



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
Alaska Field Staff,  
Juneau, Alaska

NOTED:  
*Doty*

October 24, 1950

Mr. Dale E. Doty  
Assistant Secretary  
Department of the Interior  
Washington 25, D. C.

INTERIOR DEPARTMENT  
RECEIVED  
OCT 31 1950  
OFFICE OF  
LAND UTILIZATION

Dear Dale:

Under date of August 8 Jim Davis, Director of the Office of Territories, referred certain right of way problems to this office for Field Committee action. At about the same time Delegate Bartlett and Governor Gruening requested verbally that the entire matter of road rights of ways be placed on the Field Committee agenda for a rehashing. As a result of your letter to me under date of October 4, this was done. The Field Committee discussions and actions concerning rights of ways fall logically into three separate treatments: (1) the width of road rights of ways, (2) **easements versus withdrawals** for rights of ways, and (3) recommendations concerning the administration of rights of ways.

In order to give you the benefit of the pros and cons on both sides of this question I am briefing the arguments for and against each of the points above.

Item 1 - Widths of road rights of ways. Under date of October 13, 1948 I wrote a letter to Jim Davis, Director, Office of Territories, setting forth the entire history of the road right of way problem along with many of the basic arguments for and against. The Field Committee action which prompted my letter to Mr. Davis recommended that through roads and feeder roads be 200 ft. wide and that local roads be 100 ft. wide. The Subcommittee of the Field Committee which studied this matter prior to Field Committee action had recommended 300 ft. for through roads, 200 ft. for feeder roads, and 100 ft. for local roads. The official action by Washington as set forth in Executive Order 601, dated August 10, 1949, established the road rights of ways in Alaska as 600 ft. for the Alaska Highway to Big Delta, 300 ft. for all through roads, 200 ft. for feeder roads, and 100 ft. for local roads. Prior to issuing this order, Secretary Krug afforded Delegate Bartlett an opportunity to express his views on the contemplated order. This was done in a letter to Secretary Krug under date of February 22, 1949 by Delegate Bartlett. The Delegate's recommendation was for 200 ft. on the Alaska Highway, 200 ft. on other primary and secondary roads, and 100 ft. on local roads. This is identical with the recommendation of the Field Committee.

Frank Metcalf, head of the Territorial road organization, under date of October 16, 1948, recommended "that in no case should a road right of way be over 200 ft." Copy of Mr. Metcalf's letter is enclosed. By telephone I ascertained a few days ago that his views have not changed.

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E. 749-B, CCF, 1937-53  
Box 3675, 9-1-10, AK, Roads-Gen'l

Under date of October 11, 1950, Hugh Stoddart, the Division Engineer and Head of the Bureau of Public Roads in Alaska, indicated that he felt all primary roads should be 300 ft., secondary roads 200 ft., and local roads 100 ft. Copy of Mr. Stoddart's letter is also enclosed.

Unfortunately, Governor Ernest Gruening could not attend the Sitka meeting of the Field Committee but has expressed his views emphatically on the subject of road rights of ways. It is his opinion that there is no possible justification for road rights of ways in excess of 100 ft., although he voted along with the Field Committee majority in the first instance for right of ways, of 200 ft. for through roads, 200 ft. for feeder roads, and 100 ft. for local roads. It should be stated however that at that time the Governor argued for smaller rights of ways but felt the 200 ft. at least defensible. Copy of the Governor's letter is enclosed.

Now for the arguments themselves.

(1) Here in Alaska our winters are extremely cold and the snow, while not excessively deep, is a great problem because of extensive blowing. Wide rights of ways, which in effect keep homes and business establishments away from the road, create a first-class problem of keeping the driveways open.

(2) Most of Alaska is covered with either scrub trees or first-class forests. When road rights of ways are much wider than needed and buildings are kept back from the rights of ways it has the effect of producing a strip of forested land between the buildings and the road. This strip must be cleared off in order that satisfactory views on the approaches to the establishments can be had. This also creates an unwarranted expense.

(3) The construction and upkeep of the driveway itself is an expense clear out of proportion to the benefit derived.

(4) Most members of the Field Committee feel that in the event Alaska's population eventually reaches proportions to justify wider road rights of ways that the present roads would be completely relocated and would no longer be regarded as through roads. It has been pointed out that if the major through roads in Alaska today were under real growth pressures they would be straightened out and would undoubtedly be in different locations, either totally or in part, from that which they now occupy.

