

STATE OF
COLORADO

Lennberg - DNR, Patrick <patrick.lennberg@state.co.us>

FW: [EXTERNAL] Re: Watkins Road south of 72 Avenue

Katie A. Roush <roush@fostergraham.com>

Thu, Oct 8, 2020 at 3:17 PM

To: "Lennberg - DNR, Patrick" <patrick.lennberg@state.co.us>, Jared Ebert - DNR <jared.ebert@state.co.us>, Jeff Fugate <jeff.fugate@coag.gov>

Cc: "Michelle L. Berger" <mberger@fostergraham.com>, Danni Danko-Holloway <danni5280@yahoo.com>, Ian Cortez <ICortez@adcogov.org>, Christine Fitch <CFitch@adcogov.org>

Hi Patrick, I hope you are well. After our last correspondence, we reached out to Christy Fitch, one of the assistant county attorneys for Adams County, in order to see if she could help us clear up what we saw as conflicting information on whether there is a public Right of Way (ROW) south of E 72nd Ave on Watkins Road.

Ms. Fitch and Ian Cortez, the Right of Way Supervisor in the Public Works division of Adams County, have confirmed that their research indicates that there have been no ROW dedications or County road acquisitions for Watkins Road between 64th and 72nd Aves. I am forwarding our correspondence (with some scheduling related emails in the middle of the string deleted for ease of reading) confirming the same, and copying Christy and Ian as well.

In light of this, Ms. Danko-Holloway will continue to maintain her objection to the permit at this time. Additionally, we note that the 9/15 inspection report is in the record but we did not get a copy when it was filed. I'm not sure if that is the sort of information objectors get, but if so, please don't forget to include Michelle Berger and me on future filings. Please don't hesitate to contact me if you have any questions.

Regards,

Katie

From: Ian Cortez <ICortez@adcogov.org>**Sent:** Thursday, October 8, 2020 11:45 AM**To:** Katie A. Roush <roush@fostergraham.com>**Cc:** Christine Fitch <CFitch@adcogov.org>; Michelle L. Berger <mberger@fostergraham.com>**Subject:** RE: [EXTERNAL] Re: Watkins Road south of 72 Avenue

Hello Katie,

Our research indicates there has been no Right-of-Way (ROW) dedications or County road acquisitions for the portion of Watkins Road between E 72nd Avenue and E 64th Avenue. There is a road petition (#127) over that section line between Section 6-3S-64W and Section 1-3S-65W (60 feet wide total- 30 feet on each side of section line) as approved by the Board of County Commissioners in 1889. We have found no evidence of Road Petition #127, or a map thereof, ever being recorded. Statute and case law requires such record as to notify a third party of the existence of the road and if the record affords no such notice, a purchaser without actual notice takes free of the land. The road petition is a record of the Arapahoe County Road Books, but not record of the Clerk and Recorder (of either county) and does not provide public notice. Additionally, Arapahoe County or Adams County have not constructed or maintained a roadway between the before mentioned sections. Thus, the County could not claim an adverse use or prescriptive right by use to a public highway along the roadway. Since there is a lack of evidence of record and use of a road by the public, a public road does not exist.

I hope this helps.

Regards,



Ian Cortez, PLS, RWA

Right-of-Way Supervisor, *Public Works*

ADAMS COUNTY, COLORADO

4430 S. Adams County Parkway

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From: Katie A. Roush <roush@fostergraham.com>

Sent: Wednesday, October 7, 2020 10:57 AM

To: Ian Cortez <ICortez@adcogov.org>

Cc: Christine Fitch <CFitch@adcogov.org>; Michelle L. Berger <mberger@fostergraham.com>

Subject: FW: [EXTERNAL] Re: Watkins Road south of 72 Avenue

Please be cautious: This email was sent from outside Adams County

Hi Ian,

Christy Finch forwarded us your contact info. Our firm represents Danni Danko-Holloway. We had reached out to Christy to try and get some clarity on whether there is a public Right of Way along Watkins Road south of 72nd Avenue, as we have heard conflicting assessments of the issue.

Christy let us know last week that your research indicates that there is no public ROW along Watkins road from 64th to 72 Ave. I was wondering if it would be possible for you to confirm that is your understanding as well?

