

MEMORANDUM

State of Alas. 81

Department of Law

TO: Honorable Mark S. Hickey
Commissioner
Department of Transportation
and Public Facilities

DATE: April 18, 1989

FILE NO: 663-89-0162

TEL NO: 465-3603

SUBJECT: Right-of-way of Copper
River Highway


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DEPARTMENT
COMMISSIONER'S OFFICE

State of Planning & Research

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FROM:  Jack B. McGee
Assistant Attorney General
Transportation Section-Juneau

In a memo dated September 16, 1988, you requested an opinion concerning the width of the right-of-way for the Copper River Highway.

Since the route of the Copper River Highway is essentially that of the old Copper River Railroad, a discussion of the status of the Copper River Highway right-of-way must begin with a discussion of the Copper River Railroad.

History of the Copper River Railroad:

The Copper River Railroad, which was completed in 1911, started from Cordova and ran 30 miles in an easterly direction to the mouth of the Copper River and then along the Copper River for about 100 miles to Chitna. From Chitna, it ran easterly along the Chitna River for approximately 65 miles, through the Village of McCarthy, and on to Kennecott, the northern terminus of the line. See Opinion of Interstate Commerce Commission, Finance Docket No. 12164, Copper River and Northwestern Railway Company Abandonment, (April 21, 1939) at pp. 1 through 3; copy attached as appendix 1.

The original right-of-way for the construction of the railroad was acquired by the Copper River and Northwestern Railway Company under the Act of May 14, 1898, ch. 299, 30 Stat. 409 (1898), copy attached as appendix 2. The width of this right-of-way was 100 feet on either side of the center line of the railroad. See section 2 of appendix 2.

The Copper River Railroad continued in operation as a railroad until 1939. On September 13, 1938, the Copper River and Northwestern Railway Company applied for permission from the ICC to abandon the operation of the entire railroad line extending from Cordova to Kennecott, a distance of approximately 195.2 miles. See appendix 1 at p. 1. On April 21, 1939, the ICC granted the railroad's request. See appendix 1 at p. 6.

The abandonment of the operation of the Copper River Railroad by its owners created a legal problem. What was to become of the 200-foot railroad right-of-way? Under the terms of the Act of March 8, 1922, Pub. L. 163, ch. 94, 42 Stat. 414 (1922), upon the voluntary relinquishment of the railroad right-of-way by the Copper River and Northwestern Railway Company, all right, title, and interest of the United States in the right-of-way would vest in the patentees to lands over which the railroad passed, where such patentees took their patents prior to the voluntary relinquishment. Because it was thought that there was significant public interest in maintaining a highway right-of-way along the route of the railroad right-of-way, Congress enacted the Act of July 15, 1941, Pub. L. 176, ch. 300, 55 Stat. 594 (1941), copy attached as appendix 3. This Act authorized the Copper River and Northwestern Railway Company to convey to the United States the following:

.. (1) all or any portion of its railroad right-of-way acquired under grants made by Congress or otherwise, including station and terminal grounds and lands used as sites for railroad structures or purposes of any kind, and (2) equipment, including telephone and telegraph poles and lines, ties, rails, rolling stock, bridges, buildings, and other properties in Alaska used in connection with the construction, maintenance, and operation of the railroad.

Act of July 15, 1941, 55 Stat. 594 (1941). The Act also authorized the Secretary of Interior, on behalf of the United States, to accept such a conveyance from the railroad company and further instructed the Secretary of Interior that the properties conveyed were

to be used, operated and maintained as far as may be practicable or necessary, as a public highway, tram road, or tramway under the provisions of the Act of June 30, 1932 (17 Stat. 446), notwithstanding any Act to the contrary.

Act of July 15, 1941, 55 Stat. 594 (1941).

On March 29, 1945, the Copper River and Northwestern Railway Company, in a relinquishment document, formerly relinquished all of its interest in the original railroad right-of-way, including terminal and station grounds. See copy of Relinquishment Document attached as appendix 4. On May 11, 1945, the

Honorable Mark S. Hickey
Commissioner
663-89-0162

April 18, 1989
Page 3

railroad's relinquishment was accepted by the Department of Interior. See appendix 5.

As of May 11, 1945, the United States became the owner of the original 200-foot-wide Copper River Railroad right-of-way (plus station grounds) subject to the provisions of the Act of July 15, 1941 (appendix 3), i.e., that the right-of-way be used, as far as practicable, as a public highway. 1/

Operations of the Copper River Highway Right-of-way as a Public Highway:

At the time of the original application for abandonment of the railroad, i.e., September 13, 1938, the Alaska Road Commission recommended that it take immediate steps to maintain the railroad between McCarthy and Chitna and operate it by means of light equipment. See appendix 1 at p. 3. The 1939 Report of the Alaska Road Commission, at p. 8, shows the Chitna-McCarthy Road as part of an existing road system for which work was scheduled during the fiscal year ending June 31, 1941. See appendix 6.

Subsequent reports of the Alaska Road Commission also make reference to the use of the original route of the Copper River Railroad as a highway:

- The 1941 Report of the Alaska Road Commission, (appendix 7).
- The 1949 Report of the Alaska Road Commission, (appendix 8).
- The 1950 Report of the Alaska Road Commission, (appendix 9).
- The 1952 Report of the Alaska Road Commission showed the Commission was actively pursuing a road project to connect Cordova to Chitna utilizing the road bed of the Copper River Railroad, (appendix 10).

1/ The requirement of the Act of July 15, 1941, that the right-of-way be used as a public highway operated as a dedication of the original right-of-way for use as a public highway. See 23 Am. Jur. 2d Dedication (1983).

Honorable Mark S. Hickey
Commissioner
663-89-0162

April 18, 1989
Page 4

- The 1955 Report of the Alaska Road Commission, (appendix 11).

PLO 601 and D.O. 2665 and the Copper River Right-of-way:

On August 10, 1949, PLO 601 was issued by the Department of Interior. This PLO created, in part, a 50-foot withdrawal for road purposes along each side of the center line of the Copper River Highway, which was classified as a local road at the time. On October 16, 1951, the Department of Interior issued D.O. 2665, which changed all of the PLO 601 withdrawals to highway easements. D.O. 2665 also created a 300-foot-wide through road easement for certain identified highways. See appendix 12. On September 15, 1956, D.O. 2665 was amended by reclassifying the Copper River Highway as a through road, thus creating a 300-foot-wide right-of-way, if not for the entire length of the highway, then for certain portions of it. 2/ See Amendment No. 2 to D.O. 2665, attached as appendix 13.

In discussing the effect of PLO 601 and D.O. 2665 on the Copper River Highway, it should be kept in mind that, whatever the size of the easement created by these land orders, the original 200-foot right-of-way for the entire Copper River Highway, as it is described in appendix 4, remained intact and unaffected by the public land orders. So, the new construction requirement of section 3(c) of D.O. 2665, while relevant in determining what portions of the Copper River Highway have a 300-foot-wide right-of-way, has nothing to do with the pre-existing 200-foot right-of-way that was created by the 1898 Act and accepted by the federal government on May 11, 1945. See appendices 4 and 5.

2/ Whatever segments of the Copper River Highway that were constructed or staked as of September 15, 1956, and that crossed federal land that was not entered under federal land laws as of September 15, 1956, were fixed with a 300-foot right-of-way as the result of this amendment. New construction across federal lands along the route of the railroad that took place after September 15, 1956, and that crossed federal lands that were not entered under federal land laws was also arguably fixed by a 300-foot right-of-way.

Honorable Mark S. Hickey
Commissioner
663-89-0162

April 18, 1989
Page 5

The State's Interest in the Copper River Highway:

On June 30, 1959, the Secretary of Commerce quitclaimed to the State of Alaska all interest that the Department of Commerce had in certain roads in Alaska. ^{3/} Included in this quitclaim deed are the following references to the Copper River Highway:

FAS Route No. 850: From junction with FAS Route 851 at Chitna easterly to McCarthy59 mi.

FAS Route No. 851: From the Ocean Dock at the Port of Cordova through the Town of Cordova northerly paralleling the Copper River to a junction with FAS 850 at Chitna, thence northwesterly to a junction with FAP Route 71. 170 mi.

Page 11 of the Quitclaim Deed of June 30, 1959, appendix 14.

By virtue of the quitclaim deed, Alaska acquired whatever interest the federal government formerly had in the right-of-way for the Copper River Highway. And that interest was twofold: a) a 200-foot right-of-way along the original route of the Copper River Railroad stemming from the Act of 1898 and the 1945 acceptance, and b) a 300-foot right-of-way along those segments of the Copper River Highway that were constructed prior to the date of Amendment No. 2 to D.O. 2665 and that, as of the date of Amendment No. 2, crossed federal lands. The 300-foot easement of Amendment No. 2 also attached to any new construction by the federal government of the Copper River Highway that took place across federal lands and that occurred after the date of Amendment No. 2.

