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A Regulations Reminder for National Park Service Areas

As the boating and hunting seasons get underway in Yukon-Charley Rivers National Preserve and other areas within the National Park System in Alaska, visitors are reminded that a recent court case has not changed the regulations which govern activities on navigable waters.

In March, the Supreme Court unanimously decided to return the case of *Sturgeon v. Frost* to the Ninth Circuit Court of Appeals. In June, that court scheduled oral argument for October 25, 2016, in Seattle on the issues in the case identified by the Supreme Court for further consideration.

The specific regulation which initiated the legal dispute was one which prohibits the use of hovercraft in units of the National Park System nation-wide. The challenge, from a Yukon-Charley Rivers visitor, was to whether under the Alaska National Interest Lands Conservation Act a nation-wide National Park Service regulation prohibiting use of hovercraft within the external boundaries applied to the navigable waters within parks, preserves and monuments located in Alaska.

Because the Court did not invalidate any of the current NPS regulations, the regulation on hovercraft and others remain in effect until a court rules otherwise. Here is a link to the Supreme Court's March 22, 2016, decision: http://www.supremecourt.gov/opinions/15pdf/14-1209_kifl.pdf

The concluding paragraph of the ruling summarized the issues which the Ninth Circuit Court of Appeals may consider:

“In particular, we do not decide whether the Nation River qualifies as “public land” for purposes of ANILCA. Sturgeon claims that it does not; the Park Service that it does. The parties’ arguments in this respect touch on vital issues of state sovereignty, on the one hand, and federal authority, on the other. We find that in this case those issues should be addressed by the lower courts in the first instance. Given this determination, we also do not decide whether the Park Service has authority under Section 100751(b) to regulate Sturgeon’s activities on the Nation River, even if the river is not “public” land, or whether—as Sturgeon argues—any such authority is limited by ANILCA. Finally, we do not consider the Park Service’s alternative argument that it has authority under ANILCA over both “public” and “non-public” lands within the boundaries of conservation system units in Alaska, to the extent a regulation is written to apply specifically to both types of land. We leave those arguments to the lower courts for consideration as necessary.”

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