

Fairbanks 024453

4-1040
(October 1955)

FAIRBANKS
Serial No. 62-1222

The United States of America,

To all to whom these presents shall come, Greeting:

WHEREAS, a certificate of the Land Office at Fairbanks, Alaska, is now deposited in the Bureau of Land Management, whereby it appears that pursuant to Section 10 of the Act of Congress of May 14, 1898 (30 Stat. 413), the claim of the Alaska Ski Corporation, has been established and that the requirements of law pertaining to the claim have been met for land embraced in U.S. Survey No. 4004, situated at Ester Dome Summit approximately 14 miles northwest of Fairbanks, Alaska.

The area described contains 80.00 acres, according to the Official Plat of the Survey of the said Land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, DOES HEREBY GRANT unto the said Alaska Ski Corporation, and to its successors, the tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said Alaska Ski Corporation and to its successors and assigns forever.

Subject to any vested and accrued water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; and there is reserved from the lands hereby granted, a right-of-way thereon for ditches or canals constructed by the authority of the United States.

There is, also, reserved to the United States a right-of-way for the construction of railroads, telegraph and telephone lines in accordance with the Act of March 12, 1914 (38 Stat. 305).

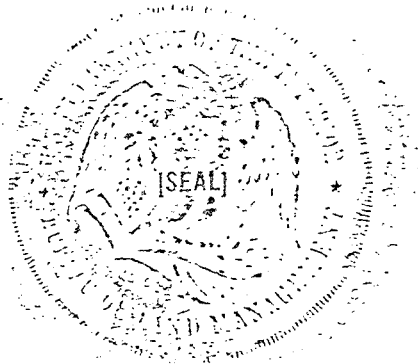
IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat., 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in the District of Columbia, the FOURTEENTH day of DECEMBER in the year of our Lord one thousand nine hundred and SIXTY-ONE and of the Independence of the United States the one hundred and EIGHTY-SIXTH.

For the Director, Bureau of Land Management.

By Reith W. Tackley
Chief, Patents Section.

FILED
FAIRBANKS RECORDING DISTRICT
Date JAN 31 1962 Time 3:53 P.M.
Requested by TITLE INS. & TRUST CO.
Address P.O. BOX 154
FAIRBANKS, ALASKA



CO. Patent Number 1224489

aka Ski Corp.
6700 1st Ave

QUITCLAIM DEED

BOOK 391 PAGE 12
Juneau Recording District

KNOW ALL MEN BY THESE PRESENTS that the Secretary of Commerce, United States Department of Commerce, Grantor, under and pursuant to the authority contained in Section 21 of the Act approved by the President on June 25, 1959 (73 Stat. 141), does hereby devise, release, and quitclaim unto the State of Alaska, Grantee, its successors and assigns, subject to the condition set forth below, all rights, title, and interest of the Department of Commerce in and to all of the real properties listed in Schedules A, B, and C, attached hereto and made parts hereof, which properties are now owned, held, administered, or used by the Department of Commerce in connection with the activities of the Bureau of Public Roads in Alaska, and which said Schedules are more fully identified as follows:

Schedule A--Highways, consisting of 60 pages.

Schedule B--Improved Real Property, consisting of 54 pages.

Schedule C--Unimproved Real Property, consisting of 62 pages.

TO HAVE AND TO HOLD the premises, together with all the hereditaments and appurtenances thereunto belonging or in any wise appertaining unto the said Grantee, its successors and assigns, forever, subject, however, to the condition that if the said Grantor or the head of any other Federal agency determines and publishes notice thereof in the Federal Register within 120 days next following the date of this deed that all or any part of the above premises or any interests therein are needed for continued retention in Federal ownership for purposes other than or in addition to road purposes, the Grantor may enter and terminate the estate hereby quitclaimed in those portions of the premises concerning which said determinations are made, by notifying the Governor of the State of Alaska of such termination by registered letter or letters mailed within one year next following the date of this deed. By acceptance of this deed, the Grantee agrees to the above condition without waiving any rights it may otherwise have to refer any dispute to the Claims Commission authorized by Section 46 of the Act approved by the President on June 25, 1959 (73 Stat. 141).

IN WITNESS WHEREOF the Grantor has hereunto set his hand and seal

this 30th day of June 1959.

Frederic H. [Signature]
ACTING Secretary of Commerce

UNITED STATES OF AMERICA)
DISTRICT OF COLUMBIA

I, E. A. Greacy, a Notary Public in and for the District of Columbia, do hereby certify that on this 30th day of June, 1959, before me personally appeared Fredrick H. Mullin, being to me personally well known and known by me to be the Acting Secretary of Commerce, and acknowledged that the foregoing instrument bearing date of June 30, 1959, was executed by him in his official capacity and by authority in him vested by law, for the purposes and intents in said instrument described and set forth, and acknowledged the same to be his free act and deed as Acting Secretary of Commerce.

Witness my hand and seal this 30th day of June, 1959.

E. A. Greacy
Notary Public

My commission expires 1-14-61.



The foregoing property is hereby accepted by the State of Alaska,

through its Governor, Honorable William A. Egan, State of Alaska

William A. Egan

STATE OF ALASKA

I, Hugh J. Wade, a Notary Public in and for the said State, hereby certify that W. A. Egan, whose name as Governor is signed to the foregoing conveyance and who is known to me, acknowledged before me on this day that, being informed of the contents of the conveyance, he, in his capacity as such Governor of Alaska, executed the same voluntarily on this day.

Given under my hand and seal of office this 2nd day of July, 1959.

Hugh J. Wade
Notary Public

(SEAL)

My commission expires 4/23/63.

RECORDED - FILED
REC. DIST:
DATE 7-2-59 1959
TIME 3:11 P.M.
Requested by Sec of State
Address

SCHEDULE A

HIGHWAYS

REGION 10

BUREAU OF PUBLIC ROADS

1503
14

STATE OF ALASKA

APPROVED FEDERAL-AID SYSTEM

Primary
Secondary "A"
Secondary "B"

July 1, 1959

ALASKA FEDERAL-AID NUMBERING SYSTEM

Primary System

Federal-Aid Primary Route numbers have been established as follows:

1. The primary system established consists of the principal highways, either existing or scheduled for early contract construction, and a projected ferry and highway system through the southeastern section.
2. Projected expansions of the system generally will be constructed and maintained as secondary roads until traffic volume dictates reclassification to a Primary Route.
3. Beginning in the southwest portion of the State, south-north routes were given odd numbers and west-east routes were given even numbers.

Secondary System

The Secondary System established consists of two classifications identified as follows:

Class "A" - Principal secondary roads serving as main arteries and requiring improvements within the foreseeable future.

Class "B" - Secondary roads of the type normally constructed and maintained by states or counties.

For ease in geographical location and assignment of secondary route numbers, the State has been divided into 9 zones, identified on a marked Alaska map E.

Class "A" routes were assigned 3-digit numbers, the first digit indicating the zone location. Odd numbers were assigned to south-north routes and even numbers to west-east routes.

Class "B" routes were assigned 4-digit numbers, the first digit indicating the zone location. South-north routes were assigned odd numbers; west-east routes assigned even numbers. A zero as the last digit indicates an isolated route not connected to any principal system.

As in the primary system, low numbers were assigned to the southern and western areas of each zone, progressing to the higher numbers in the northern and eastern areas.