JBM:ebc

Attachments: Appendices 1-14

^{3/} The Secretary of Commerce acquired all road responsibilities formerly held by the Secretary of Interior under the Act of 1932 by virtue of the Federal-Aid Highway Act of 1956, 70 Stat. 377 (1956). Interior's road responsibilities relative to the Copper River Highway stemmed from the Act of 1932. See appendix 3.

EXHIBIT C

FINANCE DOCKET No. 12164

COPPER RIVER & NORTHWESTERN RAILWAY COMPANY
ABANDONMENTSubmitted April 15, 1939. Decided April 21, 1939

Certificates issued permitting abandonment by the Copper River & Northwestern Railway Company of its line of railroad in the Third Judicial District in the Territory of Alaska.

Richard C. Klugaschaid, Lawrence Boyla, Claude E. Wakefield, and T. M. Donahoe for applicant.

Bryce Little, Walter H. Hodge, Martin Hegsborg, George A. Robinson, C. Chester Carlson, and John Rosswog for protestants.

REPORT OF THE COMMISSION.

DIVISION 4, COMMISSIONERS MEYER, PORTER, AND MAILAFFIE

BY DIVISION 4:

Exceptions to the report proposed by the examiner were filed.

The Copper River and Northwestern Railway Company, on September 13, 1938, applied for a certificate of public convenience and necessity permitting abandonment of its entire line of railroad extending from Cordova to Kennecott, approximately 195.2 miles, all in the Third Judicial District in the Territory of Alaska. Protests were filed, and a hearing was held. No representations have been made by Territorial authorities.

All the outstanding capital stock and other securities of the applicant are owned by the Kennecott Copper Corporation, hereinafter called the Copper Company. The line in question, the construction of which was completed in 1911, extends easterly from Cordova to the mouth of the Copper River, approximately 30 miles; thence northerly along that river to Chitina, approximately 100 miles; and thence easterly along the Chitina River to Kennecott, approximately 65 miles. It was built primarily for the purpose of transporting copper ores from the Copper Company's mines, at the line's northern terminus, to Cordova, its southern terminus. From the latter point the ores were transported by water to smelters in Tacoma, Wash. Cordova, with a population varying from 1,500 in the winter to 2,000 in the summer, is located on the shore of Orca Inlet, a tributary of the Gulf of Alaska. Kennecott was formerly a mining camp

233 I. C. C.

having about 200 inhabitants, all of whom were employees of the Copper Company. At the present time there are only two inhabitants in that community.

When the line was constructed it was hoped that it would prove to be an inducement to other mining interests to aid in the development of the natural resources of the tributary territory and that there would be much additional traffic from that source. However, such traffic failed to materialize, and the applicant has been almost entirely dependent upon revenues from the traffic handled for the Copper Company.

The line is a single-track railroad, laid with 60 and 70 pound rail, with gradient ranging from 0.9 to 4 percent. The maximum curvature is 12°. It crosses the delta of the Copper River, approximately 11 miles wide, by means of pile trestles built across a swampy section. The river is crossed by means of a steel bridge located near its mouth. Much of the line is built along the foot of mountains, and portions of it extend through cuts through solid rock. About 100 miles north of the mouth of the Copper River, at or near the town of Chitina, the line again crosses that river by means of a pile-trestle bridge which has been reconstructed each year since the applicant commenced operation. It is impossible to prevent the bridge, except the piling, from being washed away by floating ice during the spring months. Consequently, the stringers of the bridge are removed when the applicant ceases operation in the fall and replaced in the spring when the danger of ice jams has passed. The applicant finds that it is more economical to reconstruct the bridge every year than to pay interest on the investment necessary to provide a permanent steel bridge.

The investment cost of the line, including equipment and general expenditures, is shown as \$28,617,034. The net salvage value of the applicant's rolling stock, locomotives, snow plows, and miscellaneous equipment is estimated at \$100,000. No value is placed on the rail and bridges for the reason that the cost of removal and transportation would exceed the scrap value. There is little or no deferred maintenance at the present time.

Service on the line is performed by a mixed train making two round trips weekly. In recent years, during the summer months, special trains have been operated between Corlova and Childs Glacier, 49 miles, for the accommodation of tourists. The line has not been operated during the winter months for the past five years, owing to heavy snows. The period of operation generally extends from April 1 to December 1. The highways in the tributary territory are open for traffic from June to October.

233 I. C. C.

Eleven stations on the line between its termini are located at points where there are no inhabitants. Other intermediate stations from south to north, and the populations of adjacent communities, are Eyak 2, Sheridan 3, Hanscom 5, Alaganik 1, Camp Thirty 9, Camp Fifty-two 12, Bremner 8, Cascade 8, Tiskel 9, Uranatina 9, Chitina 150, Strelna 12, Camp One Hundred Seventy-three 12, Long Lake 3, and McCarthy 75. The only agency stations on the line at present are Cordova and McCarthy. Many of the inhabitants of the above-mentioned communities are employed by the applicant.

North of the delta of the Copper River the territory traversed by the line is rugged and mountainous. Chitina is on or near a concrete highway extending northwesterly to Willow Creek and thence southerly to Valdez, a port on the Gulf of Alaska about 40 miles northwest of Cordova. The distance by highway between Chitina and Valdez is the same as the rail distance between Chitina and Cordova. In addition to highway facilities, Chitina has weekly airplane service for the transportation of passengers and mail to and from Cordova throughout the year.

The village of McCarthy, the only other community of importance in the tributary territory, is 60 miles east of Chitina, near the northern terminus of the line. It would have neither highway nor rail communication if the railroad were abandoned. Accordingly the applicant proposes to leave its railroad intact between McCarthy and Chitina to enable shippers to handle light freight and passengers thereover by means of automobiles fitted with flanged wheels or by any other means suitable to their convenience. The superintendent of highways in the Chitina district, whose work is under the supervision of the Alaska Road Commission, hereinafter called the road commission, testified that he made a study of the transportation problems in that district and afterwards recommended that the road commission take immediate steps to maintain the railroad between McCarthy and Chitina and operate it by means of light equipment. The road commission has purchased a so-called speeder and some push cars for the purpose of experimenting with that method of transportation. There is an aerial-tram line, 1,200 feet long, stretched across the Copper River at or near Chitina, which has been used by the applicant for some years on occasions when the pile-trestle bridge was dismantled. The tram line, carrying a maximum load of about 800 pounds, would be used in connection with the experimental operation of the railroad. McCarthy also has airplane service the year round, and for the past five years airplanes have been handling as much of its traffic as the railroad. The airplanes carry passengers, mail, and freight.

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There are no industries in the territory tributary to the line except a few gold mines, the output of which is not shipped by rail; but some of these mines use the railroad for occasional inbound shipments of supplies and mining machinery.

In support of the proposed abandonment the applicant avers that the mineral resources of the Copper Company have become entirely exhausted, that its mines have been closed, that all mining equipment and machinery have been shipped away, that the remaining traffic in the tributary territory is negligible, and that the railroad can no longer be usefully or economically operated.

The total number of passengers handled by the applicant was 1,256 in 1933, 1,573 in 1934, 2,047 in 1935, 1,323 in 1936, and 1,880 in 1937. The freight traffic consists principally of copper ores and concentrates, food products, bituminous coal, lumber, petroleum products, and mining supplies. The total numbers of tons handled during the years 1933 to and including 1937, in order, were 2,949, 3,618, 27,179, 34,278, and 46,318. The inbound and outbound freight is not separately shown except for the stations of Chitina and McCarthy, the yearly averages of which were as follows: Chitina, 1,126 tons inbound and 307 tons outbound; McCarthy, 462 tons inbound and 20 tons outbound. Of the applicant's entire freight business the portion handled for the Copper Company was 26.1 percent in 1933, 11 percent in 1934, 88.9 percent in 1935, 95.5 percent in 1936, 95.7 percent in 1937, and 94.4 percent during the first seven months of 1938. The low percentages for 1933 and 1934 are attributable to the inactivity of the Copper Company's mines during those years.

The applicant has submitted income statements to show the financial results of operation of its line for the years 1933-37 and for the first seven months of 1938. The results for the five full years, in order, are as follows: Railway operating revenues, \$94,452, \$134,650, \$533,043, \$642,863, \$1,102,938; railway operating expenses, \$384,383, \$262,686, \$457,345, \$610,794, \$797,953; railway tax accruals, \$3,478, \$5,041, \$10,443, \$22,107, \$45,609; interest on funded debt, \$1,151,000 annually; net income, deficit, \$1,444,409, \$1,284,077, \$1,085,745, \$1,148,018, \$891,624. The deficit for the first seven months of 1938 was \$701,232.

