

**DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES**
OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

3132 CHANNEL DRIVE
JUNEAU, ALASKA 99801-7898

TEXT: (907) 465-3652
FAX: (907) 586-8365
PHONE: (907) 465-3900

September 14, 1995

Ms. Sharon Young
State Recorder
Department of Natural Resources
3601 "C" Street, Suite 1180
Anchorage, AK 99503-5947

Dear Ms. Young:

We received your letter of August 21 along with the unrecorded document. We would like to have the document recorded.

Thank you for your attention to this.

Sincerely,



M. Clyde Stoltzfus
Special Assistant

Enclosures

R O U T E	C C P Y	NORTHERN REGION OFFICE	I N I T I A L
		REGIONAL DIRECTOR	
		D&O DIRECTOR	
		M&O DIRECTOR	
		PLANNING/ADM. CHIEF	
		SAFETY OFFICER	
		F.I.A. MANAGER	
		RETURN to Reg. Dir. Sec.	
		FILE John Miller /rw	

DEPARTMENT OF NATURAL RESOURCES
SUPPORT SERVICES DIVISION

State Recorder's Office
3601 "C" Street, Suite 1180
Anchorage, Alaska 99503-5947
Ph: (907) 762-2437 Fax: (907) 762-2210

August 21, 1995

Dept. of Transportation and Public Facilities
Office of the Commissioner
3132 Channel Drive
Juneau, AK 99801-7898

Re: Unrecorded document

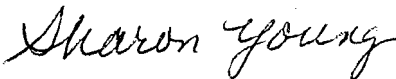
Dear Sir:

This is our second attempt to contact your office regarding a document that was submitted for recording in Kotzebue in the 1960's. The document was never recorded.

The original document was forwarded to us by the Alaska Court System, which stated it was found among a number of original documents from the 1960's during an audit of the Kotzebue magistrate's records.

We had no response to our earlier inquiry regarding disposition of this document. Please review the enclosures and indicate whether or not this document should be recorded at this time. If you do desire to record it, we will do so at no charge. If you do not want to record this document at this time, we will return the original to you or another party you designate. In any event, we must have your written response regarding the proper disposition of this document.

Sincerely,



Sharon Young
State Recorder

Enclosures

Department of Transportation and Public Facilities
Office of the Commissioner
August 21, 1995
Kotzebue Recording Documents

Re: Acceptance of Unreserved
Federal Lands for Highway Purposes
Document Dated October 2, 1962

YES, I want the above referenced document to
be recorded.

NO, I do not want this document to be recorded;
please return original document to:

M. Clyde Holtz
Signature


August 30, 1995
Date

ACCEPTANCE OF UNRESERVED FEDERAL
LANDS FOR HIGHWAY PURPOSES


The State of Alaska accepts unreserved public lands for highway purposes as authorized in 14 Stat. 253, 43 USCA 932. It is declared that all section and half-section lines in the State of Alaska are public highways. The width of these highways is 50 feet on each side of the section lines and half-section lines. It is further declared that all officially proposed and existing highways on the public domain are 100 feet wide.

The authority to accept this grant is vested in these Departments by Sec. 2, Art. III, Title I, Ch. 152, SLA 1957 and Sec. 19, Ch. 64, SLA 1959.

DATED at Juneau, Alaska, October 2, 1962.



Commissioner
Department of Public Works

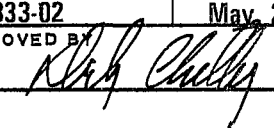


Commissioner
Department of Highways

Sworn to and subscribed before me
this 2nd day of October, 1962.



Notary Public for the State of Alaska
My Commission expires 3-15-66.

STATE OF ALASKA DEPARTMENT OF HIGHWAYS STANDARD OPERATING PROCEDURE		S.O.P. NO 8220-02	PAGE 1 OF 1
		EFFECTIVE DATE January 1, 1970	
SUBJECT SECTION AND HALF-SECTION LINE ACCEPTANCE		SUPERSEDES S.O.P. NO 2333-02	DATED May 24, 1963
		APPROVED BY 	
DIVISION Right of Way	SECTION Title and Plans	CHAPTER TITLE (Acceptance) Dedication	

Purpose:
 Acceptance of Unreserved Federal Lands for Highway Purposes

Distribution:
 All Right of Way Manual Holders and all Right of Way Personnel

On October 2, 1962, the Commissioner of Highways and the Commissioner of Department of Public Works affirmatively accepted lands for highways as follows:

“The State of Alaska accepts unreserved public lands for highway purposes as authorized in 14 Stat. 253, 43 USCA 932. It is declared that all section and half-section lines in the State of Alaska are public highways. The width of these highways is 50 feet on each side of the section lines and half-section lines. It is further declared that all officially proposed and existing highways on the public domain are 100 feet wide.

