



U.S. Department of the Interior
Bureau of Land Management
Glennallen Field Office
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<http://www.blm.gov/ak/st/en/fo/gdo.html>

Categorical Exclusion
Establishment of a short Right-of-way over public land

Applicant: Daniel K. Coben
Case File Number: AA-092974
DOI-BLM-AK-A020-2011-0022-CX



Location:
T. 14 N., R. 5 E., Section 14-16 and 23-24, Copper River Meridian, Alaska

Prepared By:
Brenda Becker
Realty Specialist
July 6, 2011

U.S. DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Glennallen Field Office
CATEGORICAL EXCLUSION (CX) FORM

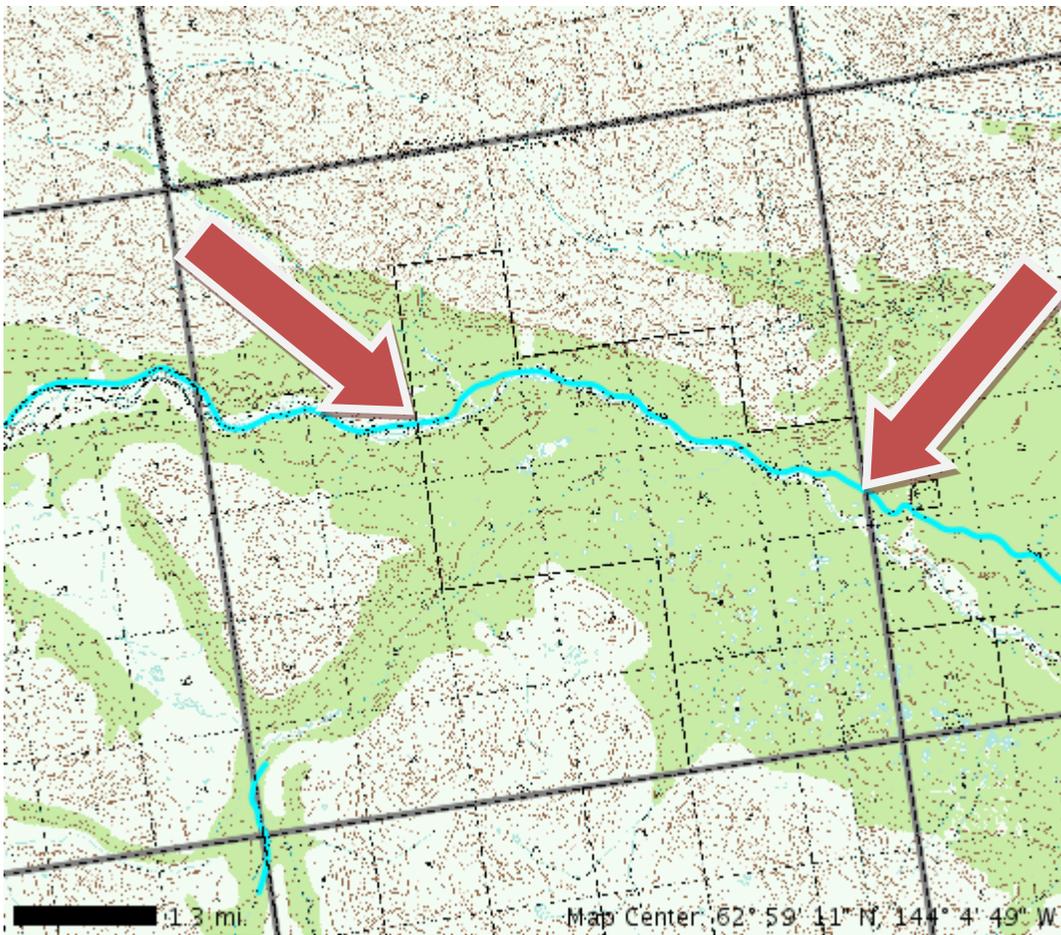
CX No.: DOI-BLM-AK-A020-2011-0022-CX

Lease/Serial/Case File No.: AA-092974

Proposed Action Title/Types: Short right-of-way for use of an existing trail.