Evidence tending to establish the necessity for continued operation of the line was adduced by the testimony of several witnesses. The owners of certain small gold mines in the general territory between McCarthy and Chitina frankly state that since the closing of the mines of the Copper Company there has not been enough traffic in that territory to pay even a small fraction of the applicant's operating expenses. They place little dependence upon air service because the airplanes serving that territory carry only 700 or 800

233 I. C. C.

pounds of freight and the carrying charges between the gold mines and the port of Cordova are at the rate of from \$200 to \$240 a ton. For various reasons they believe that the use of the railroad for the movement of light freight between McCarthy and Chitina, as contemplated by the road commission, would not be practicable and that the latter should construct a highway in lieu of the railroad between those points. The witnesses estimate that such a highway would cost about \$300,000, which would include the cost of constructing a light suspension bridge across the Copper River for use instead of the tram line. They ask us to make provision for such construction. We are without jurisdiction in the premises.

Cordova, according to the testimony of a representative of its chamber of commerce, is an important port containing numerous industries, chiefly the applicant's railroad and fishing. The witness has found that the total pay roll of the applicant is over \$500,000 a year of which Cordova would lose about 40 percent should the railroad be abandoned. According to his estimates, practically all the territory tributary to the railroad is within the trade area of Cordova and the proposed abandonment would cause a further loss of about \$346,000 a year in the gross volume of business handled by various establishments in that community. In view of the small number of inhabitants of that territory, the losses anticipated by the witness would seem to be somewhat overestimated.

Further testimony for the protestants is that the proposed abandonment would result in dismissal of the applicant's employees, a number of whom have served the applicant for 30 years. Many are disqualified for employment on other lines of railroad because they are over 45 years of age. The protestants request that appropriate provision be made for such employees if the applicant be permitted to abandon its railroad. In *Chicago & W. R. Co. Trackage*, 207 L. C. C. 315, 322, we said:

Our sympathy for employees and full realization of the hardships that may and often does result to them in the administration of the abandonment and other provisions of section 1 (18-20) do not enlarge our statutory power or enable us to attach any conditions except those required by public convenience and necessity.

The record clearly shows that neither the present nor prospective volume of traffic over the applicant's line is sufficient to warrant its retention and that continued operation would impose an undue burden upon the applicant and upon interstate commerce. It is undoubtedly true that the loss of rail transportation facilities would work a hardship upon the people of the territory served, especially those in the town of McCarthy, but the applicant cannot be expected

222 L. C. C.

to continue operation of its line indefinitely for the benefit of communities unable to support a railroad.

We find that the present and future public convenience and necessity permit abandonment by the Copper River and Northwestern Railway Company of its entire line of railroad in the Third Judicial District in the Territory of Alaska, described in the application.

An appropriate certificate will be issued, effective from and after 40 days from its date, in which suitable provision will be made for the cancellation of tariffs.

233 I. C. C.

CHAP. 299.—An Act Extending the homestead laws and providing for right of way for railroads in the District of Alaska, and for other purposes. May 14, 1898.

As it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the homestead laws enacted in Alaska. Homestead laws re-
 tended in.
 Location of the lands, etc.
 Provisions. Entries on navigable water. Alternate spaces reserved.
 Limit of homestead entry.
 Right of way to railroads.
 Width. Materials for construction.
 Stations.
 Limits.
 Provisions. Minerals excepted.
 Mining operations not to interfere with road.
 Wharves.
 Rights of future States.
 "Navigable waters," defined.
 Railroad charges to be printed and posted.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the homestead laws enacted in Alaska, subject to such regulations as may be made by the Secretary of the Interior; and no indemnity, deficiency, or lien lands pertaining to any land grant whatsoever originating outside of said District of Alaska shall be located within or taken from lands in said District: *Provided*, That no entry shall be allowed extending more than eighty rods along the shore of any navigable water, and along such shore a space of at least eighty rods shall be reserved from entry between all such claims, and that nothing herein contained shall be so construed as to authorize entries to be made, or title to be acquired, to the shore of any navigable waters within said District: *And it is further provided*, That no homestead shall exceed eighty acres in extent.

SEC. 2. That the right of way through the lands of the United States in the District of Alaska is hereby granted to any railroad company, duly organized under the laws of any State or Territory or by the Congress of the United States, which may hereafter file for record with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the center line of said road; also the right to take from the lands of the United States adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad: also the right to take for railroad uses, subject to the reservation of all minerals and coal therein, public lands adjacent to said right of way for station buildings, depots, machine shops, side tracks, turn-outs, water stations, and terminals, and other legitimate railroad purposes, not to exceed in amount twenty acres for each station, to the extent of one station for each ten miles of its road, excepting at terminals and junction points, which may include additional forty acres, to be limited on navigable waters to eighty rods on the shore line, and with the right to use such additional ground as may in the opinion of the Secretary of the Interior be necessary where there are heavy cuts or fills: *Provided*, That nothing herein contained shall be so construed as to give to such railroad company, its lessees, grantees, or assigns the ownership or use of minerals, including coal, within the limits of its right of way, or of the lands hereby granted: *Provided further*, That all mining operations prosecuted or undertaken within the limits of such right of way or of the lands hereby granted shall, under rules and regulations to be prescribed by the Secretary of the Interior, be so conducted as not to injure or interfere with the property or operations of the road over its said lands or right of way. And when such railway shall connect with any navigable stream or tide water such company shall have power to construct and maintain necessary piers and wharves for connection with water transportation, subject to the supervision of the Secretary of the Treasury: *Provided*, That nothing in this Act contained shall be construed as impairing in any degree the title of any State that may hereafter be erected out of said District, or any part thereof, to tide lands and beds of any of its navigable waters, or the right of such State to regulate the use thereof, nor the right of the United States to resume possession of such lands, it being declared that all such rights shall continue to be held by the United States in trust for the people of any State or States which may hereafter be created out of said District. The term "navigable waters," as herein used, shall be held to include all tidal waters up to the line of ordinary high tide and all nontidal waters navigable in fact up to the line of ordinary high-water mark. That all charges for the transportation of freight and passengers on railroads in the District of Alaska shall be printed

Vol. 21, p. 399.
Vol. 27, p. 355.

and posted as required by section six of an Act to regulate commerce as amended on March second, eighteen hundred and eighty-nine, and such rates shall be subject to revision and modification by the Secretary of the Interior.

Passage of railroads through canyons, etc.

interference with wagon roads, etc.

relocation of.

Provision for passage, etc.

Regulation of freight, etc., charges.

Approval for condemnation of land taken.

Vol. 17, p. 226.
Vol. 12, p. 172.

condemnation rights

Provision for filing of plat of preliminary survey, etc.

Map of definite location.

Provision for forfeiture for non-completion, etc.

SEC. 3. That any railroad company whose right of way, or whose track or roadbed upon such right of way, passes through any canyon, pass, or defile shall not prevent any other railroad company from the use and occupancy of said canyon, pass, or defile for the purposes of its road, in common with the road first located, or the crossing of other railroads at grade; and the location of such right of way through any canyon, pass, or defile shall not cause the disuse of any tramway, wagon road, or other public highway now located therein, nor prevent the location through the same of any such tramway, wagon road, or highway where such tramway, wagon road, or highway may be necessary for the public accommodation; and where any change in the location of such tramway, wagon road, or highway is necessary to permit the passage of such railroad through any canyon, pass, or defile, said railroad company shall, before entering upon the ground occupied by such tramway, wagon road, or highway, cause the same to be reconstructed at its own expense in the most favorable location, and in as perfect a manner as the original road or tramway: *Provided*, That such expenses shall be equitably divided between any number of railroad companies occupying and using the same canyon, pass, or defile, and that where the space is limited the United States district court shall require the road first constructed to allow any other railroad or tramway to pass over its track or tracks through such canyon, pass, or defile on such equitable basis as the said court may prescribe; and all shippers shall be entitled to equal accommodations as to the movement of their freight and without discrimination in favor of any person or corporation: *Provided*, That nothing herein shall be construed as depriving Congress of the right to regulate the charges for freight, passengers, and wharfage.

SEC. 4. That where any company, the right of way to which is hereby granted, shall in the course of construction find it necessary to pass over private lands or possessory claims on lands of the United States, condemnation of a right of way across the same may be made in accordance with section three of the Act entitled "An Act to amend an Act entitled 'An Act to aid in the construction of a railroad and telegraph line from the Missouri River to the Pacific Ocean, and to secure to the Government the use of the same for postal, military, and other purposes, approved July first, eighteen hundred and sixty-two,'" approved July second, eighteen hundred and sixty-four: *Provided further*, That any such company, by filing with the Secretary of the Interior a preliminary actual survey and plat of its proposed route, shall have the right at any time within one year thereafter, to file the map and profile of definite location provided for in this Act, and such preliminary survey and plat shall, during the said period of one year from the time of filing the same, have the effect to render all the lands on which said preliminary survey and plat shall pass subject to such right of way.

