hear their case in July.

Hull's action followed an initial ruling in May that CRAG had followed the wrong legal format in its request for court scrutiny of the deal.

In both hearings, the judge determined that neither the HRVRC or McCarthy, who resides a short distance from Meadows' new property, had standing to file the action since they had not sustained a personal injury from the timber land trade.

At issue is the county's decision last fall to exchange 640 acres of public property south of Parkdale for 786 acres owned by Meadows in the same vicinity. The deal was finalized on March 11 and a "writ of review" lawsuit was filed by CRAG about two weeks later. However, Hull upheld that the county had taken a legislative action to initiate the trade and the request for court examination only applied if officials had been acting in a quasi-judicial, or legally binding, capacity.

Among other arguments, Ken Maddox, president of the HRVRC, contends the trade of forest parcels will ultimately harm the Crystal Springs watershed because Meadows plans to develop a destination resort on the property.

"The transfer of these public lands into private hands severely threatens our drinking water supply and our public resources," said Maddox.

However, the official mapping of that watershed area and a hydrology study to determine what path groundwater and runoff actually takes to feed the spring has not yet been completed, according to Bob Duddles, superintendent of Crystal Springs Water District.

He acknowledged that the trade itself would have no detrimental effect on the watershed since the topography would remain unchanged. But he said the agency, which serves about 5,000 people, disagreed with that action because of potential development.

"If it's just a land exchange and they don't do anything with it I don't think there's any concern, but if they (Meadows) make a decision to put a destination resort up there then I'm sure we'll be involved," said Duddles.

Dave Riley, Meadows general manager, questions how Duddles, the HRVRC and McCarthy can take strong stands without any plans on the table by Meadows outlining where a project would be built or what mitigation measures might be undertaken to offset the development.

"McCarthy and the HRVRC are premature in concluding that anything we do on our land will have an effect on Crystal Springs," said Riley. "This is just another example of these people spreading misinformation. We have no intent of harming the Crystal Springs water, that is ridiculous to even insinuate and a direct insult to our intelligence."

All of the parties involved in the legal controversy are seeking to recoup attorney fees, although the date for the next court battle has not yet been set.

The HRVRC and McCarthy allege the county violated the public interest with the exchange. They argue that the appraisal should legally have factored in Meadows' public intent to construct a destination resort on the property which borders its Cooper Spur Inn holdings.

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

Teunis Wyers, county general counsel, said both the county and Meadows decided not to ask for another dismissal, choosing instead to address the merits of the 16-page complaint that has 46 paragraphs of material. However, he questions why 30 lines of the lawsuit center on the harm done to the HRVRC and its ability to fulfill its mission and, thereby, attract new members.

"Are we going to have a trial on that issue which is totally irrelevant to the merits of this case?" asked Wyers. Central to the county and Meadows' arguments are that CRAG's lawsuit was "moot" because it was filed after the deal was officially recorded – with no notice given that it would be forthcoming prior to that action.

The county and Meadows also contend the new case was already essentially thrown out of court twice since it is based on the same facts. In addition, the co-defendants said that Hull has already made two determinations that the HRVRC and McCarthy do not have "standing" to bring the challenge.

However, McCarthy said by ignoring expert appraisal testimony presented by the HRVRC prior to closing the deal, the county has turned a "blind eye" to the real value of Meadows' property and deprived citizens of the "true worth" of their public resources.

"These are not issues of personal and practical import to me and my farming operations, but this case sets important precedent for the management and valuation of our public resources throughout the state," said McCarthy.