



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of Natural Resources

DIVISION OF MINING, LAND & WATER
Northern Regional Land Office

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March 23, 2018

Dear Commenter:

During the most recent Public Notice regarding amendment to ADL 400064, the Bluff Cabin Trail, for a proposed reroute of the trail, comments were received regarding the use of the trail by vehicles bigger than ATV's/snowmachines. Although many of the comments were outside the scope of that decision, which was specific to rerouting sections of the trail, the Department of Natural Resources (DNR) wanted to acknowledge those comments and provide additional background information regarding the existing access limitations under ADL 400064.

The easement, serialized as ADL 400064, was originally designated February 7, 1978, for the purpose of reserving a public easement for recreational trails. The designation included two special conditions that stipulated: 1) Within the right-of-way, vegetation shall not be removed or destroyed, except as necessary to maintain the existing trails; and 2) Trails shall not be widened.

The easement was amended in 1983 to include the trail that went to the Bluff Cabin Ridge remote parcels area. The amendment included the same conditions as above. A note to file dated July 13, 1983 indicates that the amendment was needed to both provide access to the Bluff Cabin Remote Disposal Area and protect the trails for public recreation.

Both the 1983 Remote Parcel Brochure and the 2005 Remote Recreational Cabin Site Staking Brochure identify the Bluff Cabin Trail, ADL 400064, as a trail suitable for ATV, horse or foot access, but not 4-wheel drive access. The 1983 Brochure stated, "This trail is suitable for ATV's, horse, walk-in, etc.; however, it is not accessible by 4-wheel drive." The 2005 Brochure also stated that the trail "is suitable for ATV, horse, or foot access. It is not accessible by four-wheel drive."

In 2003 an application was submitted to widen and harden the trail to support use by highway vehicles. This application was denied in a December 7, 2004, letter. In the letter it was explained that the trails were intended to be maintained as recreational trails and the Bluff Cabin buyers, informed by the sales brochure, may have made their purchase based on the fact that this trail was intended to remain a trail and not become a road. Limiting the trail surface to five feet in width would maintain the original intent of this trail as recreational and would not encourage incompatible use.

On August 25, 2005, a field inspection revealed that the trail had been illegally widened to a pickup width with a dozer, which damaged the vegetative mat. This action was in violation of the original right-of-way grant. The trail was further damaged by what appeared to be highway vehicle traffic (reportedly to haul logs in), and substantial braiding was present as existing and newly created braids were further damaged. This damage has impacted other trail users.

In 2012, a permit was issued to the Salcha-Delta Soil and Water Conservation District authorizing trail repairs and the installation of barriers intended to limit the size of vehicles utilizing the trails to a maximum width of five feet to limit further degradation of the trail. At the time, it was reaffirmed that the highway vehicles were excluded by the easement document. The decision notes that the purpose of the easement was clearly for recreational uses, and conditions were specifically added to preserve the original trail width by prohibiting widening or removal of vegetation beyond that necessary to maintain the existing trails. The width of the original trail was sufficient to support ATV, horse, or foot access, but not four-wheel drive vehicles. It was never intended nor engineered for use by heavier or larger

vehicles. The width of a 4-wheel drive vehicle exceeds the width of the original trail as described above and unavoidably leads to widening of the trail and destruction of vegetation in violation of the conditions of the original and amended easement.

It has been noted that in the past 10 years or so, the side-by-side or UTV category of off road vehicles (ORV) has grown dramatically, both in numbers sold, as well as overall vehicle size. Many of these vehicles are now wider than five feet and thus prohibited by the terms of ADL 400064. While we understand this may be frustrating, particularly if you own and use one of these vehicles, it does not alleviate DNR's responsibility to maintain the Bluff Cabin Trail according to the terms of the easement. If the trail were not currently damaged and problematic for trail users who operate within the terms of the easement, DNR would not be adjudicating an application for a reroute. While trail damage may not be caused solely by larger vehicles, field observations make it a reasonable conclusion that these vehicles are causing significant rutting and are problematic for the sustainability of the trail.

There were some comments that asserted the right to use larger UTVs or 4-wheel drive vehicles to access private property, despite the brochures informing property owners that the legal access was limited. Although property owners may disagree with those limits, which were in place when land was purchased, there is no implied right or guaranty for a particular mode of transportation for access. Although the limitations of ADL 400064 may exclude certain types of vehicles, legal access does exist and was clearly identified in the brochures. Any illegal use of the trail, even if long-term, does not create a right to continue to do so.

One comment suggested that the Bluff Cabin Trail is an RS2477 right-of-way. While the original trail to the cabin site along the Tanana River may qualify as an RS2477, DNR does not have any evidence that the portion of the trail that goes to the lakes existed before the 1980s. If someone wanted to nominate the original trail as an RS2477, they could certainly do so by providing the historical documentation.

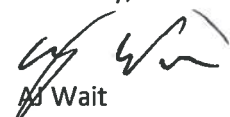
There were some comments that asked DNR to consider tire pressure instead of vehicle weight in determining what vehicles were or were not appropriate for the trail. This is an issue that is on occasion brought up. It is an approach that DNR may evaluate in the future, but it not something we would consider for the reroute as limitations on size and weight are outside the scope of the decision.

Lastly, it should also be noted that DNR is adjudicating the application it received from the Delta Junction Trails Association, a group of local trail users interested in a community-wide trail system and trail issues. They are always seeking input from people in the community, so DNR encourages commenters to contact them regarding your thoughts on these important community trails.

In conclusion, DNR asserts that based on the totality of documentation, the current terms of ADL 400064 are clear, this trail is intended for recreational use, including access to the properties within the Bluff Cabin staking area, and that the intent of the limitation against widening was intended to prevent the use of vehicles wider than 5 feet. DNR understands that the size of recreational vehicles has increased since 1978, however the existing trail appears to be unable to withstand this type of use without additional hardening. DNR would consider applications to widen and hardened the trail, and modify the width restriction to allow for wider recreational vehicles.

If you have any questions regarding information provided in this letter, please feel free to contact us. You can contact Dave Hite at 451-2729 or at david.hite@alaska.gov, or myself at 451-2777 or at aj.wait@alaska.gov. Thank you for taking the time to submit comments. We appreciate hearing from all trail users.

Sincerely,



AJ Wait

Natural Resource Manager