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Nikiski beach access restored

By Andrew Waite | Peninsula Clarion

There's going to be a beach party this weekend.

The weather calls for sub-freezing temperatures, but that won't stop the people of Nikiski from celebrating a decision made Thursday morning.

Eight months after the oral closing arguments in the state's civil case against Offshore Systems Kenai, Judge Anna Moran determined the public must immediately be granted beach access at Nikishka Beach Road.

OSK has blocked the Cook Inlet beach access on the road since 2007 when it erected a gate and security checkpoint. OSK prevented public access to comply with provisions of the Marine Transportation Security Act of 2002.

The state of Alaska's lawsuit against OSK's hindrance went to trial in July 2009.

"OSK may not prevent the public access to the beach," Moran said in a crowded Kenai courtroom. "The gate and guard shack do not have to come down, but the gate must be open."

Nikishka Beach Road was built to provide beach access to the public, and OSK knew that was part of its lease agreement when it purchased the land, Moran said, explaining the court's ruling.

The decision prompted a mini celebration in the courthouse hallway. Friends hugged, women cried tears of happiness and children laughed as many made plans for a hotdog/marshmallow roast on the beach.

"We're going to have a bonfire this weekend," said 12-year Nikiski resident Samantha O'Reagan.

Monica McGahan said reopening the beach access would be like reopening a classroom. McGahan home-schools her children and she likes to take them down to the nearby beach for lessons, she said. Sometimes they dissect fish, sometimes they collect feathers and talk about birds while other times they collect rocks to use in math problems.

"We had to go to different beaches that weren't the same," McGahan said. "One bend changes the whole scene."

For the dozens of residents like Eric Nelson, who have been protesting OSK's blockage since 2007, Thursday's decision gave them their beach back.

"We won't be hassled when going down there anymore," Nelson, 35, said. "It's good for the kids, good for family. It's therapeutic to walk on the beach and hear the surf."

Police interrupted a peaceful protest in May 2009 when OSK Operations Manager Mike Peek

called the authorities. Peek left the courtroom immediately following Thursday's ruling and did not return voicemail messages requesting comment for this story.

Assistant Attorney General Dana Burke, who represented the state, said he was "cautiously optimistic" about the ruling, given the possibility of appeal. However, he said, it was a decision worth the wait.

"I want to thank the public for being patient. The patience paid off," Burke said. "The wheels of justice turn. They turn slowly at times, but it's better to have a well-thought out, well-explained decision."

During the trial, Burke argued that although the land has changed hands many times, nothing the state, OSK or the Kenai Peninsula Borough did during the time each entity held a lease on the land changed the fact that the public had a right to access the beach.

OSK's land was once owned by the federal government. It was later selected by the borough before OSK acquired it.

Borough Mayor Dave Carey attended Thursday's ruling and said he was happy with the decision.

"I am pleased that access is to be restored today. The state and the borough staff will conscientiously review the final order and judgment when they are handed down to fully understand the direction and implications of the decision," Carey said in a written press statement.

For 4-year-old Niles Broussard, Moran's decision doesn't carry any convoluted message. It simply means he can return to the place where he likes to throw stones.

"I'm happy," he said.

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