

## Postmark Deadline Monday, February 23rd – Fax Deadline 12:00 PM Feb. 23rd.

**Dear Private Property and Access Ally:** You have a chance to strike a blow for freedom and access to private property. The battle is for access in Alaska as well as the lower 48 states. It happens that it is the Pilgrim case, but the battle is not about the Pilgrims. It is about access. The Pilgrim family with 15 children is struggling to gain access to their homestead in the Wrangell-St. Elias National Park on the McCarthy – Green Butte Road that has been in use since 1920.

It has been claimed by the Alaska State Legislature as an RS 2477 Right-Of-Way. Along the way the Pilgrims have been trying to protect and enhance the rights of all users nationwide concerned about RS 2477 and ANILCA, the Alaska National Interest Lands Conservation Act, which also provides rights in the lower 48 states.

The Park Service has prevented the family from getting the regular access to which they are clearly guaranteed. The McCarthy-Green Butte Road Environmental Assessment is just another roadblock thrown in the way by the Park Service. The inholder community organized the Pilgrim Family Airlift to bring much need provisions. That option is now weathered out and is too expensive to carry out in the long term.

It is hoped that you will take a few minutes to mark **AGREE, DISAGREE OR NO OPINION** by the statements listed below. We **AGREE** with all the statements, but you don't have to. Write what you really think. The most valuable comments will be any personal remarks you add in the box provided at the end.

**Public comments must be POSTMARKED no later than February 23rd and sent to:** Gary Candelaria, Superintendent, Wrangell-Saint Elias National Park and Preserve, PO Box 439, Copper Center, AK 99573. You may send them by E-mail to: [wrst\\_hale\\_ea\\_public\\_review@nps.gov](mailto:wrst_hale_ea_public_review@nps.gov) You may fax them to: (907) 822-7216. A full copy of the EA is at: <http://www.nps.gov/wrst/pphtml/news.html>. Even though the EA is 120 pages long, a reading of pages 35 to 61 will tell you all you need to know. For more information on this controversy, please go to <http://www.landrights.org/ak/wrst/Pilgrims.htm>

## McCarthy - Green Butte Road Environmental Assessment Wrangell-St. Elias National Park – Comment Questionnaire

**TO the National Park Service** – Please review my responses to the following statements and consider this document to be my comments regarding the McCarthy – Green Butte Road Environmental Assessment. I understand I can attach additional comments and pages to this testimony. I may also decide to rewrite some of the statements. Please consider a photocopy or email of this document as valid as the original.

**Please circle your answer – You may write additional comments by each statement or in the comment section on the back. You may add pages. Your personal comments make this document far more valuable.**

1. McCarthy Creek flows through a barren ground floodplain for the relevant part of its course and the stream each spring overflows its banks, often washing away resident vegetation and structures that are placed thereon. There is little chance of any damage to the park. I believe the Pilgrim family and other users should be allowed their access rights and allowed to traverse this route freely.

AGREE

DISAGREE

NO OPINION

2. The access route that has been applied for crosses McCarthy creek numerous times. There is a small population of Dolly Vardin trout that are resident in the creek. It is unlikely that they are anadromous (return every year) but this has not been resolved. The Park Service tried to use the fish as a tool to help them close the road but the Alaska State Fisheries officials have said in writing there is no problem. I believe the fish should not be used as a tool to block access.

AGREE

DISAGREE

NO OPINION

3. The Pilgrims applied for permission to the Park Service last summer to use a tracked vehicle (small D-4 bulldozer with blade generally up) to make nine trips along the existing gravel mining roadway that includes tunnels along McCarthy Creek in order to haul building materials and other items for personal use to their home which burned in 2003. They would have to ford the creek numerous times but all scientific evidence indicates there is little damage from these crossings. Small bulldozers are a traditional and common mode of transportation in Alaska. I support allowing the users of the McCarthy – Green Butte Road to use this bulldozer as a tracked vehicle for hauling.

AGREE

DISAGREE

NO OPINION

4. DOCUMENTING TRADITIONAL AND SUBSISTENCE ACCESS IN WRANGELL-ST. ELIAS NATIONAL PARK AND PRESERVE, a publication by Terry L. Haynes and Stan Walker, establishes that small bulldozers pulling trailers are a traditional means of access in Wrangell St. Elias National Park. I oppose park service attempts to block long-standing traditional means of access over existing roads and rights-of-way.

AGREE

DISAGREE

NO OPINION

5. Of the twenty proposed stipulations in the Environmental Assessment, several of them made use of the access virtually impossible. For instance, the applicants are required to construct ice bridges, however, they are not allowed to use any natural debris in doing so. They are not allowed to refuel their cat on the trail and cannot use locked track turns that will be needed to construct the ice bridges the NPS requires. They are required to enclose all fuel containers larger than 5 gallons in size in over-pack drums. The NPS itself doesn't do this for their own fuel handling in the park. These restrictions seem to be designed to make what appears on paper to be granted access impractical for actual use. The Park Service needs to correct their documents and use stipulations that allow access with the common sense, "reasonable regulation" that the law mandates.

