

Greer land trade on hold again

By Mike Leiby

WHITE MOUNTAINS - Even though the green light was given last September by Forest Supervisor Chris Knopp for the Black River Land Exchange in Greer to go ahead, a subsequent lawsuit has it on hold.

The suit was filed by the same groups, the Greer Coalition and The Center for Biological Diversity, who filed to stop it before.

In December, following Knopp's Sept. 15, 2009 decision that the USFS did not foresee any significant impacts from it and the exchange should be allowed, the two groups again filed to halt the swap saying they still feel it could result in an unwanted development and depletion of the Coconino aquifer along Highway 373 in Greer.

The proposed deal started in 2001 when property owner Herb Owens first proposed the exchange to the Forest Service. Owens proposed a swap of two tracts of forest land, one bordering the north of his property and one bordering the south, for three tracts of remote lands. The land he offered to the Forest Service was (Rancho Alegre and Thompson Ranch) north of Greer and Blue River Ranch not far from the New Mexico border (closest towns are Springerville and Alpine).

Both properties were determined to have certain fish and other wildlife species inhabiting them that are deemed

to be of highest priority and resource value to the U.S. Forest Service.

After the first lawsuit was filed in U.S. District Court and then turned over to Forest Service to make a decision, opponents followed with numerous unsuccessful attempts to stop it, despite statements by Owens that he only wanted to add to his landholdings for future generations of his family. Owens has said he has no intentions of developing the land involved in the swap and has received support from his neighbors as well as others including the United States Department of the Interior, The Nature Conservancy and Arizona Wildlife Federation.

On Feb. 28, 2007, an order stopped the earlier authorization of the swap exchanging 337.74 acres of Forest Service land north of Greer in the Apache National Forest for 396.53 acres of private land near the New Mexico border. The Forest Service was sued by The Greer Coalition and the Center for Biological Diversity over the perceived inadequacy of the National Environmental Protection Agency's process for Environmental Impact Statements (EIS). U.S. Ninth District Court of Appeals Judge Mary H. Murguia ruled that the Forest Service analysis should have included the effects of pumping the local shallow aquifer with 258 individual wells and that an EIS should have been prepared and turned the matter over to the Forest Service to decide.

In the 10 years since the deal was

proposed, The Greer Coalition and Center for Biological Diversity have lamented it could result in a housing development of 258 single family homes on the Owens' property in a sparsely populated area near Greer and deplete the Coconino aquifer to undesirable levels, something they do not want to happen. The NEPA process progressed and the "reasonably foreseeable development" scenario study involved pumping the Coconino with a single well at the rate of 200 gallons-per-minute. In support of this, a report was prepared which included an analysis, concluding impacts would be minimal.

In order to effectively respond to the criticism, it was necessary to obtain local hydraulic conductivity data so a contractor was employed by the Forest Service. After conducting three slug tests in the water table aquifer; one at a Forest Service well and two at private wells, the contractor's data supported predictions making the completion of the final EIS possible.

On July 9, 2008, a letter from the U.S. Environmental Protection Agency was received by Bruce Buttrey, a Forest Service natural resource specialist in Springerville Ranger District, stating the agency had reviewed the Forest Service Draft EIS and had no objections to the proposed exchange. The letter noted the agency felt the acquisition of the 396 acres of non-federal land in the swap would add vital habitat for loach minnow, spikedace, and the Apache

Trout as well as valuable wetlands/ floodplains containing “significant aquatic and riparian habitats” along parts of the Blue and Black Rivers.

The EPA included recommendations aimed at strengthening the Final EIS and helping the public and “decision makers” be better informed about the history of the swap as well as actions leading to preparation of the impact statement. Those recommendations were that the Forest Service include a map illustrating the location and proximity of the five parcels of land to be exchanged.

In brief, the EPA’s letter indicated in 2004 and 2005, the Forest Service completed two previous Environmental Assessments and Findings of No Significant Impact in connection with the exchange, and recommended the Forest Service “describe and reference” the complaint filed to stop it, the order actually stopping it, clarification of how the main issues were resolved and how the Forest Service subsequently addressed the issues with the EIS. All of that was done. On Sept. 15, 2009 Knopp said the

swap should be allowed, so now it is a matter of waiting for the latest suit to run its legal course.

The timeline for that begins on April 30 with Administrative Records, followed on July 12 by plaintiff’s (Greer Coalition and the Center for Biological Diversity) opening summary and judgement Brief. Next comes the Forest Service opening brief on Aug. 6, last reply brief on Sept. 17 and finally on Oct. 1 will come oral arguments.