

WALTER J. HICKEL, GOVERNOR

**DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES**

OFFICE OF THE COMMISSIONER

August 4, 1993

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Dear Reader:

This book contains relative information concerning the State of Alaska's right of way for the Dalton Highway between Livengood and Prudhoe Bay.

This right-of-way (R/W) is vested in the State by virtue of RS2477 and not by virtue of a unilateral R/W grant by the Bureau of Land Management (BLM), as some people have assumed.

The RS2477 R/W was vested in about 1970 (see letter 04/02/70 and others). The exact date is unclear at this time and is probably not relevant since the actual R/W vested prior to Alaska Native Claims Settlement Act of 1971 (ANCSA).

The U.S. Court of Appeals in Wilderness vs. Morton found that the State possessed a RS2477 R/W for the Dalton Highway.

This position, as to R/W authority, has been constantly maintained by the State since the beginning. See letters

10/10/72	04/08/74
03/22/73	05/02/74
03/29/73	05/08/74
08/24/73	06/14/74
03/27/74 (diary)	10/27/75
04/01/74	04/25/80
04/03/74	

These letters and the Appeals Court decision make it abundantly clear that the State enjoys a RS2477 R/W and that the BLM R/W grant was unilateral and without force.

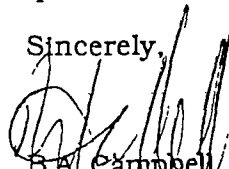
Of special interest is Secretary of Interior Hickel's letter of 08/13/69, which explains that the U.S. Government has no right to regulate a RS2477 R/W. This letter may have ramifications in other areas and other rights-of-way.

It should also be noted that the State issued notices to proceed for road construction prior to the BLM unilateral grant without objection from the BLM.

State employees were assigned to regulate and control this construction which started prior to the BLM unilateral grant.

Any questions should be directed to Deputy Commissioner Dick Chitty or myself, since we were personally involved in this whole process.

Sincerely,



B.A. Campbell
Commissioner

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Chronological Index of Enclosed Letters

<u>Date</u>	<u>To</u>	<u>From</u>	<u>Subject</u>
01/23/69		Federal Register V 34; No. 15; Page 1025	Public Land Order 4582 (Signed 01/17/69)
03/12/69	G.L. Steen Commissioner	R.C. Krumm Bureau of Land Mgmt.	ROW Notation outside of Arctic Corridor
06/23/69	Burton W. Silcock Bureau of Land Mgmt.	H.D. Scougal Acting Commissioner	Request for modification of PLO 4582 under RS 2477
07/22/69	Burton W. Silcock Bureau of Land Mgmt.	Robert L. Beardsley Commissioner	Request for Action on June 23 letter
07/25/69	Robert L. Beardsley Commissioner	Acting State Director Bureau of Land Mgmt.	Request for further information on June 23 letter.
08/13/69	Wayne N. Aspinal Chairman	Walter J. Hickel Secretary of Interior	Notification of Approval to modify Public Land Order 4582 as requested.
04/03/70	Walter J. Hickel Secretary of Interior	Keith Miller Governor	Permanent Highway to North Slope Authorization
04/07/70	Burton W. Silcock Bureau of Land Mgmt.	Robert L. Beardsley Commissioner	Notification of Enforcement /Inspection of Environmental Stipulations Intention
01/12/71	Director	S.D., Alaska U.S. Government	Highway, Yukon River to Prudhoe Bay: Request for RS 2477 ROW
07/29/71	Charles Matlock Deputy Commissioner	Dick Chitty ROW Director	Trip Report: Yukon River Bridge and ROW Application Filed
09/13/72	Curtis V. McVee Bureau of Land Mgmt.	B.A. Campbell Commissioner	Yukon-Prudhoe Highway & Yukon River Bridge
09/19/72	B.A. Campbell Commissioner	Mr. Thompson Bureau of Land Mgmt.	Modification of PLO 3250 (needed for modification of PLO 4582).
10/10/72	Curtis V. McVee Bureau of Land Mgmt.	B.A. Campbell Commissioner	Chronological history of state utilizing RS 2477 since 1970..
11/16/72	State of Alaska Dept. of Highways	J.A. Hagans Bureau of Land Mgmt.	Notification of authorization for Livengood-Prudhoe Bay road.
02/09/73		Federal Reporter 479 F.2d 842 (1973)	Wilderness Society v. Morton
03/22/73	Curtis V. McVee Bureau of Land Mgmt.	B.A. Campbell Commissioner	Request for Status on PLO 5150.
03/29/73	John Havelock Dept. of Law	Dick Chitty ROW Director	Original Formal Application Date of 01/08/71.
08/24/73	Curtis V. McVee Bureau of Land Mgmt.	B.A. Campbell Commissioner	Formal notice of intent to construct the bridge and highway within existing ROW.
03/06/74	Chuck Champion Pipeline Coordinator	B.A. Campbell Commissioner	Alyeska notice to proceed on Yukon River
03/13/74	Frank Therrell Alyeska Pipeline	B.A. Campbell Commissioner	Notice to proceed acknowledged; access roads on Federal lands been filed w/BLM
03/14/74	Frank Therrell Alyeska Pipeline	B.A. Campbell Commissioner	Design approval Yukon River to Prudhoe Bay state highway.
03/22/74	Charles Champion Pipeline Coordinator	R.D. Shumway State Const. Engineer	North Slope Haul Road Manning w/Form Ltr to project engineers
03/27/74	Diary Log (File)	B.A. Campbell Commissioner	Conversation with Mr. Moses of the DOI regarding ROW Grant.
04/01/74	C. A. Champion Pipeline Coordinator	B.A. Campbell Commissioner	Assignment of Highway's Employees
04/01/74	William A. Egan Governor	A.P. Rollins, Jr. Dept. of Interior	Proposed Highway ROW grant and Airport Lease.
04/03/74	C.A. Champion Pipeline Coordinator	Moris J. Turner Pipeline Office Rep.	Construction Spec for Yukon-Prudhoe Hwy
04/04/74			North Slope Road Surveillance Meeting Agenda
04/08/74	A.P. Rollins, Jr. Dept. of Interior	B.A. Campbell Commissioner	Re: 04/01 letter to Egan, no ROW permit is needed due to circuit court's decision.
04/09/74	B.A. Campbell Commissioner	C.A. Champion Pipeline Coordinator	Request for Const. Spec. Yukon - Prudhoe Hwy
04/09/74	Morris Turner AK Pipeline Office, DOI	C.A. Champion SOA Pipeline Coord.	Copies of Notice to Proceed (Yukon - Prudhoe Hwy)
05/02/74	B.A. Campbell Commissioner	Acting State Director Bureau of Land Mgmt.	Grant of ROW for Public Road, Yukon to Prudhoe Bay.

