

DALTON HIGHWAY MP 18 - 37 RIGHT-OF-WAY ASSESSMENT

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Introduction

The purpose of this report¹ is to assess the status of the existing right-of-way along the Dalton Highway between mileposts 18 & 37. The Dalton Highway is classified as a National Highway System route and listed as State Route 11 from its intersection with the Elliott Highway at MP 0 to the Prudhoe Bay Junction at Deadhorse airport at MP 415.

Location

The project commences at milepost 18 approximately 65 air miles to the northwest of Fairbanks. At milepost 18, the project is located within the southwest quarter of Section 17, Township 9 North, Range 7 West, Fairbanks Meridian and then proceeds in a northwesterly direction through Township 10 North, Range 7 West; Township 10 North, Range 8 West; Township 11 North, Range 8 West, and Township 11 North, Range 9 West to milepost 37 within the northeast quarter of Section 26.

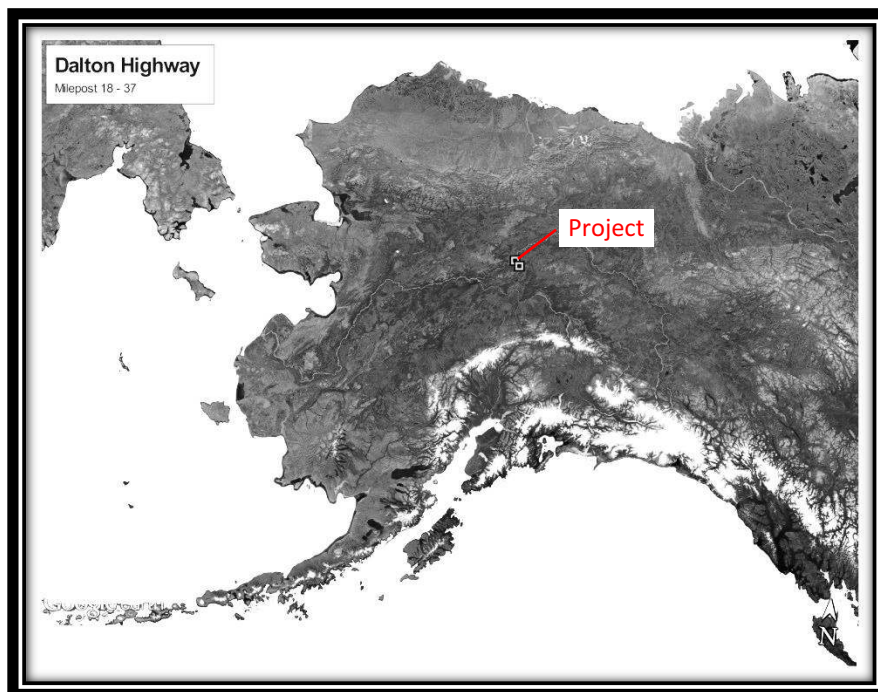


Figure 1 - Project Vicinity Map

¹ This report was prepared for DOT&PF Project No. Z607350000/0652017; PSA No. 025-5-1-060; R&M No. 2328.01