STATE ALASKA

FEDERAL-AID PRIMARY HIGHWAY SYSTEM
AS APPROVED FEBRUARY 26, 1957
AND SUBSEQUENTLY AMENDED

FAP Route Number	Description
11	From Kodiak Naval Air Station through Kodiak to the Coast Guard LORAN Station.
21	From the port of Homer via Ninilchik, Soldotna and Coopers Landing to FAP Route 31, and a spur from Soldotna through Kenai to Wildwood Station.
31	From the port of Seward via Moose Pass, Portage, Girdwood and Anchorage to Elmendorf Air Force Base, with a spur to Anchorage International Airport.
35	From FAP Route 42 at Palmer through Wasilla, Willow and Talkeetna to FAP Route 52 at Cantwell with spurs to Talkeetna and Summit Airfields.
37	From the junction of FAP Routes 61 and 62 at Fairbanks via Ester and Nenana to FAP Route 52 at McKinley Park Station with a spur to FAP Route 62, International Airport Spur.
42	From FAP Route 31 Spur at Anchorage International Airport via Spenard and Palmer to FAP Route 71 at Glennallen.
46	From FAP Route 71 at Gulikana Junction to FAP Route 62 at Tok Junction.

FAP Route Number	Description
52	From FAP Route 71 at Foxson via Cantwell through Mt. McKinley National Park to North Park Boundary.
61	From the junction of FAP Routes 37 and 62 at Fairbanks to Fox.
62	From the Alaska-Canada Border via Tok Junction and Big Delta to the junction of FAP Routes 37 and 61 at Fairbanks, with a spur to Fairbanks International Airport.
71	From the port of Valdez to FAP Route 62 at Big Delta Junction.
95	From Ketchikan via land and ferry routes through Wrangell, Petersburg, Juneau and Haines to the Alaska-Canada Border, with a spur from Haines to Lutak Inlet, a spur from Juneau to Douglas, and a spur to Juneau Airport.
97	From Haines to Skagway.

CO. 391 PAGE 30
Anchorage Recording District

BOOK 235 PAGE 191
Fairbanks Recording District

Federal-aid Secondary Class "A" Routes

17

FAS Route No.	Description	Highway District No.	Constructed Mileage	System Mileage
620	From a point on FAP Route 62 approximately 5 miles east of Fairbanks northerly toward Chena River; thence north-easterly to Thirty Mile Slough; thence southeasterly along Thirty Mile Slough to FAP Route 62 at North Pole	20	12.1	12.1
624	From a point on FAS Route 671 (intersection of Illinois Street and Minnie Street) southeasterly via Minnie Street and Third Street to west boundary of Ladd Air Force Base; thence northwesterly to FAP Route 61, with a spur to Bentley Island	20	2.8	2.8
640	From a point on FAP Route 37 approximately 3.3 miles northwest of Fairbanks, a loop circling a portion of the University Campus	20	0.6	0.6
644	From a point on FAP Route 37 just west of FAP Route 37 Spur (University Avenue) intersection northerly 1.5 miles; thence easterly 5.5 miles; thence southerly 2 miles to FAP Route 61 intersection approximately 2 miles northeast of Fairbanks	20	9.0	9.0
645	From a point on FAP Route 37 at University of Alaska Experimental Farm southwesterly 5.7 miles, northwesterly 2.0 miles and northeasterly 5 miles to FAS Route 645 approximately 1.8 miles south of FAP Route 37 inter-section to complete a loop (CHENA RIDGE ROAD)	20	13.8	13.8
650	From a point on FAP Route 61 approximately 4 miles north-east of Fairbanks easterly and northerly to Chena Hot Springs	20	20.2	62.2

BOOK 391 PAGE 31
Anchorage Recording District

BOOK 235 PAGE 192
Fairbanks Recording District

Federal-aid Secondary Class "A" Routes

18
11

FAS Route No.	Description	Highway District No.	Constructed Mileage	System Mileage
651	From a point on FAP Route 37 approximately 0.6 miles northwest of intersection of FAS Route 645 northwesterly to junction with FAS Route 6491; thence northerly to the junction of Sheep, Moose and Goldstream Creeks (SHEEP CREEK ROAD)	20	5.5	5.5
661	From FAP Route 62 Spur at FAP Route 37 Spur intersection south 0.75 miles; thence east 1 mile to FAS Route 665	20	1.8	1.8
665	From a point on FAP Route 62 Spur approximately 1.8 miles west of FAS Route 671 intersection in South Fairbanks; thence south 1.75 miles; thence east 2 miles; thence northwesterly to junction with FAS Route 671 at Fairbanks South City limits with "Y" connection to FAP Route 62	20	4.5	4.5
668	From FAS Route 670 at Central southeasterly to Circle Hot Springs	20	8.3	8.3
670	From junction with FAS Route 680 at Fox approximately 10 miles north of Fairbanks northeasterly to Circle on the Yukon River	20	152.8	152.8
671	From junction with FAP Route 62 at Fairbanks South City limits northwesterly through Fairbanks via Cushman Street and Illinois Street to junction with FAP Route 37 approximately 0.5 mile north of Fairbanks	20	2.5	2.5
680	From junction with FAP Route 61 and FAS Route 670 at Fox approximately 10 miles north of Fairbanks northwesterly through Livengood; thence southwesterly to intersection of FAS Routes 6803 and 6804; thence northwesterly to the Yukon River and southwesterly to Tanana	20	106.2	201.0

BOOK 2-2-59. Fairbanks Recording District

BOOK 391 PAGE 59
Anchorage Recording District

40

ALASKA

FEDERAL-AID SECONDARY HIGHWAY SYSTEM, CLASS "B" ROUTES

B-24

FAS Route No.	Name	Description	Highway District No.	Constructed Mileage	System Mileage
6491	Ester Dome Road-St. Patrick's Goldstream ("HENDERSON" ROAD & ST. PATRICK'S ROAD)	From FAP Route 37 branching north and west through the Ester Dome mining area. The north branch loops northeasterly to FAS Route 651.	20	7.8	7.8
6501	Bennett Road	From FAS Route 6502 southeasterly to FAS Route 650.	20	1.5	1.5
6502	Steele Creek Branch	From FAP Route 61 looping north and then easterly through the Steele Creek homestead area to FAS Route 650.	20	3.9	3.9
6570	Becker-Dale-Conn Road	From Fairbanks International Airport west and south to Becker-Dale-Conn subdivisions with a spur north to Chena River.	20	2.7	2.7
6571	Pikes Landing Road	From FAP Route 62 spur west and north to Pike's Landing.	20	1.0	1.0
6611	Alston-Davis Spurs	Two spurs southwest of Fairbanks, one leading north and one leading south into homesite areas from FAS Route 661 at the same point.	20	0.5	0.5
6651	Moore-Cartwright Road	From FAS Route 665 westerly into a homestead area.	20	2.0	2.0
6652	Peger Road	From FAS Route 665 south through an industrial area to the Tanana River.	20	1.0	1.0
6653	Cushman Street Extension	From FAS Route 665 south through an industrial area.	20	0.7	0.7

ALASKA SKI CORPORATION

BOX 1356

FAIRBANKS, ALASKA 99707

February 18, 1980

Merry Tuten Schutt
Director of Lands Management
Room 3, Bunnell Building
University of Alaska, Fairbanks 99701

Dear Mrs. Schutt:

This letter will confirm our telephone conversation of this date, concerning certain damage caused to a portion of Alaska Ski Corporation's land holdings located on Ester Dome, by person or persons unknown, as the apparent result of maintenance of the access road right-of-way, which the University of Alaska holds, and which occupies a portion of the aforementioned premises.


