

4/7/58 - PLO 1613: This order accomplished the intent of the Act of August 1, 1956. Briefly, it did the following:

1. Revoked PLO 601, as modified by PLO 757, and provided a means whereby adjacent claimants and owners of land could acquire the restored lands, subject to certain specified highway easements. The various methods for disposal of the restored lands are outlined in the order.
2. Revoked PLO 386 as to the lands withdrawn for pipeline and telephone line purposes along the Alaska Highway. It provided easements in place of withdrawals.

Prior to PLO 1613 the road rights-of-way classified as "*feeder*" and "*local*" were defined as easements where the "*through*" roads were still withdrawals. PLO 1613 effectively eliminated the last of the withdrawals established by the previously mentioned Land Orders by converting the "*through*" roads to easements.

To more clearly relay the intent of the Federal Government in issuing PLO 1613, the following is quoted from a BLM informational memo titled:

INFORMATION REGARDING LANDS ADJOINING CERTAIN
HIGHWAYS

"Between August 10, 1949, and April 7, 1958, the lands underlying the following highways in the Fairbanks Land District were withdrawn from entry for highway purposes:.....The acquisition of rights in homesteads, homesites, etc., along these highways during this period included property only up to the boundary line of the highway withdrawals. They did not include any part of the reserved area. On April 7, 1958, Public Land Order 1613 was issued revoking the withdrawals and opening the lands to application for private ownership under the public land laws. However, the Government retained an easement for highway and other purposes extending 150 feet from the centerline of each highway listed here. The effect on you, as owner of land or as an applicant for land adjoining these highways is as follows:

PRIVATE OWNERS OF PATENTED LAND:If you own land with frontage on any of the other highways listed above, there now exists 150 feet of public land between your boundary and the centerline of the highway. The same Government easement applies to this 150 feet. It cannot be used for other than highway purposes without permission of the Bureau of Public Roads. However, should the highway be changed or abandoned, the owner would have full use of the land. Owners of private lands will have a preference right of purchase at the appraised value the released land adjoining their private property. This right will extend to land only up to the center line of the highway concerned.However, at the time of purchase he must furnish proof that he is the sole owner in fee simple of the adjoining land.

CLAIMANTS WITH VALID UNPERFECTED ENTRIES OR CLAIMS

Highway Rights-of-Way In Alaska

FILED BEFORE APRIL 7, 1958: ...In this instance, you may exercise a right to amend your entry or claim to include the property (Underlying the highway easement). This additional land will not be included in the area limitation for your type of filing.

TIME LIMITATIONS: The preference right applications mentioned above must be filed in the Land Office within 90 days of receipt of the appropriate Notice from the Land Office. If not filed within at that time, the preference right will be lost. The lands then will become subject to sale at public auction."

As might be expected from the previous sentence, the preference right sales offered a great potential for future problems. A 1984 Department of Natural Resources internal memo outlined the conflicts that arose.¹

The memo described a situation along the Old Glenn Highway in which BLM had sold the original patentee, Mr. Setters, a PLO 1613 highway lot based upon his preference right. Prior to this preference right sale, Mr. Setters had conveyed away his original patent and it was now owned by a Mrs. Pavek. At this point there was not a conflict as Mr. Setters' PLO 1613 Lot was subject to a highway easement and Mrs. Pavek had direct access onto the easement. However, DOT&PF then vacated a portion of the right-of-way without realizing any ramifications. Mr. Setters now owned a strip of unencumbered land between Mrs. Pavek and the highway. Mr. Setters then approached Mrs. Pavek with an offer to sell access rights across his strip of land for \$30,000. Mr. Setters had paid BLM \$25 for the entire PLO 1613 highway lot.

In order to prevent additional occurrences of this problem, the Alaska Statutes were modified as follows:

A.S. Sec. 09.45.015. Presumption in certain cases.

(a) A conveyance of land after April 7, 1958, that, at the time of conveyance was made, adjoined a highway reservation listed in section 1 of Public Land Order 1613 of the Secretary of the Interior (April 7, 1958), is presumed to have conveyed land up to the center-line of the highway subject to any highway reservation created by Public Land Order 601 and any highway easement created by Public Land Order 1613.

(b) The burden of proof in litigation involving land adjoining a highway reservation created by Public Land Order 601 or a highway easement created by Public Land Order 1613 is on the person who claims that the conveyance did not convey an interest in land up to the center-line of the highway. (2 ch 141 SLA 1986)

A.S. Sec 09.25.050. Adverse Possession.

¹ June 18, 1984, Decision Memo #75 – PLO 1613 and Omnibus Lands, James R. Anderson, Director, DTS to Esther C. Wunnicke, Commissioner.

Highway Rights-of-Way In Alaska

(b) Except for an easement created by Public Land Order 1613, adverse possession will lie against property that is held by a person who holds equitable title from the United States under paragraphs 7 and 8 of Public Land Order 1613 of the Secretary of the Interior (April 7, 1958)

This problem also raised the issue as to whether the State had received a fee interest or an easement interest when the highway rights-of-way were conveyed from the Federal Government by virtue of the 1959 Omnibus Act Quitclaim Deed. If the State had in fact received a fee interest, then there could be no sales to third parties of these highway lots and therefore no conflict. DOT&PF has for many years and does now treat these PLO rights-of-way as easements.²

6/11/60 - Public Law 86-512 - Act of June 11, 1960: This Act amended the Act of August 1, 1956. This was a special act to allow the owners and claimants of land at Delta Junction and Tok Junction a preference right to purchase the land between their property and the centerlines of the highway. The Act was necessary since the land in both towns was still reserved for townsite purposes, even after the highway, telephone line, and pipeline withdrawals were revoked.

² See Section III (b) Nature of Interest Conveyed by the QCD.