

of the association. Individuals and associations will also be required to file the maps, field notes, and other papers hereinafter required.

#### PREPARATION OF MAPS AND PLATS

6. All maps and plats must be drawn on tracing linen, in duplicate, and must be strictly conformable to the field notes of the survey thereof, wherever such surveys have been made. The word "profile" as used in the act is understood to intend a map of alignment. No profile of grades will be required.

#### DATA REQUIRED ON MAPS

7. The maps should show any other road crossed or with which connection is made, and whenever possible the station number on the survey thereof at the point of intersection. All such intersecting roads must be represented in ink of a different color from that used for the line for which the applicant asks right of way. Field notes of the surveys should be written along the line on the map. If the map should be too much crowded to be easily read, then duplicate field notes should be filed separate from the map, and in such form that they may be folded for filing. In such case it will be necessary to place on the map only a sufficient number of station numbers to make it convenient to follow the field notes on the map. Station numbers should also be given on the map in all cases where changes of numbering occur and where known lines of survey, public or otherwise, are crossed, with distance to the nearest permanent monument or other mark on such line. The map must also show the lines of reference of initial, terminal, and intermediate points, with their courses and distances.

When the lines are located on surveyed land, the maps must show the 40-acre subdivisions; when on unsurveyed land, a meridian should be drawn on maps through initial and terminal points and at intervals of not more than 6 miles, intermediate points.

#### DATA REQUIRED IN FIELD NOTES—INSTRUCTIONS AS TO SURVEYS

8. Typewritten field notes, with clear carbon copies, are preferred, as they expedite the examination of applications. All monuments and other marks with which connections are made should be fully described, so that they may be easily found. The field notes must be so complete that the line may be retraced on the ground. On account of the conditions existing in Alaska surveys based wholly on the magnetic needle will not be accepted. In that case a true meridian should be established, as accurately as possible, at the initial point. It should be permanently marked and fully described. The survey should be based thereon and checked by a meridian similarly fixed at the terminal point and, when the line is a long one, by intermediate meridians at proper intervals. On account of the rapid convergence of the meridians in these latitudes such intermediate meridians should be established at such intervals as to avoid large discrepancies in bearings. It will probably be found preferable to run by transit deflections from a permanently established line, with frequent and readily recoverable reference lines permanently marked; and in such surveys occasional true bearings should be

stated, at least approximately. On all lines of railroad the 10-mile sections should be indicated and numbered, and on maps of tramways and wagon roads the 5-mile sections shall likewise be indicated and numbered.

#### FILING OF PAPERS

9. The maps, field notes, and accompanying papers should be filed in the district land office for the district where the proposed right of way is located.

#### CONNECTIONS WITH OTHER SURVEYS

10. Connections should be made with other surveys, public or private, whenever possible; also with mineral monuments and other known and established marks. When a sufficient number of such points are not available to make such connections at least every 6 miles, the surveyor must make connection with natural objects or permanent monuments.

#### PERMANENT MONUMENTS OR MARKS

11. Along the line of survey, at least once in every mile, permanent and easily recoverable monuments or marks must be set and connected therewith, in such positions that the construction of the road will not interfere with them. The locations thereof must be indicated on the maps. All reference points must be fully described in the field notes, so that they may be relocated, and the exact point used for reference indicated.

#### DESIGNATION OF TERMINI

12. The termini of a line of road should be fixed by reference of course and distance to a permanent monument or other definite mark. The initial point of the survey and of station, terminal, and junction grounds should be similarly referred. The maps, field notes, engineer's affidavit, and applicant's certificate (Forms 3 and 4, see note, p. 241) should each show these connections.

#### AFFIDAVIT AND CERTIFICATE REQUIRED

13. The engineer's affidavit and applicant's certificate must be written on the map, and must both designate by termini (as in the preceding paragraph) and length in miles and decimals the line of route for which right of way application is made. (See Forms 3 and 4.) Station, terminal, or junction grounds must be described by initial point (as in the preceding paragraph) and area in acres (Forms 7 and 8, see note, p. 241), when they are located on surveyed land, and the smallest legal subdivision in which they are located should be stated. No changes or additions are allowable in the substance of any forms, except when the essential facts differ from those assumed therein. When the applicant is an individual the word "applicant" should be used instead of "company," and such other changes made as are necessary on this account.

#### ADDITIONAL WIDTH FOR RIGHT OF WAY

14. Where additional width is desired for railroad right of way on account of heavy cuts or fills, the additional right of way desired



should be stated, the reason therefor fully shown, the limits of the additional right of way exactly designated, and any other information furnished that may be necessary to enable the Secretary of the Interior to consider the case before giving it his approval.

#### PRELIMINARY MAP AND FIELD NOTES

15. The preliminary map authorized by the proviso of section 4 of the act will not be required to comply so strictly with the foregoing instructions as maps of definite location; but it is to be observed that they must be based upon an actual survey, and that the more fully they comply with these regulations the better they will serve their object, which is to indicate the lands to be crossed by the final line and to preserve the company's prior right until the approval of its maps of definite location. Unless the preliminary map and field notes are such that the line of survey can be retraced from them on the ground, they will be valueless for the purpose of preserving the company's rights. The preliminary map and field notes should be in duplicate, and should be filed in the district land office in order that proper notations may be made on the records as notice to intending settlers and subsequent applicants for the right of way.

#### SCALE OF MAPS

16. The scale of maps showing the line of route should be 2,000 feet to an inch. The maps may, however, be drawn to a scale of 1,000 feet to an inch when necessary, or, in extreme cases, to 500 feet to an inch. No other scales must be used and should be so selected as to avoid making maps inconveniently large for handling. In most cases, by furnishing separate field notes, an increase of scale can be avoided. Plats of station, terminal, and junction grounds, etc., should be drawn on a scale of 500 feet to an inch, and must be filed separately from the line of route. Such plats should show enough of the line of route to indicate the position of the tract with reference thereto.

#### PLATS OF STATION, TERMINAL, AND JUNCTION GROUNDS

17. Plats of station, terminal, and junction grounds must be prepared in accordance with the directions for maps of lines of routes. Whenever they are located on or near navigable waters the shore line must be shown, and also the boundaries of any other railroad grounds or other claims located on or near navigable waters within a distance of 80 rods from any point of the tract applied for.

#### SHOWING REQUIRED IN APPLICATION

18. All applications for permits made under section 6 of this act should state whether it is proposed to collect toll on the proposed wagon road or tramway; and, in case of wagon roads, the application must be accompanied by satisfactory evidence, corroborated by an affidavit, tending to show that the public convenience requires the construction of the proposed road, and that the expense of making the same available and convenient for public travel will not be less, on an average, than \$500 per mile. In all cases, if the proposed line of road shall be located over any road or trail in common use for

public travel, a satisfactory statement, corroborated by affidavit, must be submitted with the application, showing that the interests of the public will not be injuriously affected thereby.

#### ACTION ON FILING OF APPLICATION

19. When maps are filed the district officers will make such pencil notations on their records as will indicate the location of the proposed right of way as nearly as possible. They should note that the application is pending, giving the date of filing and name of applicant. They must also indorse on each map and other paper the date of filing, over their written signature, transmitting them promptly to the General Land Office.

#### ACTION ON APPROVAL OF MAP

20. Upon the approval of a map of definite location or station plat by the Secretary of the Interior the duplicate copy will be sent to the register and receiver, who will make such notations of the approval on their records, in ink, as will indicate the location of the right of way as accurately as possible.

#### AFFIDAVIT AND CERTIFICATE REQUIRED WHEN ROAD IS CONSTRUCTED

21. When the road is constructed, an affidavit of the engineer and certificate of the applicant (Forms 5 and 6, see note, p. 241) should be filed in the district land office in duplicate for transmission to the General Land Office. In case of deviations from the map previously approved, whether before or after construction, there must be filed new maps and field notes in full, as herein provided, bearing proper forms, changed to agree with the facts in the case, and the location must be described in the forms as the *amended* survey and the *amended* definite location. In such cases the applicant must file a relinquishment, under seal, of all rights under the former approval as to the portions amended, said relinquishment to take effect when the map of amended definite location is approved by the Secretary of the Interior.

#### ACTION WHERE REQUIRED EVIDENCE IS NOT FILED

22. Unless the proper evidence of construction is filed within the time prescribed by the act for the construction of each section of the road, appropriate steps will be taken looking to the cancellation of the approval of the right of way and the notations thereof on the records.

#### CHARGES FOR TRANSPORTATION OF PASSENGERS AND FREIGHT

23. In the case of a wagon road or tramway built under permit issued under section 6 of this act, upon which it is proposed to collect toll, a printed schedule of the rates for freight and passengers should also be filed with the Commissioner of the General Land Office for submission to the Secretary of the Interior for his consideration and approval at least 60 days before the road is to be opened to



traffic, in order to allow a sufficient time for consideration, inasmuch as by section 6 it is made a misdemeanor to collect toll without written authority from the Secretary of the Interior. In the case of a wagon road satisfactory evidence, corroborated by affidavit, must be submitted with said schedule, showing that at least an average of \$500 per mile has been actually expended in constructing such road. These schedules must be submitted in duplicate, one copy of which, bearing the approval of the Secretary of the Interior, will be returned to the applicant if found satisfactory. Said schedules shall be plainly printed in large type.

Schedules of passenger and freight rates on railroads should be filed with the Interstate Commerce Commission.

NOTE.—For Forms 1 to 8, inclusive, for due proofs and verification of maps of rights of way for railroads, tramways, wagon roads, etc., see 50 L. D., pp. 75 to 78, inclusive.

#### RIGHTS OF WAY FOR RESERVOIRS AND CANALS, AND FOR POWER, TELEPHONE AND TELEGRAPH PURPOSES, ETC.

On the general applicability of right-of-way laws in the Territory, the Attorney General in an opinion dated June 29, 1915 (30 Op. Atty. Gen. 387), responding to an inquiry whether it would be lawful to grant revocable licenses under the act of February 15, 1901 (31 Stat. 790), or easements under the act of March 4, 1911 (36 Stat. 1253), held, after a full review of all the statutes and departmental decisions thereon, and especially of the act of August 24, 1912 (37 Stat. 512), providing for the full organization of the Territory and the extension of all the laws of the United States to the Territory not locally inapplicable, that such action was authorized, for the reason that said acts of Congress were now applicable to the public lands in Alaska.

By analogy it would appear that the provisions of sections 18 to 21, inclusive, of the act of March 3, 1891 (26 Stat. 1095), as amended by section 2 of the act of May 11, 1898 (30 Stat. 404), allowing rights of way for canals, ditches, and reservoirs to canal and ditch companies formed for purposes of irrigation, are also applicable to public lands in Alaska and it has been so held since said opinion.

