

SCOTUS Opinion: New Gas Pipeline Under Appalachian Trail Allowed To Proceed

17 Jun 2020

In *U.S. Forest Service v. Cowpasture River Preservation Association*, the issue was whether the U.S. Forest Service had the authority to grant a right-of-way easement about 600 feet underneath a portion of the Appalachian Trail for the construction of a new natural gas pipeline. The Leasing Act gave the Forest Service authority to grant easements over lands that it administrated, and the part of the Appalachian Trail at issue was located within a forest governed by the Forest Service. However, the Fourth Circuit held that administration of the Appalachian Trail had been delegated by the Secretary of the Interior to the National Park Service, and thus concluded that the Trail was no longer within the authority of the Forest Service.

The Court, in a 7-2 decision by Justice Thomas, reversed, holding that the administration of the Trail by the National Park Service only delegated authority over the surface of the land that involved the Trail. The land underneath the Trail still belonged to the Forest Service, and thus the Service's easement was valid. In particular, the majority determined that the right-of-way agreements between the Forest Service and the National Park Service regarding the Trail did not transfer any possessory rights to the National Park Service, as easements only transfer a right of access. Justice Sotomayor, joined by Justice Kagan, dissented, arguing that the Trail was designated as "land" under the Park System, and thus should have conveyed all possessory power to the National Park Service.

A link to the opinion is here: https://www.supremecourt.gov/opinions/19pdf/18-1584_igd.pdf

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TAGGED: National Park Service, U.S. Forest Service v. Cowpasture River Preservation Association, Appalachian Trail, U.S. Forest Service, Leasing Act