

From: Robert B Murphy [rob_murphy@dot.state.ak.us]
Sent: Friday, January 19, 2007 3:57 PM
To: johnf_bennett@dot.state.ak.us
Subject: RE: 44LD513

Attachments: BPR-BLM.PDF; AG-McGee-PLO601.PDF; BLM-44LD513.PDF; 33LD609.PDF
John,

Here are a couple things I had in files. As near as I can tell rights of way in the Tongass were handled in different ways through the years.

The Bureau of Public Roads established a presence in the Tongass around 1920 – 21 and implemented the Forest Highway Program similar to the Western Federal Lands Division of FHWA , who continues to construct and reconstruct roads here in S.E. The Alaska Road Commission had limited activity in S.E. after 1920. Until about 1950 (I can find you the dates if you'd like) the BPR was a branch of the Dept. of Agriculture and as such probably didn't formalize any of the right-of-way corridors since the Forest Service was also part of the Dept. of Ag. At least I have never been able to find anything of that nature with my inquiries to the USFS. When the BPR was transferred to the Dept of Commerce in 1950-51 we start seeing applications to the BLM under 44LD513 (However this also coincides with the withdrawal of much of the lands along the road system from the Tongass). BLM did generally make specific reservations from the patents for these, even after the routes had been conveyed to the State by the Omnibus Deed. They typically did not make a reservation in patents issued to the State because the roads had already been transferred to the State (as explained to me by BLM).

We also were conveyed several routes where can not identify any formal creation of the right of way. That prompted the request for an opinion from Jack McGee regarding PLO 601 easements over the Tongass I attached.

As a result of all this there has been a great deal of confusion over the years regarding right of way width etc. We've taken the position on the 44LD513 that the right of way maps on file at BLM and in our office showing the right of way location are what was intended to be conveyed to us under the omnibus act and through the omnibus deed and haven't been challenged. I'm really not sure what other position we could reasonably take.

Give a shout if you'd like me to dig further. Have a good weekend.

-Rob

From: John F. Bennett [mailto:johnf_bennett@dot.state.ak.us]
Sent: Thursday, January 18, 2007 2:54 PM
To: Robert B Murphy
Subject: 44LD513

Rob, I was updating my highway ROW paper and remembered something you told me about 44LD513. We have few of them in Northern Region and looking at some old federal opinions, it appears their perspective was that these were for administrative rights of way between federal agencies (kind of like an ILMA) and so couldn't be transferred from the feds to the state. I believe you had mentioned that many of the SE Omnibus Act roads actually were created by 44LD513 through the Forest Service. Is that correct and has anyone ever suggested that the interest in these roads that we received through the QCD was somehow weak or questionable? Thanks in advance. JohnB

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