

Court hears wilderness family's land dispute - ROADBLOCKS: Pilgrim clan protests Park Service permit requirement.

Anchorage Daily News (AK) - Wednesday, July 13, 2005

Author: DAN JOLING The Associated Press ; WIRE

Court hears wilderness family's land dispute - ROADBLOCKS: Pilgrim clan protests Park Service permit requirement. Anchorage Daily News (AK) - Wednesday, July 13, 2005 Author: DAN JOLING The Associated Press ; WIRE

An attorney for the Pilgrim family told federal appeals judges that the National Park Service has no right to conduct a formal environmental review or create other roadblocks before granting access to their land within a national park.

Russell Brooks of the Pacific Legal Foundation asked a three-judge panel of the 9th U.S. Circuit Court of Appeals to overturn a lower court ruling that the Park Service could require a permit before the family could use a bulldozer to haul a trailer carrying supplies over a 14-mile road into Wrangell-St. Elias National Park and Preserve.

The three Appeals Court judges did not immediately rule in the case.

The family patriarch, Papa Pilgrim, whose real name is Robert "Bobby" Hale, his wife and 15 children bought a 410-acre parcel within the park in spring 2002. They lived in an old miner's home, which burned.

The family is deeply religious and tries to live off the land. Their cause was taken up by the American Land Rights Association and others who solicited donations to replace supplies lost in the fire.

The family wanted to use a mining road to bring in heavy supplies from McCarthy to winterize a new home. The Pilgrims used a bulldozer to reopen the road without a permit. The Park Service responded by closing the road to motorized vehicles, and the family sued.

District Court Judge Ralph Beistline in November 2003 denied the Pilgrim family motion for a temporary restraining order, saying the Park Service was justified in wanting to assess the environmental impact of reopening the road.

Pacific Legal Foundation is a group that champions constitutional and private property rights.

Brooks said the Pilgrims were denied fair and adequate access to their property as promised in the Alaska National Interest Lands Conservation Act. The Park Service could take steps to ensure park assets were not harmed, he said. Extending that to a review under the National Environmental Policy Act, which took more than nine weeks, was a violation of the act's mandate, he said.

A temporary, one-year access permit issued in March 2004 authorized the Pilgrims to use their bulldozer and trailer over the road when the ground was frozen. That permit was issued late in the winter, Brooks said, and the road was too dangerous to use

because of glaciation on mountainside sections. Likewise, the road was too dangerous to use after freeze-up last October, Brooks said.

The Park Service made unreasonable demands while nominally allowing access, Brooks said after the court hearing.

"They can come off looking like the good guys," he said of issuing the permit. "It's useless."

Department of Justice attorney Matthew Sanders said it was clear from ANILCA and previous court cases that the Interior Department secretary could decide what constituted reasonable access through a national park.

He said Beistline correctly ruled that the Hales' lawsuit was untimely because it was filed before the Park Service went through the process of issuing a final permit. The Hales applied only for temporary access, and when the Park Service asked for more information, went to court.

"If they had not injected repeated delays into the process, this might have gone differently," he said.

Judges repeatedly interrupted presentations by both attorneys. They asked whether the Park Service had rights to impose restrictions, whether it was unreasonable to conduct a NEPA review and whether the Hales had rights to protest Park Service procedures during the process.

Rebecca Bernard, an attorney in the case representing the National Parks Conservation Association, the Wilderness Society and the Alaska Center for the Environment, said the only issue was whether the Park Service had the right to regulate activity across National Park Service Land.

Brooks reacted strongly to the suggestion that the Pilgrims had acted to make their situation a test case for access across national parks.

"They simply want access," he said. "They want to rebuild their home."

Wrangell-St. Elias National Park and Preserve:

www.nps.gov/wrst

Pacific Legal Foundation:

www.pacificlegal.org Caption: Photo 1: Weblink BW_071305.jpg Graphic 2: pilgrim_family_071305.eps
MARC LESTER / Daily News archive 2003 The 17 members of the Pilgrim family on their land near the head of McCarthy Creek in the Wrangells.

Edition: Final Section: Alaska Page: B3 Record Number: 833517907/13/05 Copyright (c) 2005, Anchorage Daily News