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PACIFIC LEGAL FOUNDATION TAKES PILGRIM FAMILY CASE TO THE NINTH CIRCUIT

The Sierra Times

PRECEDENT-SETTING CASE ASKS COURT TO AFFIRM THE RIGHTS
OF ALASKANS TO ACCESS FEDERAL LANDS

SAN FRANCISCO, CA; December 24, 2003: Pacific Legal Foundation filed an emergency motion and notice of appeal with the Ninth Circuit Court of Appeals Wednesday in a highly publicized case that pits an Alaska wilderness family against the National Park Service. PLF is asking the court to grant the Pilgrim family emergency access to the only viable road to their property, which the Park Service closed last April. The case has precedent-setting value as it asks the court to consider Revised Statute 2477, which guarantees the use of existing rights-of-way or roads across federal lands. These rights-of-way have long been recognized and protected by Congress, and were reaffirmed by the Bush administration earlier this year.

PLF also is asking the court to grant access to the Pilgrims under ANILCA, the Alaska National Interest Lands Conservation Act. According to PLF, ANILCA was the product of an intense legislative battle between those who wanted to turn millions of acres of Alaska into national parks and the majority of Alaska's citizens who opposed the plan. The compromise allowing ANILCA's passage was that the public would get the new parks, but Alaskans would get special rules to allow their continued access to their property in the vast new preservation units.

"The Pilgrim family home is on their property surrounded by a national park, and the Park Service is prohibiting them from accessing their land in violation of long-standing laws enacted specifically to prevent this kind of government abuse," said Russ Brooks, an attorney with Pacific Legal Foundation.

At issue in the case is the Park Service's closure of the 15-mile-long McCarthy-Green Butte road, which has been used since at least 1922. The road traverses federal land and provides the only overland access to property owned by Robert Hale, commonly known as Papa Pilgrim, and the 16 members of his family. Pilgrim purchased the

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410-acre parcel in the Spring of 2002, with the understanding that the road connecting it to town would be continuously accessible so that food and other provisions could be carried in by vehicle. In April 2003, the Pilgrims' house and most of the family's belongings were destroyed by a fire.

The Park Service closed the road to traffic a few days after the fire, making it impossible for the Pilgrim family to bring in heavy materials and supplies to rebuild their home and survive subzero weather-access that is only possible with mechanized travel that the Park Service stopped. As a result, the Pilgrims have been forced to live in an uninsulated mine building in Arctic winter temperatures for months.

"The Pilgrims' situation is just about the worst case scenario that could be contemplated under the laws that were put in place to protect the access rights of Alaskans," said Brooks. "They have literally been driven from their home and can't get sufficient supplies to their family because the federal government arbitrarily and illegally closed the only road to their property."

"We're holding out optimism that the Ninth Circuit will grant emergency access to the Pilgrims so they can survive the winter and the family can get out of the inhumane situation that the Park Service has put them in," said Brooks. "We're also hopeful that the court will take this opportunity to affirm the access rights of all Alaskans to federal land that has long been guaranteed to them under the law."

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