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RAIL-TRAILS ON THE LINE IN SUPREME COURT CASE

Property-rights interests threaten public trail in Medicine Bow National Forest

WASHINGTON, D.C. – A case scheduled to be heard in the Supreme Court over the next few months could jeopardize America’s program of repurposing disused rail corridors as public multi-use trails, that has provided thousands of miles of hiking, biking, equestrian and snowmobile pathways across America over the past 25 years.

At issue in *Marvin S. Brandt Revocable Trust et al., v. United States* is whether the American people retain a reversionary interest in railroad rights-of-way that were created by the General Railroad Right-of-Way Act of 1875, after the cessation of railroad activity on the corridor.

Rails-to-Trails Conservancy, a national trail building and advocacy organization instrumental in the creation of more than 1,800 rail-trails across the country since the 1980s, will file an amicus brief with the Supreme Court in December to defend the public ownership of a former rail corridor inside Wyoming’s Medicine Bow National Forest.

“The case affects more than a century of federal laws and policies protecting the public’s interest in railroad corridors created through public lands – and could have lasting impacts on the future of rail-trails across the country,” says Rails-to-Trails Conservancy’s General Counsel, Andrea Ferster.

The corridor in this case passes through a section of land surrounded by Medicine Bow National Forest that the U.S. Forest Service patented to the Brandt family in 1976.

Crossing near the boundary of that parcel is a 200-foot wide corridor of federally-owned land that had been granted to the Laramie, Hahn's Peak and Pacific Railway company in 1908, for the purpose of constructing a railroad.

“Recognizing the great importance of providing public access to the nation’s public lands, in 2007 the U.S. Forest Service and local supporters converted most of that disused corridor into the Medicine Bow Rail Trail,” says Rails-to-Trails Conservancy’s Senior Vice President of Policy and Trail Development Kevin Mills. “It is now a beautiful and popular rail-trail, as well as a significant asset for the state’s outdoor recreation economy. Just like our national parks, these former rail corridors are public assets in which we all share and benefit.”

The spectacular 21-mile rail-trail has one disconnection point – the Brandt property. The Mountain States Legal Foundation, the Cato Institute and the Pacific Legal Foundation are supporting the Brandt’s effort to sue the United States to bring the public corridor into private ownership and prevent its reuse as a rail-trail. All three organizations have a history of launching legal action to reduce protection of public lands.

The U.S. District Court for the District of Wyoming and, later, the U.S. Tenth Circuit Court of Appeals, found that the United States did have a reversionary interest in the corridor, that this federally-held right-of-way could be made available as rail-trail, and rejected the Brandt’s claim of ownership. However, unsatisfied with these rulings, and supported by well-financed interests, the Brandts continue to appeal.

“These federally-granted rights-of-way have played a key role in the nation’s rail-trail movement, which has built thousands of miles of hiking, biking, equestrian, skiing and snowmobile pathways across America over the past 25 years,” Mills says. “An erosion of protections of these public lands in the Supreme Court would not only potentially block the completion of the Medicine Bow Rail Trail, but could also threaten existing rail-trails across America that utilize federally-granted rights-of-way. We are defending the original intent of the legislation that explicitly held that these linear public spaces should remain of, and for, the people.”

There are hundreds of federally-granted rights-of-way corridors across the country, many of which have been converted into publically accessible trails. Some of the better-known

rail-trails that occupy federally-granted rights-of-way include the George S. Mickelson Trail in South Dakota, the Foothills Trail and the John Wayne Pioneer trails in Washington, the Weiser River Trail in Idaho and the Rio Grande Trail in Colorado.

Rails-to-Trails Conservancy is the only national organization in America solely committed to defending the preservation of former railroad corridors for continued public use. Its work to defend rail corridors across the country is funded entirely by members and supporters.

Oral argument in the case is set for January 14, with a decision expected later in 2014.

Rails-to-Trails Conservancy, a nonprofit organization with more than 100,000 members, is the nation's largest trails organization dedicated to connecting people and communities by creating a nationwide network of public trails, many from former rail lines and connecting corridors. Founded in 1986, Rails-to-Trails Conservancy's national office is located in Washington, D.C., with regional offices in California, Florida, Ohio and Pennsylvania. For more information visit www.railstotrails.org.