

DOT&PF Perspective on RS-2477 (Trails & Section Line easements)

When you think about DOT&PF facilities, you generally think of the primary highways such as the Richardson, Glenn and Parks. However, if you think with a historical perspective, you should consider such roads and trails as the Eureka to Rampart road, Ft. Gibbon to Kaltag trail and other that were constructed or maintained by DOT's federal predecessor agency, the Alaska Road Commission.

- *1983 Alaska Land Title Association case – footnote –*

“Prior to the issuance of Public Land Order No. 601..., nearly all public roads in Alaska were protected only by easements. Right-of-way easements were acquired under section 2477 of the Revised Statutes (43 U.S.C. sec. 932) by the construction of roads. This section granted a right-of-way for the construction of highways over public lands not reserved for public uses.”

- Many active roads during early mining period that were maintained by ARC now see limited use and no public maintenance.
- DOT has a little interest in current RS-2477 issue with respect to highway improvement: Trails created by path of least resistance decades ago no longer best route to invest large sums of money into. – alignment, grades, geology, environmental, old routes no longer be practical as primary transportation corridors. Exception: maybe Eureka to Rampart in certain areas.
- Declined to participate in Schultz case.
- DOT occasionally has some interest:

Chicken airport access road – 2/24/87 submitted assertion of RS-2477 under terms of MOU regarding procedures for assertion of RS-2477 trails signed by BLM (Fairbanks Distr.), DNR and DOT in 9/28/84.

Pioneer Access road program – Klutina lake road: 12/23/64 letter from BLM “This trail...would come under the regulations of RS 2477...which provides for pioneer access roads.”

Assertion may be used as trading stock for new route with certain federal agencies

DOT&PF Research Resources: Although DNR had the lead in the RS-2477 trail identification, research and assertion project, DOT&PF records provided significant resources for that work. Occasionally we can provide information to a property owner seeking legal access that results in a successful assertion.

Field Book archives:

- “Winter Trail, Fairbanks – Ft. Gibbon, 1908”
- “1929, Abercrombie Trail (Gulkana-Chisana)”

- “1906, Rampart-Glen Wagon Road Survey”
- “1922, Lignite to Kantishna and Kuskokwim”

Database archives – Naske project 14,000 records

Pioneer Access Road files

Alaska Road Commission Annual reports and miscellaneous records.

RS-2477 Trail Management jurisdiction: regs/statutes

11 AAC 51.100 MANAGEMENT OF RS 2477 RIGHTS-OF-WAY.

(a) The commissioner has management authority over the use of any RS 2477 right-of-way that is not on the Alaska highway system.

Sec. 19.30.400. Identification and acceptance of rights-of-way.

(a) The state claims, occupies, and possesses each right-of-way granted under former 43 U.S.C. 932 that was accepted either by the state or the territory of Alaska or by public users. A right-of-way acquired under former 43 U.S.C. 932 is available for use by the public under regulations adopted by the Department of Natural Resources unless the right-of-way has been transferred by the Department of Natural Resources to the Department of Transportation and Public Facilities in which case the right-of-way is available for use by the public under regulations adopted by the Department of Transportation and Public Facilities.

Section Line Easements:

- Check with your Regional DOT ROW Section to see how Section Line vacations are handled in your region. The process differs slightly.
- Section line easements are designated “for highway purposes” therefore DOT&PF has a significant interest in evaluating the effect of a vacation.
- In Northern Region – The review is handled by the Regional Planning office. ROW is only consulted on occasion. Planning is also responsible for all plat reviews in light of their effects on future projects. The approval certificate recommending signature by the DOT Commissioner is signed by the Regional Planning Chief. The Regional Director has authority to sign on behalf of the Commissioner.
- 17 AAC 15.031 APPLICATION FOR UTILITY PERMIT ON SECTION-LINE RIGHTS-OF-WAY.

(a) Utility permits are required only for section-line rights-of-way presently used or proposed for use by the department. A person seeking to install a utility facility within a section-line right-

of-way shall check with the department to determine whether the department presently uses or proposes to use the affected portion of the section-line right-of-way.

(b) Before issuing a permit for the installation of a utility facility within a section-line right-of-way, the department must be satisfied that a section-line right-of-way exists at the location where the facility is proposed to be installed by the permit applicant. The permit applicant shall furnish proof of the existence of the section-line right-of-way.