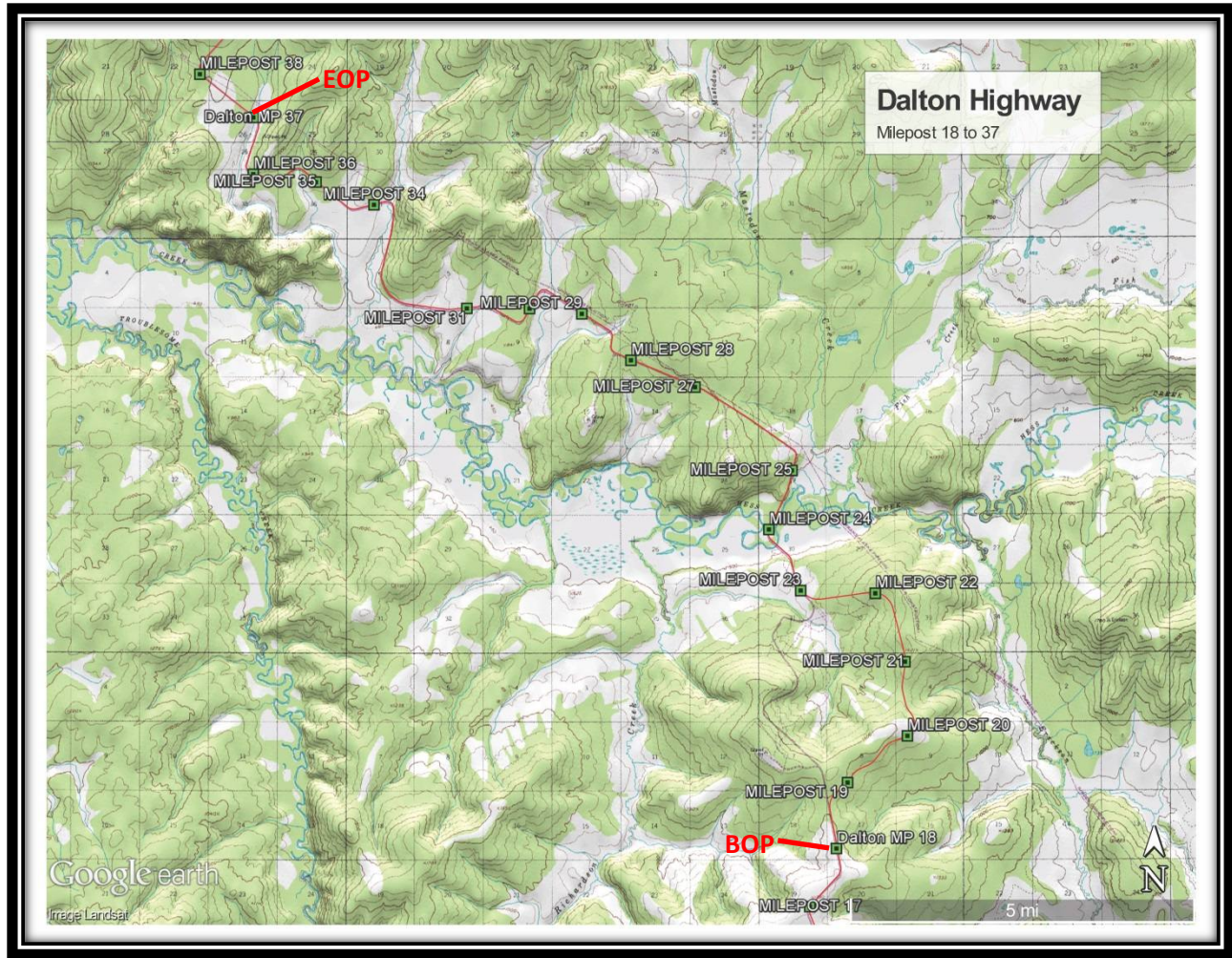


Figure 2 - Google Earth & USGS Quad Overlay

General Land/Right-of-Way Status

A review of the Bureau of Land Management Master Title Plats indicates that the lands along this project have all been patented to the State of Alaska². There are no native allotments in the vicinity of the Dalton highway along the length of this project.

There is a lengthy and somewhat conflicting history regarding the basis of the ROW for the Dalton Highway while it was still under federal (BLM) jurisdiction. As a result of the lands within this project having been patented to the State, and the DOT&PF jurisdiction for management of

² Patent No. 50-91-0629 dated September 30, 1991 was recorded in Book 725, Page 865 on November 6, 1991, FRD. This patent includes Sections 17-18 & 4-9 of T9N, R7W, FM. Corrected Patent No. 50-93-0274 dated 9, 1993 was recorded in Book 803, Page 533 on July 21, 1993, FRD. This patent includes Sections 18-19 & 30-32 of T10N, R7W, FM; Sections 3-6, 8-11 & 13-14 of T10N, R8W, FM; Section 31 of T11N, R8W, FM; & Sections 25-26 & 35-36 of T11N, R9W, FM.

the highway system, it is safe to say that the MP 18-37 project has the benefit of a valid highway easement that is at least 200-feet wide and up to 1100-feet wide within the 21 Mile Hill project limits.

The following paragraphs provide a more detailed review of the existing ROW and encumbrances.

Existing Right-of-Way: Dalton MP 18-37

The basis for the existing Dalton Highway right-of-way has been confused since its inception. This is a result of challenges by environmental groups during the early stages of the Trans-Alaska pipeline project and disagreements between federal and state agencies. This confusion does not apply to the MP 18-37 project because with the exception of two native allotments, all of the lands underlying and adjoining the Dalton Highway from MP 0 at the Elliott/Dalton intersection to the south side of the Yukon River at MP 55.5 have been conveyed to the State of Alaska. The lands within Section 30, T8N, R5W, Fairbanks Meridian at MP 0 have been Tentatively Approved pending resolution of conflicts. All of the remaining lands have been conveyed to the State by patent. The two noted native allotments are located at opposite ends of the Livengood to Yukon River Road and do not conflict with the MP 18-37 project.

