

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DESIGN & ENGINEERING SERVICES DIVISION, NORTHERN REGION

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November 26, 1999

Denise Jantz
P.O. Box 3342
Homer, AK 99603

Re: McCarthy Road right-of-way

Dear Ms. Jantz:

We have received your letter dated November 5, 1999 regarding the situation at the end of the McCarthy road.

The right of way for the McCarthy road varies in interest and width depending on location. This is consistent with the majority of the other highway rights of way in Alaska as they were created over time through a variety of methods.

I believe you are interested in that portion of the McCarthy road adjoining 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 Public Land Orders. However, the McCarthy road right of way in this area was superseded by the dedication of a 200-foot wide public right-of-way when the West McCarthy subdivision was platted.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.

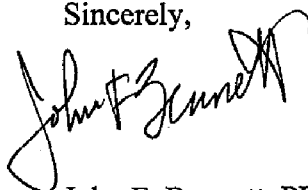
DOT&PF owns and operates the McCarthy road and has the sole jurisdiction to permit uses within the right-of-way and to enforce the removal of unpermitted encroachments. The areas within the Kennicott River floodplain (below the ordinary high water line) that are beyond the McCarthy road right-of-way are under the jurisdiction of the Department of Natural Resources. We recognize that unpermitted encroachments and business activities have been taking place within the McCarthy road right-of-way. The remoteness of the area and lack of resources available to DOT to inspect its highway rights-of-way on a regular basis have resulted in continuing problems such as these. We may, however, have an opportunity to enlist the aid of the resident National Park Service rangers to help keep the right-of-way clear of encroachments next season.

With regard to your questions: 1) The ROW is 200 feet wide. 2) The ROW is managed by DOT, not Mr. Syren. 3) Mr. Syren cannot charge you rent for being in the ROW. Let me add, however, that operating a business in the right-of-way is an illegal activity and would not be

permitted by DOT. You would be better served if you leased a nearby piece of private property or DNR land to conduct your business.

As I responded to a related letter of inquiry from Mr. Syren on November 4th, I am attaching a copy for your 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