

**Hot Springs Landing to Eureka FAS-6804**  
**Right of Way Evaluation**

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**General History:**

According to the DOT&PF 1988 Environmental Assessment for the "Elliott Highway - Dalton West" project:

"The Elliott Highway was originally an old mining trail. Started in 1906 as a summer wagon trail between Fox and Olnes, it was extended to Livengood in 1915. There was another mining trail between Manley Hot Springs and Eureka; access to this trail was provided via the Tanana River. In 1959 these two roads were linked together and were one segment of long range plans to connect Fairbanks and Nome via an overland transportation corridor."

The Dictionary of Alaska Place Names states that prior to 1957, the official name for Manley Hot Springs was simply "Hot Springs". It was served by a road from Hot Springs Landing which was established on the right bank of the Tanana River in 1902.

References to the *Hot Springs Landing to Eureka* road date back to the 1908 Report of the Board of Road Commissioners for Alaska. Excerpts from the annual Alaska Road Commission reports are as follows:

1912: "*Route 30 - Hot Springs - Eureka Road (30 miles)*. - The work of the past year on this route was the construction of a bridge across Baker Creek, a stream that it was previously necessary to ford."

1913 (p.26): "*Route 30 - Hot Springs Landing - Eureka Road (32 miles)*. - The section 2 miles in length from Hot Springs Landing to Hot Springs is included in this route this year for the first time. It was constructed by private individuals and has previously been maintained by the road-tax funds. It is in very poor condition at present."

1916 (p.14): "*Route 30 - Hot Springs Landing-Eureka Road (32 miles)*. - The greater portion of the year's work was performed on the section from the steamboat landing to Hot Springs and embraced cleaning ditches and filling ruts, replacing corduroy, and repairing bridges and culverts."

1918 (p.15): "*Route 30. Hot Springs Landing-Eureka Creek Road (32 miles)*. - from Hot Springs Landing to Eureka mining district. Work done was chiefly confined to the section between Hot Springs Landing and Hot Springs Station, distance 2 mile. Four bridges were repaired, four new culverts built, 665 feet of corduroy was laid and covered, and 2,100 feet of side ditches were cut. General maintenance work was done on the entire section. During high water in the spring of 1918 the Tanana River overflowed and washed out several bridges."

1919 (p.3881): "*Route 30. Hot Springs Landing-Eureka Road (32 miles)*. - Work was confined to repair of the road from Hot Springs Landing to the town of Hot Springs, which had been badly damaged by overflow from the Tanana River. This section of the road is the most important, as the chief traffic is between the landing and the town."

1921 (p.38): "Route 30. - Hot Springs Landing-Eureka Road .....(24 miles) This road was maintained by the Territory during the summer of 1920. Plans have been made for the rehabilitation of this road with the cooperation of the Territory during the present season."

1922 (p.55): "Route 30 - Hot Springs Landing-Eureka (24 Miles Wagon Road) This is a cooperative project partly supported by Territorial funds....."

(p.58): Summary of "TERRITORIAL PROJECTS" - sub project no. "30\* Hot Springs Landing-Eureka 24 (miles) Wagon Road - \* Cooperative projects with Alaska Road Commission."

(p.62): Territorial Projects description - "Route 30 Hot Springs Landing-Eureka (24 Miles Wagon Road) - Connects the landing on the Tanana River, two miles from Hot Springs, with mining camp of Eureka, passing through Hot Springs....During period July 1st to Oct. 31st, 1921, a new bridge was erected over Baker Creek at Mile 14....Cost of bridge was shared by the Territory to the extent of \$1,000.....Total Territorial expenditures \$1,147.36. A.R.C. expenditures \$5,001.72.

1923 (p.69): "Route 30-Hot Springs Landing-Eureka (24 miles wagon road) This road serves as a means of transporting supplies from the base at Hot Springs Landing on the Tanana River to the town of Hot Springs and the placer mining camps in the vicinity of Eureka. Very substantial improvement and rehabilitation was made on this road during the past season. The road was brushed out for a distance of twenty-two miles, four bridges and twenty-seven culverts were rebuilt, and drainage restored."