The ROW for the Livengood to Yukon River road was established over federal public domain lands during the 1970's. While the basis or authority for creation of the ROW may have been in question then and now, the ROW would have been established as an easement interest over federal lands for the benefit of the State of Alaska. When a person has the benefit of an easement across another's land, and then acquires fee title to the land the easement crosses, the common law principle is that the easement is terminated by "merger of title". Essentially, the lesser interest in the easement merges with the greater interest of the fee estate as there is no purpose in having an easement to cross your own land. When the federal government conveys land to the State of Alaska that is subject to a previously issued highway easement, they would typically issue a "Merger of Title" decision stating that the right-of-way has become a "nullity".³ The patents issued by the federal government to the State are made without reference to these prior existing right-of-way easements or grants.

Once the lands have been transferred to the State, there has occasionally been some conflict between DOT&PF and the Department of Natural Resources regarding which agency has certain management rights within the highway rights-of-way. DOT&PF is similar to DNR in that they have statutory authority to acquire, manage and dispose of lands. DOT&PF alone has the statutory authority to construct, maintain and operate the state highway system⁴. These authorities along with the unique nature of highway easements have led DOT&PF to conclude that the highway rights-of-way established by the federal government do not merge with the fee

³ Bureau of Land Management Instruction Memorandum No. AK 82-296 dated July 28, 1982.

⁴ A.S. 19.05.010 Department to supervise highway system. The department is responsible for the planning, construction, maintenance, protections and control of the state highway system.

estate when lands are patented to the State of Alaska and that those highway easements remain under DOT&PF jurisdiction.

The geometry and width of the highway ROW through the MP 18-37 segment was initially based on the Livengood to Yukon River Road As-builts prepared for Alyeska Pipeline Service Company.⁵ The Dalton MP 18-37 project starts on sheet 9 of 29 near station 950 and ends on sheet 20 of 29 near station 1953. The initial right-of-way width was a uniform 200-feet, 100-feet on each side of centerline. Based on past design surveys we would not expect to recover control monuments that could be used to define the original alignment. It is recommended that the alignment be based on tangents and tangential curves derived from centerline splits that best fit the original design geometry. A 200-foot wide ROW corridor based on this existing alignment will be asserted as the “existing” right-of-way. As this is all State land, minor discrepancies between the original alignment and our new survey will not need to be addressed. Where re-alignments require acquisition of new ROW, parcels will need to be defined and a DNR ROW permit obtained.

The segment between approximate mileposts 18.6 and 22.8 was reconstructed and realigned in 1993 as a part of the Dalton Highway 21 Mile Hill project.⁶ The project right-of-way plans⁷ indicate a ROW width ranging from 300-feet to 1100-feet. The new right-of-way was acquired under a Right-of-Way Permit from the Department of Natural Resources on April 25, 1994.⁸ Primary monuments on centerline were set for project control as noted in the as-builts and the DNR ROW Permit.

The 21 Mile Hill project was surfaced by a following project completed in May of 2005.⁹ The surfacing project removed the centerline monuments set for the initial 21 Mile Hill project and reset them 30-feet offset to the right of centerline. These monuments should be used to locate the project centerline.

The north end of the MP 18-37 project ties into the Dalton Highway MP 37-49 project that was completed in October of 2007.¹⁰ The right-of-way map for the MP 37-49 project appears to be un-recorded, however, ROW required over state lands due to realignment of the existing road was acquired under DNR Public Right-of-Way Permit ADL 416968¹¹ in 2009. Oddly the ROW

⁵ The Livengood to Yukon River Road was constructed between August 16, 1969 and August 10, 1971. Drawing No. D-101 C500 dated October 1971.

⁶ Project STP-065-2(5)/65771 Dalton Highway 21 Mile Hill – Construction Started: March 2, 1993; Completed: October 8, 1993.

⁷ Dalton Highway 21 Mile Hill - Project A86411/60362; Approved September 30, 1987; Unrecorded

⁸ ADL 414587 recorded in Book 853, Page 967, Fairbanks Recording District and Book 6, Page 838 Rampart Recording District on May 9, 1994.

⁹ Project NH-065-2(11)/61212 Dalton Highway MP 18-22 Surfacing As-builts; Date started June 23, 2004; Date completed May 20, 2005.

