

Statehood and the MOU, History and Background

The committee reviewed the terms and conditions of Sec. 6(g) of the Alaska Statehood Act (P.L. 85-508, July 7, 1958) and congressional reports that outlined the surveying and monumentation procedures to be utilized for the identification of Alaska's state entitlement lands.

The historic documents provided to the committee indicate that immediately after statehood in 1959, the survey requirements for state selected land were a subject of vigorous dispute between the BLM and the State of Alaska. In 1960, BLM surveyed and platted the boundaries of seven state selections comprising all or portions of Townships 23 and 24 North, Ranges 4, 5 and 6 West, Seward Meridian as part of Group 100, Alaska. [1]. The U.S. subsequently issued Patent No. 1226350 in April of 1962. [2] Only the perimeter of the "block" of selected lands was surveyed. The State of Alaska protested the survey and patent as a violation of Section 6(g) of the Alaska Statehood Act.

The State's position was that each selection that met the minimum size requirements of Section 6(g) (i.e., 5,760 acres or approximately one-quarter township) was eligible for a survey of the exterior boundary. BLM concluded that such small selections were not "reasonably compact tracts" and combined state selections for purposes of survey and patent.

Alaska's congressional delegation brought the matter to Congress in 1962 and 1963 during hearings on appropriations for Department of the Interior and Related Agencies. In 1963, Senator E.L. "Bob" Bartlett of Alaska presented Alaska's case in the dispute over the survey requirements of state selected lands as intended by the 1958 Alaska Statehood Act. [3] The Senate's Committee on Appropriations agreed with Alaska's position that each state selection warranted boundary survey and directed the Secretary of the Interior to proceed with surveying the selections according to this directive. The Senate provided an additional \$300,000 in funding for cadastral surveys in Alaska [4].

The House and Senate appropriation committees met in conference to resolve their differences and finalize the budget for the Department of the Interior and Related Agencies for 1964 (H.R. 5279, passed as P.L. 88-79, July 26, 1963). House Report No. 551, dated July 11, 1963, memorializes this conference and the decisions made at the time, including the issue of the survey of Alaska State selections:

"The conferees are agreed that the directive included in the report of the Senate committee with regard to surveys of Alaska land selections made under the terms of the Alaska Statehood Act (Public Law 85-508) will be satisfied by surveys of the exterior boundaries of full townships (even if composed of as many as four land selections) with monumentation at an average of 2 miles around the perimeter." [5]

The resulting decision by the conference committee was a compromise between the wide range of survey effort that lies between surveying the boundary of every state selection and surveying only the exterior boundaries of as many selections deemed appropriate by the Secretary of the Interior.

BLM internal correspondence from August, 1963 describes in detail the effect of the congressional direction on the state selection survey program. [6] In a letter from Secretary of the Interior Udall to Governor William Eagan dated September 4, 1963, Secretary Udall stated: “The Bureau of Land Management will proceed with the survey of State selections in a manner which follows the intent of Congress as expressed in the Conference Report on H.R. 5279” and “Monumentation will be accommodated to the State’s requirements provided the monumentation requested does not exceed the maximum of an average of 2 miles around the exterior boundaries of a selection.” [7]

With a settled procedure in place, the State dropped the protest of the plat and patent that initiated the dispute. As to the 1960 plat of Townships 23 and 24 North, Ranges 4, 5 and 6 West, Seward Meridian, BLM went back in the field in 1963 and 1964 to place additional monumentation on the township lines. No changes were made to the plat. An additional set of field notes was added to the survey record to document the monuments set after plat approval and patent. [8]

1973 MOU

Given the history recited above, it is clear that the practice of surveying state selections with two mile monumentation on the perimeter of each township was initiated 10 years before the 1973 MOU as a result of congressional directive and statement of intent. The purpose of the MOU was not to come to an agreement on the practice of two-mile monumentation on full townships, but rather, to provide State-elected methods to *deviate* from the congressional directive. The MOU outlines a number of options that the State could select including survey of the perimeter of larger tracts (multiple townships), less monumentation than at two-mile intervals, and finally, use of protracted values in lieu of monumentation. [9]

Within a year after the MOU was signed in 1973, the BLM prepared and filed a “State Selection Survey, Group No. 314, Area C, Seward Meridian, Alaska” [10], a plat of 65 protracted townships. The plat cites the 1973 MOU as the “basis by which this plat was created.” We do not know how many more of these large state selection surveys were filed, but according to the MOU, they must have been prepared at the request of the State of Alaska. DNR has stated that in 1981, the State ceased the practice of requesting surveys without survey and monumentation .

As recently as the 2012 MOU between BLM and DNR, the BLM stated “Regardless of the platting method it uses, the BLM agrees to monument the boundaries of lands it conveys to the State. Monuments will be placed on an average of every two miles along the perimeter of the selection and at angle points.” [11]

The historic documents are clear as to the surveying and monumentation methods to be used for state-selected lands; “... in units of full townships and monumentation at an average of two miles around the perimeter .” This practice did not arise from MOUs with the State, but from House Report 551 in 1963.

BLM has stated that “...a cadastral survey completed using DPPS methods meets the Federal Government’s survey obligations for SOA selected lands under the Alaska Statehood Act.” In

fact, the DPPS proposal before us looks very much like the methods and practice that led Alaska to protest plats prepared by BLM in 1960.