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Paul J. Wild  
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Request for Legal Opinion  
Vacation of Old Farmers Loop

*JW*

We have received from your office a memo relative to J.B. Inc.'s request for vacation of a portion of the Old Farmers Loop Road. A right of way plan was attached showing a portion of an area acquired by easement (copy attached) as that area to be vacated. The other portion, covered by the same lease, is not shaded, this portion fronts property owned by Clyde Andrew Shover. The intent apparently being to vacate the portion in front of Shover to Shover, the remainder to J.B. Inc. Comes the first question: to whom does the vacated land attach?

Please note that the easement has a clause which reverts the disused/abandoned right of way to the "owner of the fee." The owner of the fee has since changed hands. One of the subsequent owners sold Shover his property which borders on the easement - the ownership of the underlying fee of the easement area is ostensibly totally J.B. Inc.'s. Before any moves to vacate this area are made, I want an opinion as to who gets what.

The second question involves the section of Old Farmers Loop which joins the above described easement area to the present alignment of Farmers Loop. A plat is attached showing this area. The plat shows a 66 ft. existing right of way. During the 60's the State was challenged as to the validity of a 66 ft. right of way for Farmers Loop, and lost (State of Alaska vs. Fowler). Thereafter we claimed the portion shown in red on the attached plat by prescriptive right (ditch to ditch). The question - what rights, if any, has the State to land, claimed by prescriptive rights, which has not been used due to realignment of the roadway - and, how does the State divest itself of such rights, if any.

Attachments: as stated  
PJM/ACT/DOB/dme