Environment & Energy Report

Park City Group Sues EPA for Delaying Utah Ranch Development

By Sylvia Carignan

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- **COURT:** D. Utah
- **TRACK DOCKET:** No. 2:21-cv-78 (Bloomberg Law Subscription)
- **JUDGE:** Bruce S. Jenkins (Bloomberg Law Subscription)

A Park City resort group says in a new federal suit that the EPA's improper characterization of a former Utah ranch as a toxic hazardous waste site, coupled with its slow response to a mining company's mandated cleanup efforts, have hampered development of property for more than a decade.

Resort Center Associates LLC filed a Superfund citizen suit Thursday in U.S. District Court for the District of Utah against the Environmental Protection Agency, United Park City Mines Co., and state and local governments involved with a mine waste cleanup.

Resort Center Associates alleges the governments and company unconstitutionally took its property, formerly part of a family-owned ranch, by including it in the Richardson Flat Tailings proposed Superfund site despite a contractor's report that future residents wouldn't be exposed to hazardous substances.

"EPA has continued to insist on continuing characterization and remediation activities at the property" despite its safe condition and, because of the federal agency's actions, the county won't issue a development permit, the complaint says.

The proposed Superfund site is part of a 650-acre property owned by United Park City Mines. The company succeeded mining companies that mine waste in the Silver Creek watershed starting in the late 1880s. A 1970 lease agreement involving two other mining and smelting companies allowed the dumping of additional waste at the site, the complaint says.

The EPA ordered United Park City Mines to investigate the proposed Superfund site's contaminants in the early 2000s, then required the company to start clean up and pay for the agency's future remediation costs. United Park City Mines "repeatedly failed to meet its obligations" to carry out the clean up on parts of the site and hasn't reimbursed the agency for its work, Resort Center Associates says.

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The EPA also has always aware, or should have been aware, of United Park City Mines' inability to comply with sampling and analysis obligations under a 2014 agreement, but the agency didn't file suit against the company until 2019, the complaint says.

An agreement between the EPA and United Park City Mines includes removing Resort Center Associates' property from the proposed Superfund site, but that also hasn't happened, according to the complaint.

Resort Center Associates "has been left in a legal and administrative limbo for over a decade with respect to the property." The company has also missed opportunities to sell the property but has had to continue to pay maintenance costs, the complaint says.

The EPA started assessing the site in 1984 and proposed it for the National Priorities List in 1988. The agency hasn't made a final decision about whether to declare it a Superfund site, the complaint says.

Cause of Action: Comprehensive Environmental Response, Compensation, and Liability Act; Fifth Amendment of the U.S. Constitution; breach of contract.

Relief: Require the EPA to remove the property from the boundaries of the site, or a "no further action" letter; require the EPA to issue a final, comprehensive cleanup plan for the site; require the state and county to allow Resort Center Associates to remove warnings and restrictions from the property or allow the company to propose and carry out a cleanup plan; attorneys' fees.

Response: "Because this is pending litigation, EPA has no additional information to share," an EPA spokesperson said.

Attorneys: Kenneth J. Melrose of Lompoc, Calif., represents Resort Center Associates.

The case is Resort Ctr. Assocs. LLC v. EPA, D. Utah, No. 2:21-cv-78, 2/4/21.

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Documents

Docket
D. Utah docket

Complaint
Feb. 4 complaint

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