Section 4 of the act of February 1, 1905 (33 Stat. 628), granting rights of way for dams, reservoirs, water plants, ditches, flumes, pipes, tunnels, and canals within and across the forest reserves of the United States, applies to and is operative in forest reserves in the Territory.

#### EFFECT OF FEDERAL WATER POWER ACT

It is to be noted, however, that the act of June 10, 1920 (41 Stat. 1063), known as the Federal water power act, as amended by the act of March 3, 1921 (41 Stat. 1353), has superseded and repealed all acts or parts of acts inconsistent therewith, providing for the development and transmission of water power on the public domain and certain reservations of the United States, and that this act is applicable to Alaska. Applications thereunder should be filed with the

Federal Power Commission, Washington, D. C. But electrical projects that are in no way connected with water power—for instance, those where the electrical power is generated by steam—remain under the jurisdiction of this department, pursuant to the provisions of the act of February 15, 1901 (31 Stat. 790), and that of March 4, 1911 (36 Stat. 1253), where the land involved is not within a national forest.

#### GENERAL INSTRUCTIONS

The general instructions and regulations regarding the various rights of way above referred to are found in departmental circulars relating to such rights in the United States. See circulars approved January 6, March 1, and July 19, 1913 (41 L. D. 454, 532 and 42 L. D. 348), and circular of June 6, 1908 (36 L. D. 567, reprinted in circular form in 1923, with amendments).

#### RIGHT OF WAY FOR ROADWAY

A provision is made in section 10 of the act of May 14, 1898 (30 Stat. 409), that—

A roadway 60 feet in width, parallel to the shore line as near as may be practicable, shall be reserved for the use of the public as a highway.

The phrase "shore line" as thus used means high-water line.

This reservation occurs in the proviso relating to the reservation between claims abutting on navigable waters; but since it is its purpose to reserve a roadway for public use as a highway along the shore line of navigable waters, it is held to relate to the lands entered or purchased under this act as well as to the reserved lands; otherwise it would serve little or no purpose. This reservation will not, however, prevent the location and survey of a claim up to the shore line, for in such case the claim will be subject to this servitude and the area in the highway will be computed as a part of the area entered and purchased.

Section 26 of the act of June 6, 1900 (31 Stat. 330), provides that the reservation for roadway shall not apply to mineral lands or town sites.

The reservation for roadway should not be inserted in patents (Departmental Instructions of March 15, 1915).

#### SCHOOL LANDS AND SCRIP LOCATIONS

By the act of March 4, 1915 (38 Stat. 1214), sections numbered 16 and 36 in every township, not known to be mineral in character at the date of acceptance of survey, on which no settlement has been made before the survey of the land in the field, and which have not been sold or otherwise appropriated by authority of Congress, are reserved for the support of the common schools in Alaska.

Section 33 in each township between parallels 64° and 65° of north latitude and between 145° and 152° of west longitude are reserved for the support of a Territorial agricultural college and school of mines.

In reporting as to the completion of surveys in the field, under Circular No. 996, the district cadastral engineer will prepare his



letter of advice in triplicate, the original and one carbon to be forwarded to the Commissioner of the General Land Office and the third copy to be transmitted directly to the division inspector. Where less than a full township is involved, the report will list any and all school sections embraced therein.

Upon receipt of such notification, the division inspector will take appropriate action looking to the examination and report with a view to classification of the school sections affected as mineral or non-mineral, subject, however, to such instructions as may be received from the General Land Office with reference to forest or other withdrawals which would render field examination unnecessary. Where any school section is reported as mineral, opportunity will be afforded the proper officers of the Territory to disprove such finding.

#### SCHOOL SELECTIONS

Where any of said sections are lost to the reservations mentioned, in whole or in part, because of prior settlement or sale, or other appropriation under an act of Congress, or where they are wanting or are fractional in quantity, indemnity lands may be designated and reserved in lieu thereof, as provided in the act of February 28, 1891 (26 Stat. 796). The regulations providing for such selections by the States will be followed in Alaska.

Each application for selection must be accompanied by a duly corroborated affidavit showing:

(1) That no portion of the land is occupied or reserved for any purpose by the United States or occupied or claimed by natives of Alaska; that the land is unoccupied, unimproved and unappropriated by any person claiming the same other than the applicant.

(2) That the land applied for does not extend more than 160 rods along the shore of any navigable water or that such restriction has been waived and that it is not within a distance of 80 rods along any navigable or other waters from any location theretofore made with soldiers' additional rights, or as a trade and manufacturing site, homestead, Indian or Eskimo allotment, or school indemnity selection, or that it has been restored from reservation.<sup>27</sup>

(3) That the land is not included within an area which is reserved because of springs or water holes thereon. All facts relative to medicinal or other springs or water holes must be stated, as set forth in paragraph 3 under the heading "Springs and Water Holes."<sup>28</sup>

(4) The facts as to all waters upon the land other than springs and water holes, whether creek, pond, lagoon or lake, their source, depth, width, outlet and current (whether swift or sluggish), whether or not the same or any of them are navigable for skiffs, canoes, motor boats, launches or other small water craft and whether or not the same or any of them constitute a passageway for salmon or other merchantable sea-going fish to spawning grounds.

(5) That no part of the land is valuable for coal, oil, gas, or other valuable mineral deposits and that at the date of the application no part of the land was claimed under the mining laws.

<sup>27</sup> See p. 244.

<sup>28</sup> See p. 253.

## LEASING OF SCHOOL LANDS

The Territory is authorized to provide by law for the leasing of its school lands, it being stipulated, however, that no greater area than one section shall be leased to any person, association, or corporation, and that leases shall not be for longer periods than 10 years.

## SCRIP LOCATIONS

Aside from the right of the Territory of Alaska to select lands in lieu of tracts to which it may be entitled, under its grant in aid of public schools made by the act of March 4, 1915 (38 Stat. 1214), and which have been lost, no scrip or lieu rights can be located in said Territory except soldiers' additional homestead rights.

## SHORE SPACE RESTRICTIONS AND RESERVATIONS

1. A soldier's additional entry or school indemnity selection may not be made in Alaska within a distance of 80 rods (one-quarter of a mile), of any lands along any navigable *or other waters* theretofore located as such entry, selection, or otherwise.

On the shores of navigable waters a space of at least 80 rods is reserved between claims, including homestead settlements and entries (not in national forests), allotments to Indians and Eskimos, which are considered as homesteads, soldiers' additional entries, trade and manufacturing sites, and school-indemnity selections, but not including mission sites (44 L. D. 83) or mining claims (43 L. D. 120).

Homestead settlements and entries (not in a national forest), allotments to Indians and Eskimos, soldiers' additional entries, and school-indemnity selections may not extend more than 160 rods along the shore of any navigable water.

A trade and manufacturing site may not abut more than 80 rods of navigable water.

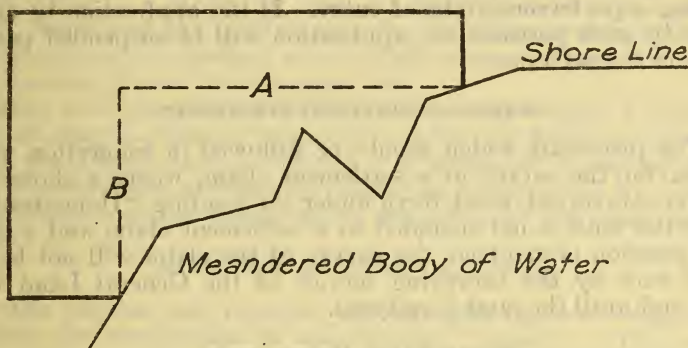
## RESTRICTION AS TO LENGTH OF CLAIMS

2. In the consideration of applications to enter lands shown upon plats of public surveys in Alaska, abutting upon navigable waters, the restriction as to length of claims shall be determined as follows: The length of the water front of a subdivision will be considered as represented by the shortest distance between the two side lines of the subdivision, measured from the shore corner nearest the back line of the tract; and the sum of the distances of each subdivision of the application abutting on the waters, so determined, shall be considered as the total shore length of the application. Where, so measured, the excess of shore length is greater than the deficiency would be if an end tract or tracts were eliminated, such tract or tracts shall be excluded, otherwise the application may be allowed if in other respects proper.

The same method of measuring shore space will be used in the case of special surveys, where legal subdivisions of the public lands are not involved.



The following sketch shows the method of measuring the length of shore space, the length of line "A" or line "B," whichever is the longer, representing the length of shore space which is chargeable to the tract:



#### RESERVATION BETWEEN CLAIMS

3. To make effective the limitations of claims along the shore line and the reservation of 80 rods between all such claims, it is directed that where any claim is so located as to approach within 80 rods of the actual shore line such claim will be considered as located on the shore for that purpose. Such constructive extension to the shore line of claims so located shall not work a reservation of the land in front of such claims and between them and the shore line, but such lands shall be open and subject to appropriation under and in accordance with any appropriate law, and between all such claims, or the constructive extension thereof, the reserve strip shall extend for a distance of 80 rods from the shore line.

#### "NAVIGABLE WATERS" DEFINED

4. The term "navigable waters" is defined in section 2 of the act of May 14, 1898 (30 Stat. 409),

\* \* \* to include all tidal waters up to the line of ordinary high tide and all nontidal waters navigable in fact up to the line of ordinary high-water mark.

This definition, however, is not taken as intending to include all nontidal waters that are in fact navigable, irrespective of their extent or suitability for transportation purposes, travel, etc., and such factors will be considered in passing upon the question of the navigability of nontidal waters.

#### "OR OTHER WATERS" DEFINED

5. The words "or other waters," as used in the provisos, are held to include all waters of sufficient magnitude to require meandering under the manual of surveys, or which are used as a passageway or for spawning purposes by salmon or other seagoing fish.

## ACTION ON APPLICATIONS TO ENTER

6. The register and receiver will reject any application to enter which conflicts with a shore space reservation or restriction, unless it be accompanied by a petition for restoration, asserting equities and claiming a preference right of entry. If the application be accompanied by such petition, the application will be suspended pending action on the petition.

## ACTION ON PETITIONS FOR SURVEY

7. The procedure which should be followed in connection with a petition for the survey of a settlement claim, where a shore-space question is involved, is set forth under the heading "Homesteads."<sup>29</sup> Where the land is not included in a settlement claim and a shore-space question is involved, the survey of the claim will not be proceeded with by the surveying service of the General Land Office unless and until the land is restored.

## SHORE SPACE RESTORATIONS

1. The act of June 5, 1920 (41 Stat. 1059), authorizes the Secretary of the Interior in his discretion "upon application to enter or otherwise" to waive the 160-rod restriction as to length of claims or to restore to entry and disposition the reserved shore spaces. The 80-rod restriction, in the case of trade and manufacturing sites, can not be waived.