(5) In order to overcome objections 1, 2, and 3, it would be necessary to issue special use permits for businesses and settlers along highways with wide widths rights of ways. The mechanism of special use permits along our highway system is regarded by the Field Committee as completely unsound for normal development and gives additional grounds for public resentment to bureaucratic controls. It

defeats the very purpose desired in all development planning. Namely, it discourages high quality and permanent investment.

The arguments for wider rights of ways are primarily as follows:

(1) It is in keeping with practices being followed by most states and the Federal Government in the United States.

(2) It greatly reduces the costs of widening and improving roads once the area becomes populated. The cost of rights of ways is a very large percentage of road building costs in many parts of the states today.

(3) It affords an opportunity for beautifying and protecting the natural beauty along the highway and gives an excellent opportunity to control unsightly signs and other types of road abuses.

Action  
Recommended

All of the above letters and arguments were taken into consideration at Sitka where Field Committee action was the same as the earlier meeting, namely, 200 ft. for all through roads in Alaska, 200 ft. for all feeder roads, and 100 ft. for local roads. Through and feeder roads were recommended at the same width since it was felt that many feeder roads would be raised to the status of through roads when major development takes place. Local roads are not likely to change except in isolated instances. Keeping through or feeder roads the same width will prevent many difficulties from arising if and when a change in status takes place.

Those who voted for 200-200-100 ft. for right of way widths for through, feeder, and local roads respectively were as follows:

Angelo Ghiglione, Alaska Road Commission  
William Twenhofel, Geological Survey  
George Sundborg, Governor's Office  
George Rogers, Alaska Public Works Agency  
Lowell Puckett, Bureau of Land Management  
S. H. Lorain, Bureau of Mines  
Hugh Wade, Alaska Native Service  
Milton Furness, Fish and Wildlife Service  
Kenneth J. Kadow, Alaska Field Staff

Messrs Morgan and Hinman expressed the view that the Alaska Highway from the Canadian border to Fairbanks and from Big Delta to Anchorage be established at 300 ft.--all other roads to be as recommended by majority. Mr. Morgan explained his recommendation on the basis of the importance of these roads to the Military.

Mr. Alfred Kuehl, representing the National Park Service, was not present at this meeting but I am sure would have expressed himself emphatically for leaving them as they were or making them wider. I am asking Mr. Kuehl to forward to you at once an expression of his views. Messrs J. P. Johnson,



Ernest Gruening, John Reed, and Clarence Rhode (absent while vote was taken in Sitka) all voted in October 1948 as in favor of 200-200-100 ft. for through, feeder, and local roads, respectively.

Item 2. - Easements versus withdrawals for the creation of rights of way.

The subject of easements versus withdrawals was taken up as early as the October 1948 meeting of the Alaska Field Committee and again at the September meeting in 1949. The minutes of both meetings list briefly the arguments for and against easements for right of ways. After the September 1949 meeting this matter was again referred to Washington and was settled there in favor of withdrawals. However, the Alaska Field Committee is now of the opinion that the establishment of withdrawals along Alaska's highways is creating considerable confusion and is retarding development along these highways. The whole subject is also causing unnecessary expense because of the duplication of survey efforts and is causing resentment against the Department of the Interior by veterans and other settlers because of delays which are imposed by the Bureau of Land Management in processing these papers. The whole subject should be reconsidered by the Department at this time.

The arguments for easements over withdrawals for all types of rights of ways are as follows:

- (1) Upon change of location of any right of way, land control is automatically vested in the original owner or claimant. The Alaska Railroad is, as you probably know, an easement and has caused no unusual problems in its administration. In instances where rights of ways are established after rectangular surveys are made they need not be resurveyed or noted on Land Office plats until a plat is filed by the agency for whom the right of way was established.
- (2) The requirement to restrict an entryman to one side of the road may be completely defeated by the possibility of an entryman extending his holding along one side by adding up lots until a total of 160 acres is reached. Compactness on surveyed lands is not required.
- (3) Veterans who have qualified to obtain patent in seven months must wait an additional year or two to obtain a necessary survey, preparation of plats, transmittal of plats to Washington for approval, return of plats to the Field for official filing, and publication of proof, before he can get final certificate. Because of the intensive road building program in the Territory and the decision to make road right of ways by withdrawals, a backlog of entries is piling up in the land office as is also <sup>public</sup>resentment against the Interior Department.
- (4) Homesteaders on the Kenai Peninsula have been allowed entries in areas where exact location of highways was not known to the Land Office. In many instances this has resulted in the entryman having his land under cultivation on one side of the road and his house on the other. Present requirements provide that entrymen must chose one side of the road. This has created the situation where several will have to lose the cultivated land or move

their house. In no case can final settlement be made until surveys are completed. Here again backlogs are building up, as is <sup>public</sup> resentment to the Interior Department.