The authority to accept this grant is vested in these Departments by Sec. 2, Art. III, Title I, Ch. 152, SLA 1957 and Sec. 19, Ch. 64, SLA 1959.

DATED at Juneau, Alaska, October 2, 1962.”

This acceptance is of record in each of the recording districts in the State of Alaska.

BETHEL
Serial No. 62-259 -

ACCEPTANCE OF UNRESERVED FEDERAL
LANDS FOR HIGHWAY PURPOSES

The State of Alaska accepts unreserved public lands for highway purposes as authorized in 14 Stat. 253, 43 USCA 932. It is declared that all section and half-section lines in the State of Alaska are public highways. The width of these highways is 50 feet on each side of the section lines and half-section lines. It is further declared that all officially proposed and existing highways on the public domain are 100 feet wide.

The authority to accept this grant is vested in these Departments by Sec. 2, Art. III, Title I, Ch. 152, SLA 1957 and Sec. 19, Ch. 54, SLA 1959.

DATED at Juneau, Alaska, October 2, 1962.

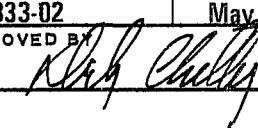
RECORDED - P. 10
Bethel
10/19
3:45
Albert E. Shoop
Notary Commissioner
Dept. of Highway, Juneau

Richard E. Krumm
Commissioner
Department of Public Works

Samuel
Commissioner
Department of Highways

Sworn to and subscribed before me
this 2nd day of October, 1962.

Archie J. Johnson
Notary Public for the State of Alaska
My Commission expires 3-15-66.

STATE OF ALASKA DEPARTMENT OF HIGHWAYS STANDARD OPERATING PROCEDURE		S.O.P. NO 8220-02	PAGE 1 OF 1
		EFFECTIVE DATE January 1, 1970	
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The authority to accept this grant is vested in these Departments by Sec. 2, Art. III, Title I, Ch. 152, SLA 1957 and Sec. 19, Ch. 64, SLA 1959.

DATED at Juneau, Alaska, October 2, 1962.”

This acceptance is of record in each of the recording districts in the State of Alaska.

STATE
of ALASKA

MEMORANDUM

Jed

TO: Claud M. Hoffman
Chief Cadastral Engineer
Division of Lands
Department of Natural Resources
Anchorage

DATE: May 31, 1979

FILE NO:

From: -

TELEPHONE NO:

State of Alaska
Department of Law
OFFICE OF ATTORNEY GENERAL
Anchorage Branch
420 'L' Street, Suite 100
Anchorage, Alaska 99501
(907) 276-3550

FROM: Avrum M. Gross
Attorney General
By:

SUBJECT: "One-Half Section Line
Easements"; Your File No. 2370

Thomas' E. Meacham *T.E.M.*
Assistant Attorney General
Department of Law - Anchorage

Attached is the final draft of the proposed document, to be signed jointly by the Commissioner of the Department of Natural Resources and the Commissioner of the Department of Transportation and Public Utilities, and suitably recorded, to clarify the legal situation regarding proported "half-section line easements" declared under assumed authority of 43 U.S.C. § 932. My original draft was reviewed by Ross Kopperud of the Highways Section of the Anchorage Attorney General's Office, and a copy was also reviewed by Jim Sandberg of the Department of Transportation.

I will let you assume the task of routing this document through appropriate channels for signatures, and for subsequent recording in all of the recording districts in which half-section line easements may have been noted. In fact, the safest course would be to simply insure that the document is recorded in all recording districts in the State. For that purpose, it may be easiest to have a number of identical copies of the documents signed by the commissioners, so that an original document may be simultaneously recorded in each recording district in the State. I will let you handle the details regarding this matter.

TEM:ln

Attachment: Declaration of Extinguishment of
"Half-Section Line Easements"

cc: Ross Kopperud - AGO, Anch.