## PETITION FOR RESTORATION

2. Any person who wishes to secure such waiver or restoration should file a petition therefor, in duplicate, in the proper district land office. The petition must be sworn to by the applicant and must be corroborated by the affidavits of two persons having knowledge of the facts. The affidavits may be executed before the register or the receiver, or the acting register, of the district in which the lands lies, or before any court, judge, or other officer having a seal and authority to administer an oath, anywhere in the Territory or in the United States outside of the Territory.

## PREFERENCE RIGHT

3. The applicant will not secure a preference right to enter the tract by the filing of the petition unless it is based on equities deemed sufficient in the opinion of the Secretary of the Interior.

## DESCRIPTION OF LAND IN PETITION

4. If the land be surveyed, it should be described by legal subdivisions of the public land surveys. If unsurveyed, it should be described by approximate latitude and longitude and otherwise with as much certainty as possible without actual survey. The description should be tied to known monuments, towns, and natural objects whenever practicable.

<sup>29</sup> See p. 213.



## SHOWING REQUIRED IN PETITION

5. The petition must contain a full statement as to all pending claims on each side of the tract bordering along the water in question and as to the availability of the land sought for harbor purposes, and, if the water be a stream or lake, all facts must be stated as to its width, depth and navigability and the use which is ordinarily made thereof, as well as whether or not such stream or lake is a runway or spawning ground for seagoing fish.

Where it is asserted that equities have accrued and a preference right of entry is claimed, the petition should set forth the facts upon which the alleged claim is founded. If settlement is claimed and the land is unsurveyed, the petition should be accompanied by a certified copy of the location notice which was filed in the local recording office.

## DISPOSITION OF COPIES OF PETITION

6. The register and receiver will send the duplicate copy of the petition for restoration to the Division Inspector. The original copy of the petition will be sent to the General Land Office, with notation thereon showing the fact of the reference of the duplicate copy to the Division Inspector.

## REPORT BY DIVISION INSPECTOR

7. The Division Inspector will make report to the Commissioner of the General Land Office as to whether or not there is objection to the waiver or restoration requested.

## RESTORATIONS ON MOTION OF DEPARTMENT

8. Restorations may also be made by the department on its own motion, where, after field investigation, it is found that such action is authorized by the statute and required by the public interest.

## LANDS NECESSARY FOR HARBORAGE USES

9. Lands found necessary for harborage uses or other public purposes will be excluded from orders of restoration and included within an appropriate order of withdrawal under the act of June 25, 1910 (36 Stat. 847).<sup>30</sup>

## LANDS RESERVED AS ROADWAY

10. The act of June 5, 1920, does not modify that clause in section 10 of the act of May 14, 1898 (30 Stat. 409, 413), which provides that a roadway 60 feet in width, as nearly parallel to the shore line of navigable waters as may be practicable, shall be reserved for the use of the public as a highway.<sup>31</sup>

## SOLDIERS' ADDITIONAL HOMESTEAD ENTRIES

1. The laws authorizing entries in Alaska under sections 2306 and 2307, United States Revised Statutes, known as soldiers' additional

<sup>30</sup> See p. 226.

<sup>31</sup> See p. 242.

homestead entries, are incorporated as a part of the general homestead laws which are applicable in the Territory. These laws are printed under the heading "Homesteads."<sup>32</sup>

#### GENERAL INFORMATION

2. General information relative to soldiers' additional homestead rights is contained in Circular No. 1047. This circular contains information as to the inheritability and assignability of the rights. Further information of a general character relative to these rights is contained in paragraph 17 of Circular No. 616 (46 L. D. 513-516).

#### COAL, OIL, AND GAS LANDS

3. Soldiers' additional rights are not locatable on lands in Alaska withdrawn or classified as coal, oil, or gas, or lands which are valuable for coal, oil, or gas.<sup>33</sup>

#### PRESCRIBED FORM OF APPLICATION

4. Application to locate soldiers' additional rights in Alaska must be presented on the form prescribed therefor, viz, Form 4-008a. If presented by other than an assignee, the form may be appropriately modified.

#### APPLICATION BY ASSOCIATION OR CORPORATION

5. An application by an association must show the qualifications of each member thereof, and an application by a corporation must be accompanied by proof of incorporation, established by the certificate of the officer having custody of the records of incorporation at the place of its formation, and it must be shown that the corporation is authorized to hold land in Alaska.

#### DESCRIPTION OF LAND IN APPLICATION

6. If the land be surveyed, it must be described in the application according to the legal subdivisions of the public land surveys. If it be unsurveyed, the application must describe it by approximate latitude and longitude and otherwise with as much certainty as possible without actual survey.

#### AFFIDAVIT REQUIRED WITH APPLICATION ON PRESCRIBED FORM

7. An application on the prescribed form must be accompanied by a duly corroborated affidavit showing:

(1) That no portion of the land is occupied or reserved for any purpose by the United States or occupied or claimed by natives of Alaska; that the land is unoccupied, unimproved, and unappropriated by any person claiming the same other than the applicant.

(2) That the land applied for does not extend more than 160 rods along the shore of any navigable water or that such restriction has been waived, and that it is not within a distance of 80 rods along any navigable or other waters from any location theretofore made with soldiers' additional rights, or as a trade and manufacturing

<sup>32</sup> The laws have not been included in this publication.

<sup>33</sup> See p. 217, par. 5.



site, homestead, Indian or Eskimo allotment, or school indemnity selection, or that it has been restored from reservation.<sup>34</sup>

(3) That the land does not adjoin any inland or water-front location made with soldiers' additional rights which, together with the land applied for, would constitute a single body of land exceeding 160 acres.

(4) That the land is not included within an area which is reserved, because of springs or water holes thereon. All facts relative to medicinal or other springs or water holes must be stated, as set forth in paragraph 3 under the heading "Springs and Water Holes."<sup>35</sup>

(5) The facts as to all waters upon the land other than springs and water holes, whether creek, pond, lagoon, or lake, their source, depth, width, outlet, and current (whether swift or sluggish), whether or not the same or any of them are navigable for skiffs, canoes, motor boats, launches, or other small water craft, and whether or not the same or any of them constitute a passageway for salmon or other merchantable seagoing fish to spawning grounds.

(6) That no part of the land is valuable for coal, oil, gas or other valuable mineral deposits and that at the date of the application no part of the land was claimed under the mining laws.

#### EXECUTION AND FILING OF APPLICATION

8. The application must be executed in duplicate and it must be filed in the proper district land office. It may be sworn to before any officer authorized to administer oaths in homestead cases in Alaska.<sup>36</sup>

#### EVIDENCE REQUIRED OF VALIDITY AND OWNERSHIP OF RIGHT

9. The applicant must furnish evidence of the prima facie validity of the additional right and of his ownership thereof.

#### EXCESS IN AREA OF SELECTION OVER AREA OF RIGHT OR RIGHTS TENDERED NOT PERMITTED

10. An applicant will not be permitted to select an area which is greater than the area of the additional right or rights tendered.

#### EVIDENCE FURNISHED OF UNUSED PORTION OF CERTIFICATE OR RECERTIFIED CERTIFICATE

11. If the right used is a certificate or recertified certificate which exceeds the area of the land entered, evidence of the unused portion may be obtained by procuring a certified copy or photostat copy of the certificate bearing proper notation as to the amount used.

#### ACTION ON APPLICATION—REPORT OF DIVISION INSPECTOR

12. Upon receipt of the application the register and receiver will note its filing, assign a current serial number thereto, and transmit the original copy, unallowed, together with the accompanying papers, to the General Land Office. They will forward the duplicate copy

<sup>34</sup> See p. 244.

<sup>35</sup> See p. 253.

<sup>36</sup> See p. 209, par. 7.

of the application to the division inspector for report. With each copy they will report the status of the land as shown by their records.

The report of the division inspector will be made to the General Land Office and it should show whether the lands contain valuable deposits of coal, oil, gas, or other minerals, whether they have power or reservoir possibilities, whether they are within an area which is reserved because of hot, medicinal, or other springs, or water holes, and any other facts deemed appropriate.

#### APPLICATION FOR SURVEY

13. If the land applied for be unsurveyed, and no objection to its survey is known to the register and receiver, they will furnish the applicant with a certificate to the cadastral engineer in charge of the public survey office stating the facts, and, after receiving such certificate, the applicant may make application to the public survey office for the survey of the land. The register and receiver will advise the public survey office of the issuance of the certificate, and unless the applicant promptly makes application for the survey, the public survey office will report the facts to the General Land Office for such action as may be deemed proper.

#### SURVEY

14. Upon receipt of an application under the provisions of section 2 of the act of April 13, 1926 (44 Stat. 244), the cadastral engineer in charge of the public survey office will, if conditions make such procedure practicable and no objection is shown by his records, furnish the applicant with an estimate of the cost of field and office work, and upon receipt of the deposit required the cadastral engineer in charge will issue appropriate instructions for the survey of the claim, such survey to be made by the surveying service of the General Land Office not later than the next surveying season under the direction of the supervisor of surveys. The sum so deposited by the applicant for survey will be deemed an appropriation thereof and will be held by the public survey office to be expended in the payment of the cost of the survey, including field and office work, and upon the acceptance of the survey any excess over the cost shall be repaid by the public survey office to the depositor or his legal representative.

In case it is decided by the supervisor of surveys that by reason of the inaccessibility of the locality embraced in an application for the survey, or by reason of other conditions, it will result to the advantage of the Government or claimant to have the survey executed by a United States deputy surveyor, the public survey office will deliver to the applicant an order for such survey, which will be sufficient authority for any United States deputy surveyor to make a survey of the claim.

In the latter contingency the survey must be made at the expense of the applicant, and no right will be recognized as initiated by such application unless actual work on the survey is begun and carried to completion without unnecessary delay. Further information as to the requirements and procedure in cases of this kind is given in paragraphs 7, 8, and 9 under the heading "Surveys."



## PUBLICATION AND POSTING

15. After a special survey of the land has been made, and upon receipt of the plat and field notes thereof from the public survey office, the register and receiver will notify the applicant that within 60 days from a date to be fixed by them he must furnish evidence of publication and posting, and that if he fails to do so the application will be rejected and the survey canceled. The publication and posting will be required as follows:

(1) The notice will be prepared by the register, and it must be published at the expense of the applicant for a period of at least 60 days in a newspaper of established character and general circulation designated by the register as being published nearest the land. If the newspaper be published daily, there must be 60 insertions of the notice; if daily except Sunday, 52 insertions; if semiweekly, 18 insertions; and if weekly, 9 insertions. The register and receiver will send a copy of the notice to the division inspector.

(2) The applicant must cause a copy of the plat showing the survey,<sup>37</sup> together with a copy of the application, to be posted in a conspicuous place on the claim for 60 consecutive days during the period of publication.

(3) The register must cause a copy of the notice to be posted in his office during the entire period of publication.