Location of Proposed Action: T. 14 N., R. 5 E., sections 14-16 and 23-24, Copper River Meridian, Alaska.
This right-of-way is to provide access to the customer's mining claims utilizing the existing Slana River Trail.

Description of Proposed Action: The BLM would authorize a right-of-way grant to the customer which would allow the applicant to access his mining claims northeast of Mankomen Lake. Concurrence and Comments have been requested.



Map showing the digitized route that is being requested.

Applicant (if any): Daniel K and Irene Coben

PART I - PLAN CONFORMANCE REVIEW

This Proposed Action is subject to the following land use plan: East Alaska Resource Management Plan

Date Plan Approved: September 7, 2007

The Proposed Action has been reviewed for conformance with this plan (43 CFR 1610.5-3(a)).

Remarks: East Alaska Resource Management plan, page 19, Section I, Lands and Realty.

I-1: Goals – second bullet; “Provide a balance between land use (rights-of-ways, land use permits, leases and sales) and resource protection that best serves the public at large.

I-2: Land Use Authorizations – “Land use authorizations include various authorizations and agreements to use BLM lands such as right-of-way grants, road, temporary use permits under several different authorities; leases, permits, and easements under section 302 of the Federal Land Policy and Management Act of 1976 (FLPMA); airport leases under the Act of May 24, 1928; and Recreation and Public Purposes (R&PP) leases.”

PART II – NEPA REVIEW

A. Categorical Exclusion Review.

This Proposed Action qualifies as a categorical exclusion under 516 DM 2, Appendix 4. or 516 DM 11.9:

E (17). Grant of a short rights-of-way for utility service or terminal access roads to an individual residence, outbuilding, or water well.

The length of the right-of-way being asked for is 5 miles long by 50 feet wide, a short right-of-way that will follow the existing Slana River Trail to conveyed lands. The BLM authorizes rights-of-ways for multiple miles long, for utilities, for access, for pipelines, this request in comparison is a short right-of-way.

B. Departmental List of Extraordinary Circumstances Review.

The following Departmental List of Extraordinary Circumstances apply to individual actions. Departmental instructions mandate that environmental documents **MUST BE PREPARED** for actions which may: (Mark applicable answer for each item. If "yes", prepare an EA/EIS and append this form to it.)

1. Have significant adverse impacts on public health or safety.

Yes ____ No X

2. Have significant impacts on such natural resources and unique geographic characteristics as historic or cultural resources; park, recreation or refuge lands; wilderness areas; wild or scenic rivers; national natural landmarks; sole or principal drinking water aquifers; prime farmlands; wetlands (Executive Order 11990); floodplains (Executive Order 11988); national monuments; migratory birds; and other ecologically significant or critical areas.

Yes ____ No X

3. Have highly controversial environmental effects or involve unresolved conflicts concerning alternative uses of available resources [NEPA Section 102(2)(E)].

Yes ____ No X

4. Have highly uncertain and potentially significant environmental effects or involve unique or unknown environmental risks.

Yes ____ No X

5. Establish a precedent for future action or represent a decision in principle about future actions with potentially significant environmental effects.

Yes ____ No X

6. Have a direct relationship to other actions with individually insignificant but cumulatively significant environmental effects.

Yes ____ No X

7. Have significant impacts on properties listed, or eligible for listing on the National Register of Historic Places as determined by either the bureau or office.

Yes ____ No X

8. Have significant impacts on species listed, or proposed to be listed, on the List of Endangered or Threatened Species, or have significant impacts on designated Critical Habitat for these species.

Yes ____ No X

9. Violate Federal law or a State, local or Tribal law or requirement imposed for the protection of the environment.

Yes ____ No X

10. Have a disproportionately high and adverse effect on low income or minority populations (Executive Order 12898).

Yes ____ No X

11. Limit access to and ceremonial use of Indian sacred sites on Federal lands by Indian religious practitioners or significantly adversely affect the physical integrity of such sacred site (Executive Order 13007).

