

# STATE OF ALASKA

2  
**TONY KNOWLES, GOVERNOR**

2301 PEGER ROAD  
FAIRBANKS, ALASKA 99709-5399  
TELEPHONE: (907) 451-5423  
TDD: (907) 451-2363  
FAX: (907) 451-5411

## DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

*DESIGN & ENGINEERING SERVICES DIVISION, NORTHERN REGION*

February 23, 2000

Oles Morrison Rinker & Baker, LLP  
745 West Fourth Avenue, Ste. 502  
Anchorage, Alaska 99501-2136  
Attn: C. Russell Lewis

Re: Chitina – McCarthy Road  
Your File No. 99092.2

Dear Mr. Lewis:

In response to your February 10, 2000 letter, I offer the following information:

1. What does DOT&PF believe the right of way width to be for the McCarthy road at either side of the Kennicott River?

The original basis of road right of way for much of the McCarthy road may have been by virtue of the original Copper River & Northwestern Railroad grants or federal Public Land Orders. However, the McCarthy road right of way in this area was superseded by the dedication to the public of a 200-foot wide right-of-way when the West McCarthy subdivision was platted. The West McCarthy Subdivision was filed as Plat No. 77-7 in the Chitina Recording District. The physical road may not be centered in this 200-wide right-of-way, however, according to the plat, the right-of-way line was monumented.

2. What activities are not allowed in that ROW?

The primary authority for control of encroachments within State managed highway rights of way lies within Alaska Statutes 19.25.200-19.25.250, Alaska Administrative Code 17 AAC 10.010 – 17 AAC 10.050 and Federal Regulations 23 CFR 710.401 – 710.407. Note that encroachments may be authorized or unauthorized. Driveways and other encroachments (i.e. TODS - Tourist Oriented Directional Signs) must be authorized by a permit. Mailboxes are excluded from the permitting requirements. Also, a series of amendments to the Alaska Administrative Code relating to Encroachment Authorization are currently in the process of being adopted. They have completed the public comment period and implementation is expected shortly. I have attached a copy of the draft regulations for your review.

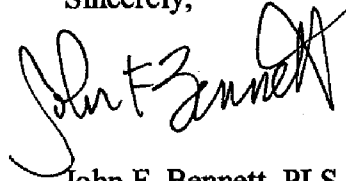
3. What procedure does DOT&PF have in place to manage activities within the ROW?

The Department's Northern Region manages 3,347 centerline miles of highway or approximately 60% of the state's highway system. Encroachment control is not a federally funded activity and therefore our resources to combat unauthorized activities are limited. We have what amounts to the effective use of less than one person to handle all property management activities throughout the Northern Region. Encroachment control is one of many property management activities we

the effective use of less than one person to handle all property management activities throughout the Northern Region. Encroachment control is one of many property management activities we deal with. In the past few years we have hired a summer intern to support our encroachment control program. Essentially, we act on reports we receive from our maintenance staff or from members of the public. Once we identify the owners of an unauthorized encroachment we send them a letter informing them of their violation and to provide them an opportunity to remove the encroachment. If the owner does not remove the encroachment, Department maintenance personnel, will, when available, remove the encroachment. Clearly, the availability of staff and cost of removal go up significantly the farther the encroachment is from a maintenance station. Therefore, encroachment removals are prioritized such that we can direct our resources to areas where they will be of the greatest benefit to our program.

Please feel free to contact me again should you require additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Bennett". The signature is written in a cursive style with a large initial "J" and "B".

John F. Bennett, PLS, SR/WA  
Chief, Right of Way

Attachments: as stated