

## Bennett, John F (DOT)

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**From:** Bennett, John F (DOT)  
**Sent:** Monday, April 02, 2012 3:52 PM  
**To:** Sorensen, Kevin L (DNR); Eagan, Pete (DOT)  
**Cc:** Schade, David W (DNR); Ogan, William S (DNR); Clusiau, Stephanie J (DNR)  
**Subject:** RE: Chitina Cemetery Road

Kevin, nothing is quite clear about title and boundary issues in Chitina. I often refer to Nome, Cordova and Chitina as the three primary title armpits in our Northern Region. The stretch of road through Chitina has been subject to condemnations for title clearing purposes and private quiet title actions and all seemingly to little avail. I believe we have a letter in our files from the 1970's in which representatives of the Kennicott Copper Corp admitted that they now realize that they had erroneously conveyed a number of the same lots within the Chitina Townsite to multiple people. I'm not sure if I can make things any clearer but I can tell you what we think is going on from the DOT perspective.

1. You noted that the old railroad ROW and adjacent ROW was dedicated to the public as a part of the Chitina Townsite plat. This is not completely accurate. See the attachment titled "Chitina Townsite Dedication.pdf. In this I have highlighted a portion of the plat dedication certificate. You are correct that the streets and alleys were dedicated to the public much like any other townsite or subdivision plat. But the certificate excludes from the public dedication any part of the railroad right of way. So the mainline ROW and station grounds passing through the Chitina townsite would not be considered a part of the public ROW.
2. From statehood to about 2002 DOT always asserted that the state had received the full 200' wide mainline railroad ROW that was granted for the Copper River Railroad by the federal government. This is why in the 1970 Chitina East highway project (see attached), the existing rail ROW (crosshatched) is shown as 200' wide and doesn't include the additional northerly 50' that was a part of the station grounds. The problem was that while the ROW was relinquished to the feds in 1945 with the intention that it be used to the extent possible for a transportation corridor, there wasn't a clear congressional action or conveyance that made it so. You will note that this plan indicates the 50' gap between the 200' ROW and the southerly boundary of Block D. In 2002 we commissioned an AGO opinion (attached) and the result was that for the section of rail corridor from Chitina to McCarthy, we only received what the Public Land Orders provided for highway ROW. As the McCarthy road was not specifically named as a "feeder" or "through" road it was considered a "Local" road subject to a ROW of only 100' wide as opposed to the initial 200' wide ROW corridor granted to the railroad. As the Chitina East project realigned the road up to the Copper River bridge and acquired new ROW for it, the AGO opinion essentially covers the stretch from the east side of the Copper River to McCarthy.
3. The rest of the Copper River Highway south of the Chitina Townsite was specifically named in the PLO's as a "Through" road subject to a 300' wide easement which was supported in a 1992 Summary Judgment (attached) in a trespass case with Ahtna.
4. So there still is some fuzziness regarding the status of the ROW running through the Chitina Townsite but so far we have maintained our assertion as shown in our 1970 project plans.
5. Pete Eagan related to me that when this particular gate became an issue a couple of years ago, he requested that our M&O folks measure its offset from the road centerline to determine if it was an encroachment. They came back that it was about 98' out. Given the ambiguities of Chitina titles and boundaries as well as the measurement skills of our M&O staff, we would not generally go to the mat and require the gate be moved a couple feet further out. It wouldn't change the access situation and after spending a ton of money, we might even find that we made the wrong call.
6. If the RST assertion is supported on appeal, then that will be the primary basis for removal of the gate, but at this point I don't it would be a wise use of state resources to attempt to remove it as an encroachment.

Let me know if you have any other questions. JohnB

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**From:** Sorensen, Kevin L (DNR)  
**Sent:** Thursday, March 29, 2012 4:14 PM  
**To:** Bennett, John F (DOT)  
**Cc:** Clusiau, Stephanie J (DNR); Schade, David W (DNR); Ogan, William S (DNR)  
**Subject:** Chitina Cemetery Road

John,

I am forwarding to you information relative to a gate on the Chitina Cemetery Road that appears to be in the right of way. The Chitina Cemetery Road starts at the McCarthy Road immediately before the old railroad tunnel at Chitina. At that point there is the old railroad right of way and an adjacent right of way that was dedicated to the public as a part of the Chitina Township plat. From the constructed McCarthy Road the Chitina Cemetery Road runs perpendicular through Block D of the Chitina Townsite. The current blockage appears to be in the right of way before the Chitina Cemetery Road enters Block D. You will note a discrepancy between the two versions of the Chitina Townsite. The copy from the recorder's office shows the bunkhouse clearly in the right of way. The other version shows a rogue unidentified lot encompassing the bunkhouse. The record of survey and the railroad switchback conform with the recording office copy. Based on that version the overlays show the bunkhouse virtually entirely in the right of way. That is significant because the gate is located approximately the same distance from the McCarthy Road centerline as the front of the bunkhouse.

If you have any questions please don't hesitate to call.

<< File: Chitina Record of Survey page 2 of 5.pdf >> << File: Chitina Townsite Plat page 1.pdf >> << File: Historic Sites 1974 Aerial Photo.pdf >> << File: Chhitina Townsite plat from Rcorders Office.pdf >> << File: Chitina 1974 Aerial with Overlay enlarged.png >> << File: The Switchback.pdf