Yes ____ No X

12. Contribute to the introduction, continued existence, or spread of weeds or non-native invasive species known to occur in the actions that may promote the introduction, growth, or expansion of the range of such species (Federal Noxious Weed Control Act and Executive Order 13112).

Yes ____ No X

I certify that none of the Departmental Extraordinary Circumstances listed in the above Part B (516 DM 2, Appendix 2) apply to this action.

Remarks: None

Preparer(s): _____ Date: _____

PART III – DECISION

The proposed action is in conformance with a management framework plan or a resource management plan, 43 C.F.R. § 1610.8(a)(3) (2006). The Department of the Interior has determined and found that the proposed action is within a category of actions that do not individually or cumulatively have a significant effect on the human environment and that neither an environmental assessment nor an environmental impact statement is required, 40 C.F.R. §1508.4 (2006).

It is therefore my decision to implement the action, as described, with appropriate mitigation measures or stipulations.

Mitigation Measures/Other Remarks: See attached Grant and Stipulations.

Authorized Official: s/s Elizabeth Maclean

Date: 7/15/11

RIGHT-OF-WAY GRANT/TEMPORARY USE PERMIT

Serial Number
AA-092974

1. A (right-of-way) (permit) is hereby granted pursuant to:

- a. Title V of the Federal Land Policy and Management Act of October 21, 1976 (90 Stat. 2776; 43 U.S.C. 1761);
- b. Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185);
- c. Other (describe) _____

2. Nature of Interest:

- a. By this instrument, the holder Daniel K and Irene Coben receives a right to construct, operate, maintain and terminate a Non-exclusive use access right-of-way on public lands (or Federal land for MLA Rights-of Way) described as follows:

A non-exclusive right-of-way over an existing trail crossing public lands within T. 14 N., R. 5 E., sections 14-16 and 23-24, Copper River Meridian, Alaska.

This non-exclusive right-of-way will begin along the existing trail leaving Native conveyed lands, traveling approximately 4.5 miles and terminating on State conveyed lands within section 17 of the township listed above.

- b. The right-of-way permit area granted herein is Twenty five (25) feet wide, 4.5 feet long and contains 13.6 acres, more or less. If a site type facility, the facility contains _____ acres.
- c. This instrument shall terminate on August 1, 2014, 3 years from its effective date unless, prior thereto, it is relinquished abandoned, terminated, or modified pursuant to the terms and conditions of this instrument or of any applicable Federal law or regulation.
- d. This instrument may not be renewed. If renewed, the right-of-way or permits shall be subject to the regulations existing at the time of renewal and any other terms and conditions that the authorized officer deems necessary to protect the public interest.
- e. Notwithstanding the expiration of this instrument or any renewal thereof, early relinquishment, abandonment, or termination, the provisions of this instrument, to the extent applicable, shall continue in effect and shall be no binding on the holder, its successors, or assigns, until they have fully satisfied the obligations and/or liabilities accruing herein before or on account of the expiration, or prior termination, of the grant.

3. Rental: **The annual rental rate is calculated with Zone 4 for 2011 @ 47.98 per acre which totals \$652.53 annually.**

For and in consideration of the rights granted, the holder agrees to pay the Bureau of Land Management fair market value rental as determined by the authorized officer unless specifically exempted from such payment by regulation. Provided, however, that the rental may be adjusted by the authorized officer, whenever necessary, to reflect changes in the fair market rental value as determined by the application of sound business management principles, and so far as practicable and feasible, in accordance with the comparable commercial practices.

