

John Bennett

From: Sprout, Timothy L (DOT) <tim.sprout@alaska.gov>
Sent: Monday, October 12, 2020 3:11 PM
To: John Bennett
Subject: FW: Elliott Hwy, ~20 mile, Cushman Creek Material Site, David Gabet

John –

I wondered if you would take a look at this.

A homestead patent at Elliott Highway MP 20 expressly states that the homestead is subject to a material site grant.

The Notice of Location for this homestead appears to predate our BLM material site grant.

The homestead owner contends his homestead is not subject to the material site and is building within the material site.

Should DOT&PF accept the federal decision that the homestead is subject to the material site grant, assuming that the feds had a valid unknown reason to do so?

The homestead owner has retained legal counsel.

Thank you.

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From: Sprout, Timothy L (DOT)
Sent: Tuesday, October 6, 2020 12:48 PM
To: Jordan, Daniel H (DOT) <dan.jordan@alaska.gov>
Cc: Wilson, Kahlil A (DOT) <kahlil.wilson@alaska.gov>; Carter, Garrett D (DOT) <garrett.carter@alaska.gov>; Schacher, Sarah E (DOT) <sarah.schacher@alaska.gov>; Hooper, Barry L (DOT) <barry.hooper@alaska.gov>
Subject: RE: Elliott Hwy, ~20 mile, Cushman Creek Material Site, David Gabet

Dan –

ROWE has adopted a homestead entry date policy as outlined by John Bennett in his Alaska Highway Rights-of-Way and Homestead Entries paper dated 2018. See his summary on page 6 of 54.

Entry on Surveyed lands: segregation from the public domain occurs on the date of the Homestead application filed.

Entry on Un-surveyed lands: segregation from the public domain occurs on the date of the Notice of Location filed.

The Township this homestead lies within was surveyed in 1976.

The BLM ACRES report dated 2020 shows an application filed in 1964, and a second application filed in 1967.

The BLM ACRES report dated 1990 appears to clarify this by identifying the first application filed in 1964 as being a Notice of Location.

This implies that the Homestead had prior entry rights to the BLM Material Site Grant dated 1966.

However, BLM determined at patent that the homestead was expressly subject to the material site grant. It appears that through the years DOT&PF has accepted and perpetuated this assertion. There may be something in the BLM case files that would confirm BLM's assertion. It is not uncommon for the clock to restart in the homestead application process due to non-compliance or other issue.

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From: Jordan, Daniel H (DOT) <dan.jordan@alaska.gov>
Sent: Tuesday, October 6, 2020 11:35 AM
To: Sprout, Timothy L (DOT) <tim.sprout@alaska.gov>
Subject: FW: Elliott Hwy, ~20 mile, Cushman Creek Material Site, David Gabet

From: Schacher, Sarah E (DOT) <sarah.schacher@alaska.gov>
Sent: Tuesday, October 6, 2020 8:48 AM
To: Jordan, Daniel H (DOT) <dan.jordan@alaska.gov>; Wilson, Kahlil A (DOT) <kahlil.wilson@alaska.gov>
Cc: Carter, Garrett D (DOT) <garrett.carter@alaska.gov>; Hooper, Barry L (DOT) <barry.hooper@alaska.gov>
Subject: FW: Elliott Hwy, ~20 mile, Cushman Creek Material Site, David Gabet

Dan, sorry it's taken me so long to get back to you on this. A few questions.

1. What do you view as the next steps to fully assert our claim (or not) that we have rights to the material site? Looks as though you've done some good research, but as with many things title related, it's not super clear. Do we need to get ROWE involved—or what steps/determination can we make to take a position one way or another?
2. Is this shared with Alyeska, and what is their interest in this matter? Have there been communications with them on this?
3. If we opt to "stand down" on the material site issue because ownership/rights are not clear
 - a. Does this mean we don't have rights to the material site, period, or does this mean we just don't have exclusive rights to kick Mr. Gabet out?
 - b. What is within the Elliott Hwy ROW that clearly must be addressed? I'll work on getting a sat photo if possible of this area that may show extents of encroachment.

Thanks for sticking with this, this is a tricky one!

Sarah

From: Carter, Garrett D (DOT) <garrett.carter@alaska.gov>
Sent: Monday, September 14, 2020 9:39 AM
To: Schacher, Sarah E (DOT) <sarah.schacher@alaska.gov>
Subject: FW: Elliott Hwy, ~20 mile, Cushman Creek Material Site, David Gabet

Hey Sarah,

I had typed this email and forgot to press send, opps. Here Dan's summary of the Elliott Hwy, 20 mile, Cushman Creek Material Site. Let me know if you have any questions or comments.

Thanks,
Garrett

From: Jordan, Daniel H (DOT) <dan.jordan@alaska.gov>
Sent: Thursday, September 10, 2020 1:18 PM
To: Carter, Garrett D (DOT) <garrett.carter@alaska.gov>; Eagan, Pete (DOT) <pete.eagan@alaska.gov>
Cc: Rainey, Evan E (DOT) <evan.rainey@alaska.gov>
Subject: Elliott Hwy, ~20 mile, Cushman Creek Material Site, David Gabet

Hello Garrett,
Here's the summary.
- Dan