

State, landowners negotiate in easement suit

BEN NEARY - Associated Press writer | Posted: Friday, September 25, 2009 12:00 am | [No Comments Posted](#)

CHEYENNE -- Private landowners, the Wyoming attorney general's office and local officials are in talks to settle a lawsuit that has attracted national attention in conservation circles.

The outcome of the state's lawsuit challenging a 2002 Johnson County commission vote to extinguish a conservation easement could offer insight on the difficulty of unraveling increasingly popular conservation easement agreements.

The agreements can give landowners valuable income tax breaks in exchange for their giving up development rights to their property.

The state filed the lawsuit last year charging that the county commission violated its duty to residents when it voted to dissolve a conservation easement on the 1,000-acre Meadowood Ranch east of Buffalo.

According to the state's lawsuit, a limited partnership that owned the Meadowood Ranch transferred one acre of the ranch and a conservation easement on it to Johnson County's Scenic Preserve Trust in 1993.

The state has said the development rights to the ranch were appraised at more than \$1.2 million in 1993. The state said the transfer allowed the landowner at the time to get a federal charitable tax deduction.

Fred and Linda Dowd, the current owners, bought the ranch in 1999. The couple asked Johnson County to end the conservation easement after an energy company said it intended to develop gas wells on the ranch. Ultimately, full-scale energy development didn't occur.

In August 2002, the county commission voted to terminate the conservation easement and transfer the one acre of land to the Dowds in exchange for a payment of \$10, according to the state's lawsuit.

Both the attorney general's office and the Dowds have filed competing requests with District Judge Wade Waldrip of Rawlins asking him to rule in their favor. The judge last Thursday signed an order agreeing to delay action on the case for 30 days to give the parties time to try to negotiate a settlement.

Waldrip earlier had denied requests from land trust organizations interested in intervening in the lawsuit.

Greg Goddard, lawyer for Johnson County, said some of the settlement discussions so far have included the prospect of putting the development rights to the ranch with another land trust organization. He also said the county would be willing to take the development rights back into the county's scenic preserve trust.

"I think that the county's position has always been that we're willing to go along with whatever the court decides," Goddard said. "So if the other two parties are able to work out an amiable agreement, the county is not going to stand in their way."

Attempts to reach Tom Toner, a Sheridan lawyer representing the Dowds, were not successful on Wednesday.

John Rossetti, lawyer with the attorney general's office, declined comment on the case.

Robert Hicks, owner of the Buffalo Bulletin newspaper, filed a lawsuit against the County Commission and the Dowds in 2003. The Wyoming Supreme Court ultimately ruled that Hicks didn't have standing to sue.

Hicks said Wednesday the case has importance beyond the boundaries of Johnson County.

"It's an important case because the people of Johnson County had an asset in and of this conservation easement," Hicks said. "If it's allowed to stand as is, I think it threatens the future of conservation easements in the state of Wyoming as well as the future of conservation easements nationwide."

Hicks said he expects that the Internal Revenue Service won't continue to grant tax benefits for conservation easements if they can be extinguished as easily as they were in Johnson County.

"And without that incentive, I don't think it's in people's best nature to limit what can be done on their land without any benefit," Hicks said.