

March 23, 1951

Memorandum

To: The Secretary

From: Assistant Secretary Doty

Subject: Rights-of-way for highways in Alaska

Public Land Order of August 10, 1949, created rights-of-way for the highways in Alaska by withdrawing from all form of entry and reserving for highway purposes the public lands as follows:

Alaska Highway, 300 feet on each side of the center line
Other through roads, 150 feet on each side of the center line
Feeder roads, 100 feet on each side of the center line
local roads, 50 feet on each side of the center line.

Prior to the issuance of the Order, very few of the highways in Alaska were protected by rights-of-way, a situation considered as inimical to the proper development and protection of the highways.

Although there was general acceptance of and agreement with the establishment of rights-of-way, there was much criticism of what was considered by some to be the excessive widths established and considerable, though less, criticism of the method used in creating the rights-of-way by withdrawal. In view of this criticism, the Alaska Field Committee requested, and was granted, permission to further review the whole right-of-way question. This was done and a report was submitted covering all phases of the right-of-way situation, and embracing certain recommendations.

Subsequently, each of the several agencies having an interest in Alaska reviewed the Field Committee's report and commented thereon. These comments have now been carefully reviewed.

It can be safely assumed, in view of the foregoing, that the subject has been most intensively and thoroughly explored, that all interested persons and agencies have had adequate opportunity to express their opinions, and that the Department has had the benefit of all points of view.

There continues to be some difference of opinion, both as to the width of the rights-of-way and as to the withdrawal feature. Those who are primarily concerned with development and closer settlement, and those who are responsible for surveys or have other administrative

responsibilities of like nature, generally favor narrower rights-of-way for the through roads; that is, the roads having a 300 foot right-of-way. This group, which constitutes a majority, also favors substitution of easements for withdrawals for all the roads. The other group is primarily concerned with the scenic and recreational features of the highways, with preventing undesirable encroachments by objectionable commercial or other enterprises. This group favors retention of the present width of rights-of-way and continuance of the withdrawals.

Each of these points of view has much to recommend it. Certainly it would be improper to permit a recurrence in Alaska of the undesirable features which have characterized development along many of the highways in the States. It would also be a short-sighted policy to fail to provide an adequate width of rights-of-way for future development.

However, to those whose primary concern is the development and closer settlement of the Territory, any undue restrictions on such settlement are viewed with understandable misgiving. For those faced with the making of surveys and the administration of the public land laws there are problems created by the withdrawals which could be eliminated in great part by substituting easements for the withdrawals.

Upon consideration of all the factors it appears that a practicable solution to the problem is possible by minor modification of P.L.O. 601. This solution involves only a change of the method by which the rights-of-way for feeder (200 ft. right-of-way width) and local (100 ft. right-of-way width) roads are established; that is, revoke the withdrawals, and, in lieu thereof, establish easements. It does not involve modifying the widths of rights-of-way. The present width of rights-of-way as established by Public Land Order 601 would be retained. The Alaska highway and all other through roads would still have their rights-of-way withdrawn from all forms of appropriation. The only difference would be the substitution of easements for withdrawals for feeder and local roads.

It is recommended as follows:

Widths of Rights-of-way as established by P.L.O. 601 be retained.

There has been general acceptance of, and agreement on, the widths of rights-of-way established for feeder and local roads; therefore, no modification of the existing widths is recommended.

There has been considerable criticism of the width of rights-of-way established for through roads and for the Alaska highway. However, after full consideration of all the arguments for reducing the widths no modification is recommended. As to the Alaska highway, it is particularly important that this main access to the Territory by road be given all reasonable protection. The present right-of-way has existed for some time and there is little current criticism directed to it. Surveys, land entries, and claims have been accommodated to it. Any general change now would raise

new and more complex problems of administration. It will be possible at some future date to reduce the width along selected portions if further study indicates such modification to be desirable.

As to the through roads which are provided with a 300 foot right-of-way, there have been numerous suggestions and recommendations that the width be reduced to 200 feet. However, the arguments for the 300 foot width are considered to outweigh those for the lesser width. In addition to the need for an adequate right-of-way for present and future road purposes, the protection of scenic and recreation values along the main highways is of prime importance. The additional 50 feet on each side would do much toward maintaining those values. At the same time the present width has had little or no adverse effect on development. In large part the surveys, land entries, and claims have been adjusted to the present width. A change now would create new problems without resulting in commensurate benefits.

Right-of-way withdrawals be retained for the Alaska Highway and other through roads. The Alaska highway and the other through roads provide access from the Canadian boundary to the main centers of population in south-central Alaska and to the main scenic and recreational features of that area, particularly to McKinley National Park. It is along these through roads that the prevention of undesirable encroachment and the preservation of scenic and recreational features is particularly important. While an easement reserves a right-of-way against the time when it is required for highway purposes, it does not prevent, during the intervening period, other use of those portions of the right-of-way not used for highway purposes. Withdrawals are therefore considered to be reasonably necessary to insure adequate protection for the main highways. The administrative problems created by these withdrawals have been largely solved. Where the main roads run through surveyed lands, the surveys have been closed against the right-of-way. For the most part the through roads traverse territory that is not particularly desirable for closer settlement or intensive development; accordingly, it is not anticipated that the withdrawals will cause undue survey or other administrative difficulties in the future.

Right-of-way easements be substituted for withdrawals for feeder and local roads. The situation with respect to feeder roads and local roads is somewhat different than that with respect to the Alaska highway and other through roads. The nature of adjoining development is still a concern; however, it is not as important a factor as is the case with the main roads. Moreover, it should be expected that lands along the feeder roads will develop for agriculture, industry, and commerce; in fact, the purpose of feeder roads is mainly to make possible such development. While an adequate right-of-way should be reserved against the time when it may be required for highway use, an easement will achieve this purpose. Substitution of an easement for withdrawal for rights-of-way for the feeder roads will also eliminate most of the administrative difficulties now being encountered.

Feeder and local roads are usually constructed to something less than ultimate standards. Ordinarily they are subject to realignment, changes of grade, and the like. This creates a major problem for those responsible for the survey of adjoining tracts, because the withdrawn right-of-way must be segregated from the tract survey. A right-of-way easement does not have to be so eliminated. Substitution of an easement for a withdrawal will allow the timely adjudication of land claims without the necessity of segregating the right-of-way, a procedure which requires special surveys and which has delayed the processing of claims.

Your approval of the foregoing recommendations is requested.

(Sgd) Dale E. Doty
Assistant Secretary

April 23, 1951

Approved, and referred
to Bureau of Land Management
for necessary action.

(Sgd) Oscar L. Chapman
Secretary of the Interior

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