

**STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
SOUTHCENTRAL REGION**

**Administrative Decision
Eska Creek Falls Trail
Reservation of Public Easement
ADL 228840**

Project Overview

This decision applies to an existing trail known as the Eska Creek Falls Trail. The existing route is a popular recreational trail located near Sutton and is accessed from the Eska Strip Mine Trail (RST 1420) that follows a northerly direction up the Eska Creek drainage into alpine terrain where it terminates close to the base of Eska Falls. The trail lies north of the Glenn Highway and is located within the Matanuska Susitna Borough. This proposed easement traverses approximately 2.5 miles of trail on state land only (a draft map is attached). **No private property is affected by this easement.** No specific construction or improvements on state land are being considered or authorized under this decision. The division may enter into a separate management agreement, which is not a disposal of interest in state land under AS 38.05.027. This cooperative resource management agreement may be used to facilitate maintenance and management of the trail or other state resources for specific uses and goals.

This Action

The division has determined it is in the state's best interest to reserve a 50' public recreational easement, held by the division, for present and future needs along the corridor(s) described below.

Economic Benefit and Development of State Resources

As per AS 38.05.850(a) the Department of Natural Resources (DNR) considered three criteria to determine if this project provides the greatest economic benefit to the state and the development of its natural resources. These include direct economic benefit to the state, indirect economic benefit to the state and encouragement of the development of the state's resources.

Although easements held by the division do not provide direct economic benefit to the state, this trail easement will provide indirect economic benefit to the state by supporting public recreation. Local communities may with time experience an increase in service and tourist demands through activities associated with recreation, such as gas, food and lodging sales. Public recreation on this trail may also assist local businesses directly associated with recreational use, such as eco-tourism, lodges, guiding or grooming services.

Motorized user groups, the Sutton Trails Advocacy Committee and the Matanuska-Susitna Borough have expressed concern over motorized recreational activities causing resource damage on the trail and adjacent to the trail. The granting of this legal easement will reserve this presently unprotected trail and allow user groups, local governments or other volunteer entities to

seek grant monies to improve, harden, maintain and protect the trail resource. This easement supports the development of the state's resources as the legal threshold for the preservation and improvement of recreational benefits to the people and visitors of the state.

Because there are currently no known competing projects for the use of these same lands, the granting of this easement formally establishes the trail and for the reasons outlined above provides for the greatest economic benefit to the state.

Legal Description

The state lands wherein this proposed easement is located are described as follows:

T19N R3E Sections 3, 9 and 10, Seward Meridian; and
T20N R3E Section 34, Seward Meridian.

Legal Authority

AS 38.05.850, AS 38.04.015, 11 AAC 51, and 11 AAC 55.040

Administrative Record

Easement Application ADL 228840

Background

The Eska Creek Falls Trail is part of many new and existing recreational use and access corridors within the Matanuska Susitna Borough, which have been identified as principal recreational trail corridors in the Borough's Recreational Trails Plan, adopted March 2000. The Recreational Trails Plan was developed through an extensive planning and public involvement process from 1995 through 1998, and led to an increased effort to acquire easements and perfect legal access on the many trails identified in the Recreational Trails Plan. The State recognizes the need to establish legal access for trails on state land in the Matanuska Susitna Borough. The State seeks to accommodate the Borough's rising population and increased need for public recreation trails, while also recognizing the concerns of landowners, and meeting the demands for increased private development through state land sales and land disposals.

Trail Route Description

The Eska Creek Falls Trail (**ADL 228840**) is intended for recreational use. Public access begins at the trail's juncture with the Eska Strip Mine Trail (RST 1420) within Section 10, T19N, R3E, Seward Meridian. These trails are accessed on the north side of the Glenn Highway (mp 61) via a state platted road – Eska Mine Road (ASLS 78-97). The trail follows a high bluff above Eska Creek and terminates below Eska Falls within Section 34, T20N, R3E, Seward Meridian. The trail is approximately 2.5 miles in length.

