

Land Trade is Best Hope for Mono Lake Property

Committee Letter Outlines Legal Difficulties of the Development Option

By Geoffrey McQuilkin

Progress on the public acquisition of the Cunningham property, located next to Mono Lake, remains stalled.

Despite broad support, the Forest Service has not reappraised the property to establish a current market value. In the face of the continuing threat of subdivision and development in violation of federal land protections, Committee attorneys laid out the legal obstacles to such development in a recent letter.

Public acquisition of the property, however, is the goal of everyone involved in the issue. Such protection would ideally occur via a land trade that would add the Cunningham property to the Forest Service's holdings in the Scenic Area while making land available in nearby Mammoth Lakes for expansion of the community hospital.

The Mono Lake Committee, American Lands Conservancy, Mammoth Hospital, US Forest Service, Mono County, and the Cunninghams, who own the property, have all supported a trade. However, the deal has been stymied by disagreement over the value of the land.

The Cunningham property is located next to Hwy 395 near the west shore of Mono Lake, in the Mono Basin National Forest Scenic Area. The approximately 120 acres are undeveloped, with the exception of one small house, and are part of the sweeping scenic views available at Mono Lake. The property, which includes aspen groves, springs, and a small perennial stream, also provides valuable wildlife habitat.

Committee Lays Out Legal Obstacles to Subdivision

If the land trade is unsuccessful, a much-advertised subdivision and resort home development of the property could take place instead. Currently the subdivision concept has been officially put on hold by the Cunninghams.

Nonetheless, the subdivision concept has been widely advertised as an acceptable use of the property in real estate listings and promotions designed to attract interest from a developer. Subdivision, however, violates the development guidelines established by the federal government as part of the 20-year-old Scenic Area protection of the lands surrounding Mono Lake. The guidelines do allow limited development and have been followed by other private property owners in the Scenic Area.

In April, Mono Lake Committee attorneys detailed how California state law could be violated by property subdivision and development without Scenic Area approval. As a result, the letter pointed out, the Committee and other interested parties would have grounds to sue a developer to halt such unapproved subdivision and development.

In the end, the letter underscores the wisdom of the land trade option for the property. The trade offers benefits all around and avoids the extensive public controversy that would accompany development of the property. The Committee looks forward to continuing to work with the Cunninghams to make a fair trade become reality. ❖

Settlement Process Continues: North Mono Basin Update

by Lisa Cutting

During the month of May, the North Mono Basin settlement negotiation process reached a heightened level of intensity and fervor which directly demonstrates the involved parties willingness to achieve a negotiated settlement agreement ... and soon. Focused negotiation discussions are the direct result of a recent June deadline set by the Federal Energy Regulatory Commission (FERC)—the governing agency in these proceedings—for the group to reach a settlement.

What's at Stake?

For the Committee, restoring the multiple-channel, cottonwood-willow riparian system of the Mill Creek bottomland and delta within the context of the FERC relicensing procedure is first and foremost (see Spring 2004 *Newsletter*).

The creek has been degraded by a century of unnecessarily large water diversions for hydropower and irrigation. The return of significant water to Mill Creek will provide an opportunity to restore vegetation diversity, enable groundwater recharge throughout the bottomland and delta area, provide

freshwater skim at the confluence at Mono Lake which creates important waterfowl habitat during the fall and winter months, and establish a productive fishery in Mill Creek.

Other interests represented by the parties include generating hydropower, irrigating meadows, grazing, fish-rearing, and maintaining water in Wilson Creek.

Who's at the Table?

The parties—United States Forest Service, Southern California Edison, Bureau of Land Management, Mono County, California Department of Fish and Game, American Rivers/California Trout, People for Mono Basin Preservation, and the Mono Lake Committee—have been meeting for over three years in an attempt to resolve a 20 year-old FERC relicensing procedure while simultaneously developing a comprehensive watershed management plan for the entire north part of the Mono Basin (see Spring 2003 *Newsletter*). And while the details of the settlement discussions are confidential, the Committee remains optimistic that an acceptable outcome can be reached.