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METRO DETROIT

Developer sues U.S. over marsh

Downriver spot was saved; firm went bankrupt

June 22, 2006

BY ZACHARY GORCHOW
FREE PRESS STAFF WRITER

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A development company that sought to build a residential community on Downriver's Humbug Marsh is suing the federal government, claiming it essentially seized the property without providing compensation as required by the U.S. Constitution.



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Humbug Marsh, located at Trenton and Gibraltar, is owned and managed by the U.S. Fish and Wildlife Service. It's a haven for birds. (2005 photo by SUSAN TUSA/Detroit Free Press)

Made in Detroit, Inc., lost an eight-year fight in 2004 over the 410-acre property along the Detroit River after environmentalists and the government succeeded in preserving the last undeveloped shoreline along the river. It's a home of nesting spots for ospreys and eagles, a spawning ground for walleye and yellow perch and a stop for migratory waterfowl and songbirds.

The company purchased the land, located in Gibraltar and Trenton, in 1997 with a plan to build luxury homes, retail stores and a golf course, setting off a dispute over the future of the property.

In 1999, the U.S. Army Corps of Engineers said Made In Detroit could not build on Humbug Island and the land and marsh close to the Detroit River because of the potential environmental impact. Construction never started.

Made in Detroit declared bankruptcy in 2002, claiming the government's efforts to thwart its project had destroyed the company financially. The firm is back in business now.

As part of bankruptcy proceedings, Made in Detroit's creditors sold the property in 2003 to the nonprofit group Trust for Public Land for \$4.8 million. The trust agreed to protect the land until the federal government bought it. The U.S. Fish and Wildlife Service purchased the property in 2004 for \$4.1

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In essence, Made in Detroit argues in its lawsuit that although the government did not use its eminent domain powers to claim the land, it in effect took the land by delaying and then denying permit approval and threatening litigation against the company.

Those moves crushed the project, according to the lawsuit filed in the U.S. Court of Federal Claims, and forced the land to the only entity that could possibly own it under the circumstances -- the federal government.

"They effectively exercised eminent domain on the property without paying Made in Detroit full and fair just compensation," said Ron Reynolds, an attorney for Made in Detroit.

Reynolds said Made in Detroit and attorneys are still figuring how much they think the government owes. He said at one point the property had a maximum potential value of \$18 million.

The government has 60 days to respond to the lawsuit.

Chuck Traxler, a spokesman for the U.S. Fish and Wildlife Service's Midwest regional office in Minneapolis, said the agency had not yet seen the lawsuit.

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