

STATE OF ALASKA

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

NORTHERN REGION PRECONSTRUCTION, Right of Way Section

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November 1, 2004

Re: Section Line Easement
Section 29/20, T.1N., R.2E., F.M.

Mr. Dwane Sykes
1511 S. Carterville Road
Orem, UT 84097

Dear Mr. Sykes:

You have requested that I provide an opinion as to the status of the section line easement between Sections 29 and 20 of Township 1 North, Range 2 East, Fairbanks Meridian. Specifically, you have requested an evaluation of the segment of the section line between the southeast quarter of the southeast quarter of Section 20 and the northeast quarter of the northeast quarter of Section 20. This section line would split the 80 acre parcel of land patented to Robert J. McQuin (Patent # 1147535) on October 28, 1954. Please note that the section line easement in question is not a part of the Alaska Highway System and therefore not within the jurisdiction of DOT&PF. My evaluation is based upon my experience in working with section line easements and should not be considered an official DOT&PF assertion. Any concerns you have about the legal issues related to section line easements or the risk you may incur should be addressed to your attorney or title insurance agency.

For a federal section line easement to exist there are three requirements. First the section line must exist, that is, it must have been surveyed and platted. This is considered to have occurred when the official federal township plat that reflects the survey and monumentation of the section line in question has been approved. The federal plat that relates to the survey of the section line between Sections 29 and 20 was approved on March 10, 1947. Next, there cannot be a federal section line easement unless there has been an offer and acceptance of the right of way grant. The offer for federal section line easements was made under the Mining Law of 1866 and reenacted as Revised Statute 2477 (RS2477). The grant for a 66-foot wide easement between each section of land was initially accepted by the Alaska Territorial Legislature on April 6, 1923. There was a hiatus period between 1949 and 1953 when the grant acceptance was not in place and eventually the RS2477 grant offer was repealed in 1976. However, as the township survey in question was approved prior to the hiatus period, it has no effect on the section line easement evaluation. Finally, for the section line easement to attach, the federal lands crossed by the section line must be unreserved. This status can generally be obtained from the BLM records. The BLM records for the McQuin Homestead entry indicate that the application leading to patent was filed on December 14, 1951. For this application to have been filed, the lands must have been unreserved and open for entry.

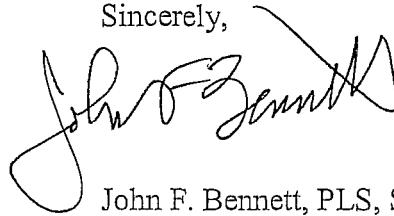
"Providing for the movement of people and goods and the delivery of state services."

At the time of township approval (March 10, 1947), the RS2477 grant offer and acceptance was in place (April 6, 1923 to January 18, 1949) and the land appears to have been unreserved up until the date of the homestead entry that led to patent (December 14, 1951). Therefore, the conditions leading to the establishment of a 66-foot wide section line easement along the quarter mile segment of the line between Sections 29 and 20 lying within patent No. 1147535 were met as of the date of the township survey approval on March 10, 1947.

Presuming that a vacation of the section line easement has not been approved since it's establishment, the full 66-foot wide section line easement still exists.

If you have any further questions regarding this correspondence, please feel free to contact me at (907) 451-5423 or by email at johnf_bennett@dot.state.ak.us.

Sincerely,

A handwritten signature in black ink, appearing to read "John F. Bennett". The signature is fluid and cursive, with a large initial "J" and "B".

John F. Bennett, PLS, SR/WA
Chief, Right of Way