

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF MINING, LAND AND WATER
SOUTH CENTRAL REGION

Administrative Decision
Puritan Creek Trail
A Qualifying Segment of
RST 564 - The Knik-Chickaloon-Nelchina Trail

Overview

The Puritan Creek Trail, a qualifying segment of RST 564, the Knik-Chickaloon-Nelchina Trail, is a route that was offered and accepted by the State of Alaska under former 43 U.S.C. Sec. 932, a federal law that granted states and territories unrestricted rights-of-way across lands that could show a pattern of use prior to the existing restrictions or private entries. Following a blockage complaint, the state reviewed the history of trail use in this area and determined a route is present and that it does, in part, affect private property ownership.

In verifying the presence of a trail, the state also recognized that other management issues existed for the Puritan Creek area in general that supported conducting a simultaneous review of past management actions as well as user initiated improvements for various trails in the area that have occurred back to the 1990's. The results of that general management review support that there is both a short and long term component to achieving the state's overarching goal of protecting sustainable access into the future in a manner that does not unreasonably and unnecessarily impact the rights of underlying private ownership.

Location

The Puritan Creek Trail connects to the Glenn Highway in the vicinity of MP 89.5, traveling through approximately ¼ mile of private land that fronts the highway on the north side before emerging on state land beyond and traveling in a somewhat northeasterly direction to connect with the RST 564 Knik-Chickaloon-Nelchina trail which runs roughly parallel to the Glenn Highway, but below Anthracite Ridge.

Legal Description

The trail is located partially on private lands and partially on state owned lands. The portion occurring on private property within Parcel 4, Matanuska Susitna Borough Waiver Resolution

Serial Number 2008-065-PWm, recorded on September 10, 2008 in the Palmer Recording District as Document Number 2008-020364-0 is more generally described as a portion of the S1/2 NE1/4, Section 23, Township 20 North, Range 7 East, Seward Meridian. The remainder that occurs on state lands is generally within the N1/2 of the NE1/4, Section 23 and a portion of Section 14, Township 20N, Range 7 East, Seward Meridian.

Administrative Decision

The Department of Natural Resources, Division of Mining, Land and Water, South Central Region (DNR/DMLW/SCRO), hereby announces its decision to:

- **Temporarily restrict motorized travel on the Puritan Creek Trail (Route A, as depicted on Figure 1 attached) to vehicles with a curb weight of 1500 pounds or less. This restriction applies only to that portion of the trail passing through private ownership. Parking and camping within the private property is also prohibited during this temporary restriction.**
- **Travel through the private property utilizing equipment in excess of 1500 pounds may be authorized by individual permits issued by the SCRO. Any application for permit will be adjudicated for uses and activities related to access (11 AAC 51.100(j)), and may be further stipulated to reduce the potential to unreasonably or unnecessarily interfere with the rights of the holder of the underlying property interest (11 AAC 96.025(9))**
- **Temporarily close to all uses, Routes B, C, and D (see attached Figure 1).**

This action is being taken in order to:

1. Implement a long term management strategy for the Puritan Creek area trails that includes completion of the formal vacation/relocation process of the Puritan Creek Trail from MP 89.5 to MP 90.5 or other alignment deemed most appropriate to satisfy the requirements of the vacation/relocation process and other long term management concerns; improving other area trails to address ongoing trail degradation issues.
2. Halt the unreasonable and unnecessary damage and disturbance to the underlying landowners' property beyond the boundary of Route A's recognized 25' width
3. Reduce the risks to public safety associated with congestion of use caused by inadequate space to stage and maneuver vehicles in proximity to the Glenn Highway.

This temporary restriction of Route A and closure of Routes B, C, and D will be implemented as of the date of this decision and will remain in effect for one year, and may be extended upon further review.

Authority

This decision is issued pursuant to Alaska Statute 38.04.058 (restriction of public access), and Alaska Administrative Code 11 AAC 51 (Identification, Reservation and Modification of Public Easements) and 11 AAC 96 (Miscellaneous Land Use).

Administrative Record

The administrative record for the proposed action consists of case files RST 564, ADL 227491, DMLW South Central Region Overview of Management Issues, dated 5/22/13 (Puritan Creek Trail – a Qualifying Segment of RST 564 The Knik-Chickaloon-Nelchina Trail) and this decision.

Discussion

The Puritan Creek area between approximately MP 89.5 and 90.5 is affected by seven or more trails, four of which (Routes A-D) impact private property and are the subject of this decision. By separate writing, the affected landowner(s) have been notified that the state is directing the public to use Route A only, as restricted above. Route A is one of several trails in the area that provides important access into the surrounding state and borough land, some of which date back well over 80 years. These routes served as vital transportation for purposes general public travel, freighting, facilitating geologic exploration for coal and hard rock mining, hunting, trapping, recreation, etc. Many of these trails are currently experiencing degradation sufficient to impact their overall usability, resulting in a lack of trails in the area being capable of supporting user needs.

Route A at approximately MP 89.5 in particular, has a somewhat complex history based on its RS 2477 origins, the natural movement of the trail's alignment over time, and past efforts to relocate the trail to MP 90.5. The relocation work was technically defective, in that it did not go through a formal vacation process, required under 11 AAC 51.065 to extinguish the current alignment, however, the record does support that there was a coordinated effort on the part of the property owner, the Glacier View Community Counsel, the Matanuska-Susitna Borough, DNR personnel and the Department of Transportation/Public Facilities to effectuate this change and to address the growing needs of the area related to access. DOT/PF worked with the MSB to develop the parking area and section line easement trail at MP 90.5 to offset the public safety concerns resulting from periodic congestion in use adjacent to the Glenn Highway occurring at MP 89.5, approximately one mile away from the established parking area. DNR personnel also worked with user groups to establish an easement (ADL 227491) that traveled initially along the section line before departing in a northwesterly direction to connect with the RST 564 main trail. Both trails have since suffered from degradation that has affected their usability, resulting in additional trails being developed by users to the east of the section line on borough and state land to bypass the problem areas.

