



‘Brandt decision’ has no effect on State Parks long-distance trails

A recent Supreme Court decision has raised questions in many states about underlying property rights on long-distance trails managed for public recreation.

On March 10, 2014, the U.S. Supreme Court handed down a decision in the case of Marvin M. Brandt Revocable Trust et al v. United States. Brandt challenged whether the federal government would retain an interest in a railroad right-of-way issued under the Railroad Right of Way Act of 1875 on property lying along the Medicine Bow Trail in Wyoming, a former rail corridor inside Medicine Bow National Forest. The Supreme Court ruled 8 to 1 in favor of Brandt.

The Washington State Parks and Recreation Commission manages five long-distance public recreation trails totaling nearly 500 linear miles. The Brandt decision has no effect on State Parks’ public trail program because the narrow set of circumstances in the court decision do not apply to any of the agency’s properties.

Some State Parks-managed trails include railroad rights-of-way issued under the 1875 Act. However, three State Parks trails – the Columbia Plateau, Klickitat and Willapa Hills trails – were acquired under separate federal rail-bank law. The Brandt decision did not involve a trail that was rail-banked. A prior U.S. Supreme Court case (Preseault v. Interstate Commerce Commission) determined that rail-banking of trails is a legitimate use of Congressional power, *regardless of the type of right-of-way originally involved*. This confirms State Parks’ ownership of these trails.

State Parks’ ownership of the two, non-rail-banked long-distance trails is confirmed by other circumstances. The Spokane Centennial Trail was acquired in a land trade, which is considered equivalent to purchase. State Parks’ ownership of the John Wayne Pioneer Trail was confirmed through 1996 litigation in the State Supreme Court.

State Parks’ long-distance trails program includes the following rail trails intended for use by hikers, cyclists, horseback riders, snow-shoers, cross-country skiers and other non-motorized recreationists:

- Columbia Plateau Trail, 130 miles, Cheney to Pasco
- Klickitat Trail, 31 miles, Lyle to Warwick
- Willapa Hills Trail, 56 miles, Chehalis to South Bend
- John Wayne Pioneer Trail in Iron Horse State Park, 212 miles, North Bend to Columbia River and Lind to the Idaho border
- Spokane Centennial Trail, 37 miles, Nine Mile Falls to Idaho border

The Washington State Parks and Recreation Commission is committed to the continued development of its long-distance trails program. Recreation trails contribute to tourism and economic vitality, while providing healthy recreation opportunities for the public.