

Jefferson Parkway land swap down to the wire

Federal judge expected to rule on Superior's lawsuit against feds in next two weeks

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A complicated land swap that would smooth the way for construction of the controversial Jefferson Parkway between Broomfield and Golden is facing its toughest test yet, with a two-week countdown to what is seen as a critical judicial ruling.

A federal judge is expected to rule on the land deal -- which involves trading a 617-acre parcel on the west side of Rocky Flats National Wildlife Refuge, known as Section 16, for a 300-foot-wide transportation right-of-way on the refuge's east side -- by Dec. 20.

Bill Ray, Jefferson Parkway Public Highway Authority interim director, said if the judge rules against the land transfer or grants injunctive relief stopping the swap from moving forward, the painstakingly crafted land deal would likely unravel.

Completion of the land transfer, which involves multiple local governments, the U.S. Fish & Wildlife Service and the Colorado State Land Board, has already been extended twice, he said -- once in January and again in September.

"It's a very delicate balance that's come together," Ray said Wednesday. "They've been holding on for a year now, but they can't hold on forever. At some point, some party is going to decide that they can't extend any longer, at which point the Section 16 deal will fall apart. There's a brief moment in time (to get this done)."

Boulder, Arvada, Boulder County, Jefferson County and the highway authority have collectively pledged more than \$10 million to buy Section 16 and deed it to the Fish & Wildlife Service, where it would remain as xeric tallgrass prairie and serve as a critical wildlife corridor. In turn, the highway authority would get the right-of-way along Indiana Street for the parkway.

The parties have until the end of the year to complete the deal, but Ray said because the transaction is so complex and layered -- involving land deeds, mineral deeds and mineral leasing rights -- money needs to begin trading hands in two weeks.

"There has not yet been a statement of unanimity to extend beyond Dec. 20," he said.

'A lot of moving parts'

The legal battle over the Jefferson Parkway ended up in federal court late last year when Superior sued the Fish & Wildlife Service over the proposed land swap, claiming that there had been insufficient environmental review done regarding the proposed highway's impacts.

The town worries that building the parkway, which would run just south of the Superior town line, would increase traffic on McCaslin Boulevard and stir up plutonium deposited by the nuclear trigger plant that operated for decades at Rocky Flats.

Superior wants a full environmental impact study done on the potential road. Golden, along with two environmental groups, joined Superior's lawsuit against the agency early this year.

Attorney Tim Gablehouse, who represents Superior in the litigation, said Wednesday if the judge doesn't issue a ruling by Dec. 20 the town will renew its motion for a preliminary injunction against the swap to ensure it doesn't move forward. Until then, he said, the issue is in the judge's hands.

"There are a lot of moving parts, and there's no way to tell what will happen," Gablehouse said. "But there is an awful lot of people who have a stake in the outcome that would like an answer."

Superior Trustee Sandy Pennington, who has long opposed the parkway, said the town's position is clear. It wants further testing done to ensure that public health and safety are not compromised by the construction of the road.

"I believe we are on solid legal ground that human and environmental health trumps any other consideration here," she said. "We don't believe appropriate testing has been done."

Broomfield Mayor Pat Quinn, who sits on the Jefferson Parkway Public Highway Authority board, said Broomfield has no direct involvement in the land swap itself but has committed more than \$900,000 to acquiring the right-of-way on the east side of the refuge.

"I view the judge's decision as important to us," he said. "It's in our comprehensive plan that we want the highway to be built."

Land swap boost to wildlife

But there's no reason to assume that if the judge rules in the next couple of weeks against the Fish & Wildlife Service that the parkway project dies an early death, the highway authority's Ray said.

The Jefferson Parkway, he said, stands on its own, with or without the land swap, and meets the requirement as stipulated in the Rocky Flats National Wildlife Refuge Act of 2001 that the federal government sell or transfer a strip of land along Indiana Street for transportation improvements. He said the authority will follow whatever ruling the court issues and proceed with its efforts to build the highway.

Project proponents tout the parkway as a necessary regional thoroughfare that will nearly complete the beltway around Denver, improve mobility in the metro area and help spur economic activity.

The real loss if the Section 16 land swap dies later this month, Ray said, will be to a state and region that has made clear that it treasures open space and the preservation of natural habitats for animals and plants.

"The possibility of achieving this significant addition to our regional open space and wildlife population is caught up in the mistaken belief that killing the (land transfer deal) will somehow kill the parkway," he said. "To make that assumption is not only problematic but is detrimental to the region."

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