4. Terms and Conditions:

- a. This grant or permit is issued subject to the holders' compliance with all applicable regulations contained in Title 43 Code of Federal Regulations parts 2800 and 2880.
- b. Upon grant termination by the authorized officer, all improvements shall be removed from the public lands within 90 days, or otherwise disposed of as provided in paragraph (4) (d) or as directed by the authorized officer.
- c. Each grant issued pursuant to the authority of paragraph (1) (a) for a term of 20 years or more shall, at a minimum, be reviewed by the authorized officer at the end of the 20th year and at regular intervals thereafter that do not exceed 10 years. Provided, however, that

a right-of-way or permit granted herein may be reviewed at any time deemed necessary by the authorized officer.

d. The stipulations, plans, maps, or designs set forth in the Exhibit(s) A, dated 07-06-2011 attached hereto, are incorporated into and made a part of this grant instrument as fully and effectively as if they were set forth herein in their entirety.

e. Failure of the holder to comply with applicable law or any provision of this right-of-way grant or permit shall constitute grounds for suspension or termination thereof.

f. The holder shall perform all operations in a good and workmanlike manner so as to ensure protection of the environment and the health and safety of the public.

g. Pursuant to 43 CFR 2800.1-2(b)(1)(iii), no rental shall be collected provided all use is strictly related to rural utility services. Commercial use by other non-rural related services requires rental. The sale or lease of any excess capacity for commercial purposes to other telecommunications service providers that are not exempt from rent by statute, or regulations, shall result in the loss of the rental exemption for that portion of the fiber optic capacity being sold or leased for the commercial purposes. The rental for this portion shall be assessed based on the fair market value as determined by the authorized officer.

IN WITNESS WHEREOF, The undersigned agrees to the terms and conditions of this right-of-way grant or permit.

(Signature of Holder)

(Signature of Authorized Officer)

(Title)

(Title)

(Date)

(Effective Date of Grant)

Exhibit A
07-06-2011

1.0 Definitions

- 1.1 The Glennallen Field Office Manager or its designees is the Authorized Officer (AO), as defined by 43 CFR 2920.0-5(a).
- 1.2 "Grantee" means Daniel K. and Irene Coben, and any and all assignees that may be of record, including all agents, contractors, subcontractors, and employees.
- 1.3 "Grant" means the license, lease, permit, or other permissions granted by the United States to the grantee for the use of public lands and resources.

2.0 General

- 2.1 This grant is subject to all prior valid and existing rights, and the United States makes no representations or warranties whatever, neither expressed nor implied, as to the existence, or nature of such valid existing rights.
- 2.2 Any modifications to the proposed activities must be approved in writing by the AO.
- 2.3 It is the responsibility of the grantee to ensure that association members are familiar with and adhere to these stipulations.
- 2.4 These provisions do not relieve the grantee of any responsibilities or provisions required by any applicable State or Federal law and regulations.
- 2.5 The grantee may be required by the AO to furnish transportation and quarters for designated field representatives or observers while inspecting field operations.
- 2.6 In the advent of a disagreement of the interpretation or implementation of these stipulations the grantee agrees that the AO shall have the final say in how these stipulations are interpreted and implemented.
- 2.7 Grantee shall defend, indemnify and hold the United States, its assigns, agents, employees, representatives and successors in interest harmless from and against any and all actions, fees, for injury to or death of any person, persons, or property arising in connection with and as a direct result of grantee's activities, included but not limited to United States negligence, if any in failing to recognize or remedy a hazardous condition existing on public lands.
- 2.8 Grantee shall comply with Title VI of the Civil Rights act of 1964 (42 U.S.C. 2000 et seq) and the regulations of the Secretary of the Interior issued pursuant thereto.
- 2.9 This grant may not be encumbered, hypothecated, assigned, subleased, or transferred without prior written approval by the AO.
- 2.10 The AO may revoke or terminate this grant in whole, or in part, upon a determination by the AO that the terms, conditions, or stipulations of the grant have been violated, or by determination by the AO that the grantee's actions pose a threat to human health or safety, or irreparable harm to the surrounding environment.

