
FAIRBANKS NORTH STAR BOROUGH PLANNING STAFF DOES NOT SUPPORT VACATION, but surrendered a valid “public prescriptive right” to access the Chena River at Supply Road to the owners of the Dezarn Subdivision

During recent meetings (June and December 2018) with the FNSB staff planning officer George Stefan I inquired about getting staff to support vacation of two BLM Small Tract easements on my property, Lot 18 N & S, 5795 Supply Road.

I am told FNSB staff does not support me in a vacation. Emails from George who I have the highest regard are attached and made a part of this document [pages 10-12]. The FNSB acknowledges a standard FNSB road cannot be built from Supply to Stealey, but I am told there are other forms of access to the river.

History

On March 25, 2005, a Preliminary Platting Application was submitted by surveyor Ralph Mathews. The application was accepted to vacate two BLM Small Tract reserved easements on Lot 18N and 18S as set out in the patent issued in 1955 for this property.

Ralph stated the justification: “These easements dead end into the river at the intersection of the NW corner there remains less than 8’ of property within the easement from the edge of the riverbank.”

Gaston’s contented, the easements are no longer practical for the purposes set out in the patent. FNSB staff did not support the vacation. Note: This request for vacation was appealed to the Planning Commission and on to Superior Court and the decision not to vacate was upheld.

Prior to the hearing before the Platting Board on April 29, 2005, a hearing was held on April 4, 2005, before the Chena Riverfront Commission (CRC) on the application of Barbara Gaston and her son Patrick Gaston who co-owned the property at that time. VA 007-05.

Also set for hearing on April 4, 2005 before the Chena Riverfront Commission (CRC) was an application for a rezone of the property then known as BLM Small Tracts Lot 11, 12 and 13, and is owned by Raymond and Jeradell Young. RZ -23-2005. A full copy of the meeting minutes is incorporated at the end of this document.

Gaston’s’ were not given any notice of this hearing before the CRC. It was noted in the minutes on page 2, by a Mr. Bubble stated: “Bubble wondered why this applicant has not presented her case to this Commission. Without that, the Commission is voting without any input from her.”

Based on Mr. Bubble’s comment one has to assume the Young’s were notified and present.

Why is this important?

The FNSB planning staff and this commission gave away far better **public “prescriptive” access** to the Chena River than Gaston’s’ property will ever be able to match.

It appears after reviewing aerial photography of the area and doing some research that I believe there was a misconception of which property the CRC was voting on.

In reading those minutes I do not see where CRC had any objection to vacating the wide-open notorious public access a the Chena River off Supply, but the minutes of that meeting are sketchy at best regarding the request of Raymond Young to do a rezone, but they go into greater detail on my vacation request.

Comments of interest: (Minutes attached) [pages 6-9]

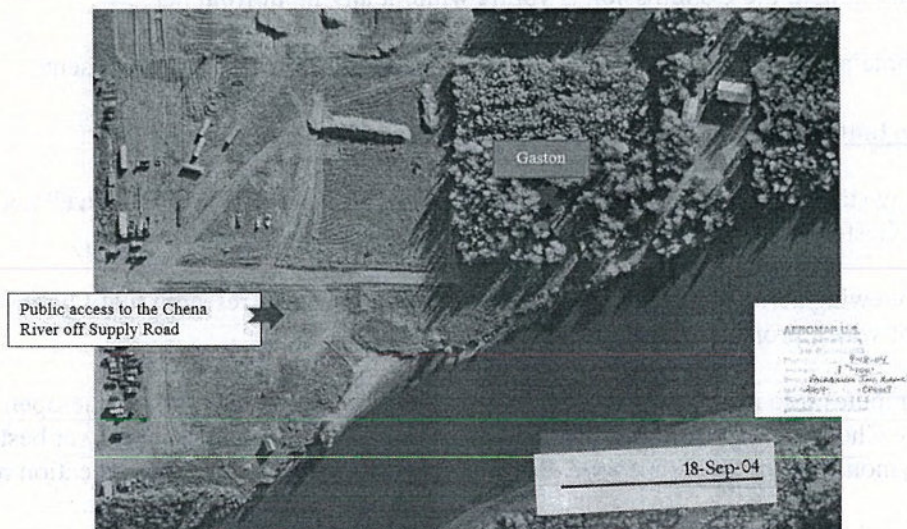
- Martin Gutowski stated on page 2 under 6 NEW BUSINESS, A. Borough Reports (1) in paragraph two: *"....the request for vacating portions of two public accesses to the river, which are also the only constructed accesses in the area."* Martin went on to say: *"...the request does not appear to satisfy the requirement of the Title 17 subdivision ordinance that an area to be vacated must either no longer be useful for the purposes for which I was intended or must have been replaced by something more beneficial to the public."*
- In that same section, the last sentence in paragraph four states: *"Bubbel has first-hand knowledge that this is actually being used as an access point to the river."* [emphasis added this writer]
- Doug Simms FNSB planning office staff on page 3 under (2) RZ 023-2005, in the fourth paragraph stated: *"...This applicant is working with others in the neighborhood on the stabilization project to try to stabilize the river bank so Supply Rd doesn't get washed away and to re-establish some area for that easement to exist."*