Where the land is located according to the public surveys, publication and posting will be required in accordance with instructions of February 21 and March 26, 1908 (36 L. D. 278, 346).<sup>h</sup>

## ADVERSE CLAIM

16. In conformity with provision contained in section 10 of the act of May 14, 1898 (30 Stat. 413), during the period of posting and publication or within 30 days thereafter any person, corporation, or association having or asserting any adverse interest in or claim to the tract of land or any part thereof sought to be purchased may file in the land office where the application is pending, under oath, an adverse claim setting forth the nature and extent thereof; and such adverse claimant shall, within 60 days after the filing of such adverse claim, begin action to quiet title in a court of competent jurisdiction in Alaska, and thereafter no patent shall issue for such claim until the final adjudication of the rights of the parties, and such patent shall then be issued in conformity with the final decree of the court.

Where such adverse claim is filed, action on the application will be suspended until final adjudication of the rights of the parties in the court or until it has been shown that the adverse claimant did not commence an action in the court within the time allowed.

Any protest which may be filed which does not show that the protestant intends to commence an action to quiet title as stated and any contest which may be filed will be disposed of by the register and receiver in accordance with the rules of practice (51 L. D. 547).<sup>38</sup>

## PROOF OF PUBLICATION AND POSTING

17. The proof of publication must consist of the affidavit of the publisher or foreman of the designated newspaper, or some other

<sup>37</sup> See p. 255, par. 9 (c). <sup>38</sup> See p. 199. <sup>h</sup>Also see instructions of Oct. 19, 1929, p. 1149.

employee authorized to act for the publisher, that the notice (a copy of which must be attached to the affidavit) was published for the required period in the regular and entire issue of every number of the paper during the period of publication in the newspaper proper, and not in a supplement. Proof of posting on the claim must consist of the affidavits of the applicant and one witness who of their own knowledge know that the plat of survey and application were posted as required and remained so posted during the required period. The register must certify to the posting of the notice in a conspicuous place in his office during the period of publication. The register and receiver will send the proofs to the General Land Office upon the expiration of the period for the filing of adverse claims and will report whether or not any adverse claim or protest has been filed.

#### FEEES AND COMMISSIONS

18. The same payments as fees and commissions are required in connection with soldiers' additional homestead entries and proofs in Alaska as must be made in connection with ordinary homestead entries in the State of Oregon. The amounts are set forth in circular No. 541. These payments are not required at the time the application is filed, but, if tendered, the receiver must, of course, issue receipts therefor.

#### ALLOWANCE OF ENTRY AND ISSUANCE OF FINAL CERTIFICATE

19. The application and proofs filed therewith, and the report of the division inspector on the application, will be carefully examined in the General Land Office, and, if all be found regular, the register will be instructed to allow the application and to issue final certificate thereunder, upon the required payments being made and in the absence of objections shown by his records.

#### SPRINGS AND WATER HOLES

1. By Executive order of March 28, 1911, the following order of withdrawal was issued:

It is hereby ordered that the following lands be, and the same are hereby, withdrawn from settlement, location, sale, or entry and reserved for public purposes, to wit, to enable Congress to consider legislation providing for the use of medicinal springs in the public lands in the district of Alaska, subject to all the provisions, limitations, exceptions, and conditions contained in the act of Congress entitled "An act to authorize the President of the United States to make withdrawals of public lands in certain cases," approved June 25, 1910.

All tracts of public lands in the district of Alaska upon which hot springs or other springs the waters of which possess curative properties are located, to the extent of 160 acres surrounding each spring, in rectangular form with side and end lines equidistant, as near as may be, from such spring or group of springs.

Said order of withdrawal was modified by Executive order of January 24, 1914, so as not to apply to lands within national forests.

#### SPRINGS AND WATER HOLES RESERVED FOR PUBLIC WATERING PURPOSES

2. By Executive order of April 17, 1926,<sup>39</sup> the following order of withdrawal was issued:

<sup>39</sup> See Executive order of May 4, 1929, p. 1301.



Under and pursuant to the provisions of the act of Congress approved June 25, 1910 (36 Stat. 847), entitled "An act to authorize the President of the United States to make withdrawal of public lands in certain cases," as amended by act of Congress approved August 24, 1912 (37 Stat. 497), it is hereby ordered that every smallest legal subdivision of the public land surveys which is vacant unappropriated unreserved public land and contains a spring or water hole, and all land within one-quarter of a mile of every spring or water hole located on unsurveyed public land be, and the same is hereby, withdrawn from settlement, location, sale, or entry, and reserved for public use in accordance with the provisions of section 10 of the act of December 29, 1916 (39 Stat. 862), and in aid of pending legislation.

The above order was designed to preserve for general public use and benefit unreserved public lands containing water holes or other bodies of water needed or used by the public for watering purposes. It is not, therefore, to be construed as applying to or reserving from homestead or other entry lands having small springs or water holes affording only enough water for the use of one family and its domestic animals. It withdraws those springs and water holes capable of providing enough water for general use for watering purposes.

#### SHOWING REQUIRED AS TO SPRINGS AND WATER HOLES

3. An applicant to enter or select lands in Alaska situated outside of a national forest must show that the land is not within an area of 160 acres surrounding any hot spring or other spring having waters possessing curative properties and that no spring or water hole of any kind exists, if it be a fact, upon any legal subdivision of the land sought to be appropriated, if surveyed, and if unsurveyed within one-quarter of a mile from the exterior boundaries of the land.

If there be any spring or water hole upon or adjacent to the land, as stated, the applicant must show the exact location and size thereof, together with an estimate of the quantity of water in gallons which it is capable of producing daily and any other information necessary to determine whether or not it is valuable or necessary as a medicinal spring or as a public water reserve.<sup>39</sup> Where such showing is made, the register and receiver should not allow the application, but should transmit the papers to the General Land Office for consideration.

The showing must be in affidavit form, duly corroborated.

#### USE OF LANDS WITHDRAWN AS PUBLIC WATER RESERVES

Permission may be obtained to use or improve lands withdrawn as or in connection with public water reserves, under the act of June 25, 1910 (36 Stat. 847), or any other act, by filing application for such permission under the act of February 15, 1901 (31 Stat. 790), in accordance with the regulations governing said act, as found in 36. L. D. 567, 579, as supplemented by Circular No. 1028 (51 L. D. 186).

#### LEASING OF PUBLIC LANDS NEAR OR ADJACENT TO MINERAL, MEDICINAL, OR OTHER SPRINGS

The matter of leasing public lands near or adjacent to mineral, medicinal, or other springs, for the erection of bathhouses, hotels, or other improvements for the accommodation of the public is governed by Circular No. 1034 (51 L. D. 221).<sup>i</sup>

<sup>39</sup> See Executive order of May 4, 1929, p. 1301.

<sup>i</sup> Circular No. 1034 has been incorporated in Circular No. 1122. See footnote, p. 1544.

## SYSTEM OF SURVEYS

1. Approximately 1,790,199 acres in Alaska have been surveyed under the rectangular system, which was extended to the Territory by the Act of March 3, 1899 (30 Stat. 1074-1098). All surveys in the Territory must conform to this system, except where modification or departure therefrom is authorized by section 1 of the act of April 13, 1926 (44 Stat. 243).<sup>40</sup>

## MERIDIANS

2. The surveys have been placed under the control of three independent meridians established as follows: The Seward Meridian, initiated just north of Resurrection Bay and extending to the Matanuska coal fields; the Fairbanks Meridian, commencing near the town of that name and controlling the surveys in that vicinity, including the Nenana coal fields; and the Copper River Meridian, which lies in the valley of the Copper River and from which surveys have been executed as far north as the Tanana River and south to the Bering River coal fields and the Gulf of Alaska.

## ADMINISTRATION OF SURVEYING ACTIVITIES

3. By the act of March 3, 1925 (43 Stat. 1141, 1144), the office of surveyor general was abolished, effective July 1, 1925, and since that time the administration of all surveying activities in Alaska has been under the supervision of the United States supervisor of surveys, who has headquarters in the Federal Building at Denver, Colo. A public survey office is maintained at Juneau, Alaska, and correspondence relating to local survey matters should be addressed to the cadastral engineer in charge of that office.

## EXISTING SURVEYS AND EXTENSIONS THEREOF

4. The existing surveys have been confined to known agricultural areas, the coal fields, and such adjoining lands as might under normal conditions be attractive to settlers, and areas necessary to enable the identification of lands sought to be included in oil and gas prospecting permits or leases. The extension of the surveys to other areas will be governed by the character of the lands and their occupation by actual settlers, due regard being had to whether or not the lands are in the regular progress of the extension of the public-land surveys.

## IDENTIFICATION OF LANDS

5. The field notes of survey of all claims within the Territory of Alaska, and all applications for patent based thereon, where the survey is not tied to a corner of the public survey, shall contain a description of the location or mineral monument to which the survey is tied by giving its latitude and longitude and its position with reference to rivers, creeks, mountains, or mountain peaks, towns, or other prominent topographical points or natural objects or monuments, giving the distances and directions as nearly accurate as possible, especially with reference to any well-known trail to a town or

<sup>40</sup> See p. 208, par. 2.



mining camp or to a river or mountain appearing on the map of Alaska, which description shall appear regardless of whether or not the survey be tied to an existing monument or to a monument established by the surveyor when making the survey in accordance with existing regulations with reference to the establishment of such monuments. The description of such monument shall appear in a paragraph separate from the description of the courses and distances of the survey.

#### SPECIAL SURVEYS

6. Information respecting special surveys of homesteads, soldiers' additional entries, and trade and manufacturing sites is given herein under those headings.

#### DEPOSIT REQUIRED FOR SURVEY MADE BY UNITED STATES DEPUTY SURVEYOR

7. Where application is made to have a special survey executed by a United States deputy surveyor, the cadastral engineer in charge of the public survey office at Juneau will furnish the applicant with an estimate of the cost of the platting and other office work connected with the survey and of photolithographing the plat, and such amount must be deposited with the said officer. It found insufficient to cover the cost, the applicant will be required to pay the deficiency; if in excess of the amount required, the excess will be repaid.

#### PLATS AND FIELD NOTES OF SPECIAL SURVEYS MADE BY UNITED STATES DEPUTY SURVEYORS

8. Hereafter United States deputy surveyors will not prepare plats of nonmineral claims in Alaska in quadruplicate and the field notes in triplicate, as has heretofore been the practice, but will submit only the preliminary returns of their surveys to the public survey office, and the plats and field notes will be prepared in that office, as is now done in the case of mineral surveys.

#### PLATS AND FIELD NOTES OF SPECIAL NONMINERAL SURVEYS

9. The returns of special nonmineral surveys made by the surveying service of the General Land Office or by United States deputy surveyors, after approval by the cadastral engineer in charge of the public survey office at Juneau, will be submitted to the Commissioner of the General Land Office for examination and acceptance.

