

November 14, 1974

Project No. S-0850 (6)
CHITINA EAST

Mr. G. N. Hizey
1817 South 16th Avenue
Mt. Vernon, Washington 98273

Dear Mr. Hizey:

In attempting to resolve our problem concerning the various property claims in the Chitina Townsite, we have finally been able to dig in the archives and establish what we feel to be the status of the lands along with railroad right of way in Chitina.

To help explain our position, we have been able to supplement documents in addition to what you have provided and submit herewith the following chronological summary:

CHRONOLOGICAL SUMMARY

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| May 11, 1898* | Act of May 14, 1898 (30 Stat. 409). Original grant of right of way, station and terminal grounds. Prescribes 100 feet on each side of the centerline of railroad, and adjacent lands for station buildings, depots, machine shops, side tracks, turn-outs, water stations, terminals, and for other railroad uses not to exceed 20 acres for each station and 40 additional acres at terminals and junction points. |
| Dec. 11, 1908* | Juneau 0288; application by Copper River Railway Company to build railroad; filed application and maps. |
| July 5-10, 1910* | Survey of Trout Lake section (Chitina) of Railroad establishing centerline. |
| July 13, 1912** | Entries filed under Soldiers Additional Homestead Act for parcels that were patented to the Katalla Company and surveyed as US Surveys 596, 597, 702, and 264. |
| Jan. 6, 1919** | Quitclaim Deed from Katalla Company to Alaska Development and Mineral Company. |

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- July 15, 1941* Act (55 Stat. 594) authorizing Copper River and Northwestern Railway Company to convey to US its railroad right of way and other railroad properties in Alaska, for use as a public highway, tramroad, or tramway, and for other purposes; and authorizing Secretary of Interior to accept for the U.S.
- March 29, 1945* Relinquishment by Copper River and Northwestern Railway Company.
- May 11, 1945* Acceptance by Department of Interior.
- May 29, 1956* Transfer of functions, Department of Interior to the Department of Commerce (70 Stat. 377).
- Nov. 17, 1958** Quitclaim deed from Kennecott Copper Company to Gordon Hizey.
- June 30, 1959* Quitclaim Deed, Secretary of Commerce to State of Alaska.
- * Involves Railroad right of way, building and terminal sites.
- ** Involves land included in U.S. Surveys 596, 597, 702 and/or 264.

Therefore, it appears that you do have a complete and unbroken chain of title to your property. However, dating from the original Act of 1898 and subsequent actions, it is possible that a permanent easement was authorized and that the right of way was appropriated by application, filing of maps, and otherwise concurrence with the requirements of the statutes.

Whereas patents do not necessarily recite all of the limitations or exceptions, they are held to be, essentially, quitclaim deeds. Therefore, the silence of the patents on the existence of an easement, would not be conclusive to the end that the easement did not exist.

Because of the above, we have reached the conclusion that while you do own the underlying fee, that it is, nevertheless, subject to a valid and pre-existing right of way established at least two years prior to any filing by the Katalla Company and embodied in the State - through the chain of title - down to the present time.

I hope that this answers your questions. Although it may not be a satisfactory answer, it is the best educated position we can take at this time.

Sorry to have taken so long, but this did get to be quite a research project before it was over.

Sincerely yours,

JACK M. SPAKE
Central District Engineer

Donald E. Beitingger
Central District Right of Way Agent


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