

MEMORANDUM OF UNDERSTANDING

between

Division of Parks and Outdoor Recreation
Alaska Department of Natural Resources
and

Division of Design and Construction
Alaska Department of Transportation and Public Facilities

regarding

The easement for the Seward Highway through Chugach State Park
and
cooperative management of highway and recreational facilities

Introduction

The Seward Highway was constructed in 1951 by The federal Bureau of Public Roads on a right-of-way easement established by the federal government and later conveyed to the state. The highway right-of-way is managed by the Alaska Department of Transportation and Public Facilities (hereafter "DOT/PF"). The right-of-way for the Seward Highway is 150 feet each side of the centerline.

After statehood, the Department of Natural Resources (hereafter "DNR or DPOR") selected, under the provisions of the Statehood Act, most of the lands under and adjoining the highway right-of-way. In 1970 these lands became part of Chugach State Park (1 ch 76 SLA 1970, AS 41.21.121) subject to valid entries such as the highway right-of-way easement.

Since the original construction of the Seward Highway, the highway has been relocated or straightened on numerous occasions. It has been assumed by both parties to this MOU that the right-of-way easement has moved with relocation of the highway centerline.

Purpose of this MOU

It is the purpose of this MOU:

- 1) ~~to fix the location of the highway right-of-way easement from the park boundary near Potter Marsh to Bird Point based upon a centerline surveys for Highway Project No. HHS-F-031-2(44), Mile 111 to 115.2 and Project No. F-031-2(55), Bird Flats to Mile 111 which were completed by DOT/PF in 1981 and 1983;~~
- 2) to agree to the relocation of the Seward Highway right-of-way easement between Bird Point and the Park's southern boundary near

Girdwood from the present location to a tidewater location which generally parallels and overlays the Alaska Railroad right-of-way; and,

3) to encourage each party to cooperate in planning, design, construction and operation of their respective facilities along the highway corridor.

Authorities

The DOT/PF is authorized by AS 19.05.010 to construct and maintain the Seward Highway. AS 41.21.122 places responsibility for the repair and maintenance of all existing public roads with DOT/PF.

Under the provisions of AS 41.21.122 the DPOR/DNR is assigned the responsibility for control, development and maintenance of the state-owned lands and waters within the boundaries of Chugach State Park. Further, DPOR/DNR is responsible for highway access and the control of roadside structures. AS 41.21.020 (7) authorizes DPOR/DNR to cooperate with other state agencies for the effective supervision, improvement, extension, and maintenance of state parks.

DPOR agrees to:

~~1) define the Seward Highway right-of-way from Potter to Bird Point based upon the DOT/PF centerline surveys of 1981 and 1983;~~

2) if the DOT/PF project development process, public review, and DPOR's review of the project finally recommends relocating the Seward Highway to tidewater between Bird Point and Girdwood:

a) to define the highway right-of-way based upon a centerline survey of the reconstructed highway;

b) to permit DOT/PF access to the Old Seward Highway alignment between Bird Point and Girdwood for the purposes of clearing snow from avalanche catchment basins and DOT&PF will maintain the access to the catchment basins as necessary for maintenance and operation of the avalanche catchments;

3) cooperate with DOT/PF in matters of highway maintenance and operation to provide for a safe and efficient highway operation as well as optimize highway related scenic and recreational opportunities; and,

4) inform DOT/PF of plans for the development and operation of park facilities or programs which may affect highway operations as soon as practical.

DOT/PF agrees to:

- 1) define the Seward Highway right-of-way easement between Potter and Bird Point based upon the centerline surveys of 1981 and 1983;
- 2) if the Seward Highway between Bird Point and Girdwood is relocated to tidewater, to define the Seward Highway right-of-way easement based upon a centerline survey of the highway after construction;
- 3) cooperate with DPOR to construct and maintain highway turnouts and pullouts along the Seward Highway for the purposes of highway safety, recreation and scenic viewing;
- 4) recognize the scenic and recreational values of the Seward Highway corridor and Chugach State Park and, insofar as practical, develop and operate the Seward Highway in a manner compatible with these values; and develop turnout parking areas at Bird Point and other locations in conjunction with the Bird Point to Girdwood highway reconstruction project.