05/03/74	B.A. Campbell Commissioner	Norman C. Gorsuch Dept. of Law	Grant of ROW for Yukon to Prudhoe Bay
05/03/74	Curtis V. McVee Bureau of Land Mgmt.	B.A. Campbell Commissioner	Unsent letter acknowledging receipt of ROW grant.
05/08/74	Curtis V. McVee Bureau of Land Mgmt.	B.A. Campbell Commissioner	Unilateral grant in no way diminishes DOT right to construction under RS 2477.
05/22/74	Frank Therrell Alyeska Pipeline	B.A. Campbell Commissioner	Notice to Proceed w/const. of 3 bridges w/in Segment #3 of Yukon River-Prudhoe Bay
05/27/74	File	Gordon Tyree Field Surveillance	State Hwy Const between Station 880+00 and 920+00, South of Prospect Creek
06/10/74	AK DOH & Alyeska Pipeline Service Co.	A.P. Rollins Pipeline Office, DOI	Authorities of the Federal Authorized Officer's Field Representatives (AOFRs)
06/14/74	A.P. Rollins Pipeline Office, DOI	B.A. Campbell Commissioner	Authorities of the Federal Authorized Officer's Field Representatives
10/17/74	Woodrow Johansen DOH, Interior Dist.	H.D. Hermanson Michael Baker, Jr., Inc.	Commend Dept on choice of Project Engineers assigned to Seg. 4 & Seg. T
10/30/74	A.P. Rollins APO	B.A. Campbell Commissioner	Report of Phone Conversation re: Surveillance; access to haul road
01/23/75	A.P. Rollins APO	Walter Parker Commissioner	Alyeska has power to control traffic on highway from Yukon River to Prudhoe Bay
10/07/75	Authorized Officer APO	Carl Johnson District Manager	Request for "as built" drawings for the haul road.
10/13/75	R.H. LeDosquet Bureau of Land Mgmt.	Woodrow Johansen Dept. of Highways	ROW Grant South of Yukon River to Prudhoe Bay
10/20/75	Woodrow Johansen Dept. of Highways	R.H. LeDosquet Bureau of Land Mgmt.	Request for "as built" drawings, with specific locations, dimensions and reasons.
10/27/75	Curtis V. McVee Bureau of Land Mgmt.	Woodrow Johansen Dept. of Highways	"As Built" drawings will be sent as soon as highway is completed by contractor.
09/07/76	Robert LeResche Dir of Policy Dev & Plg	Avrum Gross, Attorney General	North Slope Haul Road - Analysis of Legal Constraints on differing management
11/21/78	Woodrow Johansen Dept. of Highways	R.D. Boorman Alyeska Pipeline	"As Built" drawings submission to Department of Highways.
04/25/80	Carol Curtis Bureau of Land Mgmt.	Evolyn Melville DOT&PF	"As Built" drawings submission to Bureau of Land Management
01/09/81	Lynn Harnish SOA Pipeline Coord.	Mary Greene Assistant AG	State Authority to Permit NW Activities on the Haul Road ROW
01/14/81	Lynn Harnish SOA Pipeline Coord.	Mary Greene Assistant AG	Extent of State Permitting authority on Haul Road ROW (Supplement)
05/27/81	File	Mary Greene Assistant AG	Haul Road (Dalton Highway) ROW