The original plat will be transmitted to the General Land Office for photolithographing and that plat and the photolithographic copies will be disposed of as follows:

(a) The original plat will be returned to the public survey office for filing.

(b) One copy on drawing paper will be filed in the General Land Office.

(c) One copy on drawing paper will be transmitted to the proper district land office for filing.

(d) One copy will be furnished to the Division Inspector for Alaska for use in his office.

(e) One copy will be sent by the public survey office to the claimant for posting on the land.

The field notes will be written in triplicate and will be disposed of as follows:

(a) The original notes will be retained by the public survey office at Juneau for filing.

(b) The duplicate copy will be filed in the General Land Office.

(c) The triplicate copy will be sent to the district land office for necessary use, thereafter to be transmitted to the General Land Office as a part of the record in the case.

#### PLATS AND FIELD NOTES OF MINERAL SURVEYS

10. Plats of Alaskan mineral surveys will be released immediately upon their approval by the cadastral engineer in charge of the public survey office at Juneau, and in order to enable claimants to proceed with their applications for patents without delay two copies of each plat will be reproduced in the public survey office by photostat, blueprint, or in such other manner as may be made available, and furnished to the claimant or to his agent or attorney for immediate use, one for posting on the land and one for filing with the application.

The original plat will be transmitted to the General Land Office for photolithographing and that plat and the photolithographic copies will be disposed of as follows:

(a) The original plat will be returned to the public survey office for filing.

(b) One copy on drawing paper will be filed in the General Land Office.

(c) One copy on drawing paper will be transmitted to the proper district land office for filing.

(d) One copy will be furnished to the Division Inspector for Alaska for use in his office.

The field notes will be written in duplicate and will be disposed of as follows:

(a) The original notes will be kept by and filed in the public survey office.

(b) The duplicate copy will be sent to the claimant or to his agent or attorney for filing with the application.

#### PLATS SOLD

11. Photolithographic copies of plats, when available, will be sold at the rate of 50 cents each, and blue prints or other copies reproduced in the public survey office will be sold at cost.

#### SALE OF TIMBER FOR USE IN ALASKA AND FREE USE OF TIMBER IN THE TERRITORY

Section 11 of the act of May 14, 1898 (30 Stat. 414), authorizes the Secretary of the Interior (a) to sell timber to individuals, associations, and corporations, and (b) to permit the free use of timber by actual settlers, residents, individual miners, and prospectors for minerals, for firewood, fencing, buildings, mining, prospecting, and for domestic purposes. The act has reference only to timber upon vacant, unreserved public lands, outside of the limits of national forests. The free-use privilege is not extended to associations and corporations.



Pursuant to the authority conferred upon him, the Secretary of the Interior has caused the following rules and regulations to be promulgated.

#### LIMITED FREE USE BY SETTLERS, ETC.

1. Persons designated in the last sentence of section 11, act of May 14, 1898, may go upon the vacant, unreserved public lands and take in amount not exceeding a total of 100,000 feet, board measure, or 200 cords, in any one calendar year, in saw logs, piling, cordwood, or other timber, the aggregate of either of which amount may be taken either in whole in any one of the above classes of timber or in part of one kind and in part another kind or in other kinds, and where a cord is the unit of measure it shall be estimated, in relation with saw timber, in the ratio of 500 feet, board measure, per cord. Where such persons are unable to take such timber in person, they may employ a servant or agent to procure the timber for them. The uses of the timber must be confined to the uses specified in the act. The taking of timber free of charge for sale and speculation is not authorized. Persons who desire to exercise the privileges extended to them in this section are not required to file applications as provided hereinafter, but in order that future complications may be avoided, they must notify the division inspector at Anchorage, Alaska, or the inspector in charge of timber investigations in the district in which the timber is to be cut, by registered letter, of their intention to procure timber under the free-use clause. Each applicant should set forth in his notice the kind and quantity of timber which is to be cut and the use for which it is to be cut and a description of the land on which said cutting is to be done by township and range and by section and sectional subdivisions thereof, if it be surveyed, or by natural objects by which it may be identified if it be unsurveyed. A blank form of notice (Form 4-023 f) has been prepared and may be obtained free of charge upon request from the division inspector or from the inspectors stationed in Alaska.

#### SALES OF TIMBER

2. Timber upon the vacant, unreserved public lands, outside of the limits of national forests, will be sold in such quantities as are actually needed and as will be used from year to year. Sales are not limited to residents of Alaska, but may be made to any individual, association, or corporation.

#### APPLICATIONS FOR PURCHASE—PLACE TO FILE—CONTENTS

3. Applicants to purchase timber must file with the register and receiver of the United States land office for the district wherein the lands to be cut over are situated applications in the form prescribed by the Commissioner of the General Land Office (Form 4-023). Blank forms may be obtained free of charge from the United States land offices at Anchorage, Fairbanks, and Nome, or from the inspectors of the Interior Department, or from the United States commissioners stationed in Alaska, or from the General Land Office, Washington, D. C. Every applicant should read carefully the printed statements and conditions in the application before attach-

ing signature thereto, since he will be held responsible for subscribing to statements as true which he knows or ought to know to be untrue. Before executing an application, an applicant should, if in doubt, ascertain that the lands from which he desires to cut timber are subject to the provisions of the act. The following information must be incorporated in every application in the blank spaces provided for the purpose:

(*a*) Name or names, post-office address, residence, and business occupation of the applicant or applicants who apply to purchase timber; (*b*) the amount in board feet, linear feet, or cord unit of measurement of timber it is desired to purchase; (*c*) the approximate area of the land on which the timber is located; (*d*) a description by legal subdivision, if surveyed, or by metes and bounds with reference to some permanent natural landmark, if unsurveyed, of the land from which the timber is desired to be cut; (*e*) the proposed use of the timber and the place where it is to be used; (*f*) the amount of money deposited with the application and the form; that is, whether in cash, certified check, or postal money order. Each application must be duly witnessed by two witnesses.

#### POSTING NOTICE ON THE LAND

4. After transmitting his application to the register and receiver, the applicant shall, before commencing to cut the timber applied for, post a notice (Form 4-023c), which will be furnished with the application, in some conspicuous place on the land from which the timber is proposed to be cut, describing the land and designating the amount and kind of timber that has been applied for and the date on or before which the cutting must be completed. Unless the timber is cut and prepared for removal within one year from the date of the filing of the application, all rights thereunder will be forfeited. The application contains a statement to the effect that this requirement will be fulfilled, and neglect on the part of the applicant to fulfill it will be deemed a sufficient ground for revocation of the right to cut and remove any timber under the application. The description in the notice should be identical with the description in the application. This requirement has been adopted in order that others who may desire to file applications to purchase timber or to enter the lands may have notice that the timber has been sold.

#### MINIMUM PRICE FOR WHICH TIMBER WILL BE SOLD—PAYMENTS

5. All timber will be sold hereunder at a reasonable stumpage value. The following rates have been fixed as the minimum rates for which the various kinds of timber will be sold: \$1 per 1,000 feet b. m. for Sitka spruce, hemlock, and red cedar; \$2.50 per 1,000 feet b. m. for yellow cedar; one-half cent per linear foot for piling 50 feet or less in length up to a top diameter of 7 inches; three-fourths cent per linear foot for piling between 50 and 80 feet in length up to a top diameter of 8 inches; 1 cent per linear foot for piling over 80 feet in length up to a top diameter of 8 inches; 50 cents per cord for shingle bolts and cooperage stock; 25 cents per cord for wood suitably only for fuel or mine lagging. A deposit in the sum of \$50, in cash, postal money order, or certified check, where the stumpage value, at the minimum



rate, of the material applied for equals or exceeds that amount, or in a sum representing the full stumpage value, at the minimum rate, where such value is less than \$50, must be made as an evidence of good faith at the time that the application is filed. If a permit shall afterwards be issued, the deposit will be applied to the purchase price of timber. If the issuance of a permit shall be denied and no timber shall have been cut under the application, the amount deposited by the applicant will be returned to him.

After an application is allowed the timber to be sold thereunder will be appraised by an inspector of the Interior Department, and after appraisal said inspector will collect the appraised amount in excess of the sum originally deposited, and give to the applicant a memorandum receipt for the payment, which receipt should be preserved by the applicant until he receives official receipt therefor. The inspector will deposit all such moneys with the proper register or receiver. Official receipts will be issued for all payments made by applicants. All postal money orders must be made payable to the order of the proper register or receiver and must be drawn on the post office where the district land office is located. Checks and bank drafts must be drawn so that they can be cashed without cost to the Government. Postal money orders, checks, and bank drafts are not to be considered as payment for timber until the same are converted into cash, but receipt for the payment will issue as provided in Circular No. 1008 (51 L. D. 148).

#### WHEN CUTTING AND REMOVAL MAY BEGIN

6. As soon as the applicant has filed his application with the receiver, made the requisite initial deposit, and posted notice on the land, he may begin to cut and prepare for removal the timber applied for. As soon as practicable after the filing of an application, a field investigation and appraisal will be made by an inspector of the Interior Department. After such investigation and appraisal shall have been made, and after the applicant has paid to the inspector the excess stumpage value, over and above the sum originally deposited, where there is such excess, the inspector will issue a permit (Form 4-023 b), unless he finds that a permit ought not be issued, authorizing the applicant to remove the timber. If for any reason the inspector is unable to make the investigation and appraisal within 60 days after the filing of an application, he will, if he knows of no objection, issue a permit (Form 4-023 b), and the applicant may then remove the timber, provided that he shall first transmit to the register and receiver the excess stumpage value over and above the sum originally deposited, where there is such excess.

#### LIMITATIONS UPON RIGHTS ACQUIRED UNDER PERMISSION TO CUT TIMBER

7. The permission to cut shall not give the applicant the exclusive right to cut timber from the lands embraced in his application as against any person entitled to the free use of timber under the provisions of the act, unless the area described in the application is limited to 40 acres and, if the lands be unsurveyed, the boundaries thereof are blazed or otherwise marked by him sufficiently to be identified. The cutting of immature timber will not be permitted

under these rules and regulations. The timber authorized to be cut under these rules and regulations must be cut and prepared for removal within one year from the date of the filing of the application. Sales of timber will not be authorized unless there is a necessity for the use of the timber within two years from the date of the authorization to cut.