Public benefits of the agreement

- 1) Fixing the location of the road right-of-way easement to the present (and proposed Bird-Girdwood segment) centerline:
 - a. reduces uncertainty of a floating easement in the land record systems;
 - b. will reduce the Chugach State Park acreage that is encumbered by transportation easements because the new road is straighter and much of it overlaps the ARR right-of-way;
 - c. facilitates DOT/PF obtaining federal funds for the Bird to Girdwood reconstruction project.
- 2) Relocating the Bird to Girdwood section of road to tidewater will reduce; snow avalanche safety hazards for road and railroad travellers and maintenance costs for DOT/PF and the Alaska Railroad.
- 3) The old roadway between Bird Point and Girdwood will be converted into a park trail with periodic use as a service road for snow catchment clearing and servicing the local electric lines and the military fuel line.
- 4) Highway transportation, recreation and scenic uses of the Turnagain Arm are important public needs. This agreement, which fosters cooperation between the parties, will help to maximize these public needs through cooperative management.

Other terms

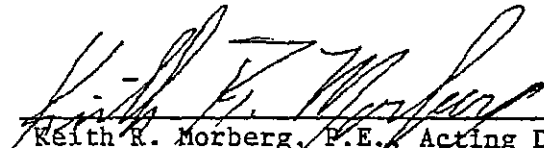
- 1) This agreement may be amended by the parties.
- 2) Nothing in this agreement is intended to conflict with any federal, state or local law or regulation.
- 3) This agreement shall remain in effect for twenty-five years and may be extended, by mutual agreement between the parties, for any length of time that is deemed appropriate.



Neil C. Johannsen
Director
Division of Parks and Outdoor Recreation

Sor
8/7/90

date



Keith R. Morberg, P.E., Acting Director
Design and Construction, Central Region
Department of Transportation and Public Facilities

8/10/90

date

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF PARKS AND OUTDOOR RECREATION
CHUGACH

WALTER J. HICKEL, GOVERNOR

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INDIAN, ALASKA 99540
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September 1, 1993

Sam Bacino
ROW Section, Central Region
DOT&PF
Anchorage

Ref: Right-of-Entry for Phase I Relocation of the Seward Highway between Bird Point and the Girdwood Flats

Dear Sam:

This is a letter constitutes a right-of-entry for the Alaska Department of Transportation and Public Facilities to enter upon park lands and waters for the construction of the Seward Highway between Bird Point and Girdwood Flats. This right-of-entry is being granted pursuant to paragraph 2 on page 3 of our August 28, 1993 Memorandum of Understanding.

This right of entry is granted for phase I work. Upon receipt and review of plans for phases II and III, I will issue additional right-of-entry letters.

I appreciate your efforts and the cooperation of others in DOT&PF in accommodating the interests of both of our agencies in this project.

Sincerely,



Al Meiners
Park Superintendent

AMENDMENT 1

to

MEMORANDUM OF UNDERSTANDING

between

Division of Parks and Outdoor Recreation
Alaska Department of Natural Resources
(DPOR)

and

Division of Design and Construction
Alaska Department of Transportation and Public Facilities
(DOT/PF)

regarding

The easement for the Seward Highway through Chugach State Park
and
cooperative management of highway and recreational facilities

Introduction

On August 10, 1990, DPOR and DOT/PF completed a Memorandum of Understanding "regarding [t]he easement for the Seward Highway through Chugach State Park and cooperative management of highway and recreational facilities". That agreement (1) fixed the location of the DOT/PF's highway easement based upon centerline surveys for two projects: HHS-F-031-2(44), Mile 111 to 115.2, and F-031-2(55), Bird Flats to Mile 111, (2) agreed to the relocation of the easement between Bird Point and the Park's southern boundary near Girdwood from the highway's present location to a tidewater location which generally parallels and overlays the Alaska Railroad Corporation's (ARRC) right-of-way, and (3) encouraged cooperative planning, design, construction and operation of their respective facilities along the highway corridor.

Purpose of this Amendment

This amendment is for two purposes: (a) to establish the location of the relocated easement specified in number (2) above and accommodate the railroad and utility relocations necessary for relocation of the Seward Highway between Girdwood and Bird Point, and (b) to change the term of the Memorandum of Understanding to indefinitely.

