

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT AT KENAI

STATE OF ALASKA,)
)
 Plaintiff,)
)
 v.)
)
 OFFSHORE SYSTEMS-KENAI, an Alaskan)
 Partnership,)
)
 Defendant,)
)
 and)
)
 KENAI PENINSULA BOROUGH,)
 a Municipal Corporation,)
)
 Intervenor.)

Case No. 3KN-08-453 CI

ORDER ENJOINING OSK FROM BLOCKING PUBLIC ACCESS TO NIKISHKA BEACH VIA NIKISHKA BEACH ROAD

The Court, following the trial held between July 28 and August 6, 2009, and pursuant to its decision entered on the record during the hearing held on March 11, 2010, and pursuant to AS 09.40.230, AS 22.10.020(c) and Alaska R. Civ. P. 65(d), hereby orders that effective immediately Defendant OSK is enjoined from blocking or otherwise inhibiting members of the public from using Nikishka Beach Road in North Kenai as a means of access to Nikishka Beach. OSK shall immediately open and leave open) its gate across Nikishka Beach road. OSK shall immediately cease and desist from preventing public access to Nikishka Beach via Nikishka Beach Road and via the west ("south") and east ("north") access routes.

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As explained at the March 11 hearing, Nikishka Beach Road, the south access, and the north access all provide public rights of access that OSK shall not block or restrict. However, this injunctive order does not mean that OSK must physically remove the guard shack that stands adjacent to Nikishka Beach Road just inland of the beach bluff, nor is OSK required by this order to physically remove the gate that it has installed across Nikishka Beach Road (next to the guard shack). The gate and the guard shack may remain, but neither may be used to block or inhibit access.

This injunctive order is not merely preliminary. It is an order on the merits, following the trial, granting declaratory and injunctive relief sought by Plaintiff State of Alaska. See AS 22.10.020(c). While the order is effective immediately, the limitation period for appealing from this injunctive order shall not begin to run until this court enters judgment as described in Alaska R. Civ. P. 58. This Court will enter judgment after the Court publishes in writing its decision provided orally at the March 11, 2010 hearing.

IT IS SO ORDERED this 10th day of March, 2010.



Anna M. Moran
Superior Court Judge

CERTIFICATION OF DISTRIBUTION
I certify that a copy of the foregoing was mailed to the court box to the following at their addresses of record:
Burke | Baird | Bloom | Young
Date: 3-11-10 Clerk JSD

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