

My notes
for Pam

RS-2477 - DAVE PENELLA 7/23/84

1866 - Congress granted r/w to anyone to construct highways over unreserved public lands.

Tongass & Chugach & Kenai National Moose Range were reserved early in the 1900s (?) and so have very few roadways - also accessibility via water so much easier than by land.

So - not many RS-2477s in the southeast & along the Southcentral coast (including Anchorage).

Problem was the law was so vague - only one line - no specifics - and no subsequent laws spelling it out

Conflict between agencies and the States and the Feds, etc as to interpretation.

What is a highway???

In Alaska further problems because of conveyances.

If an RS-2477 crosses a conveyed piece, say to a Native Corporation ----- conflict - (see Dave's explanation) protected in IC's only by "valid existing rights" and these trails don't show up anywhere on status plats - fed or state.

Status plats don't show the trail.

If we want the trail we might have to go to court to prove it existed before the conveyance.

The State wants to get these trails on the status plats. Then, the burden of proof would be on the people who want to get rid of the trail - not the State.

"Asserting the claim" by doing this would not prove the trail exists - it only registers our claim that it does to all who might be interested.

Would also show up as a case file at BLM, further asserting our claim.

It is to BLMs advantage to put them on the status plats

The law was repealed in 1976 - ~~any trail supposedly existing before that but not after.~~ may claim any trail supposedly existing before that but not after.

"Trail Inventory File" - Quad maps - State DOT keeps this index of trails we claim. Not all on it, tho. There's a computer printout, too.

If we're to claim the trails:

Problems:

1. management - Feds say it is up to each State to determine what a highway is.

Our legislature says its almost anything.

State is to manage claim and set the right of way width.

2. Feds say the State must accept the right of way grant:

Our legislature (territorial) accepted the reservation of section line easements - and the State maintains this includes RS-2477 rights of way, too.

DOT manages the trails unless they cross State land in which case -

DOT with concurrent authority with State agency of the State land (DNR or whoever)

Courts have held acceptance does not mean we have to maintain all these trails, which is good for the State.

Lack of maintenance does not imply abandonment.

Some A.G. opinions say you can vacate RS-2477 trails, others say the that the State hasn't the authority to vacate these trails.

Some opinions say the State can restrict ~~xxxxxxx~~ use -- others say no we cannot restrict use. (Such as snowmobiles in winter, or hikers only, etc.)

Local Governments:

Boroughs can manage public rightsof way.

North Star is 2nd class so would have to vote on it, but North Slope is home rule so wouldn't have to vote - could assume the responsibility

We're (the DOT) not sure if they can.

If they wer to do so, then we would have 3 agencies with authrotiy on some of these lands - the Borough ~~of~~ ^{of Borough land} the State DOT ~~of~~ ^{of State} & the Borough, DOT + DNR ^{of State}

DNR would like to use all these trails as access into their disposals, but DOT would like to see them arrange their own access.

A claim can be asserted by any individual or the State.

See briefing sheet

Need only 1: a map

2: historical date showing the earliest possible use something to show the entire trail existed - or that funds were expended on it - which can be translated to mean a person's time spent on working on the trail.

3: a cover letter - "I hereby claim so-and-so trail existed etc.)

RIGHT OF WAY WIDTH

State law is 100 feet - don't know if that will be accepted by the Feds.

DNR says it's ditch to ditch ---

DOT, BLM, DNR in a coordinating committee to put trails on the status plats. and decide which ones to do first.

Some Fed. agencies would like to restrict use

RS-2477 Management Commieett of Alaska

DOT, DNR, BLM, ???

(spreads the responsibility - responsible for management of these trails - would review any claim - DOT would maintain veto power)

Most info on historical would come from the U of A archives.

(Check into Bulenburg Trail)

DOT or DNR to make submission to BLM

May we restrict due to surface conditions??? Re: Joe Vogler on Forestry land -- check into this.