DOT/PF agrees as follows:

- 1) to relocate the 300 foot wide Seward Highway right-of-way based upon a survey centerline and right-of-way limits as shown in the attached Right-of-way Map for Alaska Project Seward Highway Girdwood to Bird Point, Project Number IR-0A3-1(11), hereinafter the Project, the exact location to be established by an as-built survey by DOT/PF upon completion of construction. The right-of-way map will be hereinafter designated as "Exhibit A";
- 2) that relocation of the Seward Highway right-of-way relinquishes any right, title and interest of DOT/PF to those lands encumbered by the original Seward Highway right-of-way that are no longer necessary for the relocated Seward Highway;
- 3) to construct and maintain highway turnouts and parking pull-outs along the relocated Seward Highway, as identified in the February 1991 "Seward Highway Bird Point to Girdwood Project F-031-2(50) Environmental Assessment and Final Section 4(f) Evaluation", for the purposes of highway safety, recreation and scenic viewing, the exact location to be established by an as-built survey by DOT/PF upon completion of construction. Maintenance of the turnouts and pullouts by DOT/PF shall consist of snow removal, maintaining the asphalt surface and other facilities installed by DOT/PF such as guardrail, drainage culverts, etc.;
- 4) to make application to DPOR for a right-of-entry for the Anchorage Telephone Utility, ATU, fibre optics cable to be located within the vicinity of the existing Seward Highway (hereinafter referred to as the Old Seward Highway) alignment between Girdwood and Bird Point. Said alignment is shown on the attached Exhibit A, the exact location to be established by an as-built survey by DOT/PF upon completion of construction;
- 5) prepare and coordinate the execution of a Memorandum of Agreement between DPOR and Chugach Electric Association, Inc., CEA. The CEA Memorandum of Agreement will address relocation of the CEA distribution line right-of-way, and the CEA transmission line;
- 6) upon construction of the Project, to survey all highway, utility and railroad facilities within the Project and provide DPOR with as-builts of those facilities;
- 7) appraise the existing Old Seward Highway corridor and the relocated corridor as required by the environmental assessment for the project. The appraisal shall also provide separate valuations for any additional area required by the DOT/PF and ARRC that are outside the existing ARR right-of-way and the

relocated DOT/PF highway right-of-way;

- 8) in consultation with DPOR, to draft and submit legislation as necessary to:
 - o ratify the relocation of highway and utility rights of way; and
 - o obtain legislative authority as necessary for the Department of Natural Resources (DNR) to convey all areas required by the DOT/PF and ARRC outside the existing ARRC right-of-way and the relocated DOT/PF highway right-of-way. The property interests to be conveyed shall be identical to those held by DOT/PF, and enjoyed by ARRC.

DPOR agrees as follows:

- 1) to define the Seward Highway right-of-way as the relocated 300 foot wide highway right-of-way shown in Exhibit A and established by the as-built survey;
- 2) grant DOT/PF a right-of-entry for access to and along the existing Old Seward Highway alignment between Bird Point and Girdwood during the construction of the Project for highway and utility purposes and to construct park trail facilities and avalanche control features;
- 3) grant to ATU a right-of-entry for survey, design, construction and relocation of the fibre optics cable;
- 4) upon completion of the project, submittal of an as-built survey, application for a permit by DOT/PF on behalf of ATU, and termination of the right-of-entry, grant ATU a permit, renewable for so long as the fibre optics cable is maintained, 20 feet in width, 10 feet on each side of the fibre optics cable, based on the final location of the fibre optics cable, together with the right to access and utilize the existing Seward Highway and to access its facilities from said highway at reasonable points in order to operate, repair and maintain the fibre optics cable;
- 5) upon completion of the project, submittal of an as-built survey, and termination of the temporary highway and utility right-of-entry, grant DOT/PF a permit along the Old Seward Highway for the purposes of clearing snow from avalanche catchment basins and DOT/PF access to the catchment basins as necessary for maintenance and operation of the avalanche catchments;
- 6) concur with the relocation of the various portions of the tracks of the ARRC to areas within the relocated highway right-of-way as shown on Exhibit A.

relocated DOT/PF highway right-of-way;

- 8) in consultation with DPOR, to draft and submit legislation as necessary to:
 - o ratify the relocation of highway and utility rights of way; and
 - o obtain legislative authority as necessary for the Department of Natural Resources (DNR) to convey all areas required by the DOT/PF and ARRC outside the existing ARRC right-of-way and the relocated DOT/PF highway right-of-way. The property interests to be conveyed shall be identical to those held by DOT/PF, and enjoyed by ARRC.