RECEIVED

JUN 1 1979

D.O.T. & P.F.
RIGHT OF WAY
ANCHORAGE

Jim Sandberg
Regional Right-of-Way Agent
Department of Transportation &
Public Facilities, Anch.

Dick LeFebvre
Division of Forest, Land &
Water Management
Department of Natural Resources, Anch.

ANS	COPY		DATE RCVD:
		Central Region RIGHT OF WAY "Hwys"-"Aviation"	JUN 1 1979
		RICHARDS, TED	
		SCRATTON, DAN	
		DAVIS, SHIRL	
		APPRAISALS	
		NEGOTIATIONS	
		ENGR/PLANS	
		RELOCATION	
		PREAUDIT	
	<input checked="" type="checkbox"/>	RECORDS: "Hwys"	
		RECORDS: "Aviation"	

DECLARATION OF EXTINGUISHMENT
OF "HALF-SECTION LINE EASEMENTS"

The Alaska Department of Transportation and Public Facilities and the Alaska Department of Natural Resources, through their respective undersigned Commissioners, herewith agree and declare that the prior purported reservation on State or Federal lands of "half-section line easements" by their respective Departments, or either of them, through any of their officers, agents, or employees, constituted an act without basis in Federal or Alaska statutory law, and was thus an act void and of no force and effect ab initio.

This declaration shall restore, on all plats upon which purported "half-section line easements" are noted, the lands affected by such purported reservations to the legal status which pertained prior to such purported easement reservations. This declaration shall not be deemed to vacate any rights, easements or rights-of-ways acquired or to be acquired by any other means and which may fall upon a half-section line. This declaration shall not alter or affect valid existing rights, if any, in and to the lands affected by such purported easement reservations or this declaration. The purpose of this declaration is to remove from the public land records any clouds on title which may exist due to the purported reservation of "half-section line easements. A true copy of this declaration is to be recorded in each of the several District Recorder's offices throughout the State of Alaska.

DATED at Juneau, Alaska this _____ day of _____

1979

For the Alaska Department of
Transportation and Public
Facilities:

For the Alaska Department of
Natural Resources:

Robert A. Ward, Commissioner

Robert E. LeResche, Commissioner

STATE OF ALASKA

ss

FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____, 1979, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Robert A. Ward, to me known to be the Commissioner of the Alaska Department of Transportation and Public Facilities, and who stated that he executed the foregoing instrument as his free and voluntary act and deed, with lawful authority and for the uses and purposes therein mentioned.

WITNESS my hand and Notarial Seal on this _____ day of _____, 1979.

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA)

ss

FIRST JUDICIAL DISTRICT

THIS IS TO CERTIFY that on this _____ day of _____, 1979, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Robert E. LeResche, to me known to be the Commissioner of the Alaska Department of Natural Resources, and who stated that he executed the foregoing instrument as his free and voluntary act and deed, with lawful authority and for the uses and purposes therein mentioned.

WITNESS my hand and Notarial Seal on this _____ day of _____, 1979.

Notary Public in and for Alaska
My commission expires: _____

MEMORANDUM

Jan R
RECEIVED

Tom Meacham
Assistant Attorney General

DATE: May 30, 1979 MAY 31 1979

FILE NO:

D.O.T. & P.F.
RIGHT OF WAY
ANCHORAGE

TELEPHONE NO:

AK
Ross A. Kopperud
Assistant Attorney General

SUBJECT: One-Half Section
Line Easements

Dick Kerns and I have reviewed your memorandum regarding one-half section line easements.

It is our feeling that the instrument to be recorded should have stronger language regarding existing roads and future roads which may fall on one-half section lines. We agree that the fact that a given road falls on a one-half section line does not in and of itself create a right-of-way merely because it is on the one-half section line. However, it is my understanding that there may be a valid right-of-way of various widths along any given road including a road on a one-half section line by public use under 43 U.S.C. 932, by reason of 48 U.S.C. 321(d), by PLO 601 and later PLO's, by plat, grant or deed including 23 U.S.C. 317.

We would suggest that in order to avoid litigation on the inevitable claim that there are no right-of-ways on one-half section lines because of this declaration that a clause be inserted in the Declaration of Extinguishment of one-half section line easements stating:

It is not the intent of this instrument to vacate any rights, easements or rights-of-ways acquired or to be acquired by any other means which may fall upon a half-section line.

