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# Vail Lake plans stalled by legal battles

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TEMECULA ---- More than a year after developer Bill Johnson announced his ambitious plans to turn Vail Lake into a first-class resort featuring a winery, three golf courses and 5,000 homes, the project remains tied up in litigation and stalled in the county's planning process.

Formed when descendants of cattle rancher Walter Vail built a dam on Temecula Creek in 1948 to provide irrigation for their ranch, Vail Lake has been a private fishing hole, attracting the likes of baseball legend Ty Cobb and "Perry Mason" author Erle Stanley Gardner. Through the late 1960s and 1980s, the lake, about 10 miles east of Temecula, was home to Butterfield Country RV Park, a popular resort campground that closed in 1989.

In July 2000, Johnson reopened the recreational vehicle park near the lake and began his plans to build what he said would be a "world-class resort that will put Temecula on the map."

However, before the project can start, a number of environmental studies have to be done and there are also two lawsuits that need to be resolved.

The lawsuits

A local water district is suing one of Johnson's companies for allegedly trying to usurp rights to the lake and dam, and Johnson is suing the management company left over from Vail Lake's previous owner for allegedly selling memberships to the lake without legal authority.

Despite these hurdles, Johnson said he remains confident, and he has even introduced a new component to his vision for Vail Lake ---- a 220-megawatt hydroelectric power plant that would pump water up and down the nearby hillside to produce electricity.

"A lot of people don't fully recognize what we have in the area," said Johnson. "It's big country."

Plans for the hydroelectric plant are tenuous. Johnson said he has had a

consultant meet with state agencies to discuss the viability of the project that he says would be a perfect tie-in with the 31 miles of transmission lines San Diego Gas & Electric Co. has proposed for the Temecula area. However, he has yet to file any formal applications.

And before he does, he'll have to prove he has rights to use the water in the lake.

In February, Rancho California Water District, which uses the 622-acre lake to replenish drinking water sources for the valley, filed a lawsuit alleging Johnson's company Vail Lake USA is inappropriately laying claim to old water-rights agreements that date back more than 20 years.

Johnson counters that the water district hasn't adhered to terms of an agreement made when it obtained rights to Vail Lake in 1978 from then-lake owner Kacor Realty. He said that because terms of the agreement weren't adhered to, rights to the lake revert to Kacor or Kacor's successor ---- Vail Lake USA. The next hearing on the suit is scheduled for Dec. 6.

"Quite frankly, he has to strike a deal with Rancho California Water District in order to do anything with that lake, because right now we own it," said the district's director of engineering, Bob Lemons. "He may have a different opinion, but all that's before the courts."

Lemons said that the water district also looked into building a hydroelectric plant at the lake in the mid-1990s, but dropped the plans because of the anticipated $350 million costs and owing to the fact that the lake isn't a reliable source of water during the summer.

"It's pie in the sky," Lemons said. "It's not going to happen in the near term."

The second lawsuit involves Johnson's allegation that nearby property owner Sundance International, which owns a dude ranch on 420 acres adjacent to the lake, hasn't maintained the grounds as it was required to do in a 1994 management agreement and is illegally selling memberships and marketing the lake in conjunction with its dude ranch.

A Riverside County Superior Court Judge has ordered Sundance to temporarily stop selling memberships, but company principal John Mulder says the lawsuit, which is scheduled for trial April 15, is nothing more than an attempt by Johnson to lay claim to someone else's property rights.

"It's all a contrived excuse to get us out of there so they can do big things with the lake," Mulder said. "They have to get rid of us. They have to get rid of the water district, and they have to get through the hurdles with the county."

Johnson said he inherited the lawsuits when he bought the 7,456-acre Vail Lake property in 1998, because in his opinion neither Sundance nor the water district was living up to previous agreements and letting the lake fall into a state of disrepair.

"It's quite a melodrama in many ways," Johnson said. "I guess we'll see how Vail Lake turns out."

Environmental hot spot

County officials say they're interested in seeing what will become of the project, as well. Earlier this month, supervisors considered an agreement with Johnson to split the cost of environmental studies that will look into both Johnson's plans to develop the lake and how it could fit into the county's comprehensive plan to set aside 500,000 acres ---- almost a third of which would come from private land ---- as habitat for endangered species.

"We're still kind of in the dark," said Ken Graff, legislative assistant for county Supervisor Jim Venable whose district includes Vail Lake. He said the county's legal counsel is reviewing the agreement and added that it could benefit the county by exchanging private habitat land for the shared cost of environmental studies.

The proposal to split the estimated $250,000 studies between private and public funds has drawn criticism from the Endangered Habitats League of Los Angeles, which calls it a blatant gift of public funds. The league is part of the county's committee studying the habitat proposal.

"This is geared specifically to assist the applicant," said league coordinator Dan Silver. "The county would be subsidizing his project. If they enter into this agreement, how can the county be objective when the project comes before them for approval?"

Silver also criticized the project itself, saying it would "leapfrog" development because at present there is no development between Temecula and Vail Lake.

"It's disastrous land-use planning," he said. "It would put infrastructure where there isn't any today."

Consulting biologist Paul Principe, who says he did biological studies at Vail Lake in 1998, added that there are also environmental concerns that need to be addressed before Johnson's project can move forward because the lake area is home to a number of sensitive species. He said he has photos of two adult Quino checkerspot butterflies, an endangered species, he found on property where the development is proposed.

Johnson, however, has said there are no endangered butterflies on his land.

"There are radical forces out there targeting large property owners," said Johnson. "It's a story of our area, and I want it to be out there with some light shed on it because I do fear some of the radical environmentalists that are taking shots at the property owner."

He said he thinks environmentalists are trying to take rights to private property by rendering land undevelopable because of concerns about endangered species.

Johnson has said he is not trying to exploit a natural resource and wants to preserve the beauty of Vail Lake.

The plan he submitted to the county in December, outlining the proposal for the lake, includes 1,456 acres of houses, vineyards and a research center, as well as 783 acres for three golf courses and 3,409 acres dedicated to open space preservation.

But with the introduction of a hydroelectric plant, that plan, which has been sitting dormant since it was officially filed with the county eight months ago, is likely to change.

"There is no question we're reconsidering some major aspects of the plan," said Jim van de Water, president of Dartmouth Development Co., which is doing advisory work for Johnson and Vail Lake USA. "It's a vastly underutilized resource. There's a potential for a wide range of things out there."

He said he and other consultants are formulating a new plan that will likely be submitted to the county by the end of the year, adding that because of the change in plans the proposed agreement with the county to share costs for environmental studies will likely be suspended.

"It'll be about how much of a resort we can make," said van de Water of the new plans. "At one time, it was just discussions; now we have people actually interested in doing things out there."

Some of the interested parties include a Napa Valley winery and a tennis academy that may set up shop along Vail Lake, Johnson said. But for now, all that's there are the oak trees, a marina, swimming pools, a quaint village center that hosts the occasional music and comedy show, and about 400 RV spaces, nearly half of which need to be renovated.

"By the next four months, we'll know what our objectives are. Then we have to go and figure out how to implement them," van de Water said. "The market is saying a lot more about the resort than we thought was possible. So, we're now thinking money."

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