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STATE OF ALASKA
DEPARTMENT OF LAW
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1960 Opinions of the
Attorney General, No. 29

November 4, 1960

Mr. Alfred A. Baca
State Right of Way Agent
Department of Public Works
Foss-Olsen-Sands Bldg.
Juneau, Alaska

Re: Right of Way Width,
Construction of 43 U.S.C. 932

Dear Mr. Baca:

You have asked the question as to the width of the right of way of highways built on public domain. The following information should answer your question and should be sufficient to give your appraisers some definite rules to guide them in their appraisals.

1. A right of way over the public domain is granted by Title 43, U.S.C. 932. It states:

"The right of way for the construction of highways over public lands, not reserved for public use, is hereby granted."

2. This law does not state any specific right of way width. However, it has been established by cases that the right of way reservation is as wide as the width of local roads as established by state laws, customs and usage.

3. Chapter 19, SLA 1923 establishes a 66 ft. right of way along sections lines. This law indicates that 66 ft. would be considered a reasonable width and is definite enough to define the width of the right of way in Alaska in regard to roads built on the public domain.

4. It would be to the advantage of the State of Alaska to claim a 66 ft. right of way width. Furthermore, both the Bureau of Public Roads and the Department of Public Works have claimed and continue to claim 66 ft.

Mr. Alfred A. Baca
Department of Public Works

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5. It is concluded, therefore, that the width of Alaska highways constructed under Title 43, Sec. 932 shall be 66 ft.

6. It should be remembered, however, that there are exceptions to the 66 ft. width rule as for instance where the actual width is specifically stated in the Public Land Order or set out by later state laws.

If you need further clarification of the above do not hesitate to contact us.

Very truly yours,

RALPH E. MOODY
ATTORNEY GENERAL

By

Norman L. Schwalb
Assistant Attorney General

PBL:NLS:lgh

cc: The Honorable William A. Egan
Governor of Alaska
State Capitol
Juneau, Alaska

The Honorable Floyd Guertin
Commissioner of Administration
Alaska Office Building
Juneau, Alaska