#### LIMITATIONS WITH REFERENCE TO AREA—EXCEPTIONS

8. Withdrawals have been made for various purposes from time to time within the Territory of Alaska since its purchase by the United States. These rules and regulations are not applicable to the free use or purchase of timber upon such withdrawn areas, unless an exception be made in the order of withdrawal or it is evident from the spirit and intent of the withdrawal order that such exception was intended. By the act of March 4, 1915 (38 Stat. 1214), sections 16 and 36 in each township were granted to the Territory for school purposes and section 33 in each township in the Tanana Valley between parallels 64 and 65 degrees of north latitude, and between 145 and 152 degrees of west longitude, and sec. 6, T. 1 S., R. 1 W.; sec. 31, T. 1 N., R. 1 W.; sec. 1, T. 1 S., R. 2 W.; and sec. 36, T. 1 N., R. 2 W., Fairbanks meridian, were reserved in aid of the Territorial agricultural college and school of mines when established by the Territorial legislature. The timber upon lands reserved for educational purposes will not be subject to disposition hereunder. Alaskan withdrawal No. 1 and Alaska town-site withdrawals Nos. 1 to 9, inclusive, have been amended so as to permit of the use or purchase of timber within the area of those withdrawals, and the Executive orders establishing Alaskan timber reserve No. 1, pursuant to the act of March 12, 1914 (38 Stat. 305), expressly state that such timber as shall not be needed for the construction of Alaskan Government-owned railroads may be disposed of by the Secretary of the Interior. Persons who desire to use or purchase timber on lands within Alaskan timber reserve No. 1 should first inquire of The Alaska Railroad, Anchorage, Alaska, as to whether or not the particular timber which they desire is needed by that railroad, and in the event that said timber is not so needed, applications may be filed for the same in manner as hereinbefore provided. The information to be supplied by the applicant in the fulfillment of the requirements set forth in subdivision (d) section 3 of these rules and regulations should contain statements to the effect that the timber is upon lands within the timber reserve and that The Alaska Railroad will consent to its removal. In such cases applications must be filed irrespective of whether the timber is to be procured under the free-use clause or under the purchase clause of the act.

#### INDIAN AND ESKIMO CLAIMS AND ALLOTMENTS—HOMESTEAD AND MINING CLAIMS

9. All persons desiring to procure timber under these rules and regulations must ascertain whether or not the lands from which they desire to cut are embraced within any allotment approved to an Indian or Eskimo or within any pending application for such allotment, or are within the bona fide legal possession of or occupied by any Indian or Eskimo, and every timber application (Form 4-023)



contains a statement to the effect that the lands described in the application are not within such areas, and said statement must be subscribed to by the applicant and be duly witnessed by two witnesses. The cutting of timber on existing homestead, mining, or other claims is not authorized by these rules and regulations, but when a homestead, mining, or other claim shall have been initiated subsequent to the date of the filing of an application hereunder and posting of notice, as required by paragraph 4, such homestead, mining, or other claimant must take the claim, subject to the right of the timber applicant to cut and remove from the lands described in the application and notice the amount of timber purchased under the terms of the application.

#### FREE USE OF TIMBER FOR ARMY POSTS AND OTHER GOVERNMENTAL PURPOSES

10. Persons contracting with Government officials to furnish firewood or timber for United States Army posts or for other authorized governmental purposes may procure such firewood or timber from the vacant unreserved public lands free of charge, provided that the contracts do not include any charge for the value of the firewood or timber. The filing of an application is not required, but it is advisable for contractors to file applications in order that future complications with reference to charge of trespass may be avoided; and when applications are filed, the terms of the contract agreement, the use to which the timber is to be put, and a statement to the effect that no charge is to be made for the stumpage value of the material should be incorporated therein; unless the contract with the Government specifically states that no stumpage has been charged, it will be presumed that a charge has been made and the contractor must pay stumpage for the wood.

#### PREVENTION AGAINST WASTE—PRECAUTION AGAINST FOREST FIRES

11. The cutting of timber under these rules and regulations shall be done in such a manner as to prevent unnecessary waste. All trees shall be utilized to as low a diameter in the tops as possible, and stumps shall be cut as close to the ground as conditions will permit. All brush, tops, lops, and other forest debris made in felling and removing the timber shall be disposed of as best adapted to the protection of the remaining growth and in such manner as shall be prescribed by the inspector who has charge of the investigation. Every precaution shall be taken to prevent forest fires, and persons taking timber hereunder shall assist in suppressing such fires within the areas covered by their applications.

#### EXAMINATION BY INSPECTORS

12. At convenient times during cutting, or after any sale, the inspector will examine the lands cut over and submit a report or reports to the Commissioner of the General Land Office as to compliance with the terms of the sale, and if he finds that the cutting is being done in violation of the terms of sale he will immediately stop the cutting and report the matter for action. Special instructions have been issued for the guidance of the inspectors, who are to appraise timber and supervise its cutting and removal.

SALE OF TIMBER FOR EXPORTATION FROM ALASKA<sup>j</sup>

Authority for the exportation of timber from Alaska is contained in the act of April 12, 1926 (44 Stat. 242), and the following regulations are prescribed thereunder:

## SMALL-QUANTITY SALES

1. Sales of timber to be cut for export may be made pursuant to the procedure and under the conditions set forth in the existing rules and regulations<sup>41</sup> where quantities are such as will be disposed of from year to year, and the purchases are made by those who do not contemplate large-scale production and an expenditure of large sums of money for developing enterprises for the exportation of such timber.

## LARGE-QUANTITY SALES

2.<sup>k</sup> Sales of timber suitable for manufacturing purposes are hereby authorized in quantities, if found available, sufficient to supply a mill or proposed mill for a period of as much as 10 years, when it is satisfactorily shown that the purchaser in good faith intends to develop an enterprise for the cutting of this class of timber for export from Alaska and the sale does not endanger the supply of such timber for local use. The amount of timber that any one purchaser will be permitted to purchase under this provision and the period of the contract will be governed by the capacity of the mill and the estimated quantity that it will be capable of producing during the period covered by the contract of sale. When a 10 years' supply is sold the period within which the same must be cut (10 years) will begin to run from the time that the contract of sale is executed, if the manufacturing plant has been built, or from the time that the mill has been constructed and ready to begin operations if it is to be built, but in no case will more than two years be allowed for construction, and each contract shall contain a provision that all rights acquired thereunder shall be forfeited if operations have not been commenced within three years from the date of execution of the contract, unless, upon satisfactory showing the Secretary of the Interior, shall, in his discretion, excuse the delay. Commencement of operations in this sense will be construed as a bona fide commencement of actual cutting of timber in quantity sufficient to show that it is the purpose of the purchaser to fulfill the conditions of the contract and that it was not entered into merely for speculative purposes.

## APPLICATIONS TO PURCHASE

3. Applications to purchase timber for export from Alaska pursuant to the foregoing act of Congress must be filed in duplicate in the United States land office for the district wherein the lands to be cut over are situated and should show: (a) Name, post-office address, residence, and business location of applicant; (b) amount or

<sup>41</sup> See p. 256.

<sup>j</sup> The instructions under this heading are based on Circular No. 1092, not carried in this publication. The forms contained in Circular No. 1092 have not been reproduced herein. The instructions have been amended by Circulars Nos. 1184, p. 279 and 1198, p. 282.

<sup>k</sup> See amendment, p. 282.



approximate amount of board feet of timber that the applicant desires to purchase; (c) a description by legal subdivision or subdivisions, if surveyed, or by metes and bounds with reference to some permanent natural landmark, if unsurveyed, and the area or approximate area of the land from which the timber is to be cut, and if the lands are within the area (Alaskan Timber Reserves) withdrawn pursuant to the act of March 12, 1914 (38 Stat. 305), in aid of the construction of the Alaskan Government-owned railroads it should be so stated, and evidence of consent previously obtained from The Alaska Railroad should be filed with the application; (d) whether or not the applicant is prepared to commence cutting immediately, and if not, approximately how long before timber cutting operations will be commenced; (e) <sup>42</sup> the estimated annual capacity of the mill or proposed mill, and the amount of money invested or to be invested in the establishment of the enterprise, accompanied by evidence as to the financial standing of the applicant, and a statement showing the general plan of operation and the purpose for which the timber is to be used. The sum of \$200 must be deposited with each application as an evidence of good faith and for the purpose of helping to defray the cost of appraisal. If the sale is consummated, the amount of the deposit will be credited on the purchase price without deduction for the cost of appraisal.

#### PUBLICATION AND POSTING—MARKING OF LAND

4. Immediately upon the filing of an application to purchase timber under section 2 of these rules and regulations a notice shall be published at the expense of the applicant in a newspaper designated by the register, published in the vicinity of the land from which the timber is to be cut and most likely to give notice to the general public once a week for a period of five consecutive weeks, if in a weekly paper, or if a daily paper for a period of 30 days.<sup>l</sup> The description of the land in the notice must be identical with the description in the application. The register and receiver will post a copy of said notice in a conspicuous place in their office during the period of publication. Upon the execution of a contract, the purchaser shall, if the lands from which the timber is to be cut are unsurveyed, cause the boundaries to be blazed or otherwise marked in order that they may be identified. This requirement has been adopted in order that others who may subsequently desire to purchase timber or to settle upon or enter the land may have notice that the timber has been applied for.

#### ACTION ON APPLICATION

5.<sup>m</sup> The district officers will make appropriate notations upon the records of their office and transmit the application to the Commissioner of the General Land Office, and at the same time transmit the duplicate to the Division Inspector at Anchorage, Alaska, or to an inspector located in the particular land district who shall have been designated by the Division Inspector to make appraisals. Upon receipt of the same the latter will without delay cause the timber

<sup>42</sup> See amendment, p. 279.

<sup>l</sup> See instructions of Oct. 19, 1929, p. 1149.

<sup>m</sup> See amendment, p. 283.

applied for to be examined and appraised. The appraisal rates will be based upon a fair stumpage rate taking into consideration the quality of the timber and its accessibility to market. In no event will any timber suitable for manufacturing purposes be appraised at less than \$1 per thousand feet, board measure. After an examination and appraisal has been made the Division Inspector will at once submit his report and recommendation to the Commissioner of the General Land Office, together with a statement of facts showing whether such sale would endanger the supply of timber for local use. The Government reserves the right to reappraise the remaining standing timber at the expiration of five years from the date of commencement of the timber cutting period as set forth in paragraph 2 hereof, but in no instance shall the appraisal be at more than double the rate of the original appraisal.

#### EXECUTION OF CONTRACT—BOND REQUIRED

6. Upon receipt of a report that such sale appears warranted the Commissioner of the General Land Office will notify the applicant of the result of the appraisal and advise him that he will be allowed 30 days from receipt of such notice within which to enter into a contract with the Government through the Commissioner of the General Land Office as its agent, subject to the approval of the Secretary of the Interior, to purchase the timber applied for pursuant to the rules and regulations of the Department pertaining thereto, and shall execute and file therewith a bond in a sum equal to 50 per cent of the stumpage value of the estimated amount of timber to be cut during each year of the contract. The said bond to have as surety a bonding company shown on an approved list issued by the Treasury Department, and shall be conditioned on the payment for the timber in accordance with the terms of the contract and to the faithful performance of the contract in other respects and to observance of the rules and regulations pursuant to which the sale is made. Forms of contract and bond to be used hereunder are printed as a part of Circular No. 1092.<sup>n</sup> All contracts and bonds executed hereunder must be approved by the Secretary of the Interior.