(5) Settlers who had valid claims prior to August 10, 1949, may themselves alter the widths of rights of way withdrawals by relinquishing all or a portion of their claims or entries. In whatever portions they relinquish the road right of way withdrawal becomes effective but not in the portions they retain. Therefore, surveyors must indicate two right of way widths on plats to provide for possibility of relinquishment. An easement would avoid the necessity of this extra work.

(6) The Alaska Road Commission now makes a location survey which does not carefully define the exact center line and then starts its road. If an easement were used for a right of way, BLM would not have to follow with a careful survey of the center line and go through the tedious costly operation of computing acreages and platting lots all along the highways. This requirement has created a tremendous amount of increased work and in order to lick it will require additional appropriations for survey crews over and above those so urgently needed to catch up our normal backlog of work. In recognition of this extra load the Road Commission has agreed to bear part of the expense but even so delays will be inevitable and many problems will be created by following present requirements.

(7) The Alaska Road Commission is constantly straightening out kinks in the road or entirely relocating parts of the highway system. Each time a road is moved a strip of "no-man's land", the width of the right of way, is left. When this situation exists along withdrawn rights of ways, a Public Land Order is required to open up strips for entry. Then veterans get first crack at the strips, not the adjoining land owner. In the meantime a new withdrawal is created along the new road location.

(8) The Department has ruled that road entries may straddle local road withdrawals but even in these cases surveys must be made to locate the withdrawal and the acreage eliminated from the patents.

Arguments in favor of withdrawals are as follows:

(1) In justifying the creation of withdrawals as set forth in the Department's Withdrawal Order for rights of ways, it has been argued that protection from squatters was definitely needed along most rights of ways and since a survey is needed to locate easements the withdrawal is the only method that would give protection in the absence of a survey. In a case where a road is changed before it is surveyed you simply take the survey and file a plat of relocation and this plat stands as the withdrawal.

(2) A withdrawal for any particular right of way can be made and the survey supporting it can be done later, whereas with easements there must be a survey at the time the easement is made. This gives people an opportunity to anticipate the location of roads by watching survey crews in action and locating their properties in the path of them.

(3) The view has been expressed that easements might be useful in some instances for the location of minor roads but in all major roads and all existing roads withdrawals should be used.

After reconsidering all of the above facts the Alaska Field Committee unanimously recommends that easements instead of withdrawals be created for all road rights of ways in Alaska including those already established as withdrawals.

Item 3. - Administration of road rights of ways.

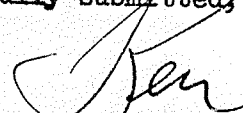
In the October meeting of the Field Committee in 1948 it was the unanimous recommendation that no special use permits be granted on road rights of ways 300 ft. in width or less and that all rights of ways of 300 ft. and less be administered by the Alaska Road Commission. In the case of any high-ways with rights of ways exceeding 300 ft. special use permits for the area beyond 150 ft. from the center line on each side of the road be administered by the Bureau of Land Management through the mechanism of special use permits. The Department has confirmed the recommendation of the Field Committee that the Alaska Road Commission administer all rights of ways up to and including 300 ft. However, it has not decided on who would administer the extra 150 ft. on each side of the road in the case of the 600 ft. right of way presently existing on the Alaska Highway. The Alaska Field Committee is hopeful that this right of way will be reduced to 200 ft. as indicated by its action at the Sitka meeting last week. If however no action is taken that alters the present right of way of the Alaska Highway, it is the opinion of the group that its earlier recommendations should prevail.

Those recommendations are reaffirmed as follows: All road right of ways in Alaska of 300 ft. or less in width should be administered by the Alaska Road Commission and no special use permits should be granted on these right of ways.

On roads with right of ways in excess of 300 ft. wide the area beyond 150 ft. from each side of the center line should be administered by the Bureau of Land Management and special use permits should be issued for this portion of the right of way. The center 300 ft. of such roads should be administered by the Alaska Road Commission as set forth in paragraph above.

If the above recommendations of the Field Committee are given favorable consideration by the Department it will be necessary to rescind, as soon as possible, Public Land Order 601 in order to keep present problems and confusion to a minimum.

Respectfully submitted,

  
Kenneth J. Kadow  
Director

Enclosures

cc: Crane  
Davis  
Clawson  
Puckett  
Noyes

Action  
Recommended

Action  
Recommended