As per our telephone conversation, you may recall that I first became aware of this problem on Saturday last (02/16/80). As the subject damage was not evident on my last visit to the premises two weeks earlier (02/03/80), the damage has occurred during the interim period. It is quite evident that a track-mounted dozer has been used for the purposes of removing snow from the easement right-of-way; and, in the process thereof, has disturbed to some extent the ground cover of a considerable area of our property.

The Alaska Ski Corporation granted the subject right-of-way easement to the University of Alaska "for the purpose of construction and maintaining thereon a private access road", which was to be used only by the University, "and those persons duly authorized" by the University. Alaska Ski Corporation has attempted, in accordance with the grant document, to "warrant and defend the title and quiet possession thereof", by posting the only vehicular access through its property, and has not contracted the services of anyone for the purpose of maintaining any of the private road surfaces within its property boundaries. Therefore, at this point in time, the Alaska Ski Corporation feels that it has no other choice but to hold the University of Alaska responsible for the damage incurred.

As stated before, the full extent of the damage cannot be assessed until the snow cover has melted. However, the evidence of the damage is present and photographs have been taken for the record. Further, in the Spring, a competent nurseryman will have to be engaged to estimate the cost of re-seeding the effected area to prevent soil erosion. Alaska Ski Corporation will expect reparation of the damaged land, or compensation therefor, by the University of Alaska or those specifically responsible to the University for maintaining said access road.

Your early response, regarding this matter, is expectantly awaited.

Sincerely,


Charles L. Fields, Registered Agent

The Alaska Ski Corporation granted the University of Alaska "for the purpose of construction and maintaining thereon a private access road", which was to be used only by the University, and

cc: file

Land Management

February 27, 1980

Harold Hume, Director of Maintenance and Operations
Department of Transportation and Public Facilities
2301 Peger Road
Fairbanks, Alaska 99701

Re: Ester Dome Road

Dear Mr. Hume:

The University of Alaska holds an easement across land owned by the Alaska Ski Corporation on Ester Dome. The university was granted an easement for the purpose of constructing and maintaining a private access road. To my knowledge, the university has not entered into a maintenance agreement with the State Department of Transportation to maintain that road. However, the entire Ester Dome Road, including that part held under easement by the university, is being maintained by your department. Would you please advise me as to the authority under which the state maintains this road?

During maintenance between 2/3/80 - 2/16/80, damage apparently occurred to the property owner, Alaska Ski Corporation (see attached letter dated 2/18/80). Since the university has not maintained the road, I have recommended that representatives of Alaska Ski Corporation contact your department with regards to the aforementioned damages. Thank you for your attention in this matter.

Very truly yours,

Merry Tuten Schutt, Director
University Land Management

MTS:lfh

cc: Sherman Carter, V.P. for Finance
Charles Fields, Alaska Ski Corporation



University of Alaska
Fairbanks, Alaska 99701

October 10, 1980

H. M. Hume
Director, Interior Region
Maintenance & Operations
Department of Transportation & Public Facilities
2301 Peger Road
Fairbanks, Alaska 99701

Dear Mr. Hume:

Mr. Charles Fields recently sent me a copy of your letter to him dated July 22, 1980 regarding Ester Dome Road. In your letter you said that, "The University of Alaska entered into one or more agreements with the Department of Highways to assist them in maintaining the road. They also requested that the State take over full maintenance of the road."

I have checked our files and requested that the Geophysical Institute do the same and we have been unable to produce any such agreements.

I would greatly appreciate it if you would forward me copies of the documents referenced in your letter. Thank you.

Sincerely,

Merry Tuten
Director

MT/dh

cc: Charles Fields



December 3, 1980

Mr. Harold Hume
 State of Alaska
 Department of Transportation and
 Public Facilities
 2301 Peger Road
 Fairbanks, AK 99701

Dear Hal,

As far as I can determine, the Geophysical Institute became interested in the Ester Dome site in 1961. At that time, Alaska Ski Corporation (ASC) was in more active operation and was maintaining the road up Ester Dome at its own expense. ASC had secured easements from the landholders on Ester Dome and had constructed the roads - both the extension of Henderson and the new Ester Dome roads.

The Geophysical Institute sought and secured a limited easement from ASC and a 50 foot right-of-way, F027891, from the Bureau of Land Management and proceeded to construct a road from the ASC land to the summit of Ester Dome for the construction of an Optical Observatory.

After the Geophysical Institute-constructed road and optics site were completed, the road from the west side of the ASC land and occasionally the entire new Ester Dome Road were cleared of snow by the Geophysical Institute.

On Feb. 4, 1963 the Geophysical Institute attempted to interest the Department of Highways in taking on the maintenance of the Ester Dome Road, but this was refused by the Department. In Feb. 13, 1963 the Geophysical Institute engaged the Department of Highways, by means of an Application for Services in the amount of up to \$700.00, which covered the period through June 30, 1964 and which maintenance was to supplement or replace University equipment.

At this same time, the Geophysical Institute operated a tracked snow vehicle, garaged on the Dolney property on Sheep Creek Road, for normal access to the observatory. Only in cases of a need for trucked equipment was a request made to the Highway Department for services. On June 28, 1963 a revised Application for Services in the amount of \$1,500 was signed with the Department of Highways.

During October 1964, I personally purchased a 4 wheel drive vehicle. In cooperation with ASC, and for my own interest, I kept the Ester Dome Road plowed as much as I could. The road was only plowed by the Dept. of Highways when the Geophysical Institute requested their assistance, or if the ASC paid to have the road opened.

Geophysical Institute, C.T. Elvey Building, University of Alaska, Fairbanks, Alaska 99701
 PHONE: 907-479-7282 TELEX: 35414 GEOPH INST FBK

December 3, 1980

Page two

H. Hume

In 1965, the Geophysical Institute paid me personally to plow open the road for their purposes. The ASC also paid me for services rendered, which included supplying a backhoe to install culverts on the new Ester Dome Road.

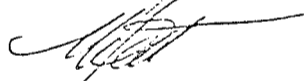
In 1970, I believe, or perhaps the next year, at Thanksgiving there were high winds and lots of snow. The Department of Highways and the Golden Valley radio transmitters failed because of a power line fault, and the Highway Department transmitter tower blew down. Subsequent to this, the Highway Dept. started to maintain the road occasionally, as equipment was available. Frequently, however, the road would remain closed for up to one week at a time due to heavy snow. Also, I personally paid to have the road opened by private contractors using cats on several occasions when it was essential for my purposes.

It was not until fall 1977 when a school bus started coming up Ester Dome that regular maintenance commenced. At some point, after 1970 I believe, the Department of Highways did some summer reconstruction and installed new culverts and widened the road a bit.

The ASC has steadily maintained that the road was a private road. They erected signs at the junction of the Ester Dome and Happy Roads proclaiming that information. They installed a steel post-supported, locked gate at the junction of the new Ester Dome Road and the Henderson Road and kept it locked for a period of time in the 60's. ASC constantly informed persons using the road that it was available to persons going to and from Ullrhaven Lodge, to the Geophysical Institute for access to the Observatory and to the stockholders of ASC.

