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November 14, 1996

United States Department of the Interior
National Park Service
Alaska Regional Office
ATTENTION: Lyn Taylor, Realty Specialist
2525 Gambell Street, Room 107
Anchorage, Alaska 99503-2892

CHIEF BLM AGENT	
STATE AUDIT	
ENGINEERING	
APPRAISALS	
NEGOTIATIONS	
Relocation/Prop. Manag.	
UTILITIES	
RETURN TO:	
FILE	

Re: Lots 5, 6, and 7, Block B, Townsite of Chitina
Your Reference: L1425 (AKSO-EL) WRST Ivey/Smith

Dear Ms. Taylor:

The report that Mr. Hem is prepared to unconditionally disclaim his ownership of the above-referenced lots is incorrect. However, Mr. Hem is willing to disclaim his interest if, upon its review of the public record and applicable law, the U.S. or State Attorney General's Office reaches the opinion that the title of the above-referenced lots vest in Rosemary Ivey and Lary C. D. Smith III rather than in Erling N. Hem, Sr. d/b/a Hem Enterprises, Inc.

The lots in question were conveyed to Gordon Hizey by Kennecott Copper Corporation on November 17, 1958, by a quitclaim deed which was recorded on May 18, 1959, in Book 17, Page 71 of the Chitina Recording District. The deed conveyed all rights, title and interest in land within U.S. Surveys 702, 596, 264, and 597, still owned by Kennecott Copper Corporation. Lots 5, 6, and 7 of Block B within U.S. Survey 596 were among the property conveyed to Mr. Hizey.

In 1974, Copper Valley Investment Corporation filed a quiet title action against named parties, including Kennecott Copper Corporation and Katalla Company, and "parties unknown" claiming any right, title or interest in approximately 100 lots within the Chitina Townsite, including Lots 5, 6, and 7 of Block B. 3AN-74-6441. Copper Valley Investment Corporation's claim to most of the lots were based upon it being a successor-in-interest

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to O.A. Nelson to whom Kennecott Copper Corporation apparently conveyed the majority of the lots in the Chitina Townsite on September 28, 1948. Lots 5, 6, and 7 of Block B were not included in that deed, however.

Copper Valley Trading Corporation's claim to Lots 5, 6, and 7 of Block B was based solely upon the barest assertion of adverse possession by its predecessors and is supported by no facts and no evidence. Much more importantly, Gordon Hizey, who was the record owner of Lots 5, 6, and 7 of Block B, was not named as a defendant in Copper Valley Investment Corporation's quiet title action. Mr. Hizey did not qualify as an unknown party since his interest in the property was a matter of public record. A quiet title judgment is void as to any unnamed party who has a recorded interest in the subject property.

In 1981, Paul Nangle brought a quiet title action claiming ownership of twenty lots and portions of three other lots in Chitina, including lots 5, 6, and 7 of Block B. 3AN-81-3469. Again the record owner of those lots, Gordon Hizey, was not named as a party defendant in Nangle's quiet title complaint. One week after judgement was entered granting Mr. Nangle ownership of lots 4, 5, and 6 of Block B, he quitclaimed his interest in those lots to Vern Ivey and Rosemary Ivey. It is Mr. Hem's position that Mr. Nangle conveyed no ownership interest in those lots since the judgment quieting title to him was void as to Mr. Hem's predecessor-in-interest, Gordon Hizey.

Mr. Hem is prepared to accept the opinion of the U.S. or State Attorney General's Office regarding the ownership of the lots in question. If the Attorney General's Office issues an opinion in writing concluding that the title to lots 5, 6, and 7, Block B, vests in Rose Ivey and Lary C. D. Smith III respectively, Mr. Hem will immediately execute a disclaimer of his interest in those lots. If the Attorney General concludes that the title to the lots vest in Mr. Hem, he is willing to negotiate a sale of the lots to the National Park Service.

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Since the "wayside" project is designed to occupy portions of the right-of-way of the abandoned Copper Valley and Northwesterly Railroad as well, Mr. Hem has asked me to place the National Park Service and the Department of Transportation, State of Alaska, on notice of his ownership claim to a significant portion of U.S. Survey 596 which lies within the abandoned Copper River and northwesterly railroad right-of-way. The State of Alaska, Department of Highways has previously acknowledged ownership to such by Mr. Hem's predecessor-in-interest, Gordon Hizey. (See enclosed copies of Warranty Deeds.) An April 24, 1992, litigation report by TransAlaska Title Insurance Agency, a copy of which is enclosed, supports Mr. Hem's claim to those portions of the railroad right-of-way which extends southward from First, Second, and Third Streets.

Mr. Hem and I would welcome an opportunity to meet with representatives of the National Park Service and the Alaska Department of Transportation to discuss the respective claims to the railroad right-of-way within the Chitina Townsite.

