

ACLU sues to block Martin's Cove lease

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DAN CEPEDA/Star-Tribune file photo

Volunteer Alice Walker helps excavate the foundation of a fort used by Mormon pioneers near Martin's Cove in this 2001 file photo.

Martin's Cove timeline

* **December 2003:** Congress and the president direct the BLM to study a lease of the area to the LDS Church as part of the Energy Department's 2004 spending bill. The provision requires the Interior secretary to "enter into an agreement" to lease the land along the Sweetwater River to the church "not later than 120 days after" the bill is signed into law.

* **October 2004:** The BLM signs the lease agreement with the church, authorizing management of the Martin's Cove area for 25 years. The church also has a right of first refusal for renewing the lease.

* **November 2004:** Casper resident Barbara Dobos with the Alliance for Historic Wyoming files an appeal with the Interior Board of Land Appeals calling for a halt to the lease, saying in part the land was undervalued because it was appraised as undeveloped cattle grazing land, as opposed to the significant historic value the site possesses. That appeal is still pending.

* **March 2005:** The ACLU and four Wyoming plaintiffs file suit in Cheyenne seeking an injunction to block the lease.

Saying a federal lease agreement unfairly gives "complete and unfettered control" to the Mormon church, the American Civil Liberties Union filed suit Wednesday to block the leasing of Martin's Cove to the church.

The lawsuit, filed in U.S. District Court in Cheyenne, names Interior Secretary Gale Norton and Bureau of Land Management Director Kathleen Clarke as defendants.

"Under the terms of the (lease), LDS officials are more than just stewards of the property; the Church has been given complete and unfettered control over both an important federally owned historic site and the message that visitors to the site receive," the lawsuit states. "The Church has been given the go-ahead to create on federal property a Mormon shrine that incorporates the Church's own historical and religious interpretation of the events that occurred in Martin's Cove. The influence of the LDS Church on this federal property is both pervasive and unavoidable."

Mark Lopez, lead counsel for this case with the ACLU, said the group received "a lot of complaints" about the lease agreement.

"There is a fair bit of public agitation about this in the local community," he said. "The church shouldn't be the official stewards. The ACLU would completely support and does support the right of LDS to visit this property. This property is important to them. If the government closed it down to them, we would probably align ourselves with the church. (But) the government has decided to place

sole control of the property in the hands of the LDS church."

Lloyd Larsen, president of the church's Riverton Stake, called the suit "regretful."

"I guess there's a lot of things in life I don't understand," he said. "It will be interesting to see what's amended."

In a prepared statement, Larsen said Martin's Cove is an "integral part of this nation's treasured pioneer story, and should be accessible and appreciated by all."

"Without the church's willingness to make this remote area accessible to visitors and tell the story of those who died there, it would still be isolated and unappreciated," he said.

Plaintiffs in the case are Green River residents Jennifer Sorensen and Kevin Holdsworth, Susan Wozny of Laramie, William Young of Medicine Bow and the Western Land Exchange Project.

Janine Blaeloch, director of the Western Land Exchange Project, said the lease terms give the church "broad provisions" regarding management of the site.

The lease states church officials can establish visitation guidelines, such as no firearms and alcohol, as well as regulate conduct "consistent with the historic nature of the resource."

Blaeloch said that could be interpreted simply at the church's discretion.

"If they decide having a modern, pro-choice T-shirt (is unacceptable), they could decide that isn't consistent with the historic nature," she said, adding that someone carrying a sign the church didn't agree with could also lead to that person's removal from the site. "We don't know what circumstances would lead to them asking someone to leave."

In October, the BLM signed a lease agreement with the Church of Jesus Christ of Latter-day Saints, giving it management control of the Martin's Cove site. In 2003, Congress ordered the BLM to enter into a lease agreement.

Cindy Wertz, spokeswoman for the BLM in Cheyenne, said the agency is reviewing the lawsuit. She added the BLM was following congressional directives in authorizing the lease.

Lopez said the ACLU believes the congressional involvement -- mandating that the Interior secretary enter into a lease agreement with the church -- was inappropriate.

"This is unprecedented," he said. "The church was singled out for special treatment here, and we want to get to the bottom of it."

History

The federal legislation in 2003 came about after the church was unsuccessful in its efforts to buy the Martin's Cove property.

Access to Martin's Cove is only available through adjacent private ranchland purchased by the church in 1996. Before that purchase, the BLM land at Martin's Cove was inaccessible to the public. The

church operates a visitor center on the former Sun Ranch.

The lease gives the church control over the 933.49-acre area including Martin's Cove for 25 years, and it gives the church right of first refusal for renewing the lease. The area is about 55 miles southwest of Casper in Natrona County.

Martin's Cove is important in Mormon history, as pioneers in 1856 trekking westward sought shelter there in an October blizzard. It is near national historic trails including the Pony Express, Oregon, California and Mormon trails.

Because of the national significance of the area, the ACLU said Congress "abdicated" its role vested in the BLM as steward of the property.

"The story of Martin's Cove and the Martin Handcart Company is part of a much larger history of American westward migration that is not limited to the religious significance that the site has for the LDS Church," the lawsuit states. "The stewardship of historic public land can not constitutionally be vested in the Church."

Proselytizing?

For plaintiff Wozny, the church's management has had ramifications.

According to an ACLU release, during an August 2004 visit to the park, Wozny was repeatedly asked by LDS guides about her religious affiliation and was prevented from accessing part of the area because Mormons had died there and it was "sacred" and "hallowed ground."

Because the church's visitor center is on private land, proselytizing there may not be considered improper.

But Lopez said the issue is "complicated," because the government set the church up as the gatekeeper to the site. The lease, too, requires the public to pass through the church's private property. That easement is valued at \$1,000 annually and was deducted from the total lease price of \$17,000 per year.

"We don't think the fact that the visitors center is on private property completely extinguishes our concerns" about proselytizing, he said. "The government probably should have set up a different entry or access point where people have an option."

The lawsuit states that each of the plaintiffs has visited Martin's Cove since the area was vested with the church, and each objects to "the unwelcome proselytizing they were subjected to, and to the pervasive LDS presence that now dominates the site."

The lawsuit asks for an injunction enjoining the lease terms, and an injunction preventing a future lease to the church.

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