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'Condos v. bald eagles' trial begins

DEVELOPMENT: The suit calls the housing and marina project a hazard to the endangered birds.

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The Press-Enterprise

LOS ANGELES - A trial that could determine the fate of a tiny town atop the San Bernardino Mountains opened Tuesday in federal court.

The case before U.S. District Court Judge Manuel Real represents the latest, and perhaps final, chapter of a dispute between environmentalists and developers that dates back more than a decade.

Real will decide whether the Marina Point condominium development in Fawnskin is detrimental to the area's threatened bald eagles or otherwise violates the federal Endangered Species and Clean Water acts.

The project, which includes 133 condos and a 175-slip marina on the north rim of Big Bear Lake, has been repeatedly slowed by bureaucratic and environmental obstacles in recent years. Work is currently stalled by a federal injunction.

The activist group Friends of Fawnskin and the Center for Biological Diversity, an environmentalist group, are seeking a permanent injunction barring any development in what they describe as a prime spot for bald eagles to perch and hunt for fish.

The developer, San Diego businessman Irv Okovita, also should be made to pay penalties for violating the Clean Water Act on multiple occasions, said Michael Geibelson, a lawyer for the environmental groups.

The offenses include unauthorized and shoddy work during the early stages of construction, Geibelson said. Dredging and other preliminary work was done, at times, without the proper permits. It was also done poorly, leading to problems with erosion at the site, he said.

If construction moves forward, the environmental groups allege, the already dwindling population of eagles that frequent the lakeshore will suffer.

Robert Crockett, attorney for the development, argued that the environmentalist groups have vastly exaggerated the impact the project will have on the habitat and the town.

"Bald eagles rarely use this area," Crockett said in his opening remarks.

Though he acknowledged one instance in which some work was done after a temporary permit had expired, Crockett said the developers have taken all the necessary steps throughout the application and planning process.

He argued the shoreline will be more stable after the work is completed.

Okovita declined to comment on the case until the trial is over. However, he has said in the past that the area was a dilapidated hangout for drug users and thugs before he purchased the property in the 1980s.

He has worked to improve the land, and believes the project has been unfairly maligned, he said in recent months.

Among those called to testify Tuesday was Erv Nichols, a former Fawnskin resident and current naturalist for the Big Bear Discovery Center. Under cross examination, he told the court that he saw eagles virtually every day when he lived in Fawnskin from 2001 through 2004.

Outside the courtroom, Nichols said most of the 380 people in Fawnskin moved there for its serenity and wildlife.

"They want to keep it the way it is," he said. "(Marina Point) would open the door for other developments."

Testimony is scheduled to resume today.