SEC. 5. That any company desiring to secure the benefits of this Act shall, within twelve months after filing the preliminary map of location of its road as hereinbefore prescribed, whether upon surveyed or unsurveyed lands, file with the register of the land office for the district where such land is located a map and profile of at least a twenty-mile section of its road or a profile of its entire road if less than twenty miles, as definitely fixed, and shall thereafter each year definitely locate and file a map of such location as aforesaid of not less than twenty miles additional of its line of road until the entire road has been thus definitely located, and upon approval thereof by the Secretary of the Interior the same shall be noted upon the records of said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way: *Provided*, That if any section of said road shall not be completed within one year after the definite location of said

Survey map/makes land subject to ROW

location map requirement

—penalty.

posted at each station where toll is demanded or collected. And any person, corporation, or company collecting or attempting to collect toll without such written authority from the Secretary of the Interior, or failing to keep the same posted as herein required, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined for each offense not less than fifty dollars nor more than five hundred dollars, and in default of payment of such fine and costs of prosecution shall be imprisoned in jail not exceeding ninety days, or until such fine and costs of prosecution shall have been paid.

Priority to applicants for right of way.

That any person, corporation, or company qualified to construct a wagon road or tramway under the provisions of this Act that may heretofore have constructed not less than one mile of road, at a cost of not less than five hundred dollars per mile, or one-half mile of tramway at a cost of not less than five hundred dollars; shall have the prior right to apply for such right of way and for lands at stations and terminals and to obtain the same pursuant to the provisions of this Act over and along the line hitherto constructed or actually being improved by the applicant, including wharves connected therewith. That if any party to whom license has been granted to construct such wagon road or tramway shall, for the period of one year, fail, neglect, or refuse to complete the same, the rights herein granted shall be forfeited as to any such uncompleted section of said wagon road or tramway, and thereupon shall revert to the United States without further action or declaration, the notation of such uncompleted section upon the records of the land office shall be cancelled, and the reservations of such lands for the purposes of said right of way shall cease and become null and void without further action. And if such road or tramway shall not be kept in good condition for use, the Secretary of the Interior may prohibit the collection of toll thereon pending the making of necessary repairs.

Forfeiture for non-completion.

No toll or roads in bad condition.

Recording of mortgages.

That all mortgages executed by any company acquiring a right of way under this Act, upon any portion of its road that may be constructed in said District of Alaska, shall be recorded with the Secretary of the Interior, and the record thereof shall be notice of their execution, and shall be a lien upon all the rights and property of said company as therein expressed, and such mortgage shall also be recorded in the office of the secretary of the District of Alaska and in the office of the secretary of the State or Territory wherein such company is organized: *Provided*, That all lawful claims of laborers, contractors, subcontractors, or material men, for labor performed or material furnished in the construction of the railroad, tramway, or wagon road shall be a first lien thereon and take precedence of any mortgage or other lien.

Government reservations.

SEC. 7. That this act shall not apply to any lands within the limits of any military, park, Indian, or other reservation unless such right of way shall be provided for by Act of Congress.

Amendment.

Transfer of right of way.

SEC. 8. That Congress hereby reserves the right at any time to alter, amend, or repeal this Act or any part thereof; and the right of way herein and hereby authorized shall not be assigned or transferred in any form whatever prior to the construction and completion of at least one-fourth of the proposed mileage of such railroad, wagon road, or tramway, as indicated by the map of definite location, except by mortgages or other liens that may be given or secured thereon to aid in the construction thereof: *Provided*, That where within ninety days after the approval of this Act, proof is made to the satisfaction of the Secretary of the Interior that actual surveys, evidenced by designated monuments, were made, and the line of a railroad, wagon road or tramway located thereby, or that actual construction was commenced on the line of any railroad, wagon road or tramway, prior to January twenty-first, eighteen hundred and ninety-eight, the rights to inure hereunder shall, if the terms of this Act are complied with as to such railroad, wagon road or tramway, relate back to the date when such survey or construction was commenced; and in all conflicts relative to the right of way or other privilege of this Act the person, company or corporation having

Priority to applicants for right of way.

1/21/1898
 "Actual construction must have commenced"

been first in time in actual survey or construction, as the case may be, shall be deemed first in right.

SEC. 9. That the map and profile of definite location of such railroad, wagon road, or tramway, to be filed as hereinbefore provided, shall, when the line passes over surveyed lands, indicate the location of the road by reference to section or other established survey corners, and where such line passes over unsurveyed lands the location thereon shall be indicated by courses and distances and by references to natural objects and permanent monuments in such manner that the location of the road may be readily determined by reference to descriptions given in connection with said profile map.

SEC. 10. That any citizen of the United States twenty-one years of age, or any association of such citizens, or any corporation incorporated under the laws of the United States or of any State or Territory now authorized by law to hold lands in the Territories, hereafter in the possession of and occupying public lands in the District of Alaska in good faith for the purposes of trade, manufacture, or other productive industry, may each purchase one claim only not exceeding eighty acres of such land for any one person, association, or corporation, at two dollars and fifty cents per acre, upon submission of proof that said area embraces improvements of the claimant and is needed in the prosecution of such trade, manufacture, or other productive industry, such tract of land not to include mineral or coal lands, and ingress and egress shall be reserved to the public on the waters of all streams, whether navigable or otherwise: *Provided*, That no entry shall be allowed under this Act on lands abutting on navigable water of more than eighty rods: *Provided further*, That there shall be reserved by the United States a space of eighty rods in width between tracts sold or entered under the provisions of this Act on lands abutting on any navigable stream, inlet, gulf, bay, or seashore, and that the Secretary of the Interior may grant the use of such reserved lands abutting on the water front to any citizen or association of citizens, or to any corporation incorporated under the laws of the United States or under the laws of any State or Territory, for landings, and wharves, with the provision that the public shall have access to and proper use of such wharves, and landings, at reasonable rates of toll to be prescribed by said Secretary, and a roadway sixty feet in width, parallel to the shore line as near as may be practicable, shall be reserved for the use of the public as a highway: *Provided further*, That in case more than one person, association, or corporation shall claim the same tract of land, the person, association, or corporation having the prior claim, by reason of actual possession and continued occupation in good faith, shall be entitled to purchase the same, but where several persons are or may be so possessed of parts of the tract applied for the same shall be awarded to them according to their respective interests: *Provided further*, That all claims substantially square in form and lawfully initiated, prior to January twenty-first eighteen hundred and ninety-eight, by survey or otherwise, under sections twelve and thirteen of the Act approved March third, eighteen hundred and ninety-one (Twenty-sixth Statutes at Large, Chapter five hundred and sixty-one), may be perfected and patented upon compliance with the provisions of said Act, but subject to the requirements and provisions of this Act, except as to area, but in no case shall such entry extend along the water front for more than one hundred and sixty rods: *And provided further*, That the Secretary of the Interior shall reserve for the use of the natives of Alaska suitable tracts of land along the water front of any stream, inlet, bay, or sea shore for landing places for canoes and other craft used by such natives: *Provided*, That the Annette, Pribilof Islands, and the islands leased or occupied for the propagation of foxes be excepted from the operation of this Act.

That all affidavits, testimony, proofs, and other papers provided for by this Act and by said Act of March third, eighteen hundred and ninety-one, or by any departmental or Executive regulation thereunder,

Indication of location on profile map.

—surveyed lands.

—unsurveyed.

Purchase of land embracing his improvements by occupant for purposes of trade.

Provision. Entries on navigable water, limit.

Alternate spaces reserved.

Use of for wharves, etc.

—roadway reserved.

Adverse claimants.

Purchases for trade.

Vol. 26, p. 1106.

Landing places for natives.

Certain islands reserved.

Admissibility of testimony, etc. Vol. 26, p. 1082.

by depositions or otherwise, under commission from the register and receiver of the land office, which may have been or may hereafter be taken and sworn to anywhere in the United States, before any court, judge, or other officer authorized by law to administer an oath, shall be admitted in evidence as if taken before the register and receiver of the proper local land office. And thereafter such proof, together with a certified copy of the field notes and plat of the survey of the claim, shall be filed in the office of the surveyor-general of the District of Alaska, and if such survey and plat shall be approved by him, certified copies thereof, together with the claimant's application to purchase, shall be filed in the United States land office in the land district in which the claim is situated, whereupon, at the expense of the claimant, the register of such land office shall cause notice of such application to be published for at least sixty days in a newspaper of general circulation published nearest the claim within the District of Alaska, and the applicant shall at the time of filing such field notes, plat, and application to purchase in the land office, as aforesaid, cause a copy of such plat, together with the application to purchase, to be posted upon the claim, and such plat and application shall be kept posted in a conspicuous place on such claim continuously for at least sixty days, and during such period of posting and publication or within thirty days thereafter any person, corporation, or association, having or asserting any adverse interest in, or claim to, the tract of land or any part thereof sought to be purchased, may file in the land office where such application is pending, under oath, an adverse claim setting forth the nature and extent thereof, and such adverse claimant shall, within sixty days after the filing of such adverse claim, begin action to quiet title in a court of competent jurisdiction within the District of Alaska, and thereafter no patent shall issue for such claim until the final adjudication of the rights of the parties, and such patent shall then be issued in conformity with the final decree of the court.