- 2.11 The grantee shall not enclose in any manner, or erect or maintain any signs or structures on roads or trails commonly used for public travel or access to public lands surrounding the grant unless directed to do so by the AO.
- 2.12 This grant does not authorize the grantee to take from the public lands any mineral or vegetative material, including timber, without securing authorization under 30 USC 601 et seq.
- 2.13 This grant does not authorize any other use of the public lands or improvements belonging to the U.S. Government.
- 2.14 Fire suppression or protection shall not be provided by the government. The grantee shall be responsible for taking reasonable precautions to prevent and suppress brush, grass and other fire hazards within the authorized area, extinguishing all fires before departing the premises.

3.0 Environmental

- 3.1 All operations will be conducted in such a manner as not to cause damage or disturbance to any fish wildlife, or to impede rural residents from pursuing their traditional subsistence activities (ANILCA, PL 96-487).
- 3.2 All activities shall be conducted so as to avoid or minimize disturbance to vegetation. If it becomes necessary to remove vegetation, prior approval by the AO is required.
- 3.3 All operations shall be conducted with due regard for good resource management and in such a manner as not to block any stream, or drainage system, or cause the pollution of siltation of any stream or lake.
- 3.4 Use of pesticides or herbicides shall comply with the applicable Federal and State laws. Pesticides or herbicides shall be used only in accordance with their registered uses and within limitations imposed by the Secretary of the Interior. Prior to the use of pesticides or herbicides, the grantee shall obtain from the AO written approval of a plan showing the type and quantity of materials to be used, pest(s) to be controlled, method of application, location of storage and disposal of containers, and any other information deemed necessary by the AO. Emergency use of pesticides or herbicides shall be approved in writing by the AO prior to such use.
- 3.5 The holder will do everything reasonable, both independently and/or upon request of the authorized officer to prevent the introduction and/or spread of invasive non-native plants ("weeds") on BLM managed lands. Re-vegetation shall occur through seeding of native seed or by providing for soil conditions that allow the site to re-vegetate naturally, whichever provides the most effective means of reestablishing natural ground cover and minimizing erosion. Lessee will prevent and control noxious weed infestations. Noxious weeds in Alaska are listed under Alaska Statute 11 AAC 43.020.
- 3.6 The grant holder will obtain and provide a copy of his access permit for the TAPS right-of-way. Should this access permit for the TAPS laps, be revoked or terminated, the

applicant will be permitted 15 business days to obtain and provide a new permit to this office.

- 3.7 This authorization will terminate upon the following situations, the mining claim held by the grant holder laps, is revoked, or fails to be a valid claim held by grant holder.

4.0 Operational

- 4.1 There shall be no disturbance of any archaeological or historical sites, including graves and remains of cabins, and no collection of any artifacts whatsoever. Also, collection of vertebrate fossils, including mammoth and mastodon bones, tusks, etc, is strictly prohibited. Any cultural or Paleontological resources discovered by the holder, or any person working on behalf of the holder, shall be immediately reported to the AO. The holder shall suspend all operations in the immediate area of such discovery until written authorization to proceed is issued by the AO. The grantee shall not occupy or otherwise disturb any cultural sites including historical cabins. The grant holder will be responsible for the cost of any evaluation and mitigating measures determined necessary by the AO.
- 4.2 All solid wastes shall be removed from the public lands to an Alaska State DEC approved solid waste disposal facility.
- 4.3 Areas of operation shall be left clean of all unauthorized foreign objects. This shall include, but is not limited to; wires, pins, flags and reflectors.
- 4.4 All fuel or lubricant spills will be cleaned up immediately, taking precedence over all other matters, except the health and safety of personnel. Spills will be cleaned up utilizing absorbent pads or other Alaska State DEC approved methods. Any such spill sites will be documented so that they can be located during the compliance check.
- 4.5 Recovered spill fluids will be removed and incinerated in approved receptacles.
- 4.6 As soon as possible, but not later than 24 hours, notice of any such discharge as defined in Alaska Statute Title 18, Chapter 75, Article 2 will be given to the AO and any other Federal and State Officials as are required by law.
- 4.7 All State and Federal safety standards and regulations for fuel transportation and handling will be followed. Only fuel products and amounts specifically authorized shall be stored on site, and shall be located a minimum 100 feet away from any source of water. All fuel containers, including barrels and propane tanks, shall be marked with the grantee's name, product type and year filled.
- 4.8 The grantee shall protect all Survey Monuments. In the advent of obliteration or disturbance of a survey monument, the grantee shall immediately notify the AO. The grantee will be financially responsible to re-establish the survey monuments to the Bureau standards.

