



- Scott Condon / The Aspen Times

## Midvalley trail dispute appears headed to trial

Access issue pits owners of two historic ranches in Emma against each other

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[SCOTT CONDON](#)

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EMMA — Troubled times have besieged Happy Day Ranch in Emma.

Negotiations out of court have failed to settle a dispute between the owners of the ranch and the adjoining Emma Farms, so a court case is slowly wending its way toward trial, representatives of both sides said. What stands out about the case is it involves two historic ranches with owners who are good stewards of the land.

At the heart of the dispute is control of a route that provides access to the Crown, public land that is managed by the Bureau of Land Management and used by Emma Farms for cattle grazing.

Tom Waldeck, owner of Emma Farms, the former Cerise Ranch, has filed a quiet title action trying to secure use of a path and rough road that crosses the Parker family's Happy Day Ranch. That route eventually hooks into an old trail on the BLM land.

Waldeck said he and his predecessors have used the route through Happy Day Ranch without permission to drive cattle up into the Crown in the spring and down in the fall, and for regular duties of a modern day cowboy, such as delivering salt licks and checking fences. The lawsuit contends that Waldeck has a prescriptive right to the route after more than 20 years of repeated use without the owners' consent.

Ginny Parker, who owns Happy Day Ranch with her sons, said use of the route by Waldeck and the Cerises was granted by permission from her and, prior to her ownership, her dad. She said she has old photos that show her dad holding a sign making it clear that permission to use the route could be revoked. "I am revoking it," she said.

Parker and her family gave the Aspen Valley Land Trust (AVLT) a conservation easement on 25 acres of the ranch. The Pitkin County Open Space and Trails program in 2005 acquired a trail easement for a path called Nancy's Trail as well as the road that's wrapped in the dispute on the Parkers' property. The route is open to the public for hiking. Dogs, mountain bikes and motorized vehicles are prohibited. The route is less than 1 mile long.

Parker gave the easement to honor the memory of her daughter, Nancy Parker West, who died of breast cancer. She said she wanted to give the public access to a route that offers peace and serenity. She wanted to keep the 25 acres open for wildlife.

The lawsuit has placed a dark cloud over her family's gift, she said.

"I was trying to do a good deed, and I feel like it's biting me," Parker said. "It makes my stomach hurt because I don't like conflict."

Parker's parents bought Happy Day Ranch in 1954. She moved to the property in 1981.

Waldeck acquired the Cerise Ranch late last decade after getting approvals for seven residential lots, five in Eagle County and two in Pitkin County. The ranch straddles the county line. One of the approvals will be used to restore an old Victorian-style house on the property. Emma Farms has placed a conservation easement on its agricultural lands and there has been no effort made to develop the lots, said David Myler, an attorney for Waldeck. The owner is concentrating on maintaining the agricultural operation, Myler said.

From Waldeck's perspective, it is vital to use the road through Happy Day Ranch for all-terrain vehicles to drive cattle and look after them during summers, Myler said. He is researching information on historic uses of the route, some of which go back roughly 100 years.

Parker said conflicts started occurring two years ago. Ranch hands at Emma Farms started using the route through Happy Day Ranch without any prior notification. She said Waldeck contended she didn't have the right to dictate use of the route; Parker contends she maintains control.

Waldeck filed the lawsuit about 18 months ago. "It's unfortunate that we haven't been able to reach an agreement with our neighbor," Myler said.

The court fight is likely to be expensive and time-consuming. "It's cost me over \$10,000 and we're nowhere close to an agreement," Parker said. Her family is represented by Rick Neiley.

Parker initially wanted to revoke permission for Emma Farms for any motorized use. She was particularly concerned that Waldeck would use the route to ship hunters up to The Crown. She claimed the cattle could be driven up and down from grazing lands by horseback.

During negotiations, Parker softened her stance and offered a permanent easement that would allow motorized vehicle use for five days to drive cattle. In return, she wants Waldeck to pay her legal fees and agree not to sue her again. Parker said she won't agree to allow motorized use for hunting parties.

Myler said his client wants the right to use the route through Happy Day Ranch for cattle ranching operations as well as during hunting season. They had proposed in the past to give up the request for use for hunting, but now that the case is headed to trial, they will seek it, he said.

Myler said the motorized use would have minimal effect on Happy Day Ranch. It takes 38 seconds on an all-terrain vehicle to drive through the ranch, he said.

Pitkin County and Aspen Valley Land Trust (AVLT) were drawn into the dispute because of their holdings on Happy Day Ranch. AVLT has agreed to abide by whatever resolution is reached. It doesn't want to be an active player in the litigation.

No trial is set yet in the case. Attorneys are holding depositions to establish historical patterns of use of the road. Meanwhile, Mother Nature intervened by bringing down a bunch of rocks in July on the road through the BLM land, according to Parker. The route can be hiked and some cattle came down it, but it is blocked to motorized vehicles, she said.

[scondon@aspentimes.com](mailto:scondon@aspentimes.com)

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