¹⁰ Project STP-065-2(6)/66321 Dalton Highway MP 37-49 Reconstruction As-builts; Date started October 1, 2005; Date Completed October 10, 2007.

¹¹ ADL 416968 Right of Way Permit dated October 22th, 2009 and recorded as document 2009-023470-0 on December 2, 2009, Fairbanks Recording District.

Permit makes reference to the project centerline control Record of Survey¹² that does not reflect the ROW parcels acquired.

The south end of the MP 18-37 project ties into the Dalton Highway MP 11-18 project that was completed on August of 2014.¹³

Utilities & Related Facilities (Existing & Proposed)

1. In 1997, DOT&PF issued a utility permit to MFS Network Technologies to place a fiber optic cable within the Dalton Highway ROW¹⁴. The permit should be reviewed to identify road crossing locations and offsets from centerline where the line is located longitudinally within the highway ROW. The line generally follows the old Dalton Highway where it was re-aligned for the 21 Mile Hill project¹⁵.
2. In 2011, a Right-of-Way Lease¹⁶ (ADL 418997) for the Alaska Stand Alone Gas Pipeline/ASAP was executed between the State of Alaska and the Alaska Gasline Development Corporation. The lease will expire in July of 2041. In relation to the Dalton Highway MP 18–37 project, the preliminary alignment of the pipeline ROW initially overlaps the Dalton Highway ROW in Section 19, T10N, R7W, FM. Heading northwesterly, the pipeline ROW then parallels the Dalton ROW through Sections 13, 14, 11, 10, 3 & 4 of T10N, R8W, FM before shifting approximately a half mile to the northeast through Sections 4-6 of the same township. The proposed pipeline crosses the Dalton Highway twice within Section 31 of T11N, R8W, FM. The pipeline route then parallels the highway through Section 36 of T11N, R9W, FM, diverges to the east through the southwest quarter of Section 25 before continuing northwesterly and connecting back into the Dalton Highway in the northeast quarter of Section 26, T11N, R9W near Dalton Highway milepost 37.

The lease notes that although it applies to State Lands in which DOT&PF administers, “Prior to commencement of Construction, the Lessee shall enter into a comprehensive agreement with DOT&PF for the use of highways and other facilities under the jurisdiction of the DOT&PF.”¹⁷

3. BLM Patent No. 50-93-0274 to the State of Alaska covers the lands along most of the Dalton Highway project from MP 21 to MP 37. In this area both the highway and the

¹² Record of Survey Dalton Highway MP 37-49, STP 065-2(6)/66321 recorded as Plat 2008-37 on April 2, 2008, FRD.

¹³ Project NG-065-2(12)/62196 Dalton Highway MP 11-18; As-builts have not yet been published. Date started March 20, 2012; Date completed August 20, 2014. Dates according to 11/23/15 email from DOT&PF Construction.

¹⁴ Permit No. 2-1500000-97-002 recorded in Book 1045, Page 414 on January 15, 1998, FRD.

¹⁵ See Project A86411/60362, Dalton Highway – 21 Mile Hill through sections 17, 8, 9 & 4 of T9N, R7W, FM and sections 31-33 of T10N, R7W, FM.

¹⁶ Recorded as document 2012-001925-0 on February 3, 2012, Fairbanks Recording District

¹⁷ Exhibit A: Stipulations – 4. Highway Use Agreement

TAPS (Alyeska) pipeline run in a northwesterly direction, approximately parallel with the pipeline offset to the northeast of the highway. The patent for the State of Alaska lands is subject to the following encumbrances:

- a. Access road ROW FF-20580 granted to Alyeska Pipeline Service Co. within Sections 29 & 30, T10N, R7W, FM. between the Dalton Highway and the TAPS pipeline. The access road intersects the Dalton Highway at approximate milepost 23.6.
- b. Access road ROW FF-20585 & FF-21692 granted to Alyeska Pipeline Service Co. within Sections 4, 10, & 11, T10N, R8W, FM. between the Dalton Highway and the TAPS pipeline. The access roads intersect the Dalton Highway at approximate mileposts 28.3 and 29.6. The BLM abstract for FF-20585 notes that the jurisdiction for the administration of the ROW grant was transferred to the State of Alaska on June 9, 1993. The BLM abstract for FF-21692 notes that the jurisdiction for the administration of the ROW grant was transferred to the State of Alaska on June 19, 1993.
- c. A ROW (F-83941) for a natural gas pipeline granted to the Yukon Pacific Corporation. The location for this route is indefinite, however, the BLM abstract notes that the applicant requested an early relinquishment of the ROW on June 2, 2011 and the relinquishment was accepted on August 21, 2011.
- d. A ROW (FF-24538) for a natural gas pipeline granted to Alaskan Northwest Natural Gas Transportation Company. The location for this route is indefinite, however, the ROW was granted by BLM on December 1, 1980 and the BLM abstract notes that the 30 year grant would have expired in 2010.