Procedure on application for patent.

Adverse claimants.

Timber, sale of.

—limit.

—use of.

Land districts.

Register and receiver.

—salaries.

SEC. 11. That the Secretary of the Interior, under such rules and regulations as he may prescribe, may cause to be appraised the timber or any part thereof upon public lands in the District of Alaska, and may from time to time sell so much thereof as he may deem proper for not less than the appraised value thereof, in such quantities to each purchaser as he shall prescribe, to be used in the District of Alaska, but not for export therefrom. And such sales shall at all times be limited to actual necessities for consumption in the District from year to year, and payments for such timber shall be made to the receiver of public moneys of the local land office of the land district in which said timber may be sold, under such rules and regulations as the Secretary of the Interior may prescribe, and the moneys arising therefrom shall be accounted for by the receiver of such land office to the Commissioner of the General Land Office in a separate account, and shall be covered into the Treasury. The Secretary of the Interior may permit, under regulations to be prescribed by him, the use of timber found upon the public lands in said District of Alaska by actual settlers, residents, individual miners, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and for domestic purposes, as may actually be needed by such persons for such purposes.

SEC. 12. That the President is authorized and empowered, in his discretion, by Executive order from time to time to establish or discontinue land districts in the District of Alaska, and to define, modify, or change the boundaries thereof, and designate or change the location of any land office therein; and he is also authorized and empowered to appoint, by and with the advice and consent of the Senate, a register for each land district he may establish and a receiver of public moneys therefor; and the register and receiver appointed for such district shall, during their respective terms of office, reside at the places designated for the land office. That the registers and receivers of public moneys in the land districts of Alaska shall each receive an annual salary of one thousand five hundred dollars and the fees provided by

law for like officers in the State of Oregon, not to exceed, including such salary and fees, a total annual compensation of three thousand dollars for each of said officers.

SEC. 13. That native-born citizens of the Dominion of Canada shall be accorded in said District of Alaska the same mining rights and privileges accorded to citizens of the United States in British Columbia and the Northwest Territory by the laws of the Dominion of Canada or the local laws, rules, and regulations; but no greater rights shall be thus accorded than citizens of the United States or persons who have declared their intention to become such may enjoy in said District of Alaska; and the Secretary of the Interior shall from time to time promulgate and enforce rules and regulations to carry this provision into effect.

Citizens of Canada,
mining rights, etc., of

SEC. 14. That under rules and regulations to be prescribed by the Secretary of the Treasury, the privilege of entering goods, wares, and merchandise in bond or of placing them in bonded warehouses at any of the ports in the District of Alaska, and of withdrawing the same for exportation to any place in British Columbia or the Northwest Territory without payment of duty, is hereby granted to the Government of the Dominion of Canada and its citizens or citizens of the United States and to persons who have declared their intention to become such whenever and so long as it shall appear to the satisfaction of the President of the United States, who shall ascertain and declare the fact by proclamation, that corresponding privileges have been and are being granted by the Government of the Dominion of Canada in respect of goods, wares and merchandise passing through the territory of the Dominion of Canada to any point in the District of Alaska from any point in said District.

Boating privilege
to Canada.

Approved, May 14, 1898.

EXHIBIT F

55 Stat., 594

594

PUBLIC LAWS—CHS. 300-301—JULY 15, 1911 (55 Stat.)

42 Stat. 1503.

lowing: "Anything in any other Acts of Congress to the contrary notwithstanding"; by striking out "range 35" wherever it appears in such section and inserting in lieu thereof the following: "township 35 north"; by striking out the word "of" following the word "ownership" appearing in the first proviso of the said section; and by striking out the word "constituent" in section 1 and inserting in lieu the word "constituent".

Approved, July 15, 1911.

[CHAPTER 300]

AN ACT

July 15, 1911
(S. 1224)
[Public Law 126]

Authorizing the Copper River and Northwestern Railway Company to convey to the United States its railroad right-of-way and other railroad properties in Alaska, for use as a public highway, tramroad, or tramway, and for other purposes.

Copper River and Northwestern Railway Company. Conveyance of right-of-way, etc., to U. S.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Copper River and Northwestern Railway Company, or any of its successors in interest or assigns, is hereby authorized to give and convey to the United States of America (1) all or any portion of its railroad right-of-way acquired under grants made by Congress or otherwise, including station and terminal grounds and lands used as sites for railroad structures or purposes of any kind, and (2) equipment, including telephone and telegraph poles and lines, ties, rails, rolling stock, bridges, buildings, and other properties in Alaska used in connection with the construction, maintenance, and operation of the railroad.

Acceptance of property for highway purposes.

Sec. 2. The Secretary of the Interior is hereby authorized and empowered to accept, on behalf of the United States and without cost to the United States, gifts and conveyances of said properties to be used, operated, and maintained, as far as may be practicable or necessary, as a public highway, tramroad, or tramway, under the provisions of the Act of June 30, 1902 (37 Stat. 416), notwithstanding anything within any Act to the contrary.

43 U. S. C. 11 227-227.

Status of property acquired.
43 U. S. C. 1612.

Sec. 3. The provisions of the Act of March 8, 1902 (42 Stat. 414), shall not affect the right-of-way, or any portion thereof, or any other lands or properties donated, granted, or conveyed to the United States pursuant to the authorization contained in this Act.

Approved, July 15, 1911.

[CHAPTER 301]

AN ACT

July 15, 1911
(H. R. 2264)
[Public Law 177]

To ratify a lease entered into by certain Mission Indians of California.

Mission Indians, Calif. Lease of land to Palm Springs, Calif., ratified.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a lease bearing date of December 8, 1900, between the Agua Caliente or Palm Springs Band of Mission Indians of California and the city of Palm Springs, California, in the following words, is hereby ratified and confirmed subject, however, to the conditions stated in section 2 hereof:

This indenture of lease executed at Palm Springs, California, as of the 4th day of December, 1900, by and between the Agua Caliente or Palm Springs Band of Mission Indians of California, the party of the first part hereinafter referred to as lessor and the City of Palm Springs, a municipal corporation of the State of California, the party of the second part, hereinafter referred to as lessee, both parties being within the County of Riverside, State of

Patent owners get no interest

lowing: "Anything in any other Acts of Congress to the contrary notwithstanding"; by striking out "range 35" wherever it appears in such section and inserting in lieu thereof the following: "township 35 north"; by striking out the word "of" following the word "ownership" appearing in the first proviso of the said section; and by striking out the word "constituent" in section 1 and inserting in lieu the word "constituent".

52 Stat. 1209.

Approved, July 15, 1941.

[CHAPTER 300]

AN ACT

July 15, 1941
[S. 1239]
[Public Law 176]

Authorizing the Copper River and Northwestern Railway Company to convey to the United States its railroad right-of-way and other railroad properties in Alaska, for use as a public highway, tramroad, or tramway, and for other purposes.

Copper River and
Northwestern Rail-
way Company.
Conveyance of
right-of-way, etc., to
U. S.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Copper River and Northwestern Railway Company, or any of its successors in interest or assigns, is hereby authorized to give and convey to the United States of America (1) all or any portion of its railroad right-of-way acquired under grants made by Congress or otherwise, including station and terminal grounds and lands used as sites for railroad structures or purposes of any kind, and (2) equipment, including telephone and telegraph poles and lines, ties, rails, rolling stock, bridges, buildings, and other properties in Alaska used in connection with the construction, maintenance, and operation of the railroad.

Acceptance of prop-
erties for highway
purposes.

SEC. 2. The Secretary of the Interior is hereby authorized and empowered to accept, on behalf of the United States and without cost to the United States, gifts and conveyances of said properties to be used, operated, and maintained, as far as may be practicable or necessary, as a public highway, tramroad, or tramway under the provisions of the Act of June 30, 1932 (47 Stat. 446), notwithstanding anything within any Act to the contrary.

48 U. S. C. §§ 322-
327.

Status of properties
acquired.
43 U. S. C. § 912.

SEC. 3. The provisions of the Act of March 8, 1922 (42 Stat. 414), shall not affect the right-of-way, or any portion thereof, or any other lands or properties donated, granted, or conveyed to the United States pursuant to the authorization contained in this Act.

Approved, July 15, 1941.

[CHAPTER 301]

AN ACT

July 15, 1941
[H. R. 2308]
[Public Law 177]

To ratify a lease entered into by certain Mission Indians of California.