The obvious question here is why do you consider this road to be a public highway when the origin of the right-of-way derives from a private easement and right-of-way? I would be interested to hear the Department's view of the matter since the maintenance of the highway is in the interest of the Geophysical Institute. Our access is secure, I feel, because of the easement and right-of-way held by the Institute.

Sincerely,



Merritt Helfferich
Head, Technical Services

MH/pd

cc: Merry Tuten
University Lands Division

ALASKA SKI CORPORATION

BOX 1356
4/15/83; DOT/PF

FAIRBANKS, ALASKA 99707

2 of 4

Alaska Ski Corporation thus found it necessary to provide its own access to its T & M site. It did so by building the upper portion of the Ullrhaven Road and improving parts of the existing Ester Dome/Henderson Road during 1957 and 1958.

During this period of construction, the Ester Dome/Henderson Road was widened between the Bartholomae Mines and the bench where the new Ullrhaven Road now joins it. From this bench to the ski lodge site, the first portion of the new road was built along its present alignment. Surveying for this portion of the new road was conducted by ASC's Jack Williams with the help of George Hawkins and Mark Fryer. The actual work was done with Paul Elbert's D-9 Caterpillar tractor, which was operated by a man named Don De Lima. Arrangements for dozer/operator time were as follows:

a) Elbert had his D-9 on display at the Tanana Valley Fair and offered free chances on \$1,000.00 worth of dozer work. Jack Williams' mother (Rozelle) won the prize and donated it to Alaska Ski Corporation.

b) Alaska Ski Corporation then purchased another \$1,000.00 worth of dozer work for a total of \$2,000.00 in machine/operator time.

1958 - 1960

Although Alaska Ski Corporation had spent both time and money improving the upper portion of the Ester Dome/Henderson Road, there were portions of the road which were very steep and became extremely muddy or washed out during "Spring Breakup", causing the road to be impassable. As a consequence, ASC elected to build another new section of road which would extend the newly constructed Ullrhaven Road, from its junction with the Ester Dome/Henderson Road, on a northeasterly course to connect with the St. Patrick Road near its northern terminus with the "Sheep Creek Road".

Before this phase of construction was begun, ASC's Dave Teague received permission to build the road from the owners of the mining properties across which it was to be built. Subsequently, these owners (Paul Drazonovich, Thomas Grenac, Carl O. Mock, Maurice Butler and Carl J. Strass) granted Alaska Ski Corporation written easements across their respective properties for the purposes of constructing and maintaining the new road. All of the easements obtained were in perpetuity and were binding upon the parties involved.

Construction of this lower portion of the Ullrhaven Road was arranged through the Miller-Bentley Equipment Company, with the actual work being accomplished by one Woody Fuller. The arrangements consisted of having Alaska Ski Corporation assume a debt which Fuller owed to Miller-Bentley. In return for which, Fuller, using his own equipment (D-8 Caterpillar tractor), worked-off his debt to ASC by building this section of the road in its present location; with Alaska Ski Corporation providing the surveying and supplying both the fuel and lubricants for his equipment.

ALASKA SKI CORPORATION

BOX 1356

FAIRBANKS, ALASKA 99707

4/15/83; DOT/PF

3 of 4

When the road was completed, post-and-chain barriers were erected at both the Ester Dome/Henderson and the St. Patrick intersections, along with signs proclaiming the new road as the road to Ullrhaven. And later, in 1965, ASC (primarily Dave and Joan Teague) installed culverts along the new road both by hand and also by engaging the services of Merritt Helfferich for backhoe work. As recently as June of 1977, Alaska Ski Corporation had grading and drainage work done on that portion of the road which is adjacent to the lodge.

In short, the Ullrhaven Road (not to be confused with the Ester Dome/Henderson Road) was built with private funds, on land privately held or under application from the Federal government, by private individuals working for private interests. And, it has only been in recent years that this road has not been maintained for the most part by private individuals utilizing private funds.

Sometime during the early 1970s, the Highway Department (apparently under the misconception that the Ullrhaven Road was instead the Ester Dome Road to which title had been received from the Federal government at Statehood) began limited maintenance of the Ullrhaven Road by doing some grading and drainage work. This was apparently done to afford the Highway Department better access to its radio transceiver/tower site which is located beyond and to the southwest of Alaska Ski Corporation's T & M site. This work was not done at the request of the ASC nor has the Highway Department ever requested permission to perform such work or to cross Alaska Ski Corporation property. More recently, the Highway Department began a more regular maintenance schedule on the road apparently coinciding with the commencement of school bus service to Ester Dome in or around 1977. However, since the school district's termination of bus service to Ester Dome after the 1979-80 school term, the Highway Department's maintenance of the road has noticeably decreased.

It is not surprising that there is confusion surrounding the status of roads in the Ester Dome area when one considers the changes which have occurred in placenames shown on the official USGS maps of the area. Portions of what is presently called "Sheep Creek Road" were in times past called "Happy Road" and "Drouin Road". Similarly, the "St. Patrick Road" was un-named and appeared as an extension to the Happy Road on these maps until they were revised in 1959. However, it must be stated that the Highways Department's maintenance of the road has cost the Alaska Ski Corporation in terms of both time and money. The post-and-chain barriers fell victim to early ditching efforts on the part of Highway Department equipment. More recently, DOT/PF equipment apparently destroyed ASC signs and disturbed ground cover on ASC land. Also, the Highway Department's actions make it possible for the general public to gain easy access to ASC's otherwise secluded property, resulting in vandalism in the form of broken windows and unwanted litter and the removal and outright theft of signs and other material from the premises. All of these incidents have occurred in spite of ASC's posting of its property as private, verbal warnings to members of the general public, and notification to DOT/PF personnel, both written and verbal.

ALASKA SKI CORPORATION

BOX 1356
4/15/83; DOT/PF

FAIRBANKS, ALASKA 99707
4 of 4

Alaska Ski Corporation would like to have this matter resolved as quickly and amicably as possible. This historical outline is submitted in an effort to achieve that goal. Enclosed herewith, as further substantiation, is a copy of a letter from Merritt Helfferich of U of A Geophysical Institute to the DOT/PF's former Director of Maintenance and Operations (Mr. Harold Hume) which you probably have on file.

Again, I would like to make it clear that, Alaska Ski Corporation is not adverse to granting the DOT/PF an easement to cross ASC property and will consider any reasonable proposal for such easement submitted in writing by the DOT/PF.

If you have any questions regarding this matter, please contact me and I will do my best to answer them.

Very truly yours,


Charles L. Fields
Registered Agent

Encl: Copy of Geophysical Institute letter dated 12/3/83

cc: Mary Nordale
Merritt Helfferich, Geophysical Institute, U of A
Merry Tuten Schutt, Lands Division, U of A
file

Certified Mail No. 2644057

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

JAY S. HAMMOND, GOVERNOR

TRANSPORTATION SECTION
STATE OF ALASKA
604 Barnette St., Room 233
Fairbanks, Alaska 99701 -
(907) 456-2395 4574

September 9, 1982

Charles L. Fields
Registered Agent
Alaska Ski Corporation
P. O. Box 1356
Fairbanks, Alaska 99707

Dear Mr. Fields:

This letter is in response to your letter to Mr. Cameron dated August 30, 1982. The state's position has been and remains that Ester Dome Road is a public road.