Mr. Sandberg, Regional Right-of-Way Agent of the Department of Transportation and Public Facilities in Anchorage also agrees there are no right-of-way easements on one-half section lines.

If we can be of further assistance, please call us.

RAK/sls

State of Alaska
Department of Law
OFFICE OF THE ATTORNEY GENERAL
Anchorage Branch, Highway Section
360 "K" St., Suite 200
Anchorage, Alaska 99501

ANS	C	Central Region	DATE RCVD: MAY 31 1979
	O	RIGHT OF WAY	
	P	"Hwys"-"Aviation"	
	Y	RICHARDS, TED	
	N	SCRATTON, DAN	
	S	DAVIS, SHIRL	
		APPRAISALS	
		NEGOTIATIONS	
		ENGR/PLANS	
		RELOCATION	
		PREAUDIT	
		RECORDS: "Hwys"	
	RECORDS: "Aviation"		
	OTHER: <i>Sandberg</i>		
Remarks:			

120101

MEMORANDUM

J.R.

RECEIVED

TO: Claud M. Hoffman
Chief Cadastral Engineer
Division of Lands
Dept. of Natural Resources
Anchorage

DATE: May 21, 1979

MAY 31 1979

FILE NO:

TELEPHONE NO:

D.O.T. &
RIGHT OF WAY
ANCHORAGE

FROM: AVRUM M. GROSS
ATTORNEY GENERAL *M.M.*
By: Tom Meacham
Assistant Attorney General
AGO - Anchorage

SUBJECT: "One-Half Section Line
Easements"; Your File No.
2370. Our File 866-164-77.

I have reviewed your memorandum of April 19, 1979 concerning the proper way in which purported half-section line easements may be cleared from the land records in the Recorder's Office and State land plats. I have also reviewed the sections of the Alaska Administrative Code (11 AAC 68) which you attached to your memorandum, concerning changes to, or vacations of, plats. While the elimination of any reference to any half-section line easements could, I suppose, be termed a "change" to a plat, it should more properly be viewed as the elimination of a previously-recorded "legal" interest which in fact had no legal basis. Thus it is not the imposition of a new legal interest on the land, or the elimination of a previous valid legal interest, but instead the removal of a cloud on land title which had no legal validity. Under these circumstances, it is my opinion that the procedures for public notice and hearing which are outlined in the regulations are not required in this instance. Further, those procedures contemplate that the "petitioner" for a change in a plat is usually a private individual or a member of the general public, and not the Director of the Division of Lands or his designee. While even the Director of the Division of Lands would be required to follow the procedures outlined in the regulations if a substantive legal interest were being added to removed from a plat, because these half-section line "easements" are, and never have been, legal interests, their removal from the plat should not invoke the complete procedural requirements of the regulations.

I am enclosing a copy of a proposed document to be jointly executed by the Commissioner of Natural Resources and the Commissioner of the Department of Transportation and Public Facility, which document would then be recorded in each recording district to remove from any previously-recorded plats the implication that half-section line easements were being reserved under the presumed authority of R. S. 2477, 14 Stat. 253 (43 U.S.C. § 932). I am open to suggestions from the Highways Section attorneys concerning the adequacy of my proposed document.

- cc: Ross Kopperud, AGO - Anchorage
Jim Sandberg, Regional Right-of-Way Agent
Dept. of Transportation and Public Facilities, Anchorage
Dick LeFebvre, Division of Forest, Land & Water Management
Dept. of Natural Resources, Anchorage

Department of Law
OFFICE OF THE ATTORNEY GENERAL
Anchorage Branch, Highway Section
360 "K" St., Suite 200
Anchorage, Alaska 99501

SEARCHED	INDEXED	Central Region	DATE RCVD:
		RIGHT OF WAY	MAY 31 1979
		"Hwys" - "Aviation"	
		RICHARDS, TED	
		SCRATTON, DAN	
		DAVIS, SHIRL	
		APPRAISALS	
		NEGOTIATIONS	
		ENGR/PLANS	
		RELOCATION	
		PREAUDIT	
		RECORDS: "Hwys"	
		RECORDS: "Aviation"	
		OTHER: <i>me - SANDBERG</i>	
Remarks:			

DECLARATION OF EXTINGUISHMENT
OF "HALF-SECTION LINE EASEMENTS"

The Alaska Department of Transportation and Public Facilities and the Alaska Department of Natural Resources, through their respective undersigned Commissioners, herewith agree and declare that the prior purported reservation on State or Federal lands of "half-section line easements" by their respective Departments, or either of them, through any of their officers, agents, or employees, constituted an act without basis in Federal or Alaska statutory law, and was thus an act void and of no force and effect ab initio.

