

nu

PCS 2477 3/24/99

MILES CONWAY - DNR/AG (PHONE) 7 NANCY WELCH, JOE SULLIVAN, JUDY?
 @RUP, JAM, NP,

- HARRISON / PORTAGE = PROP. SETTLEMENT - "PERM MAY EXIST @ 42' "
 - "JOE ALLEN" SETTLEMENT => 42' (F.S. PERMIT)
 = NOT RELEVANT TO THIS SITUATION

CONWAY THINKS BEST WE'LL GET IS 60'

WE (DNR/DOT) WANT TO GO FOR 100' FOR AREAS
 NOT "RESERVED" @ TIME OF '63 ATT'N'T OF STATUTE SPECIFYING 100'

SUMMARY: ANY SETTLEMENT

1. WE DON'T WANT TO SETTLE FOR SPECIFIC WIDTH - RATHER HAVE VARIABLE WIDTH => "CONSTRUCTABLE ROUTE"
2. ACCESS WIDTHS OF EXISTING P.O.'S MUST BE PRESERVED.

CHIEF RW-AGENT	<u>JAM</u>
PRE AUDIT	
✓ ENGINEERING	
APPRAISALS	
NEGOTIATIONS	
Relocation/Prop Mgmt	
UTILITIES	
RETURN TO	
✓ FILE	

JUDY

To [Signature]

January 1, 1999

COMMISSIONER'S OFFICE

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BUREAU

Committee Chairman Frank Murkowski (R-Alaska). In addition to 12 Republicans, Nevada Democratic Sens. ~~William~~ and Harry Reid signed the letter.

In one instance, access may be determined without RS 2477

DEPARTMENT OF
NATIONAL RESOURCES

The BLM office in Utah charged with managing the Grand Staircase Escalante National Monument may have found a way to settle disputes over RS 2477 rights-of-way: Don't mention RS 2477 rights-of-way.

The BLM office is presently conducting sensitive negotiations with Kane County to settle road issues in the monument, said Jerry Meredith, monument manager for BLM. "We're not addressing 2477," he told *Public Lands News* last week. "We're trying to resolve roads without 2477 because of the legal and technical problems around that," he said.

"We're talking about anything that might be considered a route. . .," Meredith said. "We've come pretty close to agreeing on routes on the ground that are important. We're still talking about how we go about making them a right-of-way we can each live with and who will manage it."

Meredith emphasized that discussions between the county and BLM have not been concluded and are ongoing. "We are working with Kane County and are close," he said, "but there are a lot of very difficult details to work through."

RS 2477 rights-of-way are old access roads granted by Congress to state and local governments. Western Republicans and the Interior Department have been quarreling since 1992 over who should provide what proof of the validity of claims to the rights-of-way.

The Interior Department wants claimants to provide proof in the form of evidence of construction and evidence of maintenance by a state or local government. The Republicans say Interior has it backward, that state and local governments should not bear the burden of proof. Instead, the westerners say, the federal government should have the burden of proof that a right-of-way is not valid.

To that end the Republican-dominated Congress in the fiscal year 1997 appropriations bill barred the Interior Department from preparing regulations that would require claimants to prove the validity of their claims. That bar applies to subsequent years, the General Accounting Office has since ruled.

The Interior Department in turn submitted a draft bill to Congress on Aug. 27, 1997, that included the substance of the regulations it is barred from imposing.

Meanwhile, motorized recreation interests are gearing up to file "assertions," or claims, to RS 2477 rights-of-way to open up back-country areas. "I think you will see in the next six months more and more groups push the issue," said Don Amador, western regional representative of the Blue Ribbon Coalition (BRC.) Amador said that while Babbitt can't issue new regs, he does have the authority "to open a road that has been closed."

Amador said his organization is reviewing maps of the Six Rivers National Forest in California to find routes and trails that are now closed to motorized recreation. Amador also suggested that the RS 2477 assertions are in response to environmentalists' demands for wilderness. "As long as the enviros continue to advocate adding millions of acres of new wilderness areas that are only accessible

Subject: RS2477 trail surveys

Date: Fri, 26 Feb 1999 09:55:59 -0900

From: "John F. Bennett" <johnf_bennett@dot.state.ak.us>

Organization: Alaska DOT&PF

To: Joe_Sullivan@dnr.state.ak.us

Joe, Clarke Milne faxed me over the draft specs for the survey and recommended I send comments to you if I had any. I was at the Chamber's Transportation breakfast a few weeks back when Shively made his case for surveying the trails as a necessary requirement of recording maps or something to put the property owners on notice that their land may be subject to an RS2477 trail easement. I'm all for giving the surveying and mapping community a boost and I'd also love to see everything of interest in the state mapped. However, I can't say that I believe this is a critical requirement for asserting and using a trail given that the 5400 miles of roads transferred to us at statehood came largely without benefit of mapping. To this day we have portions of our primary system that haven't been mapped and a large portion of our secondary system and yet we continue to operate without any significant conflict with the adjoining property owners. I think this is because while recording a document puts the property owner on constructive notice that his land may be encumbered, the physical road or trail constitutes actual notice. If the property owner knows where his boundary lines are then he can reasonably that a physical road or trail crossing it encumbers his title. The bottom line is that the public's rights are not diminished by virtue of the fact that we don't have accurate mapping. It does however, make management a bit more difficult. To do or not to do the mapping is more of a political question than a practical. And given the current state of finances I would be surprised if this project were funded.

With regard to the specs, I don't have a problem with the 10m horizontal accuracy as long as it is clear the intended product is a graphical representation of trails. Any subsequent surveying for subdivisions, remote parcels etc, would have to relocate the trail centerline commensurate with the accuracy of those surveys. I don't know how valuable the ties to monuments at that accuracy would be. If it is done, I hope there is a very clear disclaimer so no one tries to use those ties for anything requiring higher accuracy.

Johnb

MEMORANDUM

State of Alaska

Department of Transportation & Public Facilities

TO: Nancy Welch
Northern Region Manager
Natural Resources

DATE: March 9, 1999

FILE NO: \p\n\rs2477\survey requirements

Judy
Joe

TELEPHONE NO: 451-5150

Martin S. Ott
FROM: Martin S. Ott, Chief
Planning & Admin Services

SUBJECT: RS2477 Minimum Mapping
Requirements

We have reviewed the Draft Minimum Mapping Requirements for RS2477 Trail Location maps and offer the following comments.

The "pioneer access" terminology should be removed from the RS2477 reference. It is a subjective term that does not necessarily describe RS2477 routes. Also, it could cause confusion with the 1960's vintage State Pioneer Access Road program.

The requirement that surveys should be accomplished under the supervision of a professional land surveyor seems unnecessarily restrictive, expensive and exclusive for a survey to within a horizontal accuracy of ± 10 meters. Anybody who is functional in GPS could do the work satisfactorily. As drafted, this looks like a professional surveyor's full employment program.

Survey has no bearing on the existence or validity of RS2477 rights-of-way. Any survey program should make this clear in order to avoid any interpretation that survey is required. Note that a substantial portion of Alaska's highway system is unsurveyed. It has co-existed with adjacent private property for decades. In that light, the rush to survey RS2477 rights-of-way as a requirement for their management seems somewhat overstated.

NP/tap