Mission Indians,
Calif.
Lease of land to
Palm Springs, Calif.,
ratified.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That a lease bearing date of December 8, 1939, between the Agua Caliente or Palm Springs Band of Mission Indians of California and the city of Palm Springs, California, in the following words, is hereby ratified and confirmed subject, however, to the conditions stated in section 2 hereof:

This indenture of lease executed at Palm Springs, California, as of the 4th day of December, 1939, by and between the Agua Caliente or Palm Springs Band of Mission Indians of California, the party of the first part hereinafter referred to as lessor and the City of Palm Springs, a municipal corporation of the State of California, the party of the second part, hereinafter referred to as lessee, both of said parties being within the County of Riverside, State of California.

RELINQUISHMENT

COPPER RIVER AND NORTHWESTERN RAILWAY COMPANY hereby relinquishes to the United States any and all rights that may have been obtained in and to rights-of-way, terminal and station grounds, by reason of the approval by the Department of the Interior or the acceptance for filing by the General Land Office, of maps filed under the Act of May 14, 1898 (30 Stat. 409), for railroad purposes in Alaska, including the following:

1. Right-of-way; from Dock or station 11-83.8, on Orca Inlet, to Alaganik Slough station 868-35.7. Map approved October 29, 1907.
2. Right-of-way; amended location from station 868-35.7 = 1179-20.4 (Alaganik Slough), to station 2397+00, near upper crossing of Copper River or Child Glacier. Map approved April 30, 1914, Juneau 0288.
3. Right-of-way; amended location from station 2387+00 (Child Glacier), to station 3488+00 (Baird Glacier). Map approved February 21, 1914, Juneau 0447.
4. Right-of-way; amended location from station 3488+00 (Baird Glacier), to station 4076-15.3 (Tasuna River). Map approved February 21, 1914, Juneau 0477.
5. Right-of-way; amended location from station 4076-15.3 (Tasuna River), to station 4671-98.2 = 0+83.7, thence to station 530+61 (3½ miles north of Tikel Creek). Map approved February 21, 1914, Juneau 01295.
6. Right-of-way; amended location from station 530+61 (north of Tikel Creek), to station 1553-53.9 (Wood Canyon). Map approved February 21, 1914, Juneau 01354.
7. Right-of-way; amended location from station 1553-53.9 = 3685-18.7 (Wood Canyon), to station 3294+00 (Chitina). Map approved February 21, 1914, Juneau 01419.
8. Right-of-way; original definite location of Chitina River branch line from station 3302-29 (at Chitina or mouth of Katsina River), to station 2131+00 (Divide between Kuskulana and Chokosana Rivers). Map approved February 21, 1914, Juneau 01350.

9. Right-of-way; original definite location from station 2131+00, to station 1020+30 (Lakina River), Chitina branch line. Map approved February 21, 1914, Juneau 01361.

10. Right-of-way; original definite location from station 1020+30 (Lakina River), to station 493+33.3 (Swamp Creek). Map approved February 21, 1914, Juneau 01422.

11. Right-of-way; amended location from station 493+33.3 (Swamp Creek), to station 35+70 (Kennecott Glacier). Map approved March 21, 1914, Juneau 01420.

12. Right-of-way; loop line at or near Miles Glacier. Map approved March 21, 1914, Juneau 01491.

13. Right-of-way; loop line around Trout Lake (at Chitina). Map approved April 29, 1914, Juneau 01436.

14. Right-of-way; loop line at mouth of Tielak River. Map approved April 29, 1914, Juneau 01492.

15. Right-of-way; tram line from Glacier Bay to Abercrombie Rapids. Permit approved March 17, 1908.

16. Station grounds; No. 1, Tracts A and B (on Odiak Bay). Map approved June 29, 1908.

17. Terminal grounds; No. 1, Tracts A and B (between Odiak Bay and Eyak Lake). Map approved June 29, 1908.

18. Station grounds; Mirror Slough. Map approved March 10, 1908.

19. Station grounds; Tracts A and B (near Strelina Creek), on Chitina branch line. Map approved April 29, 1914, Juneau 01335.

20. Station grounds; at junction of Copper River Railway and Copper River and Northwestern Railway, at Clear Creek. Map approved April 30, 1914, Juneau 0288.

21. Junction grounds; at junction of Copper River Railway and Copper River and Northwestern Railway, at Clear Creek. Map approved April 30, 1914, Juneau 0282.

22. Station grounds; Tracts A and B, at Copper River crossing near Miles Glacier. Map approved March 21, 1914, Juneau 01422.

23. Station grounds; Tracts A and B, (Sheridan). Map approved May 3, 1922, Juneau 04611.

24. Station grounds; Tracts A and B (Caywood Canyon). Map approved May 3, 1922, Juneau 04656.

25. Station grounds; Tracts A and B (Kotsina). Map approved May 3, 1922, Juneau 04657.

26. Station grounds; Tracts A and B (Chocoma). Map approved May 3, 1922, Juneau 04669.

27. Station grounds; Tracts A and B (Egawa Lake). Map approved May 7, 1922, Juneau 04669.

28. Station grounds; Tracts A and B (Porphyry). Map approved May 3, 1922, Juneau 04670.

29. Station grounds; Tracts A and B (Brenner). Map approved May 3, 1922, Juneau 04671.

30. Station grounds; Tracts A and B (Cleave Creek). Map approved May 3, 1922, Juneau 04672.

31. Station grounds; Tracts A and B (unnamed, below Wood Canyon). Map approved May 3, 1922, Juneau 04673.

32. Station grounds; Tracts 1 and 2 (at Tielke River). Map approved April 29, 1914, Juneau 01193.

The foregoing relinquishment is made subject to:

(a) any rights which the Town of Cordova may have acquired by virtue of any Act of Congress, and (b) the conveyances by Copper River and Northwestern Railway Company to the Town of Cordova, dated respectively December 5, 1938, and November 10, 1944, pursuant to the authority and provisions of the Act of Congress of May 28, 1920, Chapter 197, 41 Stat. 621. Copies of such conveyances are attached hereto and made a part hereof.

COPPER RIVER AND NORTHWESTERN RAILWAY COMPANY

By: E. T. Hammar
President

Attest:

A. B. Cleverly
Secretary

Acknowledged before me this 29th day of March, 1945.

Ernest W. Schmitt
Notary Public

My commission expires _____

NOTARY PUBLIC, WAGAWA COUNTY, WA 1413
Cert. filed in S. T. Co. No. 619, Aug. No. 1940-3-8
Notary Commission Expires March 24, 1946

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON 25, D. C.

May 22 1925
[Handwritten signature]

MAY 11 1925

DECISION

Railroad rights-of-way, station
and terminal grounds.
Juncau 0228 et al.
1906338 "F"

Copper River and
Northwestern Railway Co.

Reference is made to the grants of the rights-of-way for rail-
road, station and terminal ground purposes in Alaska made to the
Copper River and Northwestern Railway Company or its predecessors,
the Copper River Railway Company, under the act of May 14, 1898 (30
Stat. 409), which were abandoned in 1939 with the consent of the
Interstate Commerce Commission.

Under date of March 29, 1915, the Copper River and Northwestern
Railway Company, by its President, executed its relinquishment to the
United States of all rights in and to the rights-of-way, terminal and
station grounds that may have been acquired by reason of approval by
the Department or acceptance for filing by the General Land Office of
the maps filed under the act of May 14, 1898 supra, including those
listed in the relinquishment, subject to any right which the Town of
Cardova may have acquired by virtue of the conveyances made by the
company to the Town dated December 5, 1908 and November 10, 1914, re-
spectively, under authority of the act of May 25, 1920 (41 Stat. 621),
in and to part of the railroad right-of-way between stations 33 + 14.6
and 14 + 52.6, approved October 29, 1907.

The relinquishment is found to be satisfactory and is hereby
accepted. Accordingly, the easements for the railroad rights-of-way,
terminal and station grounds have been noted canceled on the records of
this office. The Register of the District Land Office will make appro-
priate notations on the records of his office and file the attached
copy of the relinquishment for future reference. The company will be
informed by this office of the action taken.

[Handwritten signature]
Commissioner

Attachment



(7)

Accepted

PROPOSED OPERATIONS

In addition to \$560,000 from appropriated funds, it is estimated there will be available from the "Alaska Fund" and Territorial appropriation \$340,000 for the fiscal year ending June 30, 1940.

With these funds normal maintenance of the existing system will be performed and improvement of certain sections, including surfacing, will be provided where possible. New construction will be accomplished only to the extent possible with funds provided by the Territory and on projects designated by the Territorial Road Board.

RECOMMENDATIONS

For the fiscal year ending June 30, 1941 an appropriation of \$2,516,000 is recommended in addition to funds available from other sources. This will provide for necessary maintenance to the existing system and for the continuance of construction on projects now under way and on needed new projects as authorized in the six-year program.