As you may know, there is currently a mining permit filed by Kelley Trucking pending before the Division of Reclamation and Mining, and based on their conversations with Greg Labrie in Adams County, they believe there is a public ROW along that section of Watkins road. We would like to pass on the results of your research so that they may have a complete understanding of the issue.

I am happy to discuss.

Regards,

Katie

Katie Roush

Partner

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From: Christine Fitch <CFitch@adcogov.org>
Sent: Wednesday, October 7, 2020 9:52 AM
To: Katie A. Roush <roush@fostergraham.com>
Cc: Michelle L. Berger <mberger@fostergraham.com>
Subject: RE: [EXTERNAL] Re: Watkins Road south of 72 Avenue

Hi Katie,

As a follow up from Friday, the best person to talk to in Public Works about the right of way dedications is going to be Ian Cortez.

Ian Cortez: ICortez@adcogov.org

Ph: 720.523.6835

Thanks!



Christy Fitch, Esq.

Assistant County Attorney, *Adams County Attorney's Office*

ADAMS COUNTY, COLORADO

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From: Christine Fitch <CFitch@adcogov.org>
Sent: Tuesday, September 22, 2020 11:43 AM
To: Katie A. Roush <roush@fostergraham.com>
Cc: Michelle L. Berger <mberger@fostergraham.com>
Subject: [EXTERNAL] Re: Watkins Road south of 72 Avenue

Hi Katie,

I apologize for the delay, I've had to do quite a bit of research with Staff to get up to speed with your question. Would you like to set up a meeting to discuss? It sounds like this is quite a complicated issue.

Thanks,

Christy Fitch

From: Katie A. Roush <roush@fostergraham.com>
Sent: Wednesday, September 16, 2020 9:30 AM
To: Christine Fitch <CFitch@adcogov.org>
Cc: Michelle L. Berger <mberger@fostergraham.com>
Subject: RE: Watkins Road south of 72 Avenue

Please be cautious: This email was sent from outside Adams County

Hi Ms. Fitch, I apologize, I gave you the legal description for the land across Watkins Road. My clients' property is All of Section 1, except the W ½ of the W ½, Township 3, South, Range 65 West.

Regards,

Katie

From: Katie A. Roush
Sent: Tuesday, September 15, 2020 12:54 PM
To: CFitch@adcogov.org
Cc: Michelle L. Berger <mberger@fostergraham.com>
Subject: Watkins Road south of 72 Avenue

Hi Ms. Fitch,

My partner Michelle Berger (copied here) gave me your contact information. We represent Danni Danko-Holloway, who, along with others, owns the parcel of land identified as in Sec. 6, Township 3 North, Range 65 West (parcel #0181900000194). Their neighbor Kelley Trucking has built a road that runs north/south along the parcel's eastern boundary, along Watkins road south of 72 Avenue, in connection with a mining operation. Kelly Trucking has also applied for a mining permit for said mining operating with DRMS, which is currently pending. One of the issues regarding the permit application is whether there is a right of way (ROW) along Watkins road south of 72 Avenue, where Kelley trucking built the road.

Over the last year, Ms. Danko-Holloway has made several CORA requests to Adams County and Aurora in order to determine if there is in fact a public ROW along Watkins Road south of 72 Avenue, and it is our understanding that DRMS has also spoken to representatives of Adams county on the same issue. I wanted to reach out to you for two reasons. First, there seems to be some conflicting information regarding the existence of a ROW along Watkins road. DRMS has forwarded us its recent correspondence with Greg Labrie who provided DRMS with a GIS map purportedly showing that Watkins road south of 72 Ave is an unimproved public right of way. But on the other hand, it is not clear if the 1889 Road Viewers ROW dedication for Watkin's road (which Danni received in response to her CORA request) included our client's portion of the road. We were hoping that you can help us confirm whether or not there is a public ROW south of 72nd Ave.

Second, even if there is a public ROW, it is undisputed that Adams County did not put in or maintain the road along the purported Watkins ROW. It also appears that Kelley trucking did not obtain the necessary permits to build the road in the public ROW (and now there is a gate on it limiting access). We would like to discuss how we can help ensure that the road is both properly in the ROW and that it is properly permitted.

Do you have time for a call this week or next on this issue? Thank you very much for your time.

Regards,

Katie

Katie Roush

Partner

Foster Graham Milstein & Calisher, LLP

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2 attachments



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