Existing Right-of-Way: Dalton Highway – History & Controversy

As a part of this assessment, I reviewed archival documents discussing the history of the Dalton Highway ROW. While reporting this level of detail is not necessary for the Dalton MP 18-37 project, I have added an event chronology as an appendix that may serve to assist future researchers interested in the basis of the highway ROW.

The controversy now only applies to those portions of the Dalton Highway ROW that were initially established as a part of the Trans-Alaska Pipeline and cross lands still remaining under federal ownership. The controversy might now be viewed as a “state’s rights” issue but at the time it may have been more related to the efforts by environmental groups to stall the construction of the oil pipeline.

Prior to the start of construction of the Livengood to Yukon River road, all federal lands in Alaska were reserved under PLO 4582 in anticipation of the Alaska Native Claims Settlement Act. In March of 1969 BLM issued a letter to the Department of Highways Commissioner that the State’s announcement in December of 1968 of its intent to build the haul road acted as an acceptance of a grant of ROW under RS-2477. RS-2477 was an offer of a highway ROW

across unreserved federal lands based in the federal mining law of 1866.¹⁸ Documents that follow the BLM letter suggest that there was concern that the RS-2477 ROW grant was not applicable as long as PLO 4582 remained in effect. This became a moot point for the Livengood to Yukon River road section as construction commenced in August of 1969, 5 months before PLO 4760 released PLO 4582 to allow for permits and rights-of-way necessary for construction of the pipeline.

In April of 1970, environmental groups filed for an injunction that would prevent issuance of a ROW for the oil line and highway. The Livengood to Yukon River section of the highway continued in construction until completion in August of 1971. The primary effect of the injunction was to stall the construction of the highway from the Yukon River to Prudhoe Bay. Alaska continued to assert that its ROW for the haul road would be based on an RS-2477 grant so it would not have to wait for the federal government to issue a ROW grant under another authority. In February of 1973 the federal Court of Appeals issued a decision in Wilderness Society v. Morton that suggests that the State's assertion of a highway ROW under RS-2477 was valid. The case also led to congress passing the Trans-Alaska Pipeline Authorization Act of 1973 that provided another basis for issuing pipeline and highway rights-of-way related to the project.

Even with this ruling, BLM reached the conclusion that to authorize a ROW for the Dalton Highway, it was necessary to issue it under the TAPS Act. In May of 1974, BLM unilaterally issued a ROW for the Dalton Highway to the State of Alaska. Alaska's position was that no authorization for a highway ROW beyond the RS-2477 grant was necessary and that the state continues to assert its rights under RS-2477.

The issue is not resolved with regard to areas where the Dalton Highway still crosses federal lands. BLM continues to be firm in their opinion that the highway ROW is based on the TAPS Act and subsequent acts by the State indicate that there may be weaknesses in their assertion or at least a desire to temporarily concede their position in order to advance projects. An informal opinion from the Department of Law in May of 1981 suggested that the creation of an RS-2477 ROW "...does not seem to be a winning argument." This comment appears to be made on the basis that PLO 4582 did not return federal lands into unreserved status, it merely allowed the issuance of rights-of-way required for the pipeline project. On the other hand, in recent years, DNR's PAAD Unit,¹⁹ whose role in part is to assert RS-2477 rights of way on behalf of the State, has maintained that the basis for the haul road right-of-way is the RS-2477 grant accepted by the State of Alaska upon declaration in 1970 that "...there is an immediate need for a public highway from the Yukon River to the Arctic Ocean and that this public highway should be constructed by the State of Alaska at this time...." [A.S. 19.40.010(a)]

¹⁸ The Mining Law of 1866 - Lode and Water Law, July 26, 1866 (Section 8 - 14 Stat. 253) The above referenced Section 8 of the 1866 Mining Law was re-designated as Section 2477 of the Revised Statutes 1878. (43 U.S.C. 932) RS 2477 was repealed by Title VII of the Federal Land Policy and Management Act on October 21, 1976.