Sincerely,

H. VAN Z. LAWRENCE

H. VAN Z. LAWRENCE
Attorney for Erling Hem, Sr.

Enclosures

cc: John A. Miller, R/W Section,
Department of Transportation
client

April 24, 1992
TRANSALASKA TITLE INSURANCE AGENCY
OF WASILLA
LIMITED LIABILITY

To: Erling N. Hem, Sr.
P.O. Box 74844
Fairbanks, Alaska 99707

Order No.: 792-134
Date : April 24, 1992
Fee : \$250.00
5 additional chains
@\$200.00 = \$1,000.00

According to the public records of the Chitina Recording Office on March 16, 1992 at 8:00 A.M. the title to the herein described property is vested in:

Parcel 1:
V. LAWSON IVEY and ROSEMARY IVEY, husband and wife, as to Lots 1 and 2 Block B
VERN IVEY and ROSE MARY IVEY, husband and wife, as to Lot 3 Block B
VERN IVEY and ROSEMARY IVEY, husband and wife as to Lots 4 and 5 Block B
LARY C.D. SMITH III, a single man, as to Lots 6 and 7 Block B

PARCEL 2:
KENNECOTT COPPER CORPORATION

PARCEL 3:
RAYMOND S. HEATON, as to Lots 1, 2, 3, 4, and 5 Block D
KENNECOTT COPPER CORPORATION, as to Lots 6 and 7 Block D

PARCEL 4:
RAYMOND S. HEATON and THE STATE OF ALASKA

PARCEL 5:
GORDON N. HIZEY and THE STATE OF ALASKA

PARCEL 6:
COPPER VALLEY TRADING COMPANY and THE STATE OF ALASKA

DESCRIPTION OF PROPERTY:

SEE EXHIBIT "A" ATTACHED

lawyer back

EXHIBIT "A"

PARCEL 1:

Lots 1, 2, 3, 4, 5, 6 and 7, of Block B, Townsite of Chitina, Chitina Recording District, Third Judicial District, State of Alaska.

PARCEL 2:

Lots 1, 2, 3, 4, 5, 6 and 7 of Block C, Townsite of Chitina, Chitina Recording District, Third Judicial District, State of Alaska.

PARCEL 3:

Lots 1, 2, 3, 4, 5, 6, and 7 of Block D, Townsite of Chitina, Chitina Recording District, Third Judicial District, State of Alaska.

PARCEL 4:

That portion of USS 596, beginning at the Southwest corner of Lot 1, Block D, Chitina Townsite; thence South 100.0 feet; thence East 156.0 feet; thence North 100.0 feet; thence West along the South boundary of Lots 5, 4, 3, 2, and 1, Block D to the Point of Beginning.

PARCEL 5:

That portion of USS 596 lying within the right-of-way of the abandoned Copper River and Northwestern Railroad between the extensions of the Easterly right-of-way of First Street and the Westerly right-of-way of Fourth Street as shown on the Plat of Chitina Townsite.

EXCEPTING THEREFROM that portion of USS 596, beginning at the southeast corner of Lot 1, Block D, Chitina Townsite; thence South 100.0 feet; thence East 156.0 feet; thence North 100.0 feet; thence West along the South boundary of Lots 5, 4, 3, 2, and 1, Block D to the Point of Beginning.

ALSO EXCEPTING THEREFROM beginning at the Southeast corner of Lot 7, Block B, Survey A.S. 596, Town of Chitina, State of Alaska; thence South, 100.0 feet; thence West, 216.0 feet; thence North, 100.0 feet; thence East 216.0 feet along the South border of Block B, to the point of beginning.

AND Beginning at the Southeast corner of Lot 7, Block C, Survey A.S. 596, Town of Chitina, State of Alaska; thence South, 100.0 feet; thence West, 216.0 feet; thence North, 100.0 feet; thence East, 216.0 feet along the South border of Block C, to the point of beginning.

EXHIBIT "A" continued

PARCEL 6:

Beginning at the Southeast corner of Lot 7, Block B, Survey A.S. 596, Town of Chitina, State of Alaska; thence South, 100.0 feet; thence West, 216.0 feet; thence North, 100.0 feet; thence East, 216.0 feet along the South border of Block B, to the point of beginning

AND Beginning at the Southeast corner of Lot 7, Block C, Survey A.S. 596, Town of Chitina, State of Alaska; thence South, 100.0 feet; thence West, 216.0 feet; thence North, 100.0 feet; thence East, 216.0 feet along the South border of Block C, to the point of beginning.

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SUBJECT TO:

1. Reservations and exceptions as contained in United States Patent, and/or in acts authorizing the issuance thereof.
2. Effect of the notes as shown on said plat
3. Covenants, conditions and restrictions shown on said plat
Plat No.: Chitina Townsite filed for record on September 28, 1919
4. Rights of the Public and or Governmental Agencies in and to that portion of said property lying within 150 feet of the abandoned Copper River and Northwestern Railway, as disclosed on the plat of Chitina Townsite, and as per Quit Claim Deed to the State of Alaska, dated June 30, 1959 recorded Book 8 page 230, Chitina Recording District.
5. Any Facts, rights, interest or claims which a correct survey of said land would show.
6. Any Claims arising due to any recordings pertaining to the property in question being recorded in the Cordova, Valdez, or McCarthy Recording Districts rather than the Chitina Recording District.
7. RIGHT, TITLE AND INTEREST of the herein named party because of the circumstances herein noted.
Party: Gordon N. Hizey
Reason: grantee in Quit Claim Deed recorded May 18, 1959 in Book 17 at page 71
Attached hereto
8. Any liens, defects, encumbrances, or outstanding title of interest established or disclosed by any instrument affecting said premises, which may have been recorded in the records of the Chitina or McCarthy Recording Districts, and which are not disclosed by a present examination of title due to destruction by fire of the records of the said Recording Districts. Last reported destruction by fire was January 29, 1949
9. RIGHT, TITLE AND INTEREST of the herein named party because of the circumstances herein noted.
Party : J & R Enterprises, Ron C. Anderson
Reason : Trustor in Deed of Trust recorded December 19, 1975 in Book 1 at page 819
Affects : Lot 1, Block C