#### PROVISIONS TO BE INSERTED IN CONTRACT

7.<sup>o</sup> All contracts shall contain provisions against waste and precaution against forest fires. The Government may reserve the right to insert in a contract a provision authorizing the disposition for local use of timber that is not suitable for manufacturing purposes upon the area described in the contract, to another or others pursuant to the provisions set forth in sections 1 and 2, page 257 hereof. Contracts entered into under these rules and regulations will also be subject to the right of qualified persons to settle upon or enter the lands under the provisions of the homestead laws, but such settlers or homesteaders shall not have any title to or interest in the timber purchased under the contract or be permitted to interfere with the purchaser's operations incident to the cutting and removal of the timber.

<sup>n</sup> See footnote j, p. 262.

<sup>o</sup> See amendment, p. 283.



## RENEWALS OF CONTRACT

8.<sup>p</sup> At the expiration of a contract a new contract may be entered into for a period of five years, upon the approval of the Secretary of the Interior, where there is sufficient timber available to warrant it. Prior good faith of the purchaser and substantial compliance with the conditions of the expired contract will be given consideration with reference to awarding a new contract. A new appraisal shall be made at that time for the purpose of fixing the stumpage price. Further renewals for five-year periods may be made to the same purchaser upon approval of the Secretary of the Interior.

## LANDS FROM WHICH TIMBER MAY NOT BE SOLD

9. These rules and regulations are not applicable to timber on national forests, Indian or Eskimo claims, or lands otherwise appropriated, reserved, or withdrawn, for any purpose, except where the terms of the reservation or withdrawal order permit.<sup>43</sup>

## FREE USE OF TIMBER BY OIL AND GAS CLAIMANTS

The free use of timber upon oil and gas prospecting permits and leases by permittees and lessees, authorized by the Secretary of the Interior under authority of section 32 of the act of February 25, 1920 (41 Stat. 437), is governed by Circular No. 1048.

## SALE OF DEAD, DOWN, OR DAMAGED TIMBER

The sale of dead or down timber or timber killed or seriously damaged by forest fires, authorized by the act of July 3, 1926 (44 Stat. 890), which amended the act of March 4, 1913 (37 Stat. 1015), is governed by Circular No. 1093, as amended by Circular No. 1112.

## TOWN SITES ENTERED BY TRUSTEE

The entry of public lands in Alaska for town-site purposes, by such trustee or trustees as may be named by the Secretary of the Interior for that purpose, authorized by the act of March 3, 1891 (26 Stat. 1095, 1099), will be governed by the following regulations:

## SURVEY OF EXTERIOR LINES

1. If the land is unsurveyed the occupants must, by application to the public survey office, obtain a survey of the exterior lines of the town site which will be made at Government expense. There must be excluded from the tract to be surveyed and entered for the town site any lands set aside by the district court under section 31 of the act of June 6, 1900 (31 Stat. 321, 332), for use as jail and courthouse sites, also all lands needed for Government purposes or use, together with any existing valid claim initiated under Russian rule.

<sup>p</sup> See amendment, p. 283.

<sup>43</sup> See p. 260, par. 8. and p. 283, par. 9. The administration of the forest reserves was transferred to the Secretary of Agriculture by the act of Feb. 1, 1905 (33 Stat. 628).

## APPOINTMENT OF TRUSTEE

2. When the survey of the exterior lines has been approved, or if the town site is on surveyed land, a petition to the Secretary of the Interior, signed by a majority of the occupants of the land, will be filed in the district office for transmittal to the General Land Office requesting the appointment of trustee and the survey of the town site into lots, blocks, and municipal reservations for public use, the expense thereof to be paid from assessments upon the lots occupied and improved on the date of the approval of final subdivisional town-site survey.

## PAYMENT REQUIRED—AREA ENTERABLE

3. If the petition be found sufficient, the Secretary of the Interior will designate an inspector of the Interior Department as a trustee to make entry of the town site, payment for which must be made at the rate of \$1.25 per acre. If there are less than 100 inhabitants the area of the town site is limited to 160 acres; if 100 and less than 200, to 320 acres; if more than 200, to 640 acres, this being the maximum area allowed by the statute.

## FILING OF APPLICATION—PUBLICATION AND POSTING—SUBMISSION OF PROOF

4. The trustee will file his application and notice of intention to make proof, and thereupon the register will issue the usual notice of making proof, to be posted and published at the trustee's expense, for the time and in the manner as in other cases provided, and proof must be made showing occupancy of the tract, number of inhabitants thereon, character of the land, extent, value, and character of improvements, and that the town site does not contain any land occupied by the United States for school or other purposes or land occupied under any existing valid claim initiated under Russian rule.

## MONEYS TO BE ADVANCED BY LOT OCCUPANTS

5. The occupants will advance a sufficient amount of money to pay for the land and the expenses incident to the entry, to be refunded to them when realized from lot assessments.

## CONTESTS AND PROTESTS

6. Applications for entry will be subject to contest or protest as in other cases.

## SUBDIVISION OF LAND

7. After the entry is made the town site will be subdivided by a United States deputy surveyor into blocks, lots, streets, alleys, and municipal public reservations. The expense of such survey will be paid from the appropriation for surveys in Alaska reimbursable from the lot assessments when collected.

## STATUS OF INDIAN OCCUPANTS

8. Indian or native Alaskan occupants who have secured certificates of citizenship under the Territorial laws of Alaska shall be



treated in all respects like white citizen occupants; but all land occupied by other Indians or Alaskan natives shall not be assessed by the trustee.

#### LOT ASSESSMENTS

9. The trustee will make a valuation of each occupied or improved lot in the town site, and thereupon assess upon such lots and blocks according to their value such rate and sum as will be necessary to pay all expenses incident to the execution of his trust which have accrued up to the time of such levy. More than one assessment may be made if necessary to effect the purpose of said act of Congress and these instructions.

#### PUBLICATION OF NOTICE TO LOT OCCUPANTS

10. On the acceptance of the plat by the General Land Office the trustee will publish a notice that he will, at the end of 30 days from the date thereof, proceed to award the lots applied for, and that all lots for which no applications are filed within 120 days from the date of said notice will be subject to disposition to the highest bidder at public sale. Only those who were occupants of lots or entitled to such occupancy at the date of the approval of final subdivisional town-site survey, or their assigns thereafter, are entitled to the allotments herein provided. Minority and coverture are not disabilities.

#### APPLICATIONS FOR DEEDS

11. Claimants should file their applications for deeds, setting forth the grounds of their claims for each lot applied for, which should be verified by their affidavits and corroborated by two witnesses. Such affidavits may be subscribed and sworn to before any officer authorized to administer oaths.

#### ISSUANCE OF DEEDS—PROCEDURE ON CONFLICTING APPLICATIONS

12. Upon receipt of the patent and payment of the assessments the trustee will issue deeds for the lots. The deeds will be acknowledged before an officer duly authorized to take acknowledgements of deeds at the cost of the grantee. In case of conflicting applications for lots the trustee, if he considers it necessary, may order a hearing, to be conducted in accordance with the rules of practice. No deed will be issued for any lot involved in a contest until the case has been finally closed. Appeals from any decision of the trustee or from decisions of the General Land Office may be taken in the manner provided by the rules of practice.

#### PUBLIC SALE OF UNCLAIMED LOTS

13. After deeds have been issued to the parties entitled thereto the trustee will publish or post notice that he will sell, at a designated place in the town and at a time named, to be not less than 30 days from date, at public outcry, for cash, to the highest bidder, all lots and tracts remaining unoccupied and unclaimed at the date of the approval of final subdivisional town-site survey, and all lots and tracts claimed and awarded on which the assessments have not

been paid at the date of such sale. The notice shall contain a description of the lots and tracts to be sold, made in two separate lists, one containing the lots and tracts unclaimed at the date of the approval of final subdivisional town-site survey and the other the lots and tracts claimed and awarded on which the assessments have not been paid. Should any delinquent allottee, prior to the sale of the lot claimed by him, pay the assessments thereon, together with the pro rata cost of the publication and the cost of acknowledging deed, a deed will be issued to him for such lot, and the lot will not be offered at public sale. Where notice by publication is deemed advisable the notice will be published for 30 days prior to the date of sale, and in any event copies of such notice shall be posted in three conspicuous places within the town site. Each lot must be sold at a fair price, to be determined by the trustee, and he is authorized to reject any and all bids. Lots remaining unsold at the close of the public sale in an unincorporated town may again be offered at a fair price if a sufficient demand appears therefor.

#### FINAL REPORT OF TRUSTEE—DISPOSITION OF UNEXPENDED MONEYS

14. Immediately after the public sale the trustee will make and transmit to the General Land Office his final report of his trusteeship, showing all amounts received and paid out and the balance remaining on hand derived from assessments upon the lots and from the public sale. The proceeds derived from such sources, after deducting all expenses, may be used by the trustee on direction of the Secretary of the Interior, where the town is unincorporated, in making public improvements, or, if the town is incorporated, such remaining proceeds may be turned over to the municipality for the use and benefit thereof. After the public sale and upon proof of the incorporation of the town all lots then remaining unsold will be deeded to the municipality, and all municipal public reserves will, by a separate deed, be conveyed to the municipality in trust for the public purposes for which they were reserved.

#### RECORDS TO BE KEPT BY TRUSTEE

15. The trustee shall keep a tract book of the lots and blocks, a record of the deeds issued, a contest docket, and a book of receipts and disbursements.

#### DISPOSITION OF RECORDS ON COMPLETION OF TRUST

16. The trustee's duties having been completed, the books of accounts of all his receipts and expenditures, together with a record of his proceedings as hereinbefore provided, with all papers, other books, and everything pertaining to such town site in his possession and all evidence of his official acts shall be transmitted to the General Land Office to become a part of the records thereof, excepting from such papers, however, in case the town is incorporated, the subdivisional plat of the town site, which he will deliver to the municipal authorities of the town, together with a copy of the town site tract book or books, taking a receipt therefor to be transmitted to the General Land Office.



## TOWN SITES RESERVED BY THE PRESIDENT

Town sites in Alaska may be reserved by the President and sold as provided for in sections 2380 and 2381, United States Revised Statutes, and in the instructions under said sections contained in Circular No. 1122, approved April 27, 1927 (52 L. D. 106).

