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**Sent:** Wednesday, November 8, 2000 11:44 AM  
**To:** Senator\_Georgianna\_Lincoln@legis.state.ak.us  
**Cc:** rampart\_villagecouncil@hotmail.com  
**Subject:** Rampart Road  
**Attachments:** johnf\_be.vcf

Senator Lincoln:

I have gathered a bit more information regarding the Rampart Road that I hope will address your concerns. After we spoke on Friday the 3rd, my Property Management supervisor informed me that he had received a call from Jim Orrison representing the Rampart Village Council with a question that sounded very similar to yours. I was also able to contact Jim Orrison yesterday and we had a good discussion of the Rampart road issues. It sounds like the primary concern is with the proposed Rampart Airport project and the possibility that a contractor would use the trail to haul equipment in which could result in significant damage to the trail. Rather than relay this information over the phone I have elected to send you an e-mail so it will be easier to keep track of this information. I have also cc'd this e-mail to the Rampart Village Council.

#### Right of Way Status

First, you mentioned that the Village Council believed there was no right of way for the Rampart road yet you were sure there was one. Our highway rights of way in Alaska are a patchwork quilt of interests and this is also evident with the Rampart road. Our old Alaska Road Commission records indicate that public funds were first spent on the Eureka-Rampart Trail in 1908. The following is an excerpt from a review of the existing right of way that I did back in 1998:

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"Most of the Eureka-Rampart road is subject to a public Right of Way of one type or another and in many cases the various rights of way overlap each other.

The right of way for Federal Aid Secondary Highway System, Class "B" Route 6259, Rampart - Little Minook Creek Road was conveyed from the federal government to the State in the June 30, 1959 "Omnibus Act" Quitclaim Deed. The road was described as being "From Rampart southeasterly to Little Minook Creek mining area" with a constructed mileage of 4.5 miles. The right of way for this road was created by the various Public Land Orders. Initially, PLO 601, dated August 10, 1949 would have created a "Local" road withdrawal for any road constructed or maintained by the Alaska Road Commission that was not listed specifically as a "Through" or "Feeder" class road. "Local" roads were subject to a right of way width of 100' or 50' on each side of centerline. In later years modifications to the PLO's changed the withdrawal status to an easement status. The PLO's were applicable only to unreserved federal lands and subject to prior existing rights, so if there was for example, a valid mining claim location or homestead entry that preceded the date of PLO 601, the application of the PLO could not apply.

The IC's and patents of lands from the federal government to the native corporations under ANCSA typically included what are known as 17(b) easements in order to maintain to public lands or waters. These easements vary in width and allowable use and are managed jointly by BLM and the appropriate native corporation. I believe that there are 17(b) easements specified for the Eureka-Rampart road that are 60' in width.

The entire Eureka to Rampart road (Alaska Road Commission Trail), however, appears to be subject to an RS-2477 right of way. The case file for this right of way was researched, documented and certified under DNR's 11AAC51.010 process.

The width of an RS-2477 right of way varies according to the dates of prior existing entries if any. Alaska Statute Section 19.10.015 "Establishment of highway widths" - "It is declared that all officially proposed and existing highways on public land not reserved for public users are 100 feet wide" This law, passed in 1963 was intended to define the width of RS-2477 trails. Prior to this law, the width of an RS-2477 right of way would be limited to the width used by normal maintenance or "ditch to ditch". If the lands the trail crossed were still unreserved and in the public domain when the law passed, the ROW width would be 100 feet in width. As the withdrawals in anticipation of ANCSA didn't begin until the mid 70's, any ANCSA or DNR land crossed by the Eureka-Rampart road should be subject to the full 100'. Each conflicting US or Mineral Survey should have the date of entry or location researched to see if they are subject to the full 100' width. All conflicting unpatented federal mining claims should have the date of location researched to see if they will be subject to the full width."

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One item clarified in my discussion with Jim Orrison was that the old ARC road that may be subject to these various rights of way is not necessarily the trail that is commonly traveled today. Many sections of the old road are impassible so it is quite possible that some portions of the currently used trail are not subject to an existing right of way. Or that some portions may be subject to a 17(b) easement but not the RS-2477 right of way. Generally, the old ARC trail can be identified as the one shown on the USGS quadrangle maps which are based upon 1950's aerial photography. Also, an update of the status of the RS-2477 portion of the trail: DNR prepared a case file summary for the Eureka-Rampart Trail (RST 7) as a part of their RS-2477 research project in 1983 and filed an application to nominate this trail for certification as an RS-2477 right of way. In 1998 the Legislature passed a bill creating Alaska Statute 19.30.400 "Identification and acceptance of rights of way" in which the State claimed a list of trails asserted by DNR as public rights of way. The Eureka-Rampart trail was included in this list.

#### Management Authority

AS 19.30.400 states that with respect to RS-2477 rights of way, the asserted trails are "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." Although DOT performs limited maintenance on the first mile of the Eureka-Rampart trail (approximately to Cobb's homestead), the trail is not currently on the Alaska Highway System. Therefore, management authority for the RS-2477 interest resides with DNR. I contacted Chris Milles and Joe Sullivan in our local DNR office and they verified that an overland haul of heavy equipment across DNR lands or an RS-2477 trail under their jurisdiction would require a DNR permit. A DNR permit would be restricted to certain dates (winter) to ensure that the heavy equipment haul would not result in trail damage. Also, the permit could require that the contractor back drag the trail after the equipment had passed to ensure that it was still suitable for snow machine travel.

Those portions of the trail that may only be subject to an ANCSA 17(b) easement are under the co-management authority of BLM and the ANCSA corporation whose land is crossed by the easement. A contractor wanting to do an overland winter haul would have to coordinate with the 17(b) managers prior to commencement of the haul.

#### Addressing Rampart Village Council's Concerns

The bids for the Rampart Airport are expected to be opened toward the end of November. To ensure that all potential contractor's are made aware of the Village Council's concerns, the status of the ROW and the requirement for permits and coordination with the appropriate management authorities, DOT will issue a notice to bidders advising them of these issues. As the Rampart Village Council will also have a copy of this e-mail, they also can advise all potential contractors who contact them that use of the ROW for an overland haul will require coordination and permitting from the appropriate agencies.

Hopefully, this e-mail has addressed your concerns and those of the Rampart Village Council. However, please feel free to contact me again if I can be of assistance.

John F. Bennett