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10. RIGHT, TITLE AND INTEREST of the herein named party because of the circumstances herein noted
Party: State of Alaska
Reason: Quit Claim Deed to the State of Alaska, dated June 30, 1959 recorded Book 8 page 230, Chitina Recording District.
11. RESERVATION of oil, gas and mineral rights, constructive notice of which is given by recital in deed.
Recorded : May 18, 1959
Volume/Page: 17/71
Language setting out reservation: all minerals, mineral and water rights, including oil and gas belonging to the Grantor, beneath the surface thereof, together with the right to take and remove all such minerals and water and the right to prospect and explore thereon, and the right of ingress and egress for all such purposes.
12. THE SHAREHOLDERS of COPPER VALLEY TRADING COMPANY, a dissolved Corporation, as to parcel 6
13. There will be an additional \$25.00 service charge for recordings on this file due to extra costs involved when recording in the Chitina Recording District.

This report is restricted to the use of the addressee and is not to be used as basis for closing any transaction affecting title to said property. Liability of the Agency is limited to the compensation received therefor.

This report is not prepared for use in real estate foreclosure proceedings and the Company shall not be liable for any loss or damage resulting from such use.

COPY
VIKki STOKES VICE PRESIDENT

Thank you for your order. If we may be of any further assistance, please call 376-5248.

WARRANTY DEED

THE GRANTOR GORDON N. HIZEY

for and in consideration of Two thousand two hundred and no/100 - - - - -
(\$2,200.00) - - - - - DOLLARS

in hand paid, conveys and warrants to the STATE OF ALASKA, DEPARTMENT OF HIGHWAYS, the following described real estate, located in the State of Alaska, to wit:

All that part of the following described tract of land:

All of Lots One (1) and Two (2) Block "E" of the Townsite of Chitina being portions of U.S. Survey No. 264 and No. 702.

Also:

Beginning at the Northeast corner of Lot 1, Block "E" of the Chitina Townsite; thence North 60 feet to the South Boundary of Block "A" of said Chitina Townsite; thence East 51 feet to the Southeast corner of Lot 3, said Block "A"; thence South 100 feet; thence East 32.5 feet, more or less, to the Northerly line of the former Copper River and Northwestern Railway Right-of-way; thence Southwesterly along said former Right-of-way line, a distance of 94.6 feet, more or less to the East Boundary of said Block "E"; thence North along said East Boundary 84.1 feet, more or less, to the point of beginning. Containing 14,785 square feet, more or less.

All in the Chitina Recording District. S-0850(6)

which lies within the right of way lines of Alaska Highway Project No. 3 delineated as to said tract of land on the plat attached hereto and made a part hereof as page 3 of this instrument and designated as:

Parcel No. 1

said parcel containing 14,785 square feet more or less, in addition to existing highway, is hereby conveyed to the State of Alaska.

*Dot,
Lee Gayla
I Regard*

Dated this 4 day of Dec, 19 71.

Project No. (B62542)
S-0850(6)
Parcel No. 1

WARRANTY DEED

THE GRANTOR GORDON HIZEY

for and in consideration of Four hundred and no/100 - - - - -
(\$400.00) - - - - - DOLLARS

In hand paid, conveys and warrants to the STATE OF ALASKA, DEPARTMENT OF HIGHWAYS, the following described real estate, located in the State of Alaska, to wit:

All that part of the following described tract of land:

A tract of land situate in U.S.S. 596, Third Judicial District, State of Alaska, described as follows:

Beginning at the Southwest corner of Lot 6, Block "D" of the Townsite of Chitina; thence South parallel with the East line of said U.S.S. 596 50 feet; thence East parallel with the South line of said U.S.S. 596 947.9 feet; thence North along the East line of said U.S.S. 596 50 feet to the Southeast corner of the Chitina Townsite; thence West along the South Boundary of said Chitina Townsite 947.9 feet to the Point of Beginning.

which lies within the right of way lines of Alaska Highway Project No. S-0850(6) delineated as to said tract of land on the plat attached hereto and made a part hereof as page 3 of this instrument and designated as:

Parcel No. 3

said parcel containing 13,795 square feet more or less, in addition to existing highway, is hereby conveyed to the State of Alaska.

Dated this 10th day of November, 19 71.

(B62542)
Project No. S-0850(6)
Parcel No. 3

