

ENVIRONMENTAL GROUPS SUE FOR ENDANGERED SPECIES INFORMATION

By Jim Balow

A Charleston environmental group has sued the U.S. Department of the Interior for allegedly failing to turn over documents as required under the Freedom of Information Act.

The suit, filed in U.S. District Court in Washington by Kimberly Ockene of Meyer & Glitzenstein, charges that the Gale Norton and the Interior Department refused to turn over documents relating to wildlife deaths and injuries from wind turbines.

It follows an Aug. 25, 2003, FOIA request from Friends of Blackwater and is supported by 19 citizen groups from across the country and one international group. The FOIA request was sent to the department's Fish and Wildlife Service, which has the responsibility for protecting the country's wildlife resources, the suit says.

Fish and Wildlife's Division of Migratory Bird Management sent a partial response to the request in October 2003, the suit says, saying it canvassed several offices. It included some publications about bird impacts with wind turbines, some internal comments and the group's Interim Guidance, written last year, which sets voluntary guidelines for wind power companies to minimize wildlife impacts at new projects.

A second response in April contained documents from the Office of Law Enforcement about closed investigations about the Altamont Pass Wind Resource Area in California, an older wind project known to kill golden eagles.

Friends of Blackwater President Judy Rodd said her group never received any information about wildlife problems outside of the Altamont site, despite widespread knowledge of bird and bat problems at other wind projects.

"We know that wildlife have been killed at the Mountaineer site in West Virginia," Rodd said.

Scientists at the Mountaineer Wind Energy Center on Backbone Mountain in West Virginia found an estimated 2,000 or more bats and nearly 200 birds died during the spring and summer of 2003. Birds are protected by the federal Migratory Bird Treaty Act. Follow-up research showed an equal number of bats were killed during a six-week period this summer at the Mountaineer site.

Fish and Wildlife's legal division listed several reasons for not supplying more information, the lawsuit said.

"They had two excuses," Rodd said, "that it's part of a legal action.

But we have no evidence there are any legal actions. "It seemed they were stonewalling. They said it was propriety [information] to the company. Can they let a corporate entity control the flow of information? It's not like the secret formula to making ketchup or something."

(Continued next page)

Ockene, the Friends' attorney, said the purpose of the suit is to get more documents from Fish and Wildlife. "We're hoping we'll be able to get more documents without fully litigating," she said.

Other lawyers at Ockene's firm have similar lawsuits pending against other Bush administration agencies, she said. "My experience is they stonewall a lot," she said. "It's very hard to get information we feel is public out of the Bush administration. They seem to be very secretive." Ockene said she has filed other FOIA suits against the Interior Department. "We seem to work hard to get information. Frequently it comes to a lawsuit and eventually we get more documents when we file litigation."

Rodd said the public has a right to know how wildlife is being protected. "The public owns the wildlife of the U.S., don't we? I don't think the wind industry should have any special treatment."

This article originally appeared in The Charleston Gazette.