

Michal \*

Re: Taylor Highway/Mining claim F\*\* conflict

Dear Mr. \*:

The Alaska Department of Transportation and Public Facilities (DOT) has become aware that you are conducting mining activities at Mile 87 of the Taylor Highway, that you are removing material along the edge of travel of the highway, and DOT has been informed that you intend to mine the area on which the road currently runs.

We remind you that you have no authorization or permit from the State of Alaska Department of Transportation and Public Facilities (DOT/PF) to encroach within the Taylor Highway right-of-way. Mining activity within the right-of-way is unlawful under AS 19.25.200 et seq. Destruction or damage to the highway facility may also be a violation of AS 28.35.140 (unlawful obstruction or blocking of traffic) and AS 11.46.482 (criminal mischief in the third degree).

The State of Alaska asserts that its rights to the highway right-of-way where it crosses your mining claim F\*\* are paramount to your mining claim. We understand that you may have a valid mining claim that was located prior to the 1949 withdrawal of land for the Tok-Eagle Road, which became the Taylor Highway. However, the construction of the Taylor Highway completed in 1951-52 across the claim that you have recently acquired constituted a state assertion of possessory rights to the land, over all claimants, except for the federal government. Further, when you took title to F\*\* in \*\*\*\*, you took it with the knowledge that the Taylor Highway crosses the mining claim. It is now too late to assert that your interest in F\*\* is paramount to the right-of-way. The statute of limitations, the doctrine of prescriptive rights, and the principles of estoppel and laches all operate to foreclose at this late date any assertion by the owner of F\*\* of rights superior to the Taylor Highway right-of-way.

The federally-granted easement for the Taylor Highway extends 100 feet on each side of the centerline of the road, for a width of 200 feet.