My understanding is that there was a road or trail in existence along the route of the existing road from the Old Nenana Road to the top of Ester Dome, prior to entry by or patent to Alaska Ski Corporation. In fact state records show the road was part of FAS 6491 prior to 1959. This being the case, Ester Dome Road is an RS 2477 (43 U.S.C. 932) right of way.

Even if the above facts are incorrect the state would own the road by adverse possession since it has openly and notoriously maintained the road since 1963, when legislative funding was secured. As I am sure you are aware state funds would not have been expended if the road was then considered a private road.

Finally Alaska Ski Corporation subdivided its property and recorded a plat. Ester Dome Road is shown on the plat as the only access to four subdivision parcels. The road is not designated on the plat as private. AS 40.15.030 provides

When an area is subdivided and a plat of the subdivision is approved and recorded all streets, alleys, thoroughfares, parks, and other public areas shown on the plat are deemed to have been dedicated to public use.

Rec'd 9/10/82 8AM use

Chief R/W Agent	JF
Asst. Chief R/W Agent	ATW
Neg. & PF	
Appraisals	
Val. & Prop. Mgmt.	
File	
Admin.	
Return to	
File	

Copy to Maint.
JF

Accordingly, under either or all of the foregoing theories, the road is public, and the state will continue to treat it as such unless and until you secure a court order to the contrary.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

By: *Linda Walton*
Linda Walton
Assistant Attorney General

LW:ja

cc: Harold Cameron ✓

ALASKA SKI CORPORATION

BOX 1356

FAIRBANKS, ALASKA 99707

Chief R/W Agent	<i>[Signature]</i>
Asst. Chief R/W Agent	<i>[Signature]</i>
Asst. S. PF	
Asst. A. PF	
Admin.	
Return to	
File	

Rec'd 9/2/82 1:30p

August 30, 1982

State of Alaska
Department of Transportation and Public Facilities
2301 Peger Road
Fairbanks, Alaska 99701

Attn: Mr. Harold Cameron
Right-Of-Way Section

*Copy to John B. [unclear]
A.G. office 9/2/82*

Dear Mr. Cameron:

*[Signature]
They will respond*

This letter will confirm for the record that I have recently met with you on two occasions (8/10/82 and 8/17/82) to discuss the matter of the Ullrhaven Road and your agency's continued illegal trespass thereon.

As you know, this current communication between the DOT/PF and Alaska Ski Corporation is the result of initial contact made by Chuck Moyer of your agency, who had questions regarding the posting of the subject road by Alaska Ski Corporation as "private". I was not available when Mr. Moyer first called (7/26/82), but returned his call the following day. I informed Mr. Moyer that in fact the road was private and had always been so. Mr. Moyer stated that he would relay what I told him to your agency's legal branch and to yourself for further action. I told Mr. Moyer that I would be most agreeable to meet with representatives of your agency to discuss the possibility of an easement arrangement between the State and Alaska Ski Corporation. And, thus was the course that brought me to your office on August 10th.

It has been over a month since Mr. Moyer's first contact and I feel that by now your agency should have been able to determine its legal standing regarding this matter. I, personally, would like to resolve it once and for all time. Will it be possible for DOT/PF and Alaska Ski Corporation to come to terms regarding your agency's use of our property? If so, when can we next meet to discuss the particulars of agreement? Soon, I hope.

Please understand that it makes little difference to us whether or not the DOT/PF chooses to negotiate for easement access across our property. However, we hereby expressly forbid access onto or across our property located on Ester Dome to personnel of your agency unless permission is granted by future agreement.

Sincerely,

Charles L. Fields, Registered Agent

Certified Mail No. P01 2644104

cc: file



December 5, 1980

Mr. Harold Hume
State of Alaska
Department of Transportation and
Public Facilities
2301 Peger Road
Fairbanks, AK 99701

Dear Hal,

As far as I can determine, the Geophysical Institute became interested in the Ester Dome site in 1961. At that time, Alaska Ski Corporation (ASC) was in more active operation and was maintaining the road up Ester Dome at its own expense. ASC had secured easements from the landholders on Ester Dome and had constructed the roads - both the extension of Henderson and the new Ester Dome roads.

The Geophysical Institute sought and secured a limited easement from ASC and a 50 foot right-of-way, F027891, from the Bureau of Land Management and proceeded to construct a road from the ASC land to the summit of Ester Dome for the construction of an Optical Observatory.

After the Geophysical Institute-constructed road and optics site were completed, the road from the west side of the ASC land and occasionally the entire new Ester Dome Road were cleared of snow by the Geophysical Institute.

On Feb. 4, 1963 the Geophysical Institute attempted to interest the Department of Highways in taking on the maintenance of the Ester Dome Road, but this was refused by the Department. In Feb. 13, 1963 the Geophysical Institute engaged the Department of Highways, by means of an Application for Services in the amount of up to \$700.00, which covered the period through June 30, 1964 and which maintenance was to supplement or replace University equipment.

At this same time, the Geophysical Institute operated a tracked snow vehicle, garaged on the Dolney property on Sheep Creek Road, for normal access to the observatory. Only in cases of a need for trucked equipment was a request made to the Highway Department for services. On June 28, 1963 a revised Application for Services in the amount of \$1,500 was signed with the Department of Highways.

During October 1964, I personally purchased a 4 wheel drive vehicle. In cooperation with ASC, and for my own interest, I kept the Ester Dome Road plowed as much as I could. The road was only plowed by the Dept. of Highways when the Geophysical Institute requested their assistance, or if the ASC paid to have the road opened.

Geophysical Institute, C.T. Elvey Building, University of Alaska, Fairbanks, Alaska 99701
PHONE: 907-479-7282 TELEX: 35414 GEOPH INST FBK

Established by Act of Congress, dedicated to the maintenance of geophysical research concerning the Arctic regions.

December 3, 1980
Page two
H. Harne

In 1965, the Geophysical Institute paid me personally to plow open the road for their purposes. The ASC also paid me for services rendered, which included supplying a backhoe to install culverts on the new Ester Dome Road.

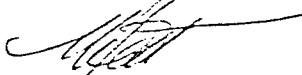
In 1970, I believe, or perhaps the next year, at Thanksgiving there were high winds and lots of snow. The Department of Highways and the Golden Valley radio transmitters failed because of a power line fault, and the Highway Department transmitter tower blew down. Subsequent to this, the Highway Dept. started to maintain the road occasionally, as equipment was available. Frequently, however, the road would remain closed for up to one week at a time due to heavy snow. Also, I personally paid to have the road opened by private contractors using cats on several occasions when it was essential for my purposes.

It was not until fall 1977 when a school bus started coming up Ester Dome that regular maintenance commenced. At some point, after 1970 I believe, the Department of Highways did some summer reconstruction and installed new culverts and widened the road a bit.

The ASC has steadily maintained that the road was a private road. They erected signs at the junction of the Ester Dome and Happy Roads proclaiming that information. They installed a steel post-supported, locked gate at the junction of the new Ester Dome Road and the Henderson Road and kept it locked for a period of time in the 60's. ASC constantly informed persons using the road that it was available to persons going to and from Ullrhaven Lodge, to the Geophysical Institute for access to the Observatory and to the stockholders of ASC.

