

From: Bennett, John F (DOT)
To: [Eagan, Pete \(DOT\)](#); [Haffner, Poke \(LAW\)](#)
Subject: FW: Another view
Date: Wednesday, July 10, 2013 8:13:00 AM
Attachments: [Way in our right of way.msg](#)

Poke, I haven't checked to see if you see if you are back in the office. Hope everything went well and you are once again leaping tall buildings with a single bound! Our Taylor highway mining issue is starting to heat up. While you were out we met with the BLM area manager for the Taylor Highway and were informed that BLM is closely reviewing the title issues that we dredged up because they noted that if the Taylor highway ROW is validly based on PLO 601, that particular PLO closed the 200' highway corridor to all forms of entry including mining. So BLM may be looking at voiding the portion of the claims within the 200' ROW. And then they said that as the claims cannot be bifurcated, the miner would have to choose which portion of the claim to retain if the claim straddled the highway ROW. They would only be able to claim on one side of the highway ROW. They said their mining law adjudicator and solicitors would be reviewing all of this because they recognize that it will directly impact several miners on Jack Wade and would expect a political firestorm to result. I just sent them another email today asking for an update.

Meanwhile Pete and Jason had another conversation with Mr. Kuzmin and were in the process of drafting a permit when we received the attached email two photos showing Kuzmin's operation as of the last couple of days. Jason drafted a proposed typical section (attached) for inclusion in the permit. As you can see from the typical and the photos it would serve to push Kuzmin's operation quite a bit further away from the road. In the event he doesn't understand or accept our direction my question to you is what legal action we can take to enforce our guidelines.

I'm not sure what other assignments you might have on your desk right now but as we talked about the title issues it seemed appropriate for you to continue this assignment. Let me know if you are already booked. Thanks, JohnB

Pete, I see in Jason's text below that he has not yet seen the draft permit from you. Please make this your number 1 priority. JohnB

-----Original Message-----

From: Miller, David J (DOT)
Sent: Wednesday, July 10, 2013 7:40 AM
To: Sakalaskas, Jason (DOT)
Cc: Bennett, John F (DOT); Potter, Steve B (DOT); Bishop, Dennis R (DOT); Sakalaskas, Jason (DOT); Titus, James Stephen (DOT)
Subject: Re: Another view

John,

Can you vet this and get it ready for delivery to the miner? This needs to be done as soon as possible as he is chewing away more and more of our road support. Is first thing tomorrow unreasonable so it can be delivered then?

David Miller
Director Maintenance and Operations, Northern Region

On Jul 10, 2013, at 7:21 AM, "Sakalaskas, Jason (DOT)" <jason.sakalaskas@alaska.gov> wrote:

> Although I can't specifically speak to our "rights" in our ROW and I will leave that to John B. I would propose using the attached typical section in order put something in writing to the miner. Due to the operations at this site I believe the listed set backs are necessary to protect our roadway as we will not be able to monitor his activities every day.

>

> With regards to a permit which is issued from ROW for these kind of activities I would suggest attaching this typical to the "permit" and then adding any additional comments within the body of the

permit if needed. I thought I would have saw a draft permit by now but I have not gotten on yet.

>

> I am currently heading up the Steese Highway for another project review that is necessary so please let me know if work ASAP if you could.

>

> If this typical is agreed upon by everyone I believe we should stake these limits and take a few more pictures which show the stakes. This will clearly identify the permitted area and if it is disturbed we can then take proper recourse later as recommended by John B. or others.

>

> Thanks Jason

>

> -----Original Message-----

> From: Miller, David J (DOT)

> Sent: Tuesday, July 09, 2013 7:06 PM

> To: Sakalaskas, Jason (DOT); Bennett, John F (DOT)

> Cc: Titus, James Stephen (DOT); Potter, Steve B (DOT); Bishop, Dennis R (DOT)

> Subject: Another view

>

> The entire excavator is probably in our ROW.

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> <Taylor Highway MP 87 Proposed Mining Typical Section for Access Permit 7-10-13.pdf>