1924 (p.103): "Route 30- Hot Springs Landing-Eureka (24 Miles Wagon Road)...This road extends from Hot Springs landing on the Tanana River to the mining camp of Eureka on Eureka Creek. It passes through the town of Hot Springs, 2 miles from the landing. This route together with Route 9, Rampart-Eureka, forms an important portage route between the Tanana and Yukon Rivers, as well as serving an area of placer mines.....Expenditure: Alaska Road Commission...\$696.00.....Territory of Alaska.....\$400.00

1925 (p.83): Territorial Projects - Nenana District "Summary of Expenditures....sub project number 30\*.....Federal - \$916.84.....Territorial - \$850.00.....(\*) Also Territorial Projects."

1926 (p.69): Summary of Expenditures "Sub-Project Number 30....Federal - \$2,973.77.....Territorial - \$4,000.00."

The references to the Hot Springs Landing-Eureka road maintenance and operation continue till the conveyance of the road right of way to Alaska at statehood.

The USDI ARC "Fairbanks District Road List" dated 12/28/51 stated that the "Manley Hot Springs Ldg. - Eureka" was called Route 732 and had a maintained length of 25.7 miles. It also noted the "Manley Hot Springs - Tofty" road as Route 732.1 with a maintained length of 16.5 miles. The 1954 ARC annual report lists Route 732 Manley Hot Springs Landing - Eureka as a 25.7 mile long "Feeder" road and the Manley Hot Springs System as 18.0 miles of "Local Systems" roads.

An ARC document entitled Named Roads - Alaska dated 3/3/55 lists Manley Hot Springs Landing-Eureka

road as Route No. 732 with a length of 25.7 miles and The Manley Hot Springs - Tofty Road as Route 732.1 with a length of 18.0 miles.

### **Title Interest**

Highway rights of way for roads constructed or maintained by the federal government were conveyed to the State of Alaska by the "Omnibus Act" quitclaim deed on June 30, 1959. The deed listed the Elliott highway as Federal Aid Secondary Class "A" Route 680 and described it as follows:

*"From junction with FAP Route 61 (Fairbanks to Fox) and FAS Route 670 (Steese) at Fox approximately 10 miles north of Fairbanks northwesterly through Livengood; thence southwesterly to intersection of FAS Routes 6803 (Eureka Spur) and 6804 (Manley-Tofty); thence northwesterly to the Yukon River and southwesterly to Tanana." (Constructed mileage 106.2 miles; System mileage 201.0. miles)*

The last portion of the FAS 680 describes the proposed road to the village of Tanana that was never constructed and not that the Elliott terminated at the Tanana river at Manley Landing.

The spur to Tanana had been proposed prior to statehood and in fact some of the easements across mining claims had been acquired by the USA/ Bureau of Public Roads, therefore those interests were the ones conveyed by the Omnibus QCD. The State of Alaska, Department of Public Works later received a BLM ROW grant, F 025126 for the proposed project S-0680(9) Eureka to Tanana Highway to cross federal lands. This grant was cancelled on August 16, 1979 as no construction had taken place.

The Omnibus Act QCD also listed the right of way for the "Manley Hot Springs - Tofty, Manley Hot Springs Landing - Eureka" road. This road is noted as Federal Aid Secondary Class "B" Route 6804 and is described as follows:

*"From Manley Hot Springs northeasterly through the Eureka mining area to FAS Route 680 (Elliott Hwy.), with a branch near milepost 1 leading northwesterly to Tofty." (Constructed & System mileage, 43.7 miles)*

The "Omnibus Act" QCD only transferred the federal government's interest to the State of Alaska. These interests were established through several Public Land Orders between 1949 and 1958, acquisition by negotiation, and other territorial and federal legislative acts.

**Public Land Order Rights of Way:** The PLO's established a road classification system and assigned a specific right of way width to each class. The highway rights of way created by the PLO's are considered to be an easement interest and the location is generally fixed and centered on the physical road centerline. The roads were classified as "Through" with a right of way width 150 feet on each side of centerline; "Feeder", 100 feet on each side of centerline; or "Local", 50 feet on each side of centerline. The "Through" and "Feeder" roads were specifically named. Any roads that were unnamed in the PLO but were constructed or maintained by the Alaska Road Commission were classified as "Local". All of these rights of way were subject to prior existing rights. These reservations, primarily mining claim locations and homesteads or allotment entries could preclude the application of the PLO right of way.

On August 10, 1949, PLO 601 named the Elliott Highway as a "Feeder" road subject to a right of way 100 feet on each side of centerline. As the Manley Hot Springs - Eureka road existed as an unnamed isolated road system, it was only subject to a "Local" road right of way of 50 feet on each side of centerline.