The purpose of this declaration is to restore, on all plats upon which purported "half-section line easements" are noted, the lands affected by such purported reservations to the legal status which pertained prior to such purported easement reservations. This declaration shall not alter or affect valid existing rights, if any, in and to the lands affected by such purported easement reservations or this declaration. The purpose of this declaration is to remove from the public land records any clouds on title which may exist due to the purported reservation of "half-section line easements". A true copy of this declaration is to be recorded in each of the several District Recorder's offices throughout the State of Alaska.

DATED at Juneau, Alaska this _____ day of _____

1979

For the Alaska Department of
Transportation and Public
Facilities:

For the Alaska Department of
Natural Resources:

Robert A. Ward, Commissioner

Robert E. LeResche, Commissioner

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss.

THIS IS TO CERTIFY that on this _____ day of _____, 1979, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Robert A. Ward, to me known to be the Commissioner of the Alaska Department of Transportation and Public Facilities, and who stated that he executed the foregoing instrument as his free and voluntary act and deed, with lawful authority and for the uses and purposes therein mentioned.

WITNESS my hand and Notarial Seal on this _____ day of _____, 1979.

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA)
FIRST JUDICIAL DISTRICT) ss.

THIS IS TO CERTIFY that on this _____ day of _____, 1979, before me, the undersigned, a Notary Public in and for the State of Alaska, personally appeared Robert E. LeResche, to me known to be the Commissioner of the Alaska Department of Natural Resources, and who stated that he executed the foregoing instrument as his free and voluntary act and deed, with lawful authority and for the uses and purposes therein mentioned.

WITNESS my hand and Notarial Seal on this _____ day of _____, 1979.

Notary Public in and for Alaska
My commission expires: _____

Yes R

RECEIVED

Claud M. Hoffman
Chief Cadastral Engineer
DNR - Anchorage

March 8, 1979

MAY 31 1979

D.O.T. &
RIGHT OF WAY
ANCHORAGE

AVRUM M. GROSS
ATTORNEY GENERAL
Thomas E. Meacham
Assistant Attorney General
AGO - Anchorage

Section Line Easements
on Half-Sections

Your memorandum of February 21, 1979, has been referred to me for a response. I have examined the transcribed copy of the instrument recorded by the Department of Highways and the Department of Public Works at Book 14, Page 37 in the Bethel Recording District, which purports to accept a right-of-way on unreserved public lands for highway purposes along all section and half-section lines in the State of Alaska, pursuant to 14 Stat. 253, 43 U.S.C. § 932 (also known as R.S. 2477). I have also reviewed the statutory authorities cited in the recorded document, and the general statutory authority applicable to the acceptance of the federal right-of-way offer over unreserved public lands. The specific question which you have raised is whether the Department of Highways or the Department of Public Works had authority to declare public rights-of-way along half-section lines under authority of 43 U.S.C. § 932. My legal conclusion is that they did not, and that the purported half-section line reservations are ineffective to accomplish such a result.

The federal offer of public rights-of-way over land which was ". . . not reserved for public uses . . ." was extended to the states and territories by the Act of July 26, 1866, 14 Stat. 253, R.S. 2477, 43 U.S.C. § 932 (since repealed by the Federal Land Policy and Management Act of 1976). The Territory of Alaska, through its legislature, accepted the federal offer of rights-of-way in Chapter 19, SLA 1923. This legislative Act was effective to accept the federal right-of-way offer as to a tract four rods wide between each section of public land within the territory.