The obvious question here is why do you consider this road to be a public highway when the origin of the right-of-way derives from a private easement and right-of-way? I would be interested to hear the Department's view of the matter since the maintenance of the highway is in the interest of the Geophysical Institute. Our access is secure, I feel, because of the easement and right-of-way held by the Institute.

Sincerely,



Merritt Helfferich
Head, Technical Services

MH/pd

cc: Merry Tuten
University Lands Division

A. Row

September 10, 1984

Mary A. Nordale
Nordale & Cooper
Attorneys-at-Law
1919 Lathrop Street, Drawer 33
Fairbanks, Alaska 99701

Dear Ms. Nordale:

Thank you for your letter of August 15 and for the maps sent to Linda Walton, which help to delineate the problem. DOT&PF still maintains that the road to the top of Ester Dome is a public road. Until recently, BLN routinely omitted mention of various public roads from patents to landowners, so we do not consider the omission of any mention of this road from the patent to be determinative.

However, based upon your letter, I have authorized the attorney general's office to expend time on this matter to come up with an opinion regarding the extent and nature of the State's rights in this road. I have been advised by Linda Walton that some additional factual investigation will be necessary before an opinion can be completed. Such an investigation will begin in the immediate future. As soon as an opinion is available, it will be made available to you and your client.

Sincerely,

H. Glenzer, Jr.
Deputy Commissioner

INTERIOR REGION
DIRECTOR

h8. H. H. 10
SEP 10 10:51 AM '84

cc: R.S. Knapp, Commissioner, DOT&PF

SEP 11 1984
3:30

<input checked="" type="checkbox"/>	Chief R/W Agent	<i>CA</i>
<input type="checkbox"/>	Administration	
<input type="checkbox"/>	Airports	
<input type="checkbox"/>	Appraisals	
<input type="checkbox"/>	Engineering	
<input type="checkbox"/>	Materials	
<input type="checkbox"/>	Negotiations	
<input type="checkbox"/>	Pre-Audit	
<input checked="" type="checkbox"/>	Rein. & Prop. Mgt.	<i>[Signature]</i>
<input type="checkbox"/>	Title	
<input type="checkbox"/>	Return to:	
<input checked="" type="checkbox"/>	File	

NORDALE & COOPER

ATTORNEYS AT LAW

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

1919 LATHROP STREET, DRAWER 33

FAIRBANKS, ALASKA 99701

MARY A. NORDALE
DANIEL R. COOPER, JR.

(907) 456-6903

(907) 452-2930

(907) 456-3518

August 15, 1984

Ms. Linca Walton
Assistant Attorney General
Department of Law
First National Center
100 Cushman Street, Suite 400
Fairbanks, Alaska 99701

Re: Alaska Ski Corporation
Our File No. 379-4067

Dear Linca:

I am informed that the Department of Transportation and Public Facilities is continuing its trespass on my client's property, damaging my client's improvements. I have previously requested that that department cease such activities and I have also informed you that Alaska Ski Corporation is willing to grant the department an easement to reach its communications sites.

Some time ago, we discussed the legal basis of the State's assertion that the road within the Ullrhaven Subdivision is a public road. It is my understanding that you were asserting that it had that status on two bases; one was a public right of way grant under R.S. 2477 (43 U.S.C. 932), and the other was a continuing public use. In connection with both bases, you relied upon the affidavit of Mr. Paul Barelka who claimed to have used the road from 1966 to 1968 on occasion to reach his mining claim. Under the facts of Mr. Barelka's affidavit, Mr. Barelka has been a trespasser. A review of the history of this matter may be helpful to you.

In 1960, U. S. Survey 4004 was platted and the plat was issued on March 24, 1961. Patent issued on December 14, 1961. Reservations in the patent related to water rights, rights to ditches, reservoirs and rights of way for ditches, canals, railroads, telegraph and telephone lines. No other reservation is contained in the patent.

The map prepared for U. S. Survey 4004 discloses no trails or roads and none appear referred to in the survey field notes. The grant by the federal government of fee title foreclosed the creation of public rights of way under R.S. 2477 because no acceptance of any such rights of way appeared of record and none could arise after valid entry.

However, additional research has been done and I enclose herewith aerial photographs to enable you to sort out the confusion created by the Department of Transportation and Public Facilities by their use of wrong road names. One of the photographs has been color-coded and the other has not. As you can see, no old trails follow the route of the Ullrhaven Road and the road does not follow them. The Ester Dome Road is not the Ullrhaven Road, as you can see, so reliance on the possible application of R.S. 2477 to the Ester Dome Road does not yield a public right of way on the Ullrhaven Road.

As I know you are aware, in June of 1961, the University of Alaska sought an easement across Alaska Ski Corporation's property to permit the Geophysical Institute to maintain its site on the dome. At that time, no question arose about the fact that, although patent had not issued, the survey based on the mid-1950's entry of U. S. Survey 4004 showed no public right of way.

Some time in the mid-1970's, DOT/PF made periodic efforts to maintain the road under the mistaken impression that the Ullrhaven Road was the Ester Dome Road. That department has been repeatedly requested to cease its trespass, but I gather that the facts notwithstanding, Mr. Cameron and others persist in expending state funds to support the department's trespass.

The case of Hamerly v. Denton, 359 P.2d 121 (Alaska 1961) appears to be the only case dealing with the public acceptance through use question arising under R.S. 2477. The Court there held that acceptance must occur before a valid entry is made because the entry has the effect of segregating the land covered by the entry from the portion available for disposition. The Court held that "public lands" does not encompass lands in which the rights of the public have passed and which have become subject to individual rights of a settler. p. 123.

In an opinion written in 1969 (Attorney General's Opinions No. 7), John K. Norman, then an Assistant Attorney General with the Department of Law, discussed section line easements about which questions had arisen because of the gap in Alaska law between 1949 and 1953. It was the conclusion of Mr. Norman that those tracts which had passed into private hands before 1923 and between 1949 and 1953 were not burdened with the easements because of a lack of acceptance of the grant. In the case of section line easements, the acceptance was deemed the Acts of the Territorial Legislatures enacted in 1923 and 1953.

NORDALE & COOPER
ATTORNEYS AT LAW
A PARTNERSHIP OF
PROFESSIONAL CORPORATIONS
1919 LATHROP STREET
DRAWER 33
FAIRBANKS, AK 99701
(907) 456-6903
(907) 452-2930
(907) 456-3518

Statutory acceptance is not the only method of acceptance available to the public as is clear from Hamerly v. Denton. As the Court held, there was insufficient evidence of use even during periods when homestead entries were abandoned or canceled to justify a finding of public acceptance of a right of way. In Mercer v. Yutan Construction Co., 420 P.2d 323 (Alaska 1966), the Court held that acceptance could consist of the construction of a pioneer access road across a grazing lease, following an old winter trail. The Court held that a grazing lease could not be converted to title and that there was, therefore, an ability in the State to acquire a right of way because 1) there was no segregation and 2) the grazing lease was by its terms subject to grants of rights of way.

In all cases, however, the Court deemed well settled that rights of way could not be acquired after segregation by a valid entry, as in Alaska Ski Corporation's case for a trace and Manufacturing site. As Alaska Ski Corporation's entry was in 1956 or 1957, and the field notes of U. S. Survey 4004 show no trails or roads within its boundaries, except those constructed by the entryman, DOT/PF has neither a factual nor a statutory basis for claiming acceptance.

