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U.S. to Defend Foresters Sued by Developer

By Henry Weinstein,
Times Staff Writer

After weighing the issue for several weeks, the government has decided to provide lawyers for three Forest Service employees sued by a San Diego developer who accuses them of conspiring to block a proposed luxury condominium project on Big Bear Lake.

The case has been closely watched by government employee organizations and environmental activists because the developer, Irving Okovita, sued the three under the federal Racketeer Influenced and Corrupt Organizations Act.

Okovita alleges that the government workers used a local environmental group that opposes the project as a "racketeering enterprise" to block the development. The workers and their advocates accuse Okovita of using the racketeering law to retaliate against them after a judge temporarily blocked the project.

"This is a test case," said Adam Keats, an attorney for the Center for Biological Diversity, a national environmental advocacy group that has opposed the condominium development.

The workers' concern over the case grew when the Justice Department delayed its decision over whether to represent the three. The department provides lawyers for federal workers in most cases in which they are sued.

"The thought of having to pay for private representation was weighing heavily. As a federal employee, I have limited resources to put into weighty litigation," said Gene Zimmerman, super-

visor of San Bernardino National Forest and one of the defendants.

The proposed Marina Point development, which would have 132 luxury condominiums, a 175-slip marina and tennis courts, would be built on 12.5 acres on Grout Bay on the north shore of Big Bear Lake near the tiny town of Fawnskin.

Okovita bought the land, once the site of a trailer camp, in 1981.

Plans call for 338 trees to be cut down to make way for the development. The area is known locally as "Cluster Pines" because of its dense stands of trees. Bald eagles spend winters in the area, perching in pine trees and swooping down to the lake to feed on fish.

The Center for Biological Diversity and Friends of Fawnskin, a local activist group, went to court to block the project and won an injunction this spring.

In Riverside, U.S. District Judge Robert Timlin issued the ruling after finding that the development had "the potential to both harass and harm the bald eagle," which is protected under the federal Endangered Species Act.

Six months later, Okovita filed his suit against the three Forest Service employees: Zimmerman, Robin Eliason and her husband, Scott Eliason, both of whom are Forest Service biologists.

Legal experts say they believe the three are the first Forest Service employees to be sued under the RICO Act.

Okovita also sued Sandy Steers, a former scientist with the National Aeronautics and Space Administration, who has played a key role in Friends of Fawnskin's opposition to the development.

The suit contends that the Eliasons conspired with Steers, using Friends of Fawnskin, which the Eliasons are members of, to block the development and thereby enhance the value of their own homes, which are near the development site.

All four defendants say they have done nothing wrong.

"All I have been trying to do is stop their illegal acts," Steers said, referring to dredging and other work done by the developer, "and that's legal."

The Justice Department's announcement was hailed by Forest Service employees and their advocates.

"We are very pleased," W. Matt Mathes, spokesman for the Forest Service's Western Regional Office in Vallejo, said Wednesday.

Andy Stahl, director of Forest Service Employees for Environmental Ethics, who had retained a private attorney for the three workers while the Justice Department was deciding whether to intervene, said "this is what should have happened all along."

Mathes said the decision means that the employees not only will be fully represented but are entitled to compensation for any expenses they incurred with their private attorney since they were sued in November.

S. Wayne Rosenbaum of San Diego, Okovita's attorney, said he was surprised that the Justice Department decided to represent the three employees before the Forest Service had concluded an internal investigation on them.