

# MEMORANDUM

State of Alaska #2611

TO: Al George  
Land Management Officer  
State Pipeline Coordinator's Office  
1001 Noble, Suite 450  
Fairbanks, AK 99701

DATE: January 6, 1981

FILE NO: F-66-080-81

TELEPHONE NO:

FROM: Wilson L. Condon  
Attorney General  
Pouch K  
Juneau, AK 99811

SUBJECT: Legality of Quitclaim Deed  
Transferring Alaska Road  
System

By: Meg Greene *MG*  
Assistant Attorney General  
604 Barnette, Room 228  
Fairbanks, AK 99701

You asked me to examine the Quitclaim Deed executed June 30, 1959, by the Acting Secretary of Commerce, which transferred ownership of the Alaska Road System from the United States to the State of Alaska. Specifically, you were concerned about whether the Secretary of Commerce had the authority to make such a conveyance. As explained below, the Secretary of Commerce did have the authority, and, in my opinion, the quitclaim deed is a legal conveyance.

In the Alaska Omnibus Act, 73 Stat. 141, the Secretary of Commerce was given the authority to convey the roads at issue here. Section 21(a) of that Act provides:

The Secretary of Commerce shall transfer to the State of Alaska by appropriate conveyance without compensation, but upon such terms and conditions as he may deem desirable, all lands or interests in lands, including buildings and fixtures, all personal property, including machinery, office equipment, and supplies, and all records pertaining to roads in Alaska, which are owned, held, administered by, or used by the Secretary in connection with the activities of the Bureau of Public Roads in Alaska, (i) except such lands or interests in lands, including buildings and fixtures, personal property, including machinery, office equipment, and supplies, and records as the Secretary may determine are needed for the operations, activities, and functions of the Bureau of Public Roads

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in Alaska after such transfer, including services or functions performed pursuant to section 44 of this Act; and (ii) except such lands or interests in lands as he or the head of any other Federal agency may determine are needed for continued retention in Federal ownership for purposes other than or in addition to road purposes.

The law was enacted June 25, 1959; the deed was executed June 30, 1959. Thus, the Secretary had the authority to transfer the lands in question. An acting secretary has all the powers of the secretary, so that presents no problems. There also should be no question that the conveyance allowed by section 21(a) is one of fee-simple title. See generally, 43 U.S.C. § 859.

If you have any additional questions or want to discuss this matter further, please contact me.

WLD:MEG:bsb

cc: Charles Behlke