

What's at stake: Lawsuits heard

MONTEREY — Of the five suits generated by Highland New Wind Development's pursuit of an industrial wind facility here, only one will be heard next week. Here's where they all stand at this point.

Height ordinance

- Case filed: May 16, 2005
- Plaintiffs: Lucile S. Miller, the Goodall family, Charlotte Stephenson, Richard Shamrock, and the Swecker family.
- Plaintiffs' attorney: David Bailey
- What they filed: A motion asking the court to find county officials' decision to change Highland's ordinance on height requirements illegal.
- Result: Motion for summary judgement on the case denied; court rules in favor of county.
- What next: Bailey intends to appeal the decision to the Virginia Supreme Court

Endangered Species Act

- No case filed yet. Letter sent to Highland supervisors July 5, 2005.
- Plaintiffs: Allegheny Mountain landowners opposed to the project including Ralph Swecker, the Goodall family, and Gregory A. Warnock.
- Plaintiffs' attorneys: James Jennings and Dan Summerlin of Woods Rogers, Roanoke, and Chris Singleton of Warm Springs.
- What they filed: Only a letter of intent.
- Result: Clients served notice on the county under the Endangered Species Act of their intent to bring a civil suit against the county, which still may come before the courts eventually.
- What next: Jennings has said his clients will wait to see what happens with other cases in court, and are under no deadline to proceed with filing suit.

Conditional use permit

- Case filed: Aug. 9, 2005
- Plaintiffs (32): The Goodall family, Stephenson and Shamrock, Miller, the Swecker family, Annette Naber, R. Daniel Kauffman, Doyle E. and Kathleen Patterson, John and Cynthia Vrugtman, Marianne Wilson, Lindley and Patricia Pray, James Brodsky, Karen Dworkin, Timo-

thy and Barbara Downs, Patrick Lowry and Valerie Hilliard, Michael and Margaret Christle, Tom Brody and Patti Reum, Mary Wiles Buntin and Ken Schaal.

- Plaintiffs' attorney: David Bailey.
- What they filed: A lawsuit alleging the county's move to issue a conditional use permit to HNWD was illegal and asks the judge to find the permit null and void in a five-count motion.
- Result: Judge ruled against a counter-motion by the county to dismiss the case and set it for trial next week.
- What next: Case to be heard Tuesday, Wednesday and Thursday in Highland County Circuit Court by Judge Paul Sheridan.

Case against the planners, county

- Case filed: April 28, 2006
- Plaintiffs: Tom Brody and Patti Reum, the Goodall family, and the Swecker family.
- Plaintiffs' attorney: David Bailey
- What they filed: A civil action seeking a declaratory judgment against the planning commission for its conclusion that HNWD's project was in substantial accord with the comprehensive plan.
- Result: Judge agreed to hear briefs on the case Aug. 9.
- What next: If the judge rules in favor of the plaintiffs, the trial will take place Aug. 10.

2232 review by planners

- Case filed: May 3, 2006
- Plaintiffs: Tom Brody and Patti Reum, the Goodall family, and the Swecker family.
- Plaintiffs' attorney: David Bailey
- What they filed: A lawsuit challenging the county's decision to have the planning commission conduct a 2232 review after the permit had already been issued, arguing the planning commission had no proper jurisdiction to review whether HNWD's project was in substantial accord with the county's comprehensive plan.
- Result: Judge ruled in the county's favor, saying it didn't matter whether the review took place before or after the permit approval.
- What next: Bailey intends to appeal decision to the Virginia Supreme Court.