This acceptance and dedication was effective until January 13, 1949, when it failed to be included in the 1949 compiled laws of the territory. In 1951 the Territorial Legislature enacted Chapter 123, SLA 1951, which dedicated a tract 100 feet wide between each section of land owned by the Territory or acquired from the Territory. In 1953 the Territorial Legislature enacted Chapter 35, SLA 1953, which amended the 1951 dedication and dedicated a tract 100 feet wide between each section of land owned by the Territory or acquired from the Territory, and a tract four rods wide between all other sections of public land in the Territory. I am enclosing a copy of the 1969 Opinion of the
State of Alaska

F-Rom
✓

Department of Law

OFFICE OF THE ATTORNEY GENERAL
Anchorage Branch, Highway Section
360 "K" St., Suite 200
Anchorage, Alaska 99501

DATE RCVD:
MAY 31 1979

ANS	COPY	Central Region	DATE RCVD:
		RIGHT OF WAY	MAY 31 1979
		"Hwys" - "Aviation"	
	✓	RICHARDS, TED	
	✓	SCRATTON, DAN	
		DAVIS, SHIRL	
		APPRAISALS	
		NEGOTIATIONS	
	✓	ENGR/PLANS	
		RELOCATION	
		PREAUDIT	
	✓	RECORDS: "Hwys"	
		RECORDS: "Aviation"	
	✓	OTHER: <i>ONE - SANDBERG</i>	

Remarks:

[Handwritten signature]

Attorney General No. 7, which sets forth in detail the sequence of dedications by the legislature of section line rights-of-way, pursuant to the standing federal right-of-way offer.

In none of the above-mentioned instances was the acceptance of the federal offer accomplished by any action other than an official legislative act. Further, the legislature, in accepting the federal offer, provided no mechanism by which an administrative agency of the State had the authority to accept or broaden the standing federal offer. On the contrary, the legislature itself undertook that responsibility.

It has been clear since 1923 that the vacation of a section line right-of-way could be accomplished ". . . by any competent authority", and this would certainly include the Division of Highways or the Division of Lands, or both. However, there is no mechanism established by the legislative acceptance of the standing federal right-of-way offer which would vest the power in any state administrative agency to broaden the legislative acceptance and dedication by declaring, for example, that all half-section lines on public lands within the State are henceforth 100-foot wide public rights-of-way. To the extent that the recorded document that you have furnished me merely repeats the existing section line dedication pursuant to 43 U.S.C. § 932 and Chapter 35, SLA 1953, it adds nothing to the right-of-way dedication previously accomplished.

The statutes cited by the recorded document as authority for the Department of Public Works' and Department of Highways' "acceptance" and "declaration" of half-section line rights-of-way are very general recitations of these agencies' general purposes and authority, and do not constitute specific legislative grants of power to broaden the prior acceptance of the standing federal offer by accepting half-section line rights-of-way on behalf of the State of Alaska.

While it is apparent that the existence of recorded instruments declaring half-section line rights-of-way on public lands will create clouds on title in subsequent transfers into private ownership of the affected lands, this should occur only due to an excess of caution by title insurance companies. I am not aware of the extent to which such documents have been recorded in the State generally, but the cleanest way to remove such clouds would be to accomplish the "vacation" of the "dedicated" half-section line rights-of-way in all recording districts in which such instruments have been recorded. Because these declarations of

Claud M. Hoffman

-3-

March 8, 1979

half-section line rights-of-way have, in my opinion, no legal force or effect, they should not be taken into consideration in determining the patterns for state land disposal pursuant to the current land disposal programs and requirements.

TEM:tb
Enclosures

cc: Dick LeFebvre,
Pete Froelich, AGO - Juneau
Ross Kopperud, AGO - Anchorage

MEMORANDUM

Jed
RECEIVED

MAY 23 1979

TO: Claud M. Hoffman
Chief Cadastral Engineer
Division of Lands
Dept. of Natural Resources
Anchorage

DATE: May 21, 1979

D.O.T. & P.F.
RIGHT OF WAY
ANCHORAGE

FILE NO:

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL *AM*
By: Tom Meacham
Assistant Attorney General
AGO - Anchorage

SUBJECT: "One-Half Section Line
Easements"; Your File No.
2370. Our File 866-164-77