¹⁹ PAAD Unit – Public Access Assertion and Defense Unit – See <http://dnr.alaska.gov/mlw/trails/rs2477/>

APPENDIX A
Dalton Highway Right-of-Way Chronology

- 1/17/69:** Public Land Order 4582 reserves all public lands in Alaska.
- 3/12/69:** Letter BLM to DOH Commissioner – “We are firm in the opinion that State announcement of intent to build the road followed by actual construction was in effect acceptance of a right of way grant under the provisions of RS 2477, and that such a right of way does apply. We also note that the announcement predates the December 12, 1968 application date for the general withdrawal Public Land Order 4582 which now applies to all unreserved lands in the state. We are informed by our state offices that sufficient legal precedence exists to justify our opinion.”
- 6/23/69:** DOH Commissioner to BLM regarding North Slope Road. “Pursuant to our meeting in Juneau Friday, June 20, the Alaska Department of Highways formally requests the modification of Public Land Order 4582 (under Paragraph 5) in order that right of way be acquired by the Alaska Department of Highways under the provisions of RS 2477 for that portion of the North Slope Road between Livengood and the Yukon River Crossing.”
- 7/22/69:** Commissioner Beardsley to BLM regarding RS2477 ROW for the Livengood to Yukon River Road. “Our letter dated June 23, 1969, requested a modification of Public Land Order 4582 to the effect that this specific road right of way across Public Domain could be acquired under R.S. 2477 (43 USC 932). It is extremely urgent that our request be acted upon immediately and we receive authority for TAPS to begin construction of the road.”
- 8/13/69:** Letter from Secretary of Interior Hickel to House Interior Committee regarding Livengood to Yukon River ROW. “Under Revised Statute 2477 jurisdiction over lands for highway rights-of-way will pass from the Secretary of the Interior to the Governor of the State concerned without any act whatever taken by the Secretary. Because a right-of-way under this authority is a statutory right-of-way grant, as contrasted with one made under discretionary authority delegated to the Secretary of the Interior, I do not have the legal authority to impose conditions and stipulations upon the road construction.” – “I am today signing the necessary order to modify Public Land Order 4582 as requested by the State of Alaska.”
- 8/16/69:** Begin Construction – Livengood to Yukon River Road As-built.
- 1/7/70:** Public Land Order 4760 releases PLO 4582 for “The issuance of any other permit or right-of-way as may be reasonably necessary or convenient for the construction, maintenance, or operation of the oil pipeline system...”
- 4/28/70:** Wilderness Society v. Hickel, 325 F. Supp. 422, U.S. District Court, District of Columbia issues a preliminary injunction to prevent the issuance of an oil pipeline ROW and a 200-foot wide ROW for the haul road from the Yukon River to Prudhoe Bay. The injunction was based on

- the grounds that the requested pipeline right-of-way was in excess of the limits specified by the Mineral Lands Leasing Act of 1920 (MLLA), and that the Department of Interior had not fully complied with all of the procedural requirements of the National Environmental Policy Act of 1969 (NEPA).
- 1970:** Sec. 1 ch 231 SLA 1970 – North Slope Haul Road A.S. 19.40.010 Declaration of Policy (a) “The legislature finds and declares that there is an immediate need for a public highway from the Yukon River to the Arctic Ocean and that this public highway should be constructed by the State of Alaska at this time...” – Highway named under A.S. 19.40.015 in 1981.
- 1/8/71:** Reference in July 29, 1971 memo from DOH ROW Director Chitty to Dep. Commissioner Matlock - “This application in conjunction with our previous one filed January 8, 1971, completes our BLM application requirements between Livengood and Prudhoe Bay under R.S. 2477...” BLM Abstract for F-21145 grant notes case established on 1/8/71 for Yukon River to Prudhoe Bay; “R/W Granted pursuant to the Trans Alaska Pipeline Act”.
- 6/71:** The State of Alaska enters into a contract with Alyeska where Alyeska agreed to build a public highway to run from Livengood to Prudhoe Bay. (Cited in Wilderness Society v. Morton, 1973)
- 7/28/71:** Reference in July 29, 1971 memo from DOH ROW Directory Chitty to Dep. Commissioner Matlock – “I therefore had the application prepared for my signature and personally filed it with Curtis McVee, Acting State Director, in Anchorage at 1:45 p.m. July 28, 1971.” BLM Abstract for F-21145 grant notes that an amended/corrected application was received on 7/28/71.
- 8/10/71:** End Construction – Livengood to Yukon River Road As-built.
- 9/1971:** Alyeska Pipeline Service Company and the State of Alaska intervene as defendants in Wilderness Society v. Morton.
- 8/15/72:** Hearing for permanent injunction granted on 4/28/70 was denied and the preliminary injunction was dismissed by the Federal District Court. The dismissal was appealed to the US Court of Appeals for the District of Columbia resulting in the February 9, 1973 decision.
- 2/9/73:** Wilderness Society v. Morton, (479 F.2d 842) This case involved a challenge by environmental groups seeking to enjoin the Secretary of the Interior, Alyeska and the State of Alaska from constructing the pipeline and the Dalton Highway. Appellees argue in part that RS2477 is not applicable as this road will not be open to the public. The court discussed how the State could manifest acceptance of the R.S. 2477 grant, even though the highway had not yet been constructed. “There is no question that the State, at least formally, has indicated its intention to construct a public highway along the right-of-way requested.” ... “Ordinarily this expression of intent would constitute valid acceptance of the right-of-way