The projects on which new work would be performed under this program are as follows:

Fairbanks Local Roads	Georgetown-Flat Road
Palmer Local Roads	Sung Point-Wood River Road
Shelton-Kougarak Road	Kunai Lake-Homer Road
Rampart-Bureika Road	McCarthy-Canadian Boundary Road
Chistochina-Slate Creek Road	Emergency Fields--Juneau-Fairbanks (8)
Kuskokwim-Landing-Takotna Road	Fairbanks Airfield
Point Gustavus Roads	Tolovana and American Creek Airfields
Eagle-Portymile Road System	Tanana Airfield
Kanatak-Becharof Lake Road	Cordova Airfield
Steese Highway Branches	Nome Airfield
Bessie-Snake River Road	Anchorage Airfield
Nizina-Bremner Road	Southeastern Landing Floats (14)
<u>Chitina-McCarthy Road</u>	Airfields between Tanana-Nome (10)
Talkeetna-Cache Creek Road	" " Anchorage-Nome (10)
Teller-Nome Road	" " Boundary-Anchorage (6)
Homer Roads	" " Fairbanks-Bethel (9)
Cantwell-Valdez Creek Road	Airfields at Bremner, Chisana, Chitina,
Candle Creek Road	May Creek, McCarthy
Hot Springs Road System	Airfields, locals--Juneau-Fairbanks-
Anchorage Local Roads	Nome (33)
Ruby-Poorman Road	Valdez Airfield
Iliamna Bay-Iliamna Lake Road	Airfields between Cordova-Fairbanks (5)
Newhalen-Lake Clark Road	Seward Airfield
Gulkana-Chisana Road	Airfields between Seward-Fairbanks (3)
Ferry-Eva Creek Road	Airfields served from Seward-Fairbanks
Nome-Council Road	Routes (8)
Goodnews Bay-Arolic River Road	
Fairbanks-Chena Hot Springs Road	

culverts installed.

Maintenance: 2,493 miles of road, 139 miles of tramway, 318 miles of sled road, 272 miles of permanent trail and 161 miles of temporary flagged trail.

The total mileage of all routes as of June 30, 1946 is as follows:

	<u>Road (a)</u>	<u>Sled Road</u>	<u>Trail</u>	<u>Flagged Trail</u>	<u>Grand Total</u>
June 30, 1945	2816.2	1161.7	4110.8	164.0	8252.7
Fiscal year 1946:					
New mileage	8.4	78.0	---	---	86.4
Reclassified, abandoned and transferred	-11.5	-1.3	---	-3.0	-15.8
Total	2813.1	1238.4	4110.8	161.0	8323.3
No work of either maintenance or improvement during fiscal year 1946.	161.2	9202	3838.8	24.0	4964.2

(a) Includes 139 miles tram road.

The above mileage of roads consists of the following systems:

Principal Connected Road System

	<u>Miles</u>	
Richardson Highway	368	
Glenn Highway	189	
Steenes Highway	162	
Tok Cutoff	136	
Alaska Highway and Branches	210	1065

Local Systems

Nabesna Branch	44
Feeder Roads, Richardson Highway	72
McCarthy Tram and Road System	90
Feeder Roads to Steenes Highway	134
Livengood Road and Branches	87
Anchorage Local Roads	54
Fairbanks Local Roads	46
Palmer System	200
Horn System	167
Seward Peninsula Mine Roads	94
Seward Peninsula Tram Road	80
Takotna System	71
Flat System	36
Wanley Hot Springs System	243
Ruby System	66

1946. App. Summary of R.T. ...

Subproject	Name	Cost 1949	Total Cost to 6-30-49	Cost M & I 1949	Total Cost M & I to 6-30-49	Cost Con. 1949	Total Cost Construction to 6-30-49
F	Cache Creek Airfield.....	149.88	3,922.55	149.88	2,598.35	---	1,324.20
G	Talkeetna Airfield.....	---	1,505.71	---	150.76	---	1,354.95
H	Peters Creek Airfield.....	51.74	362.86	51.74	362.86	---	---
I	Annette Island.....	11,250.00	11,250.00	11,250.00	11,250.00	---	---
J	Fort Yukon Airfield.....	4.09	6,268.83	4.09	2,035.80	---	---
K	Chisana Airfield.....	---	1,777.75	---	283.12	---	4,233.03
L	Nabesna Airfield.....	---	3,265.10	---	1,452.53	---	1,492.13
M	Glacier Trail.....	---	394.67	---	---	---	1,812.57
N	Kenzi-Russian River.....	---	16,007.22	---	9,447.96	---	394.67
O	Homer-Russian River Road....	906,868.90	2,267,387.17	45,352.50	50,679.50	861,516.40	6,559.26
P	McCarthy-Dan Creek.....	8,391.97	362,482.69	8,391.97	206,630.46	---	2,216,707.57
Q	Chitina River Bridge.....	---	235,659.38	---	109,717.58	---	155,952.23
R	McCarthy-Kennecott River....	---	965.08	---	965.08	---	125,941.80
S	Chititu Branch.....	4,313.54	23,610.99	4,313.54	16,182.51	---	---
T	McCarthy Airfield.....	108.13	5,981.75	108.13	961.97	---	7,428.38
U	May Creek Airfield.....	310.56	8,207.72	310.56	345.22	---	5,019.38
V	McCarthy-Kennecott.....	---	1,772.70	---	1,772.70	---	7,362.50
W	Chitina-McCarthy.....	---	54,308.67	---	54,308.67	---	---

No.	Subproject Name	Cost 1950	Total Cost to 6/30/50	Cost M & I 1950	Total Cost M & I to 6/30/50	Cost Construction 1950	Total Cost Construction to 6/30/50
51F	Cache Creek Airfield ...	-----	3,922.55	-----	2,598.35	-----	1,324.20
51G	Talkeetna Airfield	-----	1,505.71	-----	150.76	-----	1,354.95
51H	Peters Creek Airfield ..	-----	362.86	-----	362.86	-----	-----
(2	Annette Island	16,294.78	27,544.78	5,000.00	16,250.00	11,294.78	11,294.78
53F	Fort Yukon Airfield ...	238.66	6,507.49	238.66	2,274.46	-----	4,233.03
54A	Chisana Airfield	-----	1,777.75	-----	283.12	-----	1,494.63
54F	Nabesna Airfield	-----	3,265.10	-----	1,452.53	-----	1,812.57
54D	Glacier Trail	-----	394.67	-----	-----	-----	394.67
55	Kerai-Russlan River	-----	16,007.22	-----	9,447.96	-----	6,559.26
55C	Fomer-Russlan River Road	948,062.80	3,215,449.97	77,066.99	127,746.49	870,995.81	3,087,703.48
57	McCarthy-Dan Creek	5,458.05	367,940.74	5,458.05	212,008.51	-----	155,852.23
(A	Chitina River Bridge ...	-----	235,659.38	-----	109,717.58	-----	125,941.80
57C	McCarthy-Kennecott River	-----	965.08	-----	965.08	-----	-----
57D	Chititu Branch	5,441.06	29,052.05	5,441.06	21,623.57	-----	7,428.48
57F	McCarthy Airfield	238.77	6,220.52	238.77	1,280.64	-----	5,019.88
57I	May Creek Airfield	-----	8,207.72	-----	345.22	-----	7,862.50
57J	McCarthy-Kennecott	-----	1,772.70	-----	1,772.70	-----	-----
57K	Chitina-McCarthy	-----	54,308.67	-----	54,308.67	-----	-----
57L	Cordova-Chitina Survey .	23,863.94	23,863.94	-----	-----	23,863.94	23,863.94

1950 Annual Report

of the Fairbanks area place a severely congested, low bridge at Cushman Street in Fairbanks, the oldest steel bridge in the highway system of the Territory. Completion and paving of road approaches will be covered by contract in 1954.

COPPER RIVER HIGHWAY

Section B, Mile 11 to Mile 19. A total of 57 percent was completed on this initial 8 miles of the project to connect the city of Cordova with the highway system of Alaska, utilizing the railroad bed of the abandoned Copper River and Northwestern Railroad. The route is along the picturesque Copper River to Chitina, Mile 131, where it joins the 39-mile Edgerton Cutoff between that point and the Richardson Highway. This project will serve the Gulf of Alaska coastal area, where active prospecting for oil is now underway, as well as the entire lower Copper River and Chitina River areas, with their great potential for mineral development.

CONSTRUCTION IN PROGRESS BY GOVERNMENT FORCES

The Commission is organized to perform all types of heavy construction work by Government day labor but Congressional limitations in fiscal year 1953 permitted only 25 percent of funds to be expended in this manner. Principal work performed consisted of pioneer construction of new roads and such reconstruction as was warranted due to small size of the project or unfavorable contract bids. Construction by Government forces has an important place in the road building picture of a pioneer country and should be retained in the best interests of the Territory as well as the Federal Government, which in large part is making the funds available.