Additional evidence the CRC was not informed of the location of Gaston's property became evident in the transcript of the Platting Board meeting on April 26, 2005, two weeks after this 4/5/05 CRC meeting my surveyor Ralph Mathews asked John Reeves who was on the Chena Riverfront Commission and on the Platting Board at that time, on page 22, lines 25 through page 23, lines 1-20 - if my plat was shown to the CRC, and Mr. Reeves said, he did not think it had been. The CRC discussion was over vacating a right-of-way to the river Reeves said, the CRC did not talk about future roads, this road or that road, we just voted again vacating a public right-of-way to the river. Full transcript of Platting Board 4/26/05 hearing available upon request.

The earliest aerial photograph I have of this area which is now the Dezarn Subdivision showing commercial use is May of 1982. This area along the Chena River was used by barge lines (Yutana) and the general public unhampered until summer of 2005 when Raymond Young built his house. And even then it was still accessible until McLean's built on Lot 1 of Dezarn in 2007.

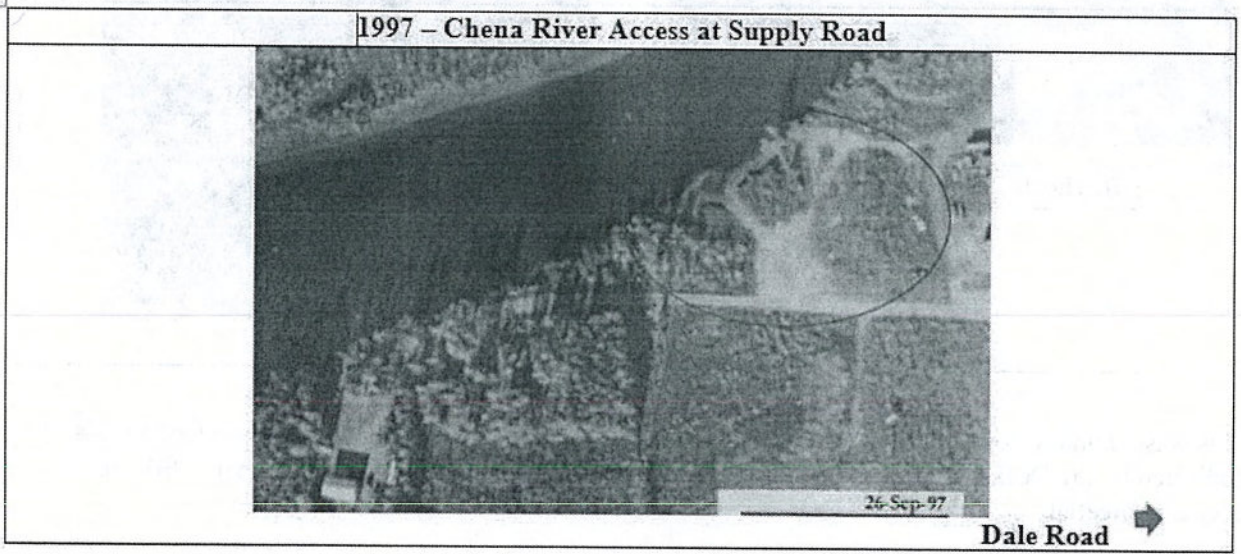
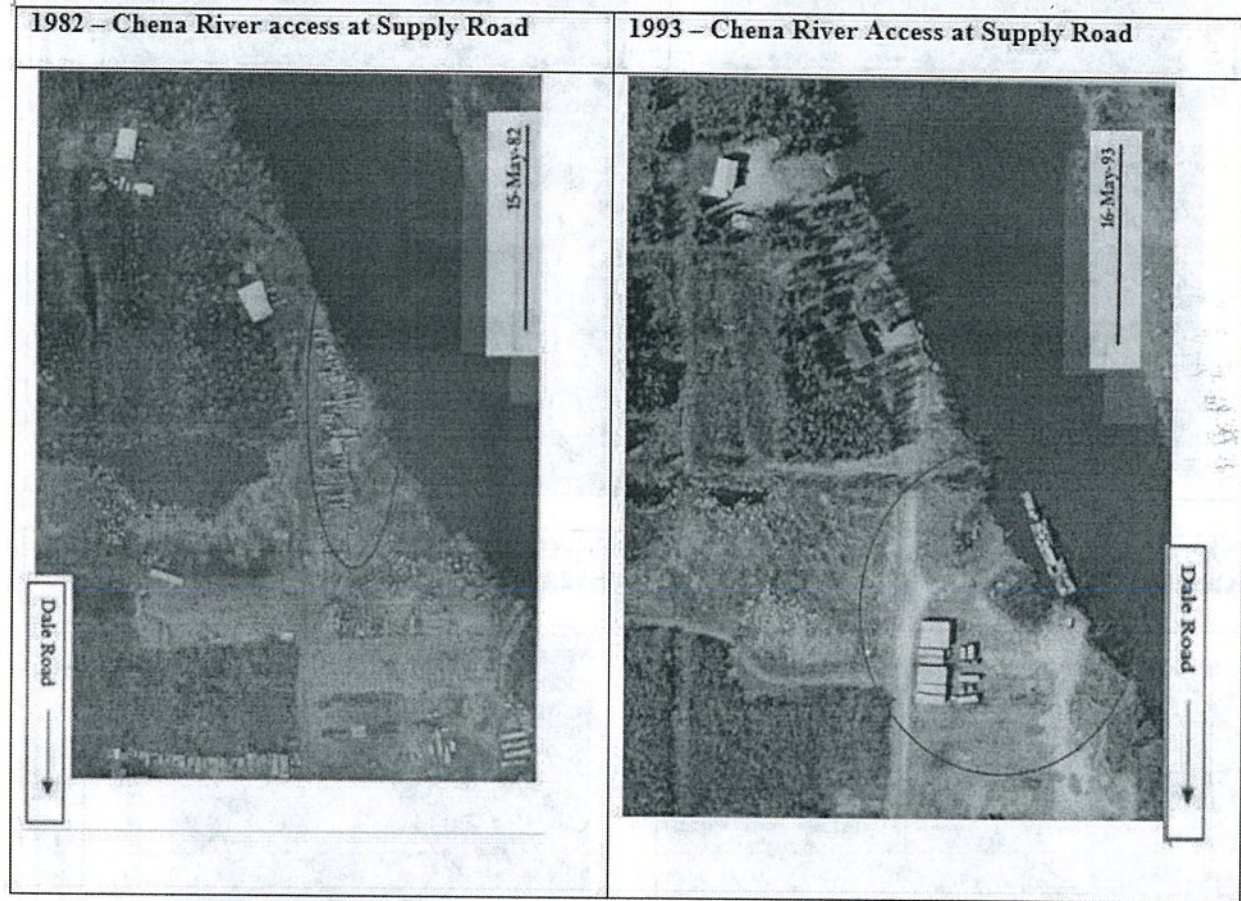
The property of Raymond and Jeradell Young, the Lots 11, 12 and 13 are BLM Small Tract and include rights-of-way for roads and public utilities of 33' that went straight to the Chena River on the north of the properties. However, there were access roads to the river from Supply going through Lots 11 and 12 that were used by barge lines and the general public to access the river.

