



STATE OF ALASKA
Department of Natural Resources
Division of Mining, Land and Water
Public Access, Assertion & Defense Unit
550 West 7th Avenue, Suite 1420 Anchorage, Alaska 99501



MEMORANDUM

TO: Scott Ogan

FOR:

FROM: Kevin Sorensen, Natural Resource Specialist II

A handwritten signature in blue ink, likely belonging to Kevin Sorensen.

DATE January 21, 2009

SUBJECT: Pioneer Road question

LOCATION

Pioneer Road starts from approximately the Tanana River Bridge (No. 505) and goes northerly to Porcupine Creek then westerly to approximately the confluence of the Tok and Tanana Rivers then southwesterly to the Tok Townsite. The route is approximately 16 miles total.

ROUTE GENERAL HISTORY

This route was a part of the pioneer road that was constructed in 1942 as part of the Alaska Highway construction. After the final alignment was completed in 1945 the portion described above was cut off in favor of a mostly straight route from Tetlin Junction to Tok, which reduced the distance by approximately six miles.

ROUTE DESCRIPTION

Although it was one continuous route, the route and its recent history is best understood in three distinct segments, each segment is approximately five miles long. The segment from the current Tanana River Bridge to Porcupine Creek follows a bluff overlooking the Tanana River and is located on the Tetlin Reservation. This reservation was first withdrawn by Executive Order No. 5365 on June 10, 1930. Tetlin has exerted control over this segment of the route. The road has been improved and aerial photography indicates that this is a good quality gravel road. The Tetlin control has created questions about access that will be discussed in more detail below.

The next segment goes from Porcupine Creek westerly to just downstream of the confluence of the Tok and Tanana Rivers. There is no bridge at this point, although a temporary bridge had been installed

when the pioneer road was constructed. Currently, this segment appears to be situated exclusively on public lands except for section 1 of C.R. T18N, 13E. A 17(b) easement was reserved to section 6 of C.R. T18N, 14E.

The western segment goes from the confluence of the Tok and Tanana Rivers to the Tok townsite. This section was identified as a RS 2477 ROW in 1985 and is known as RST 233. Most of the route lays on land that was conveyed to Tanacross. A 17(b) easement overlays this segment of the route.

QUESTION

An inquiry was made by Jeffrey Hermanns of the Division of Forestry, Tok Area. Mr. Hermanns asked that a RS 2477 ROW to be asserted over the entire pioneer road from Tok to the Tanana River Bridge. He claimed that Forestry had made improvements to the road on Tetlin land and that Tetlin was requiring fees and permits to use the pioneer road that is on their land. He also states that the public has been cut off from using the road and "this road is the only year around access to hundreds of thousands of acres of state land and private lands north of the Tanana River". He makes a case that it is important for the public and the Division of Forestry to have access to this road. He reasoned that if the western segment can qualify as a RST the entire route should qualify as an RST.

DISCUSSION

The file for RST 233 was reviewed. There was not a stated rationale for identifying a RS 2477 ROW only on the western segment. The record is not always clear as to which segments it referred. There are nine different names used in the file for the pioneer road or segments of it¹. The State even expressly stated that it had intended to identify a RS 2477 ROW over the entire pioneer road, but never notes why it settled for only a designation on the western segment that became RST 233 Tok River Road. Since the record does not state why the entire route was not identified, the Tetlin segment was researched and analyzed as a RS 2477 ROW identification under 11AAC 51.055.

Under the code the first question is: is the potential RS2477 ROW on a USGS map at 1:63,360 scale [11 AAC 51.055(b)(1)]? Yes, the entire pioneer road is on the USGS map and two Alaska Road Commission Maps. This requirement is fulfilled.

The next question is whether there was an acceptance of the route before a federal appropriation of lands on which the potential RS 2477 ROW is situated [11 AAC 51.055(b)(2)]. The appropriation on the Tetlin reservation was June 10, 1930 by Executive Order 5369. The remaining analysis is based on the assumption that Executive Order 5369 is an appropriation.

The construction of the Alaska Highway is the earliest acceptance that could be found. Construction took place in 1942, but preliminary ground and aerial surveys began after 1933. The 1942 construction would probably meet the acceptance requirement. The survey work is doubtful, but in either case the date is after the appropriation on June 10, 1930.

For the Tetlin section the Alaska Highway construction does not meet the code required time frames for acceptance required for RS 2477 ROW identification. This is what creates most of the confusion because the same events that provide acceptance for the current RST 233 is not sufficient for the Tetlin section even though the road is continuous. The status of the land upon which the trail is situated is not

¹ The names used are: Tok River Road Trail, Pioneer Road, Old River Road, Tok River Road, The River Road, Old Alaska Highway, Original Alaska Highway, Old Alcan and Old Alaska Trail.

continuous. When RST 233 Tok River Road was approved the assertion was only for the western segment, none of which had been appropriated before the 1942 Alaska Highway construction.

Since the 1942 Alaska Highway construction occurred after the Tetlin appropriation, the inquiry shifted to whether the Alaska Highway had been built over an existing trail route at this location. It is not unusual for old trails to become the route for later roads because the trail is in the natural location. If a trail had existed on the same route as the Alaska Highway pioneer road on the Tetlin property, it could provide acceptance prior to appropriation.

The Office of History and Archaeology was consulted for historic trails information. Maps and histories were located that had trails and roads described in the area before the Alaska Highway was constructed in 1942. The 1925 Alaska Road Commission map for the Eagle District showed a road where the pioneer road is located. The map however was revised in 1927, 1929, 1933, 1935, 1937, 1939, 1941 and 1943. Unfortunately, there is no indication as to when revisions were made. The road shown is most likely a 1943 revision that shows the Alaska Highway pioneer road and not a representation of a pre-existing trail. A subsequent 1951 map shows a trail at the pioneer road location along with the current Alaska Highway alignment. There is no indication that that trail existed prior to Alaska Highway construction.

A search of the Road Commission Reports gave no indication of a trail on the location prior to Alaska Highway construction. An inspection of the archaeological records showed two sites along the pioneer road on Tetlin land. These sites are prehistoric and indicate human activity on the route, but alone are inadequate evidence that a trail was established at this location².

There were five individuals who submitted written comments for the RST nomination in 1985 and had indicated that they had lived in the area since 1952 or earlier. A number could not be found for any of them. The death of four of the five was confirmed. A call was made to a long time Tok resident and he had no knowledge of a trail before the Alaska Highway construction and knew of no one that might. The likelihood of finding someone who has personal knowledge doesn't look promising.

CONCLUSION

Although on first glance it appears obvious that the entire length of the pioneer road should qualify as a RS 2477 ROW that is not the case. The construction of the Alaska Highway may be sufficient to demonstrate acceptance of the western segment and the middle segment because that construction preceded federal appropriation of the land on which the route was situated. The Tetlin segment is situated on land that was appropriated in 1930. There has not been evidence uncovered to demonstrate that a trail was accepted by the State or Territory of Alaska prior to 1930. Regardless of how beneficial the route may be to public and private interests, the code requires acceptance before the appropriation to have the route identified as a RS 2477 ROW.

The middle segment from Porcupine Creek to the confluence of the Tok and Tanana Rivers should be added to RST 233. Until there is evidence to show acceptance prior to 1930, the State has no claim for a RS 2477 ROW on Tetlin property between the Tanana River Bridge and Porcupine Creek.

² Although copies were made of information relative to these sites, that information will not be retained in the file because the information is restricted by federal law. The information can be viewed by authorized personnel at the Alaska Heritage Resource Survey. The site reference numbers are: TNX-00027 and TNX-00027.