

From: [Featherinn](#)
To: [John Bennett](#)
Subject: Re: Island Lake access
Date: Wednesday, September 14, 2016 3:50:28 PM

Me Bennett,

Though disappointed, this is incredibly helpful. Thank you very much for looking at this. If I can ever be of service, please don't hesitate to call me.

Respectfully,
Otto
982-8343

Sent from my iPhone

On Sep 14, 2016, at 15:39, John Bennett <JBennett@rmconsult.com> wrote:

Paul, the letter from DNR appears to be accurate. I initially thought it was addressing the easement to the south of the section line within Government Lot 4, but it is addressing the north side of the section line which is within the John Bozinoff homestead. Essentially Bozinoff applied for his homestead in 1956 or prior to the approval of the official BLM township survey plat that established the line between sections 22 and 27. A federal RS-2477 based section line easement can only apply to "unreserved" lands. As Bozinoff had already established a valid existing right, that land was considered to have been reserved when the plat was approved and so no section line easement could attach.

The DNR letter then suggests that the plat of Island Lake Subdivision, by erroneously showing the section line easement on the north side of the section line may have created an easement by accident as a result of the Certificate of Ownership and Dedication in which the subdivider dedicates to the public all streets, alleys etc. This was accepted by the Mat-Su Borough when they approved the plat. This is not the only case where I have seen this happen and to my knowledge there has been no decision by the courts to determine whether this kind of accidental easement was in fact created. DNR is correct that to the extent it was created by plat dedication, it is under Mat-Su Borough jurisdiction.

I have attached a copy of the other easement I mentioned. Apparently, Schmidt owned GL 4 before he sold it to Pettijohn. It's a bit difficult to read but it says "I grant a 30 foot easement along the entire North Property Line for the purpose of providing public access to the lake from Schrock-Pitman Road." Today, public access dedications are to be made through a formal platting process but I suspect that a document almost 40 years old will be held as valid.

In my own analysis of the section line easement along the north boundary of GL4, the

difference between it and the homestead to the north is that the entryman, Douglas King, filed his application on 9/5/65, or almost 5 years after the township survey plat was approved. So by the time King gained rights to a patent, his property was already subject to a section line easement.

So without consideration of the 60' private easement, there appears to be the 30' public access easement on the south side of the section line by virtue of the Schmidt document, the 33-foot SLE on the south side of the section line by analyzing the entry and survey dates, and the 33-foot "section line easement" to the north of the section line that may have been created by plat dedication. This is starting to look like a "perfect storm" scenario that would be very difficult to challenge on its merits.

Our phone connection wasn't all that good so if you mentioned trying to get Mat-Su to manage their public access I might have missed it. It does appear to be within their jurisdiction but may fall very low on their list of priorities. Your best bet may be as we discussed. If most people think the only public access right is based on the 33-foot SLE to the north of the section line, you might be able to reference the DNR determination that the SLE doesn't exist. Unfortunately in the same letter you have the discussion that a 33-foot easement by dedication might exist so you probably won't do well by handing out copies of the letter to those who are asserting access rights. I wish I had better news for you but I think that is all we have. Hiring us might have produced a more formal opinion but I don't think it would have been much different. Let me know if you have any further questions and best of luck in resolving this difficult issue. JohnB

John F. Bennett, PLS, SR/WA *Senior Land Surveyor – Right of Way Services*

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Innovating Today for Alaska's Tomorrow

From: Featherinn [<mailto:featherinn@gmail.com>]
Sent: Wednesday, September 14, 2016 2:55 PM
To: John Bennett
Subject: Fwd: Island Lake access

Mr Bennett,

Thank you again for considering this case. I've attached below a copy of the letter sent to my neighbor, Lane Wraith, from DNR.

Respectfully,
Paul "Otto" Feather
907-982-8343

Thank you again

Sent from my iPhone

Begin forwarded message:

From: Lane Wraith <ltw1975@gmail.com>
Date: September 8, 2016 at 18:33:51 AKDT
To: N Feather <featherinn@gmail.com>
Subject: Fwd: Island Lake access

----- Forwarded message -----
From: **Lane Wraith** <ltw1975@gmail.com>
Date: Thu, Sep 8, 2016 at 6:24 PM
Subject: Island Lake access
To: eric.phillips@matsugov.us

Mr. Phillips,

Otto Feather called me tonight and asked me to forward the letter that was provided to me by DNR stating that there is no section line easement on my property, Lot 1, Block 6 of the Island Lake subdivision. I thought I had provided this letter to Mr. Leslie, however I may have not. Attached is the letter. I have had multiple contacts with both Alaska DNR and BLM. They have clarified repeatedly to me that no section line easement exists, however the plat creates a question of whether or not there is another easement, and if there was one, it would be managed by the borough. Both the state and BLM have informed me that the plat creates a question of one, not necessarily one for sure. After my last conversation with you, I attempted to start a vacation through DNR, however they informed me that since the state had no easement there, that the state process wasn't proper. I have been repeatedly told by Mr. Leslie and others at the borough that the only reason that access is on my property is due to the idea that it is in fact a section line easement. I am hoping we can come to an amicable resolution speedily. I had offered before to provide the gravel for a walking trail on the north end of Island Lake from the roadway to the lake, and I am not opposed to this at this point if we are able to eliminate the access on my property. I have prepared a letter and some documentation regarding the access which I will deliver next week. If it is also your understanding as well as that of Mr. Leslie that a state section line easement provided the access, maybe this can be resolved quickly and easily for all parties.

The easement supervisor at DNR is James Sowerwine,
james.sowerwine@alaska.gov

Thank you,

Lane Wraith

<GL4 Schmidt Public Easement.pdf>