Administrative Action

The DMLW/SCRO proposes to reserve a 50' recreational easement on behalf of the public for the existing Eska Creek Falls Trail for year-round motorized and non-motorized uses.

Title

The state acquired title to this land under Statehood entitlement General Grants, GS 1579, GS 2, and GS 2036.

Classification

These state lands are described in the Susitna Area Plan, DNR, Division of Land & Water Management, June 1985: Subregion – Glenn Highway, Management Unit 6a. These lands are classified Coal, Forestry, Public Recreation, and Wildlife Habitat. This action is consistent with these classifications and with the Susitna Area Plan. The trail easement is also fully within the Matanuska Valley Moose Range and subject to AS 16.20.340.

Third Party Interests

The project area is partially overlapped by a coal lease (ADL 501265) issued to Usibelli Coal Mine Inc. The leaseholder provided comments on this proposal. Alan Renshaw, Chief Engineer for Usibelli, requested that stipulations be added to the easement to 1) notify the public and trail users that the trail is subject to closure within the leased area for health and safety reasons should mining development occur; and 2) clarify that the leaseholder will not be responsible for relocating the trail if the need should arise in the future. DNR prefers not to address the issue of trail closure and relocation in this easement decision, but rather to address the issue in the future, when Usibelli seeks DNR authorization for exploration and mining in the leased area. There are no known conflicts for this application with this third party interest.

Alaska Coastal Management Program Review

This project area is outside the Alaska Coastal Zone boundary and not subject to ACMP review.

Easement Revocability

As per AS 38.05.850, the division has determined this authorization to be functionally revocable. This is primarily due to the possibility of relocating the trail or the potential for an alternate or more feasible route of access developing in the future and eliminating the need for this authorization. Secondly, the simplicity of land status (mostly state land) in the project area was considered in determining the revocability potential. Due to the revocable nature of this authorization, public notice is not required. However, a 14-day public notice was posted as a courtesy to the public.

Public Notice

Although notice is not required for this action a courtesy public notice was posted on the State of Alaska Online Public Notice web site for a 14-day comment period. No objections were received to this proposed action but issues concerning the motorized/non-motorized trail designation were addressed by most comments received. Those issues are addressed below.

Issues

Several members of the public expressed concern over motorized uses on this trail causing resource damage and degradation in the Eska Falls area. While this state land is subject to the department's "generally allowed uses" regulations (11 AAC 96.020), activities must be conducted in a manner that minimizes surface damage, disturbance of vegetation, soil stability or drainage systems. Staff inspections have verified that recreational motorized activities have contributed to an increase in surface damage and resource degradation – most likely from the cumulative effect of these activities.

In addition to those comments mentioned above, Scott Hala of the Alaska Extreme Fourwheelers, Inc. submitted comments on behalf of their club members supporting the reservation of the easement and continued motorized activities being allowed on the trail.

While the department has the authority to close or temporarily restrict a traditional means of access to state land under AS 38.04.200 we recommend first establishing an easement on the trail. We view this as the initial step in addressing the public concern of protecting aesthetic values, managing motorized activities and applying trail hardening and remediation techniques to mitigate resource damage. Under AS 38.04.200 the department currently has the authority to close an area of state land that encompasses 640 acres or less to all motorized uses. However, we support the development of a more comprehensive study and strategy to more efficiently address the resource damage issues while working with all interested parties to reach a practical and acceptable solution. The department plans in the future to coordinate with the Matanuska-Susitna Borough, the Sutton Trails Advocacy Committee local property owners, trail users and user groups to accomplish this goal through supporting a combination of resource monitoring, trail hardening/relocation techniques, signing, education and active area management. This strategy can also include trail restrictions, either permanent or temporary, for portions of the trail if it is determined to be necessary.