DNR's overall mission is derived from the Alaska Constitution, which states "it is the policy of the State to encourage the settlement of its lands and development of its resources by making them available for the maximum use consistent with the public interest". DNR's management goal for the Puritan Creek area is to ensure that it remains viable for long-term access in a manner that will best serve the diversity of uses for which it is utilized. In the long term, accomplishing this goal may require addressing the problems and deficiencies with more than one of the area trails in order to distribute the demands onto multiple alignments that can support such usage through trail improvement, realignment, restrictions on use, separation of types of usage, or some combination of effort that uses these and other management tools.

DNR recognizes that use of an unimproved trail corridor will inevitably have impact on the lands involved; damage on the trail itself is a primary concern when it reaches a level which significantly interferes with or degrades travel conditions, however, when the trail also crosses private ownership, the degradation of the trail can extend to, degrade or negatively impact the surrounding private lands as well. In determining that a temporary restriction in use is appropriate at this time to slow or halt the damage presently occurring to surrounding private lands, it should also be noted that the DNR reserves the right to change, modify or extend the type and nature of restriction in a manner appropriate to the circumstances to achieve this result.

The ability to regulate timing and means of travel in order to protect long-term access use of a public easement is authorized by AS 38.04.058, which states that restrictions designed to protect public safety, public and private property, must be narrowly tailored to achieve this protection while preserving access to the maximum extent practicable. DNR is further guided by 11 AAC 51.100, which states that restrictions or closure may be imposed to:

1. Protect public safety;
2. Protect the right-of-way and the servient estate against damage that may be caused by use during storms, floods, thawing conditions, or construction and maintenance operations; or
3. Protect or manage other resources in or near the right-of-way.

In its current unimproved state, the Puritan Creek trail, depicted as Route A on the attached Figure 1, is in need of brushing to facilitate travel. However, once brushed, it is generally suited in both terrain and alignment for year round usage as described in this decision during all but the relatively short transition phases of spring thaw and winter freeze to protect the underlying soils from erosion and rutting.

In response to public reports of trail blockage at MP 89.5, DNR staff, through the Public Access Assertion and Defense Unit (PAAD) and the South Central Regional Office (SCRO) conducted an assessment and review of both the trail's history and DNR's past management actions for this area. The result was recognition of a need for more comprehensive management analysis of issues beyond whether or not the trail existed, to encompass how the Puritan Creek Trail, and

other trails in the area were being utilized and what was in the long-term best interest of public access and public safety. That analysis has been summarized in an Overview of Management Issues, dated 5/22/13. The summary listed several options for both short- and long- term management.

Scope of the Decision:

Given the information available, the scope of this decision is therefore limited to the most feasible short-term management option considered in the summary - that of restricting the types of motorized vehicles temporarily through the private parcel with the option of applying for permits for proposed uses in excess of the restriction on a case by case basis.

Decision:

DNR's overall management goal is to ensure that the Puritan Creek area and the Puritan Creek Trail remain viable for long-term general access opportunities, whether in its present alignment or a future agreed upon realignment.

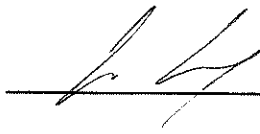
While DNR seeks to encourage the widest possible scope of public use without the need for direct agency oversight through permitting, preliminary evaluation of the trail problems in this area has concluded that:

1. MP 89.5 through Private Property requires a more direct management strategy to avoid use conflicts between trail users and the servient landowners and also manage the public's right-of-access in a manner that does not unreasonably or unnecessarily impact the underlying landowner's rights.
2. Vacation/relocation of the RS 2477 trail in combination with implementation of a long term management plan to address the overall management issues must be undertaken in a manner that can be accomplished with minimum ongoing direct agency oversight. Implementation of long term management strategies for the access needs of this area will be accomplished with appropriate public involvement and notice, as well as coordination with other agencies and local government entities.

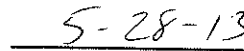
Because the use of any unimproved trail must inevitably result in some level of impact to the right-of-way and surrounding lands, DNR cannot, and does not, seek to eliminate any and all sources of trail impact – this would be impossible, and inconsistent without goals for ensuring continued public access. DNR intends to allow for continued access through the private property at MP 89.5, but restrict access type and usage in a manner narrowly tailored to protect public safety and property, while preserving access to the maximum extent possible in this particular location until a more comprehensive, long-term management strategy can be crafted.

Travel is hereby limited to access through the private property utilizing the Route A alignment only by vehicles with a curb weight of 1500 pounds or less. (Parking and camping related uses are prohibited during this temporary restriction). Travel utilizing equipment in excess of 1500 pounds may be authorized on a case-by-case basis by individual permits issued by the SCRO. Because this trail occurs, in part, on private property adjoining the Glenn Highway, any application for permit will be adjudicated only for uses and activities related to access (11 AAC 51.100(j)) and as qualified above, and may be further stipulated to reduce the potential to unreasonably or unnecessarily interfere with the rights of the holder of the underlying property interest (11 AAC 96.025(9)) or as needed to ensure public safety along the Glenn Highway.

This restriction will remain in effect for one year. Assessment of other area trails will be ongoing, but is contingent upon funding and staff resources.



f/ Richard B. Thompson
South Central Regional Manager



Date

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 Daniel Sullivan, Department of Natural Resources, 550 W. 7th Avenue, Suite 1400, Anchorage, Alaska 99501, faxed to 907-269-8918, or sent by email to dnr.appeals@alaska.gov. 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.