Mr. Barelka's claim of use between 1966 and 1968 occurred after title had passed and, therefore, cannot constitute acceptance, only trespass. His reference to trails in existence since 1907 may very well have a factual basis, but there is no showing that the trails existed in the location of the Ullrhaven Road.

Your last point, I believe, was to the effect that because trails may have existed in the general area, DOT/PF had a right to assert that one existed where Alaska Ski Corporation constructed its road. My reading of the Hamerly and Mercer cases leads me to the conclusion that the Alaska court would not sustain that position and, on the contrary, would hold that if the State were in a position to accept a right of way arising because of public use, the right of way would consist only of the actual road or trail used. In other words, the State would not acquire a "blanket" easement, but one only of a specified width and location.

My client authorizes me to renew its offer of a grant of easement similar to that given to the University of Alaska in 1961 to permit DOT/PF to reach its communication sites. In the meantime, please instruct DOT/PF to cease its trespass and commission of waste upon my client's property.

NORDALE & COOPER
ATTORNEYS AT LAW
A PARTNERSHIP OF
PROFESSIONAL CORPORATIONS
1919 LATHROP STREET
DRAWER 33
FAIRBANKS, AK 99701
(907) 456-6903
(907) 452-2930
(907) 456-3518

Because you indicated that you were not authorized to expend funds to pursue this matter, copies of this letter are being sent to Commissioner Knapp and Deputy Commissioner Glenzer.

Sincerely yours,

NORDALE & COOPER

/S/ MARY A. NORDALE

Mary A. Nordale

MAN/ml

Encls.

cc: Richard J. Knapp
H. Glenzer, Jr. ✓

NORDALE & COOPER
ATTORNEYS AT LAW
A PARTNERSHIP OF
PROFESSIONAL CORPORATIONS
1919 LATHROP STREET
DRAWER 33
FAIRBANKS, AK 99701
(907) 456-6903
(907) 452-2930
(907) 456-3518

NORDALE & COOPER

ATTORNEYS AT LAW

A PARTNERSHIP OF PROFESSIONAL CORPORATIONS

1919 LATHROP STREET, DRAWER 33

FAIRBANKS, ALASKA 99701

MARY A. NORDALE
DANIEL R. COOPER, JR.

(907) 456-6903

(907) 452-2930

(907) 456-3518

August 15, 1984

Mr. Richard J. Knapp
Commissioner
Department of Transportation and Public Facilities
Pouch Z
Juneau, Alaska 99811

Re: Alaska Ski Corporation
Our File No. 379-4067

Dear Commissioner Knapp:

Enclosed is copy of letter to Ms. Linda Walton, Assistant Attorney General here in Fairbanks assigned to DOT/PF matters.

I have represented Alaska Ski Corporation for about two years, trying to assist the corporation in working out peaceably a solution to a difficult and somewhat alarming problem with the Northern Region.

DOT/PF, under the mistaken impression that a road traversing a portion of my client's property is public, has committed trespass and caused considerable damage to my client's improvements. My client is frankly tired of the refusal of DOT/PF employees to review their own records, as well as public records available from BLM, to substantiate their use of the road. The root of the problem is a bit ridiculous and arises, apparently, from a mistake as to the name of a road or a series of interconnected roads. Apparently, the records of the department are not such that the location, and not the name of the road, governs where the department will spend its maintenance funds. At some point in the later 1960's or early 1970's, the department's records became confused and the department arbitrarily renamed a road. After doing so, apparently others in the department discovered that the maintenance program covered a road by that name and since that time, the department has clung like a limpet to its belief that they have a right to go on any property as long as it has a name referenced in the maintenance program.

An extensive series of communications has occurred about this problem, including letters, meeting and telephone conversations. My client, Alaska Ski Corporation, has on several occasions offered to DOT/PF an easement to give your department the access it desires to reach some communication sites. That offer is still open. In addition, my client has expended a

great deal of time, money and effort to trace what facts might exist to give any legal validity to DOT/PF's assertion that the road is public. The result of that research yields no facts whatsoever to support the State's claim and a substantial body of fact and law to support my client's position.

Ms. Walton has informed me that she does not have authority to continue extensive representation of the department in this matter as her position is largely funded for highway trust fund supported activities. As a consequence, there appears to be no other avenue of communication available to my client other than a direct communication with you.

To reiterate my client's position, Alaska Ski Corporation will grant DOT/PF an easement to cross its land to reach the department's communication sites. The corporation objects to and resists the department's claim of ownership and the deliberate and continuing destruction of its improvements by employees or contractors of the department.

I should appreciate your reviewing all of the history and material relating to this problem with the goal of working out an appropriate solution to the problems of both parties.

Sincerely yours,

NORDALE & COOPER

/S/ MARY A. NORDALE

Mary A. Nordale

MAN/ml

Encl.

cc: H. Glenzer, Jr. ✓
Linda Walton

NORDALE & COOPER
ATTORNEYS AT LAW
A PARTNERSHIP OF
PROFESSIONAL CORPORATIONS
1919 LATHROP STREET
DRAWER 33
FAIRBANKS, AK 99701
(907) 456-6903
(907) 452-2930
(907) 456-3518

MEMORANDUM

State of Alaska

DEPARTMENT OF NATURAL RESOURCES - DIVISION OF LAND AND WATER MANAGEMENT
NORTHCENTRAL DISTRICT OFFICE - 4420 AIRPORT WAY, FAIRBANKS, ALASKA 99701

TO: Larry Wood
Assistant Attorney General

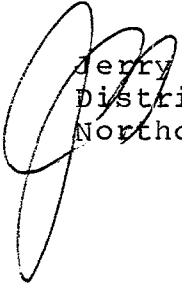
DATE: July 3, 1984

FILE NO:

TELEPHONE NO:

479-2243

FROM:



Jerry L. Brossia
District Manager
Northcentral District

SUBJECT:

This memo is in reference to your 5/24/84 inquiry whether the Northcentral District Office would be willing to spend staff time researching the 2477 on Ester Dome. The short answer is yes. I have assigned this research to Rick Smith and he will be in contact with you and Linda Walton to coordinate the research.

✓ cc: Harold Cameron w/attachments
Rick Smith

JLB/sh

JUL 10 1984

<input checked="" type="checkbox"/>	Chief R/W Agent
<input type="checkbox"/>	Asst. Chief R/W Agent
<input type="checkbox"/>	Neg. & PF
<input type="checkbox"/>	Appraiser
<input type="checkbox"/>	Ec.
<input type="checkbox"/>	R.
<input checked="" type="checkbox"/>	Title <i>JLB</i>
<input type="checkbox"/>	A.
<input checked="" type="checkbox"/>	R/W <i>BR</i>
<input type="checkbox"/>	Pre-Audit
<input type="checkbox"/>	Admin.
<input type="checkbox"/>	Return to:
<input checked="" type="checkbox"/>	File <i>Ester Dome</i>

MEMORANDUM

State of Alaska

TO: Jerry Brossia, District Manager DATE: May 24, 1984
Division of Land & Water Management
Fairbanks

FILE NO:

TELEPHONE NO:

FROM: Norman C. Gorsuch
Attorney General

Ester Dome Road

SUBJECT:

By: Larry D. Wood, Chief
Assistant Attorney General

FAIRBANKS

84 MAY 25 PM 2

RECEIVED
DIVISION OF LANDS

I am enclosing a copy of a memorandum by Linda Walton who now works in our Transportation Section. Linda's questions are rather self explanatory but it boils down to just this: Does DNR have a sufficient interest in seeing that Ester Dome Road is declared a public thoroughfare to commit employeeed time toward factually researching the issue? As Linda explains, DOT/PF does not wish to spend more money in having her fight the issue with the Alaska Ski Corporation. The agency has already been offered a private easement if it drops the RS 2477 right of way claim. If the state accepts this limited easement, the public will have to bring their fight against Alaska Ski Corporation on their own.

