

Jack Venrick

From: "Mountain States Legal Foundation" <dpatrick@mountainstateslegal.com>
To: <jacksranch@skynetbb.com>
Sent: Friday, October 30, 2009 11:54 AM
Subject: NATIONAL PARK SERVICE: A BAD NEIGHBOR IN NEW JERSEY



Dear Mr. Venrick,

I thought that, as a friend of Mountain States Legal Foundation, you would enjoy reading my monthly column, "Summary Judgment".

I welcome your comments and suggestions.

Sincerely,

A handwritten signature in black ink that reads "Perry".

William Perry Pendley
President and Chief Operating Officer

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NATIONAL PARK SERVICE: A BAD NEIGHBOR IN NEW JERSEY

In September, The New York Times ballyhooed the public television broadcast of Ken Burns' 12-hour history, "The National Parks: America's Best Idea." It also announced that the National Parks Second Century Commission, chaired by two former U.S. Senators, had released a report on what The New York Times called "the state of the parks and a vision for the next century." These two events caused The New York Times to ponder the future of the national parks. One writer took the occasion to demand that the National Park Service (NPS) "be not only a good steward but also a good neighbor, by recognizing its boundaries and the constitutional and property rights of private citizens within and beyond park boundaries." The case of the Hulls of northern New Jersey reveals one reason for that demand.

In the 1950s, the United States proposed creation of the Tocks Island Dam Project along the Delaware River in Sandyston Township, Sussex County, New Jersey, which would have created a 37-mile-long lake between Pennsylvania and New Jersey and would have been the biggest dam project east of the Mississippi. Beginning in the 1960s, the U.S. Army Corps of Engineers, via purchase and condemnation, acquired 72,000 acres of private land, causing many landowners to complain about insufficient compensation and heavy-handed tactics. Ultimately the project failed due to local opposition and lack of federal funds. The land was never returned; instead, in 1978, it was transferred to the NPS.

One of the most persistent opponents of the project was Enos "Cy" Harker, a World War II veteran who refused to sell the land on which he lived for almost 50 years until he died—while tilling a hillside—in October 2006 at age 93. By then, he was the only landowner along Old Mine Road who had not sold his property to the federal government. In fact, he included a deed restriction barring his property from ever being sold to the United States.

On September 17, 2007, brothers Matthew and Aaron Hull and Matthew's wife, Michelle, who were born and raised in the area and knew Harker well and had worked with him maintaining and farming his land, bought the property, which is surrounded on three sides by the NPS managed Delaware Water Gap National Recreation Area (NRA) and on one side by the Delaware River. Old Mine Road, which was abandoned by the Sandyston Township in 1988 and then reverted to the Hulls, crosses the NRA and bisects the Hulls' property for 300 yards; it passes within 20 feet of their house.

Because of the proximity of the Hull's property to the NRA and because there is no clear delineation as to where the NRA ends and the Hulls' property begins, hikers, mountain bikers, hunters, and park patrons continue to trespass on the property. Therefore, to protect their children, their property, and trespassers who might otherwise be injured on their property the Hulls, shortly after they purchased their property, erected a gate.

Although the NPS had never claimed ownership of the road and had refused, always, to maintain it, on March 23, 2009, the NPS filed a federal lawsuit against the Hulls seeking damages and injunctive relief, alleging that the road was property of the United States. The NPS commenced the lawsuit by sending six federal marshals from Newark, New Jersey, to serve its neighbors, the Hulls, at sunrise. In fact, the marshals had been told to expect the Hulls to be "in the trees with guns"; instead, they were greeted by Mr. Hull holding the Hull's one-year-old daughter. Forthwith, the NPS commenced to "try the lawsuit" in the media, fomenting negative coverage regarding the Hulls. Furthermore, as always, the legal strategy of the NPS regarding the Hulls is to "bleed them dry." The reason, many believe, is simple—the NPS lack the funds to condemn and pay for the property.

The National Parks: America's worst neighbor!

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