

MEMORANDUM OF UNDERSTANDING
between
U.S. Department of the Interior
Bureau of Land Management (BLM)

and

State of Alaska
Department of Transportation and Public Facilities (DOTPF)
Northern Regional Office

Concerning:
Transfer of Administration of ANCSA 17(b) Easements

I. Purpose

This Memorandum of Understanding provides procedures for transferring administration of and administering easements reserved under Sec. 17(b) of the Alaska Native Claims Settlement Act (ANCSA).

II. Objective

The objective is to provide for safe and reliable public access to State lands and waters by transferring administration of 17(b) easements from BLM to DOTPF. After coordinating with DOTPF, the BLM has determined that it would be in the best interest of the United States and the public to transfer management to the State agency.

III. Authorities

A. Alaska Native Claims Settlement Act, as amended, at 43 U.S.C. 1616(b) and 43 U.S.C. 1633 authorizes the reservation and management of public easements on lands conveyed to Native regional and village corporations.

B. Federal Land Policy and Management Act of 1976, Sec. 307 (b), 43 U.S.C. 1737 allows the Secretary of the Interior to enter into cooperative agreements involving the management of public lands.

C. Alaska Statutes 19.05.040. establishes the power of the Department of Transportation and Public Facilities to manage land and enter into this agreement.

D. Interior Departmental Manual 601 DM 4, September 11, 1984, establishes procedures for the administration of easements under the jurisdiction of the Department of the Interior. It

provides that an easement reserved pursuant to Section 17(b) of ANCSA shall be administered by the Department of the Interior agency whose land is accessed by the easement. Administration of an easement accessing State lands and not within the boundaries of a Federal Conservation System Unit may be transferred to the State of Alaska, an Alaska Borough or municipal government if the Secretary of the Interior determines that it is in the best interest of the United States or public and is otherwise authorized by law.

IV. Procedures/Responsibilities: The BLM and DOTPF agree to the "transfer of administration." This is the procedure by which the BLM may transfer its responsibility to another Federal agency, a borough, a municipal government, or in this instance, the State of Alaska, DOTPF.

A. The BLM is responsible for the following:

1. Whenever the transfer of administration of an easement accessing State lands or waters is proposed, the BLM District Manager (DM) shall notify the DOTPF and the servient owner(s) not less than 30 days prior to executing the transfer. The notice shall include the easement identification number (EIN), name or location of the State land or water accessed, the servient landowner's name and mailing address, the size, length and acreage of the easement, authorized uses and a map depicting the easement.

2. BLM shall consider all comments submitted by the servient owner(s) prior to the final transfer. The BLM shall adjust the physical location of an easement to rectify a usability problem or to accommodate the servient owner's development of the lands only after the servient owner agrees to the adjustment. Such adjustments shall be reduced to writing and recorded prior to transfer of the easement.

3. The DM shall issue a decision transferring administration of the easement however, the easement holder remains the United States. The BLM remains responsible for assuring the easement is managed in accordance with existing regulations and the Departmental Manual 601. The Alaska State Office, Bureau of Land Management, shall maintain records of all easements.

4. Upon receipt of a decision to return administration of an easement BLM will issue an appealable decision addressing future administration of all or any portion of the easement. If no appeal is filed, the BLM will note the easement records.

Appeals are decided by the Interior Board of Land Appeals (IBLA). Upon receiving a decision from the IBLA, the BLM will notify DOTPF in writing of the IBLA decision. BLM will document the easement file as to the IBLA decision and the easement will be terminated or administered by BLM.

B. The DOTPF is responsible for the following actions:

1. The DOTPF's Chief Right-of-Way Agent in the Northern Region shall maintain necessary maps or other appropriate reference materials which display the location of, and authorized uses for the easement. This information shall be available in the Northern Regional Office of the DOTPF. DOTPF is responsible for making necessary supplemental use information available to the Bureau of Land Management.

2. DOTPF has the right to remove and use vegetal materials and common varieties of soil, sand, gravel, and stone within the easement, at no cost, to the extent necessary for the development or management of the particular easement, except as limited by specific negotiated agreements with the servient owner(s). Vegetal materials and common varieties of soil, sand, gravel, and stone not necessary for the development or management of the particular easement remain the property of the servient owner. However, nothing in this MOU gives or shall be considered to give an easement user the right to appropriate vegetal or mineral materials.

3. DOTPF may contract with private entities to perform functions which may be needed as part of the administration of the easement, including but not limited to the installation of signs, construction and maintenance of sites and litter control.

4. The DOTPF Chief Right-of-Way Agent shall advise the BLM District Manager in writing of the need to return administration of the easement. The DOTPF shall issue a notice of proposed action (transfer of the easement) with a comment period of a minimum of 30 days, to the servient landowner and interested parties supported with documentation that:

a. the easement is no longer necessary for public access or governmental function as described in 43 CFR 2650.4-7(a)(13); or

b. an alternative easement has been offered by the servient landowner; or

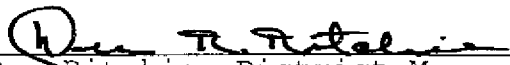
c. that it is no longer in the Department's interest to continue administration of the easement.

Upon completion of the comment period the DOTPF shall make the decision on the disposition of the easement. A copy of the decision to return administration of an easement will be forwarded to the BLM along with all maps or other reference materials that display the location of and the authorized uses for the easement.

VI. Administration


- A. All performance in response to this MOU is subject to the availability of appropriated funds and existing statutory authority.
- B. Nothing in this agreement is to be construed as superseding or usurping existing laws, regulations, or agency responsibilities.
- C. This MOU will be reviewed every five (5) years to determine if changes should be made.
- D. Renegotiation of any part of this MOU may be initiated at any time by any party to this MOU. Changes in the provision of the MOU may be made only if all parties agree to the changes, the changes are put in writing, and added as an addendum to this MOU.
- E. This MOU may be terminated by any of the parties to the agreement upon giving ninety (90) days advance written notice to the other parties, providing that the notice allows sufficient time for an orderly completion of work in progress.
- F. This MOU becomes effective upon the signature of approving officials for both parties.

APPROVED


Dee Ritchie, District Manager
Northern District Office
Bureau of Land Management
U.S. Department of the Interior

Date: 10-22-96

(Sent to John Bennett 10/11/96)


John A. Miller, Chief R/W Agent
Northern Region
Department of Transportation
and Public Facilities
State of Alaska

Date: 10/24/96