

## As Deadline Looms, Afognak Speaks Out on Malmberg Homestead

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Grace and Tom Malmberg with their first four children in front of their growing homestead in 1985. Photos courtesy Mieke Malmberg

Jay Barrett/KMXT

On Saturday, a long time Kodiak family will no longer be allowed into the home they built over 30 years ago. Nor will they be allowed to step on the land the home occupies. That's because when Tom and Grace Malmberg placed their small cabin on the shores of Dry Spruce Bay, it was a few dozen yards over their property line.

After being sued in 2012 by the property owner, Afognak Native Corporation, and facing a huge clean-up bill if they lost in court, the Malmbergs agreed to accept a \$10,000 buy-out offer from the corporation one year ago. And one year was the amount of time they were given to remove all their belongings and structures that they wanted to keep. After Friday, Afognak can do what they wish with whatever is left on site. With only the matriarch of the family still living in Kodiak, very little was rescued, and the home and outbuildings remain where they have been for three decades.

When KMXT first brought you the story of the Malmbergs, we were unable to reach a spokesman for the Afognak Native Corporation for comment. While the story did quote Afognak lawyers and officials extensively from court documents, we felt compelled to follow up with the corporation.

Below is our first story in this series, followed by Tom Malmberg's letter to Afognak Native Corporation, the corporation's response to KMXT's first story, and Mieke Malmberg's response to the Afognak letter.

Family Hopes to Save Homestead of 30 Years

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The Malmberg Homestead on the shores of Dry Spruce Bay.

KMXT interviewed Gerad Godfrey, director of corporate affairs for Afognak. He said the company started a discussion to resolve the trespass with the Malmbergs in 2008.

“They consistently failed to meet with us to negotiate. And ultimately the last legitimate recourse we had was through the legal system,” he said. “And I think it’s also worth noting they don’t even live on this property or this house, as it sits on our land and the land does not appear to be well-cared for. I think it’s approximately 10 years since they lived there. So we’re talking about a vacant house that may be used or accessed on occasion.”

Tom Malmberg taking his boat across Dry Spruce Bay.

The Malmbergs bought 10 acres of private land in 1983 on the peninsula at the north end of Kodiak Island. Their two 5-acre lots were immediately adjacent to land transferred to Afognak under the Alaska

Native Claims Settlement Act. When the Malmbergs moved their then-small shack from near the Port Bailey Cannery, it was inadvertently placed a few dozen yards onto Afognak property, closer to the isthmus that separates Dry Spruce Bay from Raspberry Straits. Godfrey said the Afognak property the home wound up on is a better piece of land.

“I think the fact that this was an ideal location, for a structure — for whoever wanted to put a structure there made pretty compelling,” Godfrey said. “The fact that this surface was clear and didn’t necessitate clear-cutting the trees and leveling the earth, made Afognak’s parcel of land pretty compelling.”

For their part, the Malmberg family denies intentionally putting up their homestead on the wrong parcel.

Some may think Afognak is being un-neighborly and hard-nosed in dealing with the Malmbergs, but Godfrey points out the land the Afognak people once occupied is a large part of what’s left of their Alutiiq culture.

“That’s our land. And it was conveyed to us through ANCSA, but as I said that was our ancestor’s land uninterrupted for centuries prior to us having it conveyed to us,” he said. “So it’s not something we take lightly. Like I was saying, this is our culture, and our land defines us, and we seek to retain both. And land is probably the most tangible aspect of us.”

With the end of February deadline approaching, the Malmbergs last fall hopped to get an extension to the one year they had agreed to. Godfrey says that is not in the cards:

“You know another extension after years of delay and avoidance — that’s untenable at this point,” he said. “And I think a year was entirely reasonable, and they thought the same when they agreed to it at the time.”

The Malmbergs also deny evading Afognak in dealing with the issue after the corporation approached them about the encroachment 20 years after the home was put up.

A movement on the internet sprang up last fall, hoping to pressure the Native corporation into giving the Malmbergs more time. A petition with over 1,000 signatures was circulated at change.org, and a number of people, including Afognak shareholders, contacted the corporation to express their opinion. But Godfrey says the effort is a waste of somebody’s time:

“The petition is very one-sided from the perspective of a clear understanding of the facts. I would imagine it wouldn’t have anywhere near the signees and support if people heard Afognak’s side of the facts. It seems somewhat odd, as far as a tactic,” he said. “But I will tell you even at this point that at this stage of the game even if they were to contact Afognak to ask for a delay that would not be considered.”

After our first story about the issue aired the day after Thanksgiving, Afognak Native Corporation sent a letter to its shareholders laying out many of the points Godfrey mentioned in his interview with KMXT.

All six of the Malmberg children about 10 years after the family moved to Dry Spruce Bay.

As for what's next for the Malmbergs, Mieke, Tom and Grace's oldest child, said that given her parent's age and situation, it's unlikely the 10 wooded acres on Dry Spruce Bay they own will be developed in time for their retirement. And, she added, it would be difficult to live next door to whatever remains of their homestead after it's torn or burned down by Afognak.

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