



## Fact Sheet: Legal Trail Access, Public & Landowners' Rights

Many trails that physically exist and are commonly used in Alaska do not have legal status.

Legal status exists or can be gained through a variety of means on state or private land. In general, some research on the user's part may be required to determine whether or not legal access exists or can be established on any given trail.

### The following legal access is established for public access on state owned land:

- Generally allowed uses ([11 AAC 96.020](#));
- Section line easements – where established ([11 AAC 51.025](#));
- RS2477 rights of way – where identified and asserted ([11 AAC 51.055\(b\)\(3\)\(B\)](#));
- Platted rights of way established through a platting process ([11 AAC 53.640](#)); and
- Other public easements established under [11 AAC 51.015](#).

### Legal status on state land cannot be assumed under the following circumstances:

- Even though an existing trail may have been used by the public for years, this does not create an entitlement or a right.
- Construction or use of a road, trail, or other access improvement on state land does not create an easement. By authorizing construction of a temporary road or casual-use trail under [11 AAC 96](#), the Department of Natural Resources does not grant or reserve a public easement ([11 AAC 51.010\(c\)](#)).
- Seismic lines have no legal status, unless easements have been established on them.
- The public cannot claim adverse possession of an access route on state land or petition the Court to assert a prescriptive easement on state land ([AS 38.95.010](#)).

Many trails crisscross through public land and private land.

For most of these multiple ownership trails legal access is unclear. Although trails may be identified in borough trails

plans, they may have no legal standing unless an official public easement was designated, issued, reserved, dedicated or granted on the trails to grant the public a right of access.

### Access across privately owned land is provided by:

- Section line easements – where established under [11 AAC 51.025](#);
- RS2477 rights of way – where identified and asserted under [11 AAC 51.055\(b\)\(3\)\(B\)](#);
- Creating, acquiring, and/or reserving a public easement from the landowners;
- Limited State Holdings (LSH). This easement or right of way is granted to the State of Alaska to ensure the public a right of passage through privately owned land. Uses allowed on the LSH are identified in the easement document. Other uses (such as camping, hunting, and fishing) may be prohibited and can be considered trespass; or
- 17B easements reserved under the Alaska Native Claims Settlement Act (ANCSA). These easements cross Native owned lands to provide access to public lands.

### Legal access on private land cannot be assumed under the following circumstances:

- No public easement exists. If an easement has not been dedicated or granted on a trail to give the public a right of passage, the user must contact the landowner for permission.
- Seismic lines have no legal status, even though they may have existed and been used by the public for long periods of time.

### Avoiding Trespass

- To trespass is to invade the property, rights, or person of another without his or her consent, including entering onto another's land illegally.
- Travelers who must cross or use private land as part of their trip should research the land status of the area beforehand. Private lands may or may not have provision for public access. If there are no easements reserved on private land, travelers must

obtain permission from the landowner to use the land.

- Use of a trail on private property may be considered a trespass if a public easement does not exist, and you do not have consent of the property owner.
- If an easement or right of way does exist on or across private property, other uses such as hunting, fishing, storage of equipment or camping can be considered trespass even if these uses occur on the easement. The easement document spells out what you can and cannot do on the easement. It is the responsibility of the user to determine the land status of the area and what uses are allowed or prohibited.

#### **Additional Online Information**

- General DNR Information: <http://dnr.alaska.gov/>
- DMLW Trails and Public Access: <http://dnr.alaska.gov/mlw/trails/>
- Alaska State Parks – Alaska Trails: <http://dnr.alaska.gov/parks/aktrails/explore/trailmapguide.htm>
- Access to State Plats and Maps: <https://dnr.alaska.gov/landrecords/>
- State Recorders Office: <http://dnr.alaska.gov/ssd/recoff/>

#### **For additional information please contact one of the Department’s Public Information Offices:**

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