granted in Section 932. That section acts as a present grant which takes effect as soon as it is accepted by the State.” The associated footnote states that “Since the section acts as a present grant, it is normally not even necessary for the builder of the highway to apply for a right-of-way. See 43 C.F.R. Sec. 2822.1-1 (1972): ‘No application should be filed under [43 U.S.C Sec. 932], as no action on the part of the Government is necessary.’ However, since Sec. 932 applies only to land ‘not reserved for public use,’ and the lands sought to be used for highway purposes were considered reserved for public use under Public Land Order No. 4582, Jan. 17, 1969, 34 Fed Reg. 1025, application was necessary under 43 C.F.R. Sec. 2822.1-2 (1972) to request that the reservation be revoked or modified so as to permit construction of the highway. By Public Land Order No. 4760, Jan. 7, 1970, 35 Fed. Reg. 424, Public Land Order No. 4582 was modified to permit granting of rights-of-way necessary for construction of the trans-Alaska pipeline.”

- 11/16/73: The Trans-Alaska Pipeline Authorization Act is passed. Public Law 93-153.
- 3/8/74: Letter from FHWA to DOH – “The Federal-aid system designation described as FAS-681, Livengood to Prudhoe Bay, submitted with your memorandums of February 15, 1974, and March 1, 1974, has been reviewed and approved.” A hand written note says, “In 1976, the haul road changed to a primary federal aid.”
- 4/1/74: DOI Pipeline office transmits proposed Dalton ROW Grant to Governor Eagan.
- 4/8/74: Commissioner Campbell’s response to Department of the Interior is that a highway ROW permit for the construction of the road is not required.
- 5/2/74: Grant of Right-of-Way for Public Road (FF-21145) A 200-foot wide ROW easement under the authority of the Trans-Alaska Pipeline Authorization Act of November 16, 1973 is transmitted to the Department of Highways. This grant does not cover the Livengood to Yukon River segment. The map reference in Exhibit A limits this grant to that portion of the Dalton Highway from the Yukon River to Prudhoe Bay.
- 5/3/74: Memo from AGO to Campbell – Re: Grant of ROW dated 5/2/74. “The draft is designed to remove any doubts that (1) a grant of a right-of-way has been duly received which is not subject to any injunction, (2) that we accept it for that reason, and (3) that we still assert a pre-existing right-of-way.”
- 5/8/74: Letter from Campbell to BLM Director McVee rebutting BLM’s unilateral grant of ROW for the Dalton. “As you are aware from past correspondence, the State claims a right of way for the construction of this road under RS 2477. This position was sustained by the District of Columbia Circuit Court of Appeals in their finding on the TransAlaska Pipeline case. Your unilateral grant in no way diminishes our prior right to construction of this road under RS 2477.”

