

Judge assigns homework to opposing teams

Date Published to Web: 4/9/2003

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Two legal teams involved in a disputed land exchange case have been given a homework assignment that is due on Thursday.

On March 27, Hood River Circuit Court Judge Donald Hull directed the Cascade Resources Advocacy Group, plaintiff attorneys, and codefendants Mt. Hood Meadows, Ltd., and Hood River County to review more than 10 court actions. These matters regard "claim preclusion" and lawyers for the opposing sides have been asked to research the issue and write a legal brief in support of their stand.

Under claim preclusion, a plaintiff is prevented from bringing unnecessary delays to the resolution of a legal matter by consolidating all issues in one complaint whenever possible. Meadows and the county, represented by Will Carey, contend that CRAG's current arguments are invalid since the same facts were already filed and dismissed twice last year in a different legal venue.

"They could have brought one lawsuit that laid out both alternatives," said Jonathan Radmacher, Meadows' attorney from the Portland firm of McEwen Gisvold, LLP.

CRAG, a Portland-based public interest law firm, represents the Hood River Valley Residents Committee and Mike Carthy, one of its members. CRAG attorney Ralph Bloemers declined to comment on the pending legal matter but made his firm's legal briefs available and said the plaintiffs' filings are on view on the organization's Web site, www.crag.org.

Meadows and the county are also asking Hull to dismiss the existing case because he already determined twice last year that neither the HRVRC nor McCarthy, who resides a short distance from the former county lands, had no standing to file an action since they had not sustained a personal injury.

"There is no mystery to any of it, this case doesn't raise any new issues, it focuses around all the same facts," said Radmacher.

Last July, Hull denied the request of Bloemers and his partner Chris Winter that a prior dismissal of their case be reversed. That lawsuit requested court scrutiny of the county's trade of 640 acres near the southern border for 785 acres owned by Meadows. The deal also included a \$1 million payment by the county to offset the value difference in merchantable timber on its newly aquired property.

While awaiting the second hearing, Bloemers and Winters filed the same information in a "declaratory judgment" format that is less restrictive. The backup case was already underway when Hull upheld his dismissal that the earlier "writ of review" filing only applied to quasi-judicial, or legally binding, matters and the exchange had been enacted in a legislative capacity.

In both lawsuits, the HRVRC and McCarthy, a Parkdale landowner, contend that the county violated Oregon law by not basing the appraisal of the acreage it conveyed to Meadows on the developable value. The plaintiffs allege that since Meadows has publicly stated plans to build a destination resort on the north face of the mountain those future plans should have been factored into the deal.

The county and Meadows argue that state law requires 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.

More information about Meadows' arguments in the case is available on the Friends of Cooper Spur Mountain Resort Web site, www.friendsofcooperspur.com.

Once Hull has reviewed the briefs provided this week by both sets of attorneys, he could determine that there is no disagreement about the basic facts of the case and make a ruling from the bench. Or he could decide that the merits of the case need to be further aired in a public trial and set a date for that hearing to begin.