- 4.9 No hazardous materials shall be transported or disposed within the area of authorized use.
- 4.10 The grantee shall ensure that a copy of the permit and stipulations is present on site at all times.
- 4.11 The grantee shall notify the AO 7 (seven) days prior to removal of personal property and abandonment of the area, and shall be responsible for any rehabilitation of the site deemed necessary by the AO. At minimum all disturbed areas shall be re-contoured and re-vegetated using native species.
- 4.12 The holder shall have a representative available to accompany the Bureau's field representative during any compliance inspection, and shall provide the AO with documentation of all work performed. This shall include a description of the work, photographs and maps or charts depicting the specific sites where operations were conducted.

Grantee Signature

Date

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UNITED STATES DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

Glennallen Field Office
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Glennallen, AK 99588
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DECISION RECORD

Daniel K. and Irene Coben – right-of-way
Case File Number: AA-92974
DOI-BLM-AK-A020-2011-0022-CX

I. Decision:

It is my decision to authorize the right-of-way for Daniel K and Irene Coben to move mining equipment across and existing trail across public lands in Sections 14-16 and 23-24, T. 14 N., R. 5 E., Copper River Meridian for a term of no longer than 3 years. Stipulations and conditions are attached.

II. Proposed Action:

The proposed action is to authorize a right-of-way for an existing trail across dual selected lands to access mining claims northeast of Mankomen Lake. The right-of-way grant would be authorized under the authority of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1761). The proposed action is in conformance with the East Alaska Resource Management Plan, Approved: September, 2007.

III. Rationale for the Decision:

The rationale for the decision is based on the need for the applicant to access to his mining claims northeast of Mankomen Lake.

The proposed action is in conformance with the East Alaska Resource Management Plan, Approved: September, 2007. The area of the proposed activity is not within a critical subsistence use area and no serious wildlife problems are anticipated.

IV. ANILCA Section 810 Compliance:

The proposed action will not significantly restrict subsistence uses. No reasonably foreseeable and significant decrease in the abundance of harvestable resources or in the distribution of harvestable resources, and nor reasonably foreseeable limitations on harvester access will result from the proposed action.

V. Adverse Energy Impact Compliance:

This action has been analyzed as required by Washington Office Instruction Memorandum 2002-053 to determine if it will cause an adverse impact on energy

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development. The action will not have an adverse direct or indirect impact on energy development, production or distribution. The preparation of a Statement of Adverse Energy Impact is not required.

VI. Consultation and Coordination:

Public participation was accomplished through the development of the East Alaska Resource Management Plan which anticipated routine land authorizations in accordance with FLPMA. Concurrence from State of Alaska, Department of Natural Resources, and Comments from Ahtna Incorporated have been requested. Adequate measures to protect public lands through stipulations and required operating procedures are in place. Internal scoping was conducted by GFO staff and included threatened and endangered species, cultural clearances and ANILCA 810 analysis.

VII. Compliance and Monitoring Plan:

Compliance and monitoring of this authorization will be conducted by the BLM Glennallen Field Office. Inspections will be made on a regular basis and after the applicant reclaims the land upon termination of the authorization.

s/s Elizabeth Maclean
Elizabeth Maclean
Glennallen Field Manager

7/15/11
Date

Attachments: Terms and Stipluations