- 4/3/75:** BLM Memo – Livengood to Yukon River Road. (F-21630) The memo notes that the as-builts for the Livengood to Yukon River were filed on February 15, 1975 and that the road will be noted to the records in accordance with Secretarial Order No. 2665. The attached serial page also includes an entry dated 12/19/78 that a request has been made for a grant to be issued by BLM.
- 9/7/76:** 1976 Opinion of the Attorney General No. 38. The focus of the opinion is whether the Haul Road is a “public highway” or a “development road”, each of which would allow for differing management options. The opinion provides a background review of the Right of Way Grant. “No rights-of-way were issued under 43 U.S.C. 932 (R.S. 2477). The only grant of right-of-way ever issued to the State for the Haul Road was after the passage of and pursuant to the Trans Alaska Pipeline Authorization Act (TAP Act), 43 U.S.C. 1651 et seq. Section 1652(b). The opinion notes that only when the Wilderness Society was granted an injunction on April 28, 1979, “...did the State become involved in seeking rights-of-way for a State public highway under 43 U.S.C. 932.”
- 4/25/80:** Transmittal letter from NR DOT&PF ROW to BLM of as-built drawings for the Dalton Highway, Yukon River to Prudhoe Bay. (F-21145)
- 1981:** Sec. 2 ch 10 SLA 1981 – A.S. 19.40.015 Highway named. “The highway is named the James Dalton Highway.”
- 5/27/81:** Memo by AAG Greene (Related to NW Natural Gas Line) The memo reviews the 1976 Opinion of the Attorney General No. 38 and Wilderness Society v. Morton and concludes that “...the creation of R.S. 2477 right-of-way does not seem to be a winning argument.” This memo appears to relate to the portion of the Dalton from the Yukon River north. Greene goes on to say “Given the withdrawal of lands in P.L.O. No. 4582, it is doubtful that a valid R.S. 2477 right-of-way for the Haul Road was created.” She notes that acceptance of an R.S. 2477 ROW requires that the public lands be unreserved and that PLO 4582 reserved those lands. She also notes that the Alaska Legislature accepted the grant in 1970 under AS 19.40.010-.080 and that PLO 4760 on January 7, 1970 released lands reserved under PLO 4582 in order to allow for issuance of ROW necessary for construction and maintenance of the pipeline. Her conflict appears to be that PLO 4760 required an “issuance” of a ROW where “issuance” of a ROW is generally not a requirement for the grant or acceptance of an RS 2477 right-of-way. Ultimately she concedes that “Wilderness Society v. Morton ...at least implies that a valid R.S. 2477 right-of-way for the Haul Road was created.”
- 1987:** The Dalton Highway. W.T. Reeves was a vocal proponent for opening the Dalton Highway to the public. In this 21 page document he outlines the history of the road. “Construction on the haul road began in August 1969 at 73.1 mile on the Elliott Highway, just west of Livengood. It was built in two section, the first section to the Yukon River being completed in July 1970 and was known as the ‘TAPS Road’”.

- 9/23/88:** U.S. Survey No. 8610 Maureen Lewis Native Allotment conflict at MP 0 Dalton Highway.
- 1/5/90:** BLM Decision regarding Maureen Teresa Lewis native allotment (F-12971) located at the intersection of the Elliot and Dalton Highways. “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...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.”
- 4/28/93:** Memo from Commissioner Campbell to AAG McGee. “You state that the Right-of-Way (R/W) for the construction of the Dalton Highway was granted by the BLM on May 2, 1974. This is incorrect.” The memo then asserts that the ROW was acquired by RS 2477 and confirmed in the Wilderness Society v. Morton citing decision footnote on page 78 that “Since we hold the R/W valid under § 932, ...” Campbell goes on to say “I did not apply for a R/W from BLM.”, and that when he informed the BLM pipeline coordinator that a ROW application was not needed, BLM called to ask if they could issue a unilateral R/W permit. “Several days later the unilateral R/W grant dated May 2, 1974 arrived.” Campbell suggested that BLM must have conceded this point otherwise they and the environmental organizations would have shut Alyeska and the Department of Highway down quickly.
- 8/4/93:** Summary by Commissioner Campbell regarding materials relating to RS2477 claim for the Dalton Highway ROW.
- 8/26/93:** Alyeska Pipeline Service Co. IBLA 90-211, 90-301 (127 IBLA 156); This case overruled a BLM decision that DOT & Alyeska’s appeal of a conflicting Native Allotment at MP 0 was untimely.
- 8/24/94:** Turpin v. North Slope Borough; This case was focused on the issue of whether the Dalton Highway should be opened to the public. The text provides some background on the Dalton Highway ROW applications.
- 2009:** Dalton Highway mapping index (graphic) prepared by Tim Sprout (NR ROW Engineering)
- 2/25/14:** In an AGO memo titled Legal Characterization fo the Sterling Highway, the Dalton Highway case Wilderness Society v. Morton was discussed (Pages 17 & 18 of 24) “Therefore, despite the fact that the highway had not yet even been constructed, the court concluded that the R.S. 2477 grant had been accepted by the State’s actions manifesting its intent to do so.”