**AGREE                      DISAGREE                      NO OPINION**

6. The NPS is demanding that there be at least 12 inches of frost penetration in the ground and six inches of snow cover before travel over the McCarthy - Green Butte road by the Pilgrims is allowed. Those are the rules used by agencies on the Arctic Slope for oil industry operations over ice rich, fine grained soils and undisturbed tundra! There is nothing even remotely like that type of terrain crossed by the McCarthy - Green Butte road. No tundra! No permafrost! And most of it's on a gravel road!! This NPS requirement is grossly unreasonable and appears to be a tool to prevent access.

**AGREE                      DISAGREE                      NO OPINION**

7. The NPS DID NOT DO THE EA UNDER THE CORRECT ANILCA SECTION - This is not temporary access under ANILCA §1111 but inholder access under ANILCA §1110(b) and RS 2477. The NPS needs to correct their approach and follow the applicable section 1110(b). Using the wrong section of the law could be viewed as just another way for the NPS to stall access.

**AGREE                      DISAGREE                      NO OPINION**

8. The NPS unreasonably insists that access is to be over frozen ground, during the harshest and most dangerous part of the year (winter), even though the application makes it clear explicitly and implicitly that the application is intended for travel while the creek is still open in moderate fall weather when the water is low. Users of the McCarthy - Green Butte Road should be allowed regular access to their home and private property during all seasons with reasonable precautions.

**AGREE                      DISAGREE                      NO OPINION**

9. While this application for access has been made by and on behalf of the Pilgrim family, the substantive issue has very little to do with them. The Park Service should not deny access to people simply because they are different and the agency doesn't like who they are or their lifestyle.

**AGREE                      DISAGREE                      NO OPINION**

10. Qualified subsistence users in Wrangell St. Elias National Park can use this road any time they want with any type of off-road vehicle (up to but not including dozers and front-end-loaders) as long as they are engaged in "subsistence." There seems to be a double standard by the NPS nitpicking regulations.

**AGREE                      DISAGREE                      NO OPINION**

11. The vast 1980 ANILCA national park expansions enacted by Congress were possible only after repeated assurances that their creation would not adversely affect traditional users and that access to lands would not be curtailed. A pillar of the promises Congress rendered to Alaskans in the extraordinary language of ANILCA section 1110(b) was that inholders were ENTITLED to the access necessary to assure economic use of their property. The Park Service and its confederate environmental group allies disagree with that Congressional decision. Their attempt to nullify these historic federal commitments with an agenda of environmental and regulatory strangulation is devious and unworthy of our governmental system.

**AGREE                      DISAGREE                      NO OPINION**

12. Father J. Michael Hornick, J.C.L. has written: Few other more irritable words have been heard in Alaska than the phrase "subject to reasonable regulation" which is often cited in Federal law. Unfortunately, the experience of ANILCA has demonstrated that "reasonable regulation" often means bureaucratic hoops, which never end. It's how to say "yes" when you really mean "no." ANILCA promised to preserve access rights for inholders. While Federal agencies sanctimoniously acknowledge individual and State's rights of access in their management plans, in reality they obstruct any practical use of such access rights.

**AGREE                      DISAGREE                      NO OPINION**

13. The National Environmental Policy Act (NEPA) is one of the prime weapons used by the Park Service to crush anyone who tries to use their ANILCA rights with impossible and outrageous economic burdens to obtain and use their access. As an example, the NEPA DEIS for the immense \$12 billion National Missile Defense System (new construction) was only 1,200 pages. Compare that to the 120 page EA for USE ONLY, NOT

CONSTRUCTION of the 14 mile road to the Pilgrim home! This is gross environmental and regulatory overkill that demonstrates the abject failure of the Park Service to credibly and impartially administer the NEPA process.

**AGREE                      DISAGREE                      NO OPINION**

14. Courts will not hear a case until a property owner has “exhausted all administrative remedies.” Therefore, property owners are told they can’t go to court until they have applied for a permit and their access is denied. So the NPS draws them into a never ending process of applying for a permit for access which is frequently never actually granted. Limitless requests for ever more data and information ensue. Even if the applicant wins in court and the NPS is wrong, they are bankrupted because their costs and legal fees can’t be recovered while the NPS has the bottom less pit of the public treasury to cover its costs. This is patently unfair and Congress must change this system.

**AGREE                      DISAGREE                      NO OPINION**

15. If access is guaranteed by law, a permit should not be necessary.

**AGREE                      DISAGREE                      NO OPINION**

16. The Pilgrim family asked for summer/fall access [ALTERNATIVE B] but the Park Service Preferred ALTERNATIVE C forces the family to use winter only access. If the Park Service is successful in delaying the process further, even winter access will not be possible. Four of the seven NPS comments on the family’s application found no impact on the park, (actually five depending upon exactly how the “impact on recreational use and aesthetics comment is viewed) and the remaining two counseled against going in during the winter. The NPS should do the obvious and permit access under [ALTERNATIVE B].

**AGREE                      DISAGREE                      NO OPINION**

(Your written comments here will make this document more valuable. You may add additional pages)

(If needed, use additional sheets or attach a personal letter.)

**To validate your comments please fill in completely (PRINT) and be sure to sign.**

Signature \_\_\_\_\_ Name \_\_\_\_\_

E-Mail \_\_\_\_\_ Fax \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ Town \_\_\_\_\_ State \_\_\_\_\_ Zip \_\_\_\_\_

**Do not fail to fax or e-mail this testimony even if you receive it late.**

Prepared by the American Land Rights Association, PO Box 400, Battle Ground, WA 98604.

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