Location diagram

The Matanuska-Susitna Borough will provide a Trail Easement Diagram that upon approval by DNR will be used to locate the trail on state land. This diagram will be recorded with the easement document.

Fees/ Bonding /Insurance

All fees, performance guarantee and insurance are waived due to the nature and scope of the project and benefit to the public (11 AAC 96.060).

Term

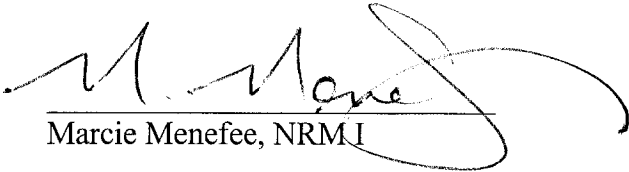
The term of the public easement authorization will be indefinite until a higher and better economic use is established as determined by the DMLW director (AS 38.05.850) or the land is no longer used for the above-stated purpose.

Appeal

A person affected by this decision may appeal it, in accordance with 11 AAC 02. Any appeal must be received within 20 calendar days after the date of "issuance" of this decision, as defined in 11 AAC 02.040(c) and (d), and may be mailed or delivered to Tom Irwin, Commissioner, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501; faxed to 1-907-269-8918, or sent by electronic mail to dnr_appeals@dnr.state.ak.us. If no appeal is filed by that date, this decision goes into effect as a final order and decision on the 31st day after issuance. An eligible person must first appeal this decision in accordance with 11 AAC 02 before appealing this decision to Superior Court. A copy of 11 AAC 02 may be obtained from any regional information office of the Department of Natural Resources.

Recommendation

It is recommended that a public recreational easement be reserved across state land by the DNR/DMLW on the Eska Creek Falls Trail. This easement shall be 50 feet in width and approximately 2.5 miles in length.



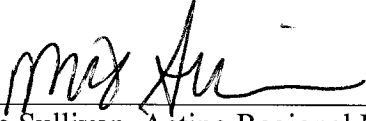
Marcie Menefee, NRM I

8/30/04

Date

I concur

I do not concur



Mike Sullivan, Acting Regional Manager
Southcentral Region/DMLW

8/30/04

Date

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SEC. 3

ESKA FALLS SEC. 74

20N-3E

5

SEC. 4

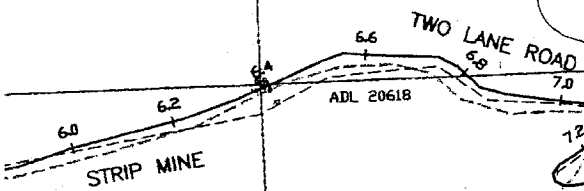
SEC. 3

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SEC. 9

SEC. 10

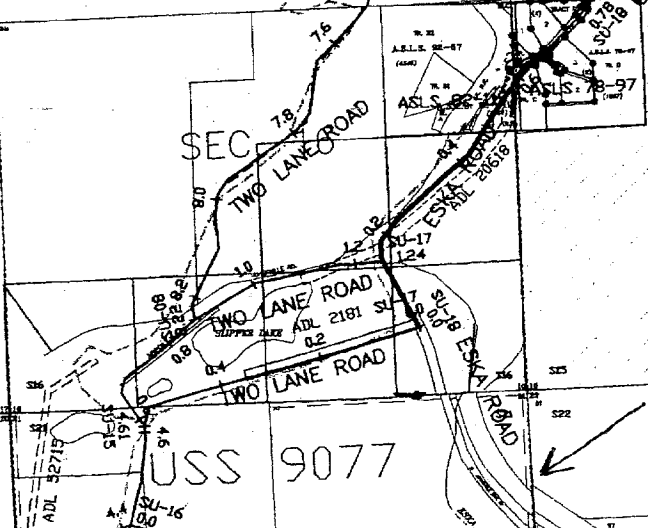
Easement Starts Here



17

SEC. 78

SEC. 15



Jonesville Mine Rd.