RECOMMENDATIONS

For the fiscal year ending June 30, 1955, appropriations of \$13,690,000 for construction and \$3,500,000 for maintenance have been recommended. The total for construction has been limited to the above figure by Department ceiling and over-ceiling allowances, though a much greater construction program should be recommended for the proper development of the vast areas in Alaska now completely lacking in surface transportation.

The funds recommended are tabulated on the following tables.

Project	<u>Construction</u>			
	Miles Length	Estimated Total cost	Appropriated through 1954	Proposed 1955
<u>Preparation of Plans</u>	--	Recurring	\$ 1,150,000	\$ 300,000
<u>Construction in Progress</u>				
Taylor Highway	160.0	\$ 6,480,000	\$ 5,329,000	500,000
Richardson Highway surfacing	370.8	36,640,000	29,964,000	4,000,000
Alaska Highway surfacing	218.0	15,700,000	9,410,000	2,390,000
Denali Highway	162.0	9,600,000	4,100,000	1,500,000
Local farm, industrial and military access roads	--	Recurring	1,000,000	400,000
Copper River Highway	117.0	11,000,000	3,050,000	3,000,000
Anchorage-Elmendorf alternate through route	6.0	500,000	250,000	250,000
<u>Reconstruction</u>				
Improvement of existing roads and bridges	--	Recurring	2,600,000	1,250,000
<u>New Construction</u>				
Fairbanks-Menana	45.0	2,500,000	--	100,000
<u>Totals</u>		\$82,420,000	\$56,853,000	\$13,690,000

EXHIBIT K

UNITED STATES
DEPARTMENT OF THE INTERIOR
Washington, D.C.

ORDER NO. 2665

October 16, 1951

SUBJECT: RIGHTS-OF-WAY FOR HIGHWAYS IN ALASKA:

(Sec. 1. Purpose. (a) The purpose of this order is to (1) fix the width of all public highways in Alaska established or maintained under the jurisdiction of the Secretary of the Interior and (2) prescribe a uniform procedure for the establishment of rights-of-way or easements over or across the public lands of such highways. Authority for these actions is contained in Section 2 of the Act of June 30, 1932 (47 Stat. 446, 43 U.S.C. 321a).

Sec. 2. Width of Public Highways. (a) The width of the public highways in Alaska shall be as follows:

(1) For through roads:

The Alaska Highway shall extend 300 feet on each side of the center line thereof.

The Richardson Highway, Glenn Highway, Haines Highway, Seward-Anchorage Highway, Anchorage-Lake Spenard Highway and Fairbanks-College Highway shall extend 150 feet on each side of the center line thereof.

(2) For feeder roads.

Abbott Road (Kodiak Island), Edgerton Cutoff, Elliott Highway, Seward Peninsula Tram road, Steese Highway, Sterling Highway, Taylor Highway, Northway Junction to Airport Road, Palmer to Matanuska to Wasilla Junction Road, Palmer to Finger Lake to Wasilla Road, Glenn Highway Junction to Fishhook Junction to Wasilla to Knik Road, Slana to Nabesna Road, Kenai Junction to Kenai Road, University to Ester Road, Central to Circle Hot Springs to Portage Creek Road, Manley Hot Springs to Eureka Road, North Park Boundary to Kantishna Road, Paxson to McKinley Park Road, Sterling Landing to Ophir Road, Iditarod to Flat Road, Dillingham to Wood River Road, Ruby to Long to Peorinan

(over)

APPENDIX 12, Page 1 of 2

Road, Nome to Council Road and Nome to Bessie Road shall each extend 100 feet on each side of the center line thereof.

(3) For local roads:

All public roads not classified as through roads or feeder roads shall extend 50 feet on each side of the center line thereof.

Sec. 3. Establishment of rights-of-way or easements.

(a) A reservation for highway purposes covering the lands embraced in the through roads mentioned in section 2 of this order was made by Public Land Order 601 of August 10, 1940, as amended by Public Land Order No. 757 of October 16, 1951. That order operated as a complete segregation of the land from all forms of appropriation under the public-land laws, including the mining and mineral leasing laws.

(b) A right-of-way or easement for highway purposes covering the lands embraced in the feeder roads and the local roads equal in extent to the width of such roads as established in section 2 of this order, is hereby established for such roads over and across the public lands.

(c) The reservation mentioned in paragraph (a) and the rights-of-way or easements mentioned in paragraph (b) will attach as to all new construction involving public roads in Alaska when the survey stakes have been set on the ground and notices have been posted at appropriate points along the route of the new construction specifying the type and width of the roads.

Sec. 4. Dead ends to be filed in proper Land Office. Maps of all public roads in Alaska heretofore or hereafter constructed showing the location of the roads, together with appropriate plans and specifications, will be filed by the Alaska Road Commission in the proper Land Office at the earliest possible date for the information of the public.

/s/ Cesar L. Chagnas
Secretary of the Interior

EXHIBIT M-2

UNITED STATES
DEPARTMENT OF THE INTERIOR
Washington 25, D. C.

ORDER NO. 2665 (October 16, 1951), Amendment No. 2

SUBJECT: Rights-of-Way for Highways in Alaska

1. Section 2 (a) (1) is amended by adding to the list of public highways designated as through roads, the Fairbanks-International Airport Road, the Anchorage-Fourth Avenue-Post Road, the Anchorage International Airport Road, the Copper River Highway, the Fairbanks-Nenana Highway, the Denali Highway, the Sterling Highway, the Kenai Spur from Mile 0 to Mile 14, the Palmer-Wasilla-Willow Road, and the Steese Highway from Mile 0 to Fox Junction; by re-designating the Anchorage-Lake Spenard Highway as the Anchorage-Spenard Highway, and by deleting the Fairbanks-College Highway.

2. Section 2(a) (2) is amended by deleting from the list of feeder roads the Sterling Highway, the University to Ester Road, the Kenai Junction to Kenai Road, the Palmer to Finger Lake to Wasilla Road, the Paxson to McKinley Park Road, and the Steese Highway, from Mile 0 to Fox Junction, and by adding the Kenai Spur from Mile 14 to Mile 31, the Nome-Kougarok Road, and the Nome-Teller Road.

/s/ Fred A. Seaton
Secretary of the Interior

September 15, 1956

APPENDIX 13, Page 1 of 1

EXHIBIT M-2

UNITED STATES
DEPARTMENT OF THE INTERIOR
Washington 25, D. C.

ORDER NO. 2665 (October 16, 1951), Amendment No. 2

SUBJECT: Rights-of-Way for Highways in Alaska

1. Section 2 (a) (1) is amended by adding to the list of public highways designated as through roads, the Fairbanks-International Airport Road, the Anchorage-Fourth Avenue-Post Road, the Anchorage International Airport Road, the Copper River Highway, the Fairbanks-Menana Highway, the Denali Highway, the Sterling Highway, the Kenai Spur from Mile 0 to Mile 14, the Palmer-Wasilla-Willow Road, and the Steese Highway from Mile 0 to Fox Junction; by re-designating the Anchorage-Lake Spenard Highway as the Anchorage-Spenard Highway, and by deleting the Fairbanks-College Highway.

2. Section 2(a) (2) is amended by deleting from the list of feeder roads the Sterling Highway, the University to Ester Road, the Kenai Junction to Kenai Road, the Palmer to Finger Lake to Wasilla Road, the Paxson to McKinley Park Road, and the Steese Highway, from Mile 0 to Fox Junction, and by adding the Kenai Spur from Mile 14 to Mile 31, the Nome-Kougarok Road, and the Nome-Teller Road.

/s/ Fred A. Seaton
Secretary of the Interior

September 15, 1956

APPENDIX 13, Page 1 of 1

FAS Route No.	Description	Highway District No.	Constructed Mileage	System Mileage
735	From FAF Route 62 at Tetlin Junction approximately 80 miles west of Alaska-Canada Border; thence northeasterly to the Yukon River at Eagle	20	161.0	161.0
785	From a point on FAS Route 785 approximately 80 miles north of FAF Route 62 intersection; thence southeasterly to the Alaska-Canada Boundary	20	13.9	13.9
809	From a point on FAF Route 42 approximately 30 miles west of Glenallen northerly to Lake Louise	11	20.0	20.0
810	From a point on FAS Route 851 at north Chugach Forest boundary approximately 39 miles east of Cordova; thence easterly to the Bering River	11	0	40.0
837	From junction with FAS Route 839 and 851 at Cordova southeasterly to Point Whited	11	3.4	12.9
839	From junction with FAS Route 837 and 851 at Cordova northeasterly along the shore of Eyak Lake	11	7.1	7.1
850	From junction with FAS Route 851 at Chitina easterly to McCarthy	11	1.0	59.0
851	From the Ocean Dock at the Port of Cordova through the Town of Cordova northerly paralleling the Copper River to a junction with FAS Route 850 at Chitina; thence northwesterly to a junction with FAF Route 71	11	86.0	170.0