

United States Department of the Interior



BUREAU OF LAND MANAGEMENT
ALASKA STATE OFFICE
222 W. 7th Avenue, #13
ANCHORAGE, ALASKA 99513-7599

<input checked="" type="checkbox"/>	FIELD AGENT	
<input checked="" type="checkbox"/>	PRELIMINARY	
<input checked="" type="checkbox"/>	ENGINEERING	
<input checked="" type="checkbox"/>	TITLE	
<input checked="" type="checkbox"/>	PLANS	
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<input checked="" type="checkbox"/>	APPRAISALS	
<input checked="" type="checkbox"/>	NEGOTIATIONS	
<input checked="" type="checkbox"/>	Relocation/Prop. Mgmt.	
<input checked="" type="checkbox"/>	AIRPORTS	
	RETURN TO:	
	FILE	

F-12971 (2561)
F-43895 (2627)
F-21630 (75.0)
F-37579 (2821)
(964) (TDK/FJR)

RECEIVED R/W

JAN 08 1990

Northern Region DOT & PF

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

JAN 05 1990

DECISION

Maureen Teresa Lewis	:	F-12971
P.O. Box 2486	:	Native Allotment Application
Fairbanks, Alaska 99707	:	
State of Alaska	:	F-43895
Department of Natural Resources	:	State Selection Application
Division of Land and Water Management	:	
Land Title Section	:	
3601 C Street, Suite 960	:	Access Protest
Anchorage, Alaska 99503	:	
State of Alaska	:	F-21630
Department of Transportation	:	Dalton Highway Right-of-Way
and Public Facilities	:	
600 University Avenue, Suite F	:	F-37579
Fairbanks, Alaska 99709-3695	:	Elliot Highway Right-of-Way

April 7, 1987 Protest Dismissed
Rights-of-Way Declared Null and Void in Part
June 1, 1981 Protest Considered
Native Allotment Application Approved
State Selection Rejected in Part
Allotment Subject to Elliot Highway
Native Allotment Application Conformed to Survey

On June 9, 1970, the Bureau of Indian Affairs (BIA) filed Native allotment application F-12971 and evidence of use and occupancy on behalf of Maureen Teresa Lewis. The application was filed under the provisions of the Act of May 17, 1906, as amended, 43 U.S.C. 270-1 to 270-3 (1970), which was repealed with a savings provision by the Alaska Native Claims Settlement Act (ANCSA) of December 18, 1971, 43 U.S.C. 1617. The application, as amended, which was

before the Department on June 8, 1970, indicates use and occupancy since 1963 for approximately 160 acres of unsurveyed land located within Secs. 19 and 30, T. 8 N., R. 5 W., Fairbanks Meridian.

On July 5, 1983, pursuant to Sec. 905(c) of the Alaska National Interest Lands Conservation Act (ANILCA) of December 2, 1980, 43 U.S.C. 1634, the land description was amended in order to encompass the land the applicant originally intended to claim. Native allotment F-12971 now falls within Secs. 29 and 30, T. 8 N., R. 5 W., Fairbanks Meridian. By Notice dated January 26, 1987, the State of Alaska and interested parties were afforded 60 days to protest the application in the amended location, under the criteria of Sec. 905(a)(5) of ANILCA.

On April 7, 1987, the State of Alaska filed a protest, stating that the allotment conflicts with the 200-foot right-of-way of the reconstructed Elliott Highway (F-37579) and the 200-foot right-of-way of the Dalton Highway (F-21630), as well as the original Elliott Highway, which was conveyed to the State of Alaska under the Omnibus Act by quitclaim deed dated June 20, 1959.

Because the protest was filed after the March 30, 1987 deadline, it cannot be considered timely and is hereby dismissed.

On February 25, 1975, the State of Alaska filed as-built maps of the Alyeska Pipeline Service Company Livengood to Yukon River Road, a portion of the Dalton Highway serialized as F-21630. A corrected copy of page 20 of the as-built maps was filed on June 13, 1975. The State of Alaska requested the Bureau's records be noted pursuant to Secretarial Order 2665, dated October 16, 1951. The maps indicate construction began on August 16, 1969, and ended August 10, 1971.

On August 31, 1979, the State of Alaska, Department of Transportation and Public Facilities, was granted Right-of-Way F-37579, under the authority of the Act of August 27, 1958, 72 Stat. 885; 23 U.S.C. 317. The right-of-way was issued subject to valid rights existing on the date of the grant.

The Dalton Highway, serialized as F-21630, and the reconstructed portion of the Elliott Highway, serialized as F-37579, were constructed after Maureen Teresa Lewis's claimed use and occupancy in 1963. The centerlines of both highways were used as corner locations for the survey of her allotment, and the survey follows the centerline of the Dalton Highway from its intersection with the Elliott Highway, northwesterly for 25.89 chains. Because these grants are subject to valid existing rights, the Native allotment takes precedence over these rights-of-way. The rights-of-way are hereby declared null and void as to that portion within Native allotment F-12971 and will not be reserved in the certificate of allotment, when issued. (See State of Alaska, Golden Valley Electric Association, 110 IBLA 224 (1989).)

The application cannot be legislatively approved because on June 1, 1981, a valid protest was filed by the State of Alaska under the criteria set forth in Sec. 905(a)(5) of ANILCA. Section 905(a)(5) states in pertinent part:

. . . the Native allotment application shall be adjudicated pursuant to the requirements of the Act of May 17, 1906, as amended, if on or before the one hundred and eightieth day following the effective date of this Act--

UNITED STATES GOVERNMENT

Memorandum

21630

21630

TO : Chief, Division of Land Office

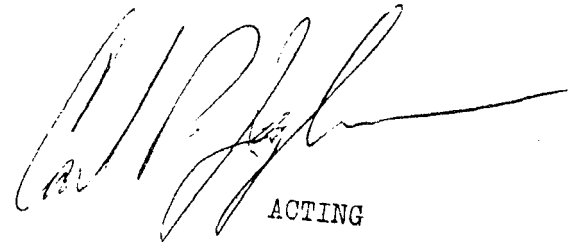
DATE: APR 3 1975
In reply refer to:
2800 (220)

FROM : District Manager

SUBJECT: Livengood to Yukon River Road

The State of Alaska, Department of Highways filed an as-built for the road from Livengood to the Yukon River on February 15, 1975.

In accordance with Secretary's Order No. 2665 dated October 16, 1951, the subject road should be noted to the official records.



ACTING



5010-110

Buy U.S. Savings Bonds Regularly on the Payroll Savings Plan

EXHIBIT C

Legal Reference		File Code	Serial Number
RIGHT-OF-WAY-Secretary's Order No. 2665 dated 10/16/51		2800	F-21630
Name and Mailing Address			
State of Alaska Dept. of Highways 2301 Peger Rd. Fairbanks, Alaska 99701			
Description of Land			
Livengood-Yukon River Road As-Built			
DATE OF ACTION	ACTION TAKEN		
1/15/73 2/25/75	Alignment maps filed. 1c Alignment maps filed.(Corrected copies) 1c.		
12/19/78	<i>Requested a grant be issued by BLM -</i>		