INDIAN POSSESSIONS IN TRUSTEE TOWNS—NATIVE TOWNS<sup>v</sup>

The act of May 25, 1926 (44 Stat. 629), provides for the town-site survey and disposition of public lands set apart or reserved for the benefit of Indian or Eskimo occupants in trustee town sites in Alaska who have not secured certificates of citizenship under the laws of Alaska and for the survey and disposal of the lands occupied as native towns or villages, and section 4 of the act authorizes the Secretary of the Interior to prescribe appropriate regulations. Accordingly, the following regulations are issued:

## DIVISION INSPECTOR TO ACT AS TRUSTEE IN ESTABLISHED TOWNS

1. As to trustee town sites in Alaska established under authority of section 11 of the act of March 3, 1891 (26 Stat. 1095), and for which the town-site trustee has heretofore closed his accounts and been discharged as trustee, the division inspector for Alaska, whose address is now Anchorage, Alaska, is hereby appointed town-site trustee and authorized to perform all necessary acts and to administer the necessary trusts in connection with the act of May 25, 1926.

As to other trustee town sites in Alaska, the division inspector for Alaska is now the duly appointed and acting town-site trustee, and for such towns he will perform all necessary acts and administer the necessary trusts in connection with the act of May 25, 1926, in addition to his other duties as trustee.

## SURVEY AND DISPOSAL OF INDIAN OR ESKIMO POSSESSIONS

2. Where the matter of surveying and disposing of Indian or Eskimo possessions in trustee town sites is hereafter taken up for consideration the town-site trustee will submit a report to the Commissioner of the General Land Office showing whether or not it would be of interest to the Indian or Eskimo occupants of the land to extend the established streets and alleys of the town site upon and across the tract and whether or not subdivisional surveys should be made. The report will be examined and considered by the Commissioner of the General Land Office, and he will transmit it to the Secretary of the Interior with such recommendation as he may deem appropriate.

Before directing the survey and disposal of such Indian or Eskimo possessions under authority of the act of May 25, 1926, the Secretary of the Interior will determine whether or not the patent which issued for the townsite tract includes the tract designated as "Indian possessions." If it does not, a supplemental patent will be issued, to accompany the departmental order for survey and disposal.

<sup>v</sup> The instructions under this heading are based in part on Circular No. 1082, not carried in this publication.

## SALE OF LAND FOR WHICH RESTRICTED DEED HAS ISSUED

3. If the parties to a proposed sale involving land for which a restricted deed has been issued under authority of the act of May 25, 1926, wish to have the sale approved by the Secretary of the Interior, the facts should first be submitted to the division inspector. Upon receiving information regarding any proposed sale, the division inspector, in his capacity as trustee, will make such investigation as he deems proper, and he will submit a report to the Commissioner of the General Land Office as to the advisability of approving the proposed sale. The report will be examined by the Commissioner and he will transmit it to the Secretary of the Interior with appropriate recommendation.

## NATIVE TOWNS

4. The division inspector for Alaska is also hereby designated as trustee for any and all native towns in Alaska which may be established and surveyed under authority of section 3 of the said act of May 25, 1926, and as such trustee he will take such action as may be necessary to accomplish the objects sought to be accomplished by that section. In any case in which he thinks it would be of advantage to the Indian or Eskimo occupants to have the lands occupied and claimed by them surveyed as town or village, he should bring the matter to the attention of the Commissioner of the General Land Office with appropriate recommendation.

## PAYMENT—PUBLICATION—PROOF FOR NATIVE TOWNS

5. In connection with the entry of lands as a native town or village under section 3 of the said act of May 25, 1926, no payment need be made as purchase money or as fees, and the publication and proof which are ordinarily required in connection with trustee town sites will not be required.

## PROVISIONS TO BE INSERTED IN RESTRICTED DEEDS

6. The town-site trustee will note a proper reference to the act of May 25, 1926, on each deed which is issued under authority of that act and each such deed should provide that the title conveyed is inalienable except upon approval of the Secretary of the Interior, and that the issuance of the restricted deed does not subject the tract to taxation, to levy and sale in satisfaction of the debts, contracts, or liabilities of the transferee, or to any claims of adverse occupancy or law of prescription; also, if the established streets and alleys of the town site have been extended upon and across the tract, that there is reserved to the town site the area covered by such streets and alleys as extended. The deed should further provide that the approval by the Secretary of the Interior of a sale by the Indian or Eskimo transferee shall vest in the purchaser a complete and unrestricted title from the date of such approval.

## NATIVE TOWNS OCCUPIED PARTLY BY WHITE LOT OCCUPANTS

7. Native towns which are occupied partly by white lot occupants will be surveyed and disposed of under the provisions of both the act



of March 3, 1891 (26 Stat. 1095, 1099), and the act of May 25, 1926 (44 Stat. 629).

In each case of this kind the division inspector for Alaska will report the facts to the Commissioner of the General Land Office, showing the name and location of the town, the number of Indian or Eskimo lot occupants and the number of white lot occupants, the amount of land used or claimed by each and the approximate periods for which it has been used or claimed, the value of the improvements on the lands and by whom owned, and such other facts as he may deem appropriate.

Upon receipt of such report special instructions will be issued as to the procedure which should be followed with respect to the survey, entry, and disposal of the lands, assessment of costs, etc.

#### FORMS

8. The following forms have been issued for use in connection with the foregoing regulations: (a) Application for deed by native Indian or Eskimo of Alaska, Form 4-231; (b) trustee's deed to native Indian or Eskimo of Alaska, Form 4-232; and (c) deed of native Indian or Eskimo of Alaska, Form 4-232 a.

### TOWN SITES ALONG THE ALASKA RAILROAD

#### EXECUTIVE ORDER <sup>r</sup>

##### ALASKAN RAILROAD TOWN-SITE REGULATIONS

Under and pursuant to the provisions of the act of Congress approved March 12, 1914 (38 Stat. 305), entitled "An act to authorize the President of the United States to locate, construct, and operate railroads in the Territory of Alaska, and for other purposes," it is hereby ordered that the administration of that portion of said act relating to the withdrawal, location, and disposition of town sites shall be in accordance with the following regulations and provisions, to wit:

#### RESERVATIONS

The Alaskan Engineering Commission will file with the Secretary of the Interior, when deemed necessary, its recommendations for the reservation of such areas as in its opinion may be needed for town-site purposes. The Secretary of the Interior will thereupon transmit such recommendations to the President with his objections thereto or concurrence therewith. If approved by the President, the reservation will be made by Executive order.

#### SURVEY

When in the opinion of the Secretary of the Interior the public interests require a survey of any such reservation, he shall cause to be set aside such portions thereof for railroad purposes as may be selected by the Alaskan Engineering Commission, and cause the remainder, or any part thereof, to be surveyed into urban or suburban blocks and lots of suitable size, and into reservations for parks, schools, and other public purposes and for Government use. Highways should be laid out, where practicable, along all shore lines, and sufficient land for docks and wharf purposes along such shore lines should be reserved in such places as there is any apparent necessity therefor. The survey will be made under the supervision of the Commissioner of the General Land Office, and the plats will be approved by him and by the chairman of the Alaskan Engineering Commission.

<sup>r</sup> Amended by Executive Order of June 12, 1929 (No. 5136), p. 282.

## PREFERENCE RIGHT

Any person residing in a reserved town site at the time of the subdivisional survey thereof in the field and owning and having valuable and permanent improvements thereon, may, in the discretion of the Secretary of the Interior, be granted a preference right of entry, of not exceeding two lots on which he may have such improvements by paying the appraised price fixed by the superintendent of sale, under such regulations as the Secretary of the Interior may prescribe. Preference right, proof, and entry, when granted, must be made prior to the date of the public sale.

## PUBLIC SALE

The unreserved and unsold lots will be offered at public outcry to the highest bidder at such time and place, and after such publication of notice, if any, as the Secretary of the Interior may direct, and he may appoint or detail some suitable person as superintendent of sale to supervise the same and may fix his compensation and require him to give sufficient bond.

## SUPERINTENDENT'S AUTHORITY

Under the supervision of the Secretary of the Interior, the superintendent of the sale will be, and he is hereby, authorized to make all appraisements of lots and at any time to reappraise any lot which in his judgment is not appraised at the proper amount, or to fix a minimum price for any lot below which it may not be sold, and he may adjourn, or postpone, the sale of any lots to such time and place as he may deem proper.

## MANNER AND TERMS OF PUBLIC SALE

The Secretary of the Interior shall by regulations prescribe the manner of conducting the public sale, the terms thereof, and forms therefor, and he may prescribe what failures in payment will subject the bidder or purchaser to a forfeiture of his bid or right to the lot claimed and money paid thereon. The superintendent of sale will at the completion of the public sale deposit with the receiver of the proper local land office the money received and file with its officers the papers deposited with him by said bidder, together with his certificate as to successful bidder.

If it be deemed advisable, the Commissioner of the General Land Office may direct the receiver of public moneys of the proper district to attend sales herein provided for, in which event the cash payment required shall be paid to the said receiver.

## ANCHORAGE, MATANUSKA, AND NENANA TOWN SITES

Unsold and forfeited lands in the town sites of Anchorage, Matanuska, and Nenana, upon which assessments for the improvements of streets, sidewalks, alleys, and for promotion of sanitation and fire protection have been levied by the Alaskan Engineering Commission and the assessments or any portion thereof remain unpaid shall be subject to such unpaid assessments and the purchaser shall pay the same in the manner the Secretary of the Interior may by regulations provide, and the proceeds of such assessments will be deposited with the Alaskan Engineering Commission, as a reimbursement to the operating expense fund as provided in section 3 of the act of March 12, 1914 (38 Stat. 305). See 22 Comp. Dec. 604. Hereafter no such assessments by said commission will be levied.

In cases where one of a number of joint purchasers of a lot has made or may hereafter make all payments of his pro rata share of the purchase price and assessments on the lot, such lot may, in the event of forfeiture being declared, and in the discretion of the Secretary of the Interior, be resubdivided and a preference right of purchase given to the person who has made all payments on his portion thereof, such preference right to be confined to the portion of the original lot held and claimed by such person. This privilege may be extended to a transferee of an original purchase.

Final certificate may issue in these town sites in all cases, when the purchase price and assessments are paid in full without regard to date of purchase.



## COMMISSION BUILDING ON LOTS

Buildings belonging to the Alaskan Engineering Commission situated on a lot in any town site may be appraised and sold separate and apart from the lot on which located, under regulations provided by the Secretary of the Interior for the same and for the removal of the buildings. The proceeds for the sale of such buildings shall be paid to the Alaskan Engineering Commission as a reimbursement to its operating account.

## PRIVATE ENTRY

Lots offered at public sale and not sold and lots offered and declared forfeited in a town site may, in the discretion of the Secretary of the Interior, be sold at private entry for the appraised price.

## ORDERS REVOKED

All Executive orders heretofore issued for the disposition of town sites along the Government railroads in Alaska are hereby revoked so far as they conflict with the foregoing provisions. