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Black Bench project challenged

LAWSUITS: Opponents of the housing tract say environmental studies were not properly conducted.

By GAIL WESSON
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BANNING - Four groups representing neighbors of the proposed 1,500-home Black Bench project, and one environmental group have filed lawsuits seeking more thorough environmental studies and promises to lessen the development's impact.

The suits use terms like sprawl and leapfrog development to describe the SunCal Companies plan approved in October by the Banning City Council.

They say the analyses of biological resources, water supply, air quality, traffic and noise impacts were not detailed enough to meet state law. They also suggest the studies underplayed effects on nearby rural private and national forest lands in the northwest Banning area.

Julie Hayward Biggs, the city's attorney, and Rod Hanway, SunCal's vice president of forward planning, said the environmental review was adequate and met state requirements

under the California Environmental Quality Act.

Officials with the Center for Biological Diversity say their lawsuit, one of four filed in Riverside County Superior Court about two weeks ago, may be the first to assert that residential projects must find ways to reduce greenhouse gas emissions to comply with state law.

Sources of greenhouse gases include vehicles, industry and power plants. The emissions are believed to contribute to global warming.

Hanway said the issue of global warming is not specifically mentioned as an impact that must be addressed under state law.

But environmental groups have been pressuring the Legislature to add it as an issue that has to be addressed in environmental impact reports, he said by phone.

"I think they're looking at this lawsuit against Black Bench as the first of a number of them to put pressure on the state Legislature," he said.

State law requires analysis of all environment impacts, Kassie Siegel, director of the center's climate program, said by phone from her Joshua Tree office.

"We think CEQA requires analysis of these emissions," she said.

Homeowners in new developments are likely to drive far to work and their vehicles will emit carbon dioxide. That and burning fossil fuel to generate electricity for the homes adds to emissions, Siegel said.

She said requiring solar panels, energy-saving appliances and on-demand hot water heaters might offset these effects.

"This is what is going to add up to huge emissions reductions," she said.

Plaintiffs in the other lawsuits are Highland Springs Conference and Training Center; Cherry Valley Acres and Neighbors and the Cherry Valley Environmental Planning Group; and the Banning Bench Community of Interest Association.

Some of the lawsuits criticize city approval of the development plans without guaranteed road access in place. Instead, the city is requiring SunCal to acquire land from private owners for a four-lane entry on Sunset Avenue and an emergency-use access from Bluff Street. The project is expected to generate 15,164 car trips a day.

Highland Springs does not want to grant access through its property for the routes because of the effect on the resort's wilderness experience, its lawsuit says. The resort hosts outdoor education camps and retreats that capitalize on the serenity of the 900-acre setting.

The Cherry Valley groups, as in past lawsuits against other large projects, allege that the Black Bench studies rely on imported water that may not be available to serve the houses.

"We pointed out some real flaws in the analysis on those reports, and the city didn't take our comments into consideration," Robert Goodman, a lawyer representing the Cherry Valley groups, said by phone.

The project represents urban encroachment in a sensitive location, he said, next to rural, high-fire-hazard areas.

"It's just an extremely dangerous situation. We think the project needs to be cut down to probably half the size," said John Benfield, a retired fire battalion chief and president of the Banning Bench group.

The group's lawsuit alleges the environmental review did not consider a range of alternatives required by law, such as reducing the number of homes.

The plan proposes leaving 869 hilly acres as open space on the 1,488-acre site and clustering houses in flatter areas.

Hanway said no endangered species were found on the property and the design preserves hillsides, oak woodlands and wildlife corridors that link to other open space in the region. Those are "all of the things environmental organizations want to see included in a project," he said.

Because the lawsuits are related to one project, they may be consolidated for court proceedings.

Biggs, the city's attorney, said there likely will be a meeting with the parties in court to discuss whether there are settlement possibilities.