

## Bennett, John F (DOT)

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**From:** Bennett, John F (DOT)  
**Sent:** Tuesday, July 24, 2012 9:23 AM  
**To:** Haffner, Poke (LAW)  
**Subject:** Taylor Highway Mining Claims  
**Attachments:** 7.20.12 email.pdf; wade miner1.jpg; wade miner2.jpg; draft Taylor ROW Plans.pdf; No 6 & 7 Above - Hart 2012.pdf; No 5 Ab & Fr A - Hart.pdf; C027N020E\_Mineral Estate.pdf; F-54327 No. 6 Ab Abstract.pdf; F-54328 No. 7 Ab Abstract.pdf; F-54304 No. 5 Ab Abstract.pdf; F-54305 Fr A Abstract.pdf; Steese101\_olsen.doc; Steese 101 AGO.pdf; Tofty Road Realign.pdf; Mining-Road Conflicts.doc; Shoreham Deed Tofty Mining Claims.pdf; Tay66 1.pdf; taylor-4f\_eval1.doc

Poke, our active project for this section of the Taylor is called "Taylor Hwy Rehabilitation MP 82-96 (Walker Fork to "Y")" Proj No. STP-0785(17)/62797. Coding would be LC 30847432 CC 24422124.

The first attachments are the M&O email from 7.20.12 and a couple of photos of the mining activities adjacent to the highway. Next are a few draft sheets of our ROW plans. On the first sheet I have highlighted the MP 85. This suggests to me that the next 4 federal mining claims is the problem area. These unpatented claims are currently owned by Ellen Jane Hart. The next two attachments are the deeds by which she gains ownership of the claims. So you can see the big picture, I have attached the DNR mineral estate map. The northeasterly running corridor is the existing road alignment which is excluded from the State selections and is still in federal hands. The red rectangles are the unpatented federal mining claims of which the lowest and furthest to the left is our first "Hart" claim at MP 85.5, the No. 5 Above Lower Discovery claim.

The next 4 attachments are abstracts from the BLM online system for the 4 Hart federal mining claims. The abstracts note a Location date of 7/3/79 but then notes that no location notice was filed on this date. There is also a reference to IBLA 86-1570 regarding claims FF054284 and FF054303 but I have not been able to find any such IBLA decision.

And finally several attachments relating to two prior mining claim issues. One is the Tofty Road/Shoreham Resources. This is where Shoreham held several unpatented federal mining claims on the Tofty road. This is where the claim owner requested permission to relocate the Tofty road and to restore it after mining. They posted a \$15 bond. The information I don't have to compare it with the Taylor claims is information regarding whether the claims were prior existing rights to our PLO right of way for the Tofty road or whether the reverse is true. Tofty is an old mining area with claims going back to the early 1900's so it is likely, if the claims maintained proof of labor, that they were prior existing rights to the PLO ROW which would have come into effect on August 10, 1949 (PLO 601 Local Road withdrawal).

The second example is the Steese MP 101 mining claim issue. This is one we spoke of and I found John Athens letter and responses from the miner's attorney. I found nothing to suggest it went beyond the second letter from the miner's attorney, that is I don't see where they came to us for a permit. In this situation it is not federal mining claim vs PLO ROW but federal mining claim vs. BLM ROW Grant. I believe John A. asserted a public prescriptive easement and that the claim owner was on notice of the public's rights when they received title to the claims.

Next, I'm going to respond to M&O that we are looking into the issue and see if they can verify who the claim owner/operator is. I'm also interested in what that IBLA case might have been about and will send someone over to BLM to check although you might want to run through your online resources to see if you can find any reference to it. We maybe have two ways to go with this. One presumes that the mining claim predates our PLO ROW. In that case I suspect we can only pursue protection of the highway by asserting a claim of a public prescriptive easement for the existing road footprint (even though that appears to have been somewhat modified over time). Second I will pursue running title on these claims to see if the location and proof of labor has been continuous since pre-PLO days or if it was broken and re-located post PLO days. The last two attachments are evaluations of existing ROW I did several years back for the Taylor highway projects.

I have given you a lot to digest but I had better hit the send button before I add any more. JohnB

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