

June 25, 1973

Re: 00-2506  
Copper River Highway

Mr. Curtis McVee, Director  
Bureau of Land Management  
555 Cordova Street  
Anchorage, Alaska 99501

Dear Curt:

Recently there has been some discussion concerning the status of the right-of-way and highway between Cordova and Chitina along the route of the old Copper River and Northwestern Railway Company. I would like to summarize for you some of the major events which confirm the State of Alaska's right-of-way in this area.

Pursuant to the terms of an Act of Congress (May 14, 1898) (30 Stat. 409) the Copper River and Northwestern Railway Company acquired a 200 feet wide right-of-way from Cordova to Kennicott, Alaska. The company obtained this right-of-way by constructing and operating a railroad from Cordova to Chitina to Kennicott.

In 1932 pursuant to a June 30 Act of Congress (47 Stat. 446) the authority for the construction and maintenance of roads and trails in Alaska was transferred to the Department of the Interior.

In 1939 the railroad ceased its operations.

In 1940 the Alaska Road Commission, which was then a part of the Department of Interior, took over the railroad and operated it as a tramway. From 1940 to 1947 the Alaska Road Commission maintained the right-of-way and also constructed a cable car crossing at Chitina to replace the washed out Copper River Bridge.

Due to the Alaska Road Commission's duty to maintain the roads and trails in Alaska, the Congress, on July 15, 1941 passed a special Act (55 Stat. 594) authorizing the Secretary of Interior to formally acquire the right-of-way from the railroad. Three portions of that 1941 Act are significant. First, the Act authorized the acquisition and acceptance of the railroad right-of-way only if the right-of-way would be used for a "public highway, tramroad, or tramway . . . ." Second, the future usage of the acquired right-of-way was to be governed by the terms of the 1932 Act transferring road and trail responsibilities to the Department of the Interior. Third, the 1941 Act specifically stated that the authority granted the Secretary of Interior under the special Act was paramount

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to any other Act of Congress and also that the right-of-way limiting provisions contained in 42 Stat. 414 (March 8, 1922) were inapplicable to the right-of-way interest of the railroad.

On March 29, 1945 the railroad formally relinquished its interest to the government and its interest was formally accepted on May 11, 1945.

By the June 29, 1956 Act of Congress (70 Stat. 377) "the functions, duties, and authority pertaining to the construction, repair, and maintenance of roads, tramways, ferries, bridges, trails, and other works in Alaska, conferred upon the Department of the Interior. . ." were transferred to the Department of Commerce. The Bureau of Public Roads, within that Department, then became the agency responsible for roads in Alaska.

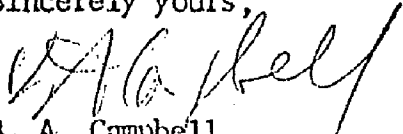
On December 11, 1957, the Department of Interior and the Department of Commerce signed a document settling several lawsuits over private claims to rails from the old railroad. The document states the following in an apparent summary of the history and status of the right-of-way at that time: "pursuant to the terms of the Federal-Aid Highway Act of 1956 (70 Stat. 374), the Bureau of Public Roads, United States Department of Commerce, assumed jurisdiction over the aforesaid abandoned former right-of-way of the Copper River and Northwestern Railroad."

Section 21 of the Alaska Omnibus Act, (73 Stat. 141) (June 24, 1959) provided that the Secretary of Commerce was to transfer "to the State of Alaska by appropriate conveyance . . . all lands or interests in lands . . . pertaining to roads in Alaska, which are owned, held or administered by, or used by the Secretary in connection with the activities of the Bureau of Public Roads in Alaska . . ." Subsection (c) (1) of that section provided that the State of Alaska would thereafter be responsible for the maintenance of the transferred roads.

On June 30, 1959, the Secretary of Commerce implemented the mandate of the Omnibus Act and formally transferred roads to the State of Alaska. Schedule A, page 11 of the conveyance lists the Copper River Highway under the headings of FAS Route Nos. 850 and 851. On July 2, 1959, Governor William A. Egan accepted the conveyance on behalf of the State of Alaska. Since that time, at which statehood was granted, the Alaska Department of Highways has sold the rail from the right-of-way between Christina +  
McCarthy  
6 Cordova and Mile 49, has engaged in heavy maintenance of the highway to Mile 69, and has constructed new improvements totaling almost \$16 million over many segments of the entire highway.

I hope this brief history of events will serve to clarify the fact that the State of Alaska does own the Copper River Highway.

Sincerely yours,

  
B. A. Campbell  
Commissioner of Highways

Enclosure

BAC/mth