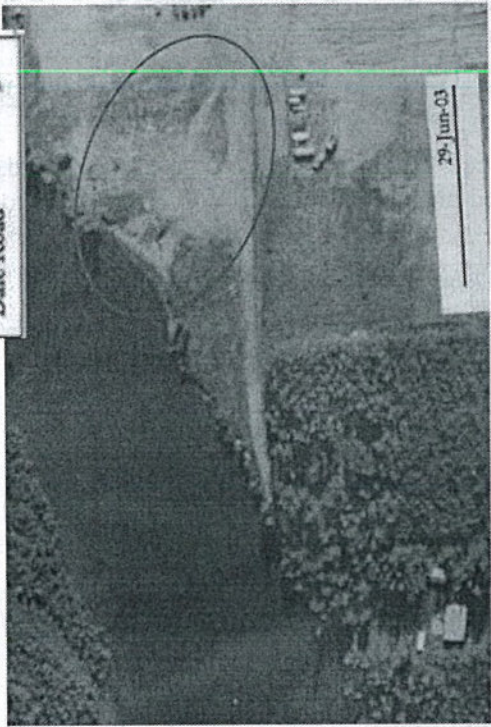


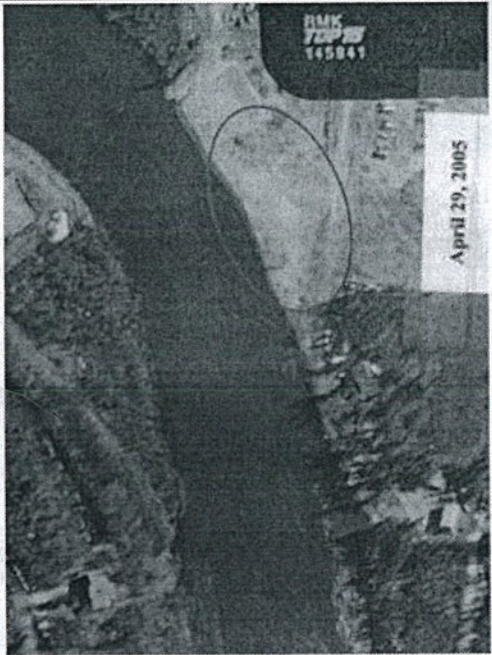
From 1982 – 2005 commercial and public access was available at this location. As you can see from the photographs, the access to the river was wide-open to the public and unrestricted year-round. [pages 3-4] Mr. Bubbel was right there was access to the Chena River at Supply Road



KEY: Red X my house: Red Circle Lots 11 & 12 – now Dezarn Subdivision

From as far back as 1982 there was commercial and public access to the Chena River at Supply Road, and this use was still being continued when this commission voted unanimously not to support the vacation of the eroding easements on Lot 18.



<p>2003 – Chena River access at Supply Road</p> 	<p>2004 – Chena River access at Supply Road</p> 
<p>2005 – Chena River access at Supply Road – March – Google maps</p> 	<p>2005 – Chena River access at Supply road April 29, 2005. CRC meeting 4/5/05</p> 

This was all undeveloped property and if the FNSB needed additional access to the river beyond the 33' dedicated by the Dezarn plat filed on 5/20/04, Plat 20068 - I have to question, why **wasn't this public access protected?**

Currently, public access is available to the river on the 30' dedicated easement by the Plat of the Carpenter Subdivision filed and approved in 1966. Public access is available to the river on the 33' dedicated easement by the Plat of the Dezarn Subdivision. Both of these easements come out at exactly the same place and are located along side my easements.

I do not understand why I cannot remove these easements to protect my property.

Code Enforcement: Mission

Our mission is to protect public health, safety and welfare within the FNSB, protect private property rights and property values within the context of existing codes, and to minimize conflicts between neighbors and incompatible land uses. <http://www.co.fairbanks.ak.us/cp/Pages/Code-Enforcement.aspx>

I should be able to expect the same property values protection as the rest of the citizens of the FNSB.

ATTACHMENTS: Page 6 - 12

Chena Riverfront Commission Minutes April 4, 2005 (4 pgs)

FNSB Email Traffic December 2018 (Stefan/Gaston) (3 pgs)