DPOR agrees as follows:

- 1) to define the Seward Highway right-of-way as the relocated 300 foot wide highway right-of-way shown in Exhibit A and established by the as-built survey;
- 2) grant DOT/PF a right-of-entry for access to and along the existing Old Seward Highway alignment between Bird Point and Girdwood during the construction of the Project for highway and utility purposes and to construct park trail facilities and avalanche control features;
- 3) grant to ATU a right-of-entry for survey, design, construction and relocation of the fibre optics cable;
- 4) upon completion of the project, submittal of an as-built survey, application for a permit by DOT/PF on behalf of ATU, and termination of the right-of-entry, grant ATU a permit, renewable for so long as the fibre optics cable is maintained, 20 feet in width, 10 feet on each side of the fibre optics cable, based on the final location of the fibre optics cable, together with the right to access and utilize the existing Seward Highway and to access its facilities from said highway at reasonable points in order to operate, repair and maintain the fibre optics cable;
- 5) upon completion of the project, submittal of an as-built survey, and termination of the temporary highway and utility right-of-entry, grant DOT/PF a permit along the Old Seward Highway for the purposes of clearing snow from avalanche catchment basins and DOT/PF access to the catchment basins as necessary for maintenance and operation of the avalanche catchments;
- 6) concur with the relocation of the various portions of the tracks of the ARRC to areas within the relocated highway right-of-way as shown on Exhibit A.

- 7) grant rights-of-entry or permits to DOT/PF for those locations where the Project construction slope limits exceed the relocated 300 foot wide highway right-of-way until such time as construction of the Project is complete and a permanent interest has been approved by the legislature;
- 8) grant DOT/PF a temporary right-of-entry for a 20 foot top surface width construction pioneer road connecting the Old Seward Highway and the ARRC corridor in the vicinity of the Project's Phase I rock blasting site, located between centerline stations 1075_± and 1094_±. The access road will be obliterated and restored to original ground contours and revegetated before completion of the Project; and
- 9) support legislation as necessary and introduced by DOT/PF to:
 - o ratify the relocation of highway and utility rights of way; and
 - o obtain legislative authority as necessary for the Department of Natural Resources (DNR) to convey all areas required by the DOT/PF and ARRC outside the existing ARRC right-of-way and the relocated DOT/PF highway right-of-way. The property interests to be conveyed shall be identical to those held by DOT/PF, and enjoyed by ARRC.

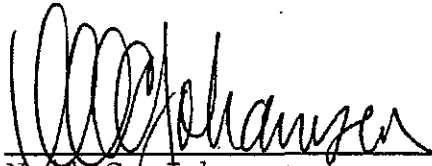
The public benefits of the agreement are:

- 1) Fixing the location of the highway right-of-way easement to the Project centerline:
 - a. eliminates all unresolved highway easement locations within Chugach State Park;
 - b. will reduce the Chugach State Park acreage that is encumbered by transportation easements because the new highway is straighter and much of it overlaps the ARRC right-of-way.
- 2) Relocating the Bird Point to Girdwood section of highway to tidewater will reduce snow avalanche safety hazards for highway and railroad travellers and the maintenance costs for DOT/PF and ARRC.
- 3) The old highway between Bird Point and Girdwood will be converted into a park trail with periodic use as a service road for snow catchment clearing and servicing the local electric and telephone lines and the military fuel line.
- 4) Recreation and scenic uses of the Turnagain Arm and highway transportation are important public needs. This agreement,

which fosters cooperation between the parties, will help to maximize these public needs through cooperative management.

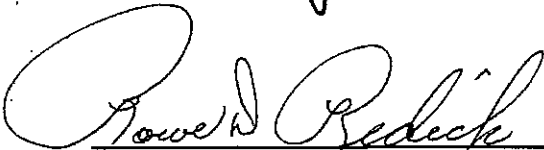
Other terms

- 1) This agreement may be amended by mutual agreement of DPOR and DOT/PF.
- 2) Nothing in this agreement is intended to conflict with any federal, state or local law or regulation.
- 3) In accordance with Paragraph 3 on Page 4 of the Memorandum of Agreement, the term of the Agreement is changed by this Amendment to a perpetual duration or as long as the Chugach State Park and the Seward Highway within the Chugach State Park exist.
- 4) The relocation of the Seward Highway right-of-way corridor and the corresponding right-of-entry for the existing Old Seward Highway shall be effective upon execution of this Amendment.



Neil C. Johannsen
Director
Division of Parks and Outdoor Recreation

26 Aug. '93
Date



Rowe D. Redick
Director of Design and Construction, Central Region
Department of Transportation and Public Facilities

8-26-93
Date