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474-2413

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Lounsbury v. Bloom
4FA-90-192 Civil
Ester Dome Road ROW

In general, we claim that Ester Dome road has a 100 foot wide right of way, 50 feet on each side of centerline by virtue of Public Land Order 601.

PLO 601 dated August 16, 1949 established the majority of the highway rights of way now managed by DOT&PF. PLO 601 reserved public lands for highway purposes "subject to valid existing rights and to existing surveys and withdrawals for other than highway purposes". Roads were classified as "Through" with a right of way of 150 feet on each side of centerline, "Feeder" with a right of way of 100 feet on each side of centerline, and "Local" with a right of way of 50 feet on each side of centerline. The roads classified as "Through" or "Feeder" roads were specifically named in PLO 601. However, "Local Roads" were defined as "All roads not classified above as Through Roads or Feeder Roads, established or maintained under the jurisdiction of the Secretary of the Interior." Therefore, Ester Dome Road would be classified as a "Local" road with a total right of way width of 100 feet subject to any valid existing rights.

Our historical database of Alaska Road Commission Reports, Federal Records Center documents, and Rasmussen Library documents lists 53 references for Ester Dome Road with the earliest being 1928-1929. (See attached)

The Omnibus Act Quitclaim Deed lists "Ester Dome Road-St. Patrick's Goldstream" as Federal Aid Secondary Class "B" Route 6491. The description is "From FAP 37 (Old Nenana Highway) branching north and west through the Ester Dome mining area. The north branch loops northeasterly to FAS Route 651. (Sheep Creek Road)".

PLO 601 was subsequently amended and modified by PLO 757, SO 2665, and PLO 1613. The effect of SO 2665 with respect to Ester Dome Road was essentially to change the status of the right of way from a withdrawal of public lands to an easement across public lands. PLO 1613 was a revocation of PLO's 601 and 757 insofar as the "Through" roads named in the two prior orders were concerned. The lands were reclassified from withdrawals (reservations) to easements, and easements for those roads were established at 300 foot widths. I do not believe it had any effect on "Local" roads.

I can only assume that the reason PLO 1613 is labeled on the plat of Ester Dome Road is due to the fact that it was the most recent of various modifications to PLO 601. I believe that it would be more appropriate to list PLO 601 as the order which created the right of way for Ester Dome Road. As the

road had long been in existence, the right of way of 50 feet on each side of centerline would have been established on the date that PLO 601 became effective if the lands crossed by the road were not already reserved or withdrawn.

I will be on vacation during the week of August 26. Should you have any further questions, I'll be able to get to them as soon as I get back.

attachments: as stated