I have reviewed your memorandum of April 19, 1979 concerning the proper way in which purported half-section line easements may be cleared from the land records in the Recorder's Office and State land plats. I have also reviewed the sections of the Alaska Administrative Code (11 AAC 68) which you attached to your memorandum, concerning changes to, or vacations of, plats. While the elimination of any reference to any half-section line easements could, I suppose, be termed a "change" to a plat, it should more properly be viewed as the elimination of a previously-recorded "legal" interest which in fact had no legal basis. Thus it is not the imposition of a new legal interest on the land, or the elimination of a previous valid legal interest, but instead the removal of a cloud on land title which had no legal validity. Under these circumstances, it is my opinion that the procedures for public notice and hearing which are outlined in the regulations are not required in this instance. Further, those procedures contemplate that the "petitioner" for a change in a plat is usually a private individual or a member of the general public, and not the Director of the Division of Lands or his designee. While even the Director of the Division of Lands would be required to follow the procedures outlined in the regulations if a substantive legal interest were being added to removed from a plat, because these half-section line "easements" are, and never have been, legal interests, their removal from the plat should not invoke the complete procedural requirements of the regulations.

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- cc: Ross Kopperud, AGO - Anchorage
Jim Sandberg, Regional Right-of-Way Agent
Dept. of Transportation and Public Facilities, Anchorage
Dick LeFebvre, Division of Forest, Land & Water Management
Dept. of Natural Resources, Anchorage

Department of Law
OFFICE OF ATTORNEY GENERAL
Anchorage Branch
420 'L' Street, Suite 100
Anchorage, Alaska 99501

F C O M I

A N S	C O P Y	Central Region	DATE RCVD
		RIGHT OF WAY / "Hwys" - "Aviation"	MAY 23 1979
<input checked="" type="checkbox"/>		RICHARDS, TED	
<input type="checkbox"/>		SCRATTON, DAN	
<input type="checkbox"/>		DAVIS, SHIRL	
<input type="checkbox"/>		APPRAISALS	
<input type="checkbox"/>		NEGOTIATIONS	
<input checked="" type="checkbox"/>		ENGR/PLANS	
<input type="checkbox"/>		RELOCATION	
<input type="checkbox"/>		PREAUDIT	
<input checked="" type="checkbox"/>		RECORDS: "Hwys"	
<input type="checkbox"/>		RECORDS: "Aviation"	
<input checked="" type="checkbox"/>		OTHER: <i>R/W Manual Attorney</i>	
Remarks		<i>General opinion</i>	

DECLARATION OF EXTINGUISHMENT
OF "HALF-SECTION LINE EASEMENTS"

The Alaska Department of Transportation and Public Facilities and the Alaska Department of Natural Resources, through their respective undersigned Commissioners, herewith agree and declare that the prior purported reservation on State or Federal lands of "half-section line easements" by their respective Departments, or either of them, through any of their officers agents, or employees, constituted an act without basis in Federal or Alaska statutory law, and was thus an act void and of no force and effect ab initio. *from the beginning*

The purpose of this declaration is to restore, on all plats upon which purported "half-section line easements" are noted, the lands affected by such purported reservations to the legal status which pertained prior to such purported easement reservations. This declaration shall not alter or affect valid existing rights, if any, in and to the lands affected by such purported easement reservations or this declaration. The purpose of this declaration is to remove from the public land records any clouds on title which may exist due to the purported reservation of "half-section line easements". A true copy of this declaration is to be recorded in each of the several District Recorder's offices throughout the State of Alaska

DATED at Juneau, Alaska this _____ day of _____

1979.

For the Alaska Department of
Transportation and Public
Facilities:

For the Alaska Department of
Natural Resources:

Robert A. Ward, Commissioner

Robert E. LeResche, Commissioner

STATE OF ALASKA

ss.

FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____
1979, before me, the undersigned, a Notary Public in and for the
State of Alaska, personally appeared Robert A. Ward, to me known
to be the Commissioner of the Alaska Department of Transportation
and Public Facilities, and who stated that he executed the fore-
going instrument as his free and voluntary act and deed, with
lawful authority and for the uses and purposes therein mentioned.

WITNESS my hand and Notarial Seal on this _____ day of
_____, 1979.

Notary Public in and for Alaska
My commission expires: _____

STATE OF ALASKA

ss

FIRST JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on this _____ day of _____,
1979, before me, the undersigned, a Notary Public in and for the
State of Alaska, personally appeared Robert E. LeResche, to me known
to be the Commissioner of the Alaska Department of Natural Resources,
and who stated that he executed the foregoing instrument as his free
and voluntary act and deed, with lawful authority and for the uses
and purposes therein mentioned.

WITNESS my hand and Notarial Seal on this _____ day of
_____, 1979.

Notary Public in and for Alaska
My commission expires: _____