October 16, 1951, Secretarial Order No. 2665 upgraded the classification of *Manley Hot Springs to Eureka* section to "Feeder" with a right of way width of 100' on each side of centerline.

This Order created an ambiguity with regard to whether or not the "Feeder" classification included the 2 mile long Manley Landing to Manley Hot Springs section of road. A review of the mileage listed in various reports might indicate an intent that this "Feeder" classification was to include the full length of the Manley Landing to Eureka road that had previously been considered a singular route. However, the plain text of the PLO states that the "Feeder" classification begins at *Manley Hot Springs* and not at the landing. Therefore, the Manley Landing to Manley Hot Springs could only claim 50 feet on each side of centerline by virtue of the PLO "Local" road classification, while the remainder of the road to Eureka was eligible for 100 feet on each side of centerline as a "Feeder" classified route.

This interpretation is consistent with the notations on the design plans for a previous LSR&T project which upgraded the Manley to Manley Landing section. According to the 1978 plans for project G-27009, "Manley Hot Springs to River Landing", a maximum of 50 feet on each side of centerline was claimed.

In the 1956 Alaska Road Commission Report, the Elliott highway is listed as being from Fox to Livengood (68.4 miles). The Manley Hot Springs Landing to Eureka road is listed separately with a constructed mileage of 25.7 miles. In 1959 the Manley road system was connected with the Elliott and became part of the Elliott highway.

### **Territorial Right of Way Legislation**

On May 3, 1917, the Territorial Legislature passed a law to *"provide for the construction, maintenance and protection of public roads, bridges, trails and ferries and property pertaining to public roads in the Territory of Alaska..."* (Ch 36 SLA 1917) This legislation established a Territorial Board of Road Commissioners (not to be confused with the federal Alaska Road Commission) and provided funding for the construction and maintenance of territorial roads.

Section 13 of this Act read as follows: *"The Divisional Commission shall classify all public Territorial roads and trails in the divisions as wagon roads, sled roads, or trails and shall by appropriate signs or notices posted on each public bridge and ferry in the division, prescribe the maximum load which may be hauled thereon. The lawful width of right-of-way of all travelled roads and trails shall be sixty feet."*

This legislation was discussed by the District Court of Alaska, Fourth Division in the June 10, 1938 case entitled *Clark v. Taylor et al.* This case involved a claim of a public road right of way across a mining claim. An attempt was made to claim a 60 foot wide right of way by virtue of the 1917 Territorial legislation. The court ruled *"The 60-foot road width, which is limited by the territorial laws for Alaska to territorial roads built and maintained or built or maintained by the Territorial Board of Road Commissioners, either by itself or in cooperation with the Board of Road Commissioners for Alaska, had no*

*application to the roads and bridges constructed by the Alaska Road Commission"*

According to this decision, before this 60 foot right of way width could apply, it must be shown that the Territory was involved in the construction or maintenance of the road. The ARC reports noted at the beginning of this memo note that Territorial maintenance began in 1920 and that funding and maintenance was shared with the federal ARC from that time on. The Manley Landing to Eureka road clearly would have met the test set out by the Clark v. Taylor court for the application of the 60 foot wide right of way.

### **Right of Way Evaluation**

The federal and territorial laws regarding rights of way could not take effect unless the lands crossed by the road were vacant, unappropriated and unreserved. Therefore, homestead and mineral entries and other types of reservations can prevent the application of these rights of way.

1. Does the date of entry or reservation precede the Summer of 1920? (Ch 36 SLA 1917)

**Yes** - The right of way is limited to a "ditch to ditch" width.

**No** - Go to next step.

2. Does the date of entry or reservation precede August 10, 1949? (PLO 601)

**Yes** - The right of way is limited to a Ch 36 SLA 1917 right of way width of 30 feet on each side of centerline.

**No** - Go to next step.

3. Does the date of entry or reservation precede October 16, 1951? (SO 2665)

**Yes** - The right of way is limited to a PLO 601 "local" road width of 50 feet on each side of centerline.

**No** - Go to next step.

4. **Manley Landing to Manley section:** The right of way is limited to a PLO 601 "local" road width of 50 feet on each side of centerline.

**Manley to Eureka section:** The right of way is limited to a S.O. 2665 "Feeder" road width of 100 feet on each side of centerline.

This will include all ANCSA and DNR lands in both sections as their reservations came long after 1951.

Also, certain properties within the Manley area were subject to specific right of way acquisitions secured in the mid to late 1950's. These properties are subject to the terms of the ROW acquisition documents.