LDW/jl
encl.

cc: Linda L. Walton
Assistant Attorney General

John McDonagh
Assistant Attorney General

P.S. - If DNR has land on Ester dome which is accessed by the road, it might make sense to commit DNR time to the matter.

MEMORANDUM

State of Alaska

TO: Larry Wood

DATE: May 22, 1984

FILE NO:

TELEPHONE NO:

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Ester Dome Road

By:

lw
Linda L. Walton
Assistant Attorney General

There is a continuing dispute between Alaska Ski Corporation and the state over the public vs. private nature of Ester Dome Road.

I have done considerable factual and some legal research on this question and believe that with a little more factual research, including collection of affidavits referencing a map, we stand a good chance of proving Ester Dome Road is an RS 2477 right-of-way (possibly 100 feet in width based upon DO 2665) and an excellent chance of proving it is a public prescriptive easement.

The problem is that Alaska Ski Corporation, which claims the road is private, has offered DOT/PF an easement to get to its facilities, and DOT/PF has no money to pay me to do more research on this, especially factual research.

While DOT/PF's interests would be served by giving up the fight and accepting an easement to get to its facility, the public at large, specifically the Alaska Miners Association, has a strong interest in establishing that the road is public. I am aware that DNR also has an interest in declaring the road public, by virtue of the attached letter from Fred Smith to the borough. The borough has required Alaska Ski Corporation to declare the road public through Alaska Ski's subdivision (only a part of its parcel), but not beyond, so DNR has not gained access to its site by virtue of the borough's access. Alaska Ski is still fighting this decision within the borough administrative process.

Since DNR people would have greater expertise than I in gathering and analyzing old maps, including mining maps, I would propose that DNR be asked to assign someone knowledgeable to gather maps and affidavits after reviewing my file for leads and to avoid duplication of efforts.

If DNR were willing to take on this burden, I believe I could convince DOT/PF to pay for strictly legal work in pursuing the case.

LLW/llw

Attachment

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF LAND AND WATER MANAGEMENT

NORTHCENTRAL DISTRICT
4420 AIRPORT WAY
FAIRBANKS, ALASKA 99701-3896
(907)479-2243

January 18, 1984

Loriann Coletta-Sears
Assistant Planner
Fairbanks North Star Borough
P.O. Box 1267
Fairbanks, Alaska 99707

RE: RP 004-84

Dear Ms. Coletta-Sears:

The State of Alaska, Department of Natural Resources, Division of Land and Water Management does object to your approval of the above referenced request before the platting board. It is the state's contention that all of Ester Dome road is reserved for public access. As you know, there are private road signs posted along Ester Dome Road by the Alaska Ski Corporation.

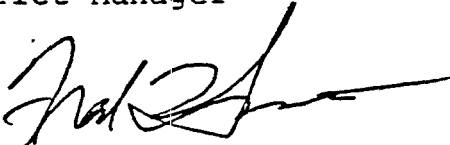
We oppose the approval of any land actions of Alaska Ski Corporation on Ester Dome until they acknowledge Ester Dome Road as public access and remove the private road signs.

For you information, the State of Alaska has management authority over a large area of land west of USS 4012 and 5628.

Sincerely,

JERRY L. BROSSIA
District Manager

By:


Frederick L. Smith
Natural Resource Manager
Retained Lands Section

JLB/FLS/KRW/mo

RECEIVED JAN 21 1984

ALASKA SKI CORPORATION

BOX 1356

FAIRBANKS, ALASKA 99707

May 14, 1984

MAY 21 1984

State of Alaska
Department of Transportation & Public Facilities
2301 Peger Road
Fairbanks, Alaska 99701

Attn: John Horn, Director
Division of Maintenance & Operations

Dear Mr. Horn:

Again, it is necessary for me to inform you of the illegal trespass by DOT/PF personnel and equipment upon the posted and private land of Alaska Ski Corporation, and the resulting damage and destruction of signs and mounting posts belonging to ASC. In addition to the sign damage, brush and small trees have been deliberately cleared from certain areas of ASC land by means of some sort of mechanized brush-clearing equipment.

It is not known whether this damage occurred as the result of a single trespass, or several. What is known is that this damage occurred sometime between April 7th and May 12th of this year, having been discovered on the afternoon of May 12th. On April 7th, last, I personally observed the subject signs to be intact and clearly visible. The evidence would indicate that this sign damage and the clearing of foliage are the result of the willful and purposeful acts of one or more of your agency's equipment operators.

A photographic record has been made of the damaged signs and posts which clearly indicates that the subject damage was caused by the blade of a road grader, which in one case made three attempts before being successful in knocking-down its target.

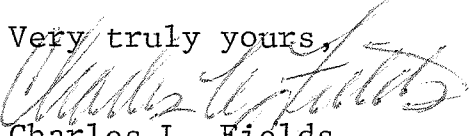
I must ask that Alaska Ski Corporation be reimbursed for the above described losses. You should consider this letter as a formal billing for payment.

For the repair and/or replacement of 3 each signs & posts, including materials and labor..... \$260.00

It is appropriate to point out here that the brush and trees cannot be repaired, and that both the trespass and the resulting damage have been reported to the Alaska State Troopers.

Please make your remittance payable to Alaska Ski Corporation/

Very truly yours,


Charles L. Fields
Registered Agent

Certified Mail No. 2644079

*Rec'd MPO
5/18/84*

MILEAGE CHECK - ULLRHAVEN ROAD

<u>MILEPOST</u>	<u>REFERENCE</u>
0.0 / 3.1	Junction with St. Patrick Creek Road.
1.0 / 2.1	Roadside pulloff, south of road.
2.0 / 1.1	Intersection with Ester Dome (Henderson) Road.
2.9 / 0.2	Junction with Nordstrasse.
3.1 / 0.0	Ullrhaven (Lodge).

MILEAGE CHECK - ESTER DOME (Henderson) ROAD

<u>MILEPOST</u>	<u>REFERENCE</u>
0.0 / 2.3	Junction with St. Patrick Creek Road.
0.5 / 1.8	Bartholomae Mine.
0.7 / 1.6	Junction with Old Clipper Mine Road.
2.3 / 0.0	Intersection with Ullrhaven Road.

MILEAGE CHECK - ST. PATRICK CREEK ROAD

<u>MILEPOST</u>	<u>REFERENCE</u>
0.0 / 5.0	Junction with Old Nenana Highway.
1.5 / 3.5	Junction with Ester Dome (Henderson) Road.
2.3 / 2.7	Residences along roadside.
3.2 / 1.8	Silverado Mine & Residences along roadside.
3.4 / 1.6	Residences along roadside.
4.3 / 0.7	Junction with Ullrhaven Road.
5.0 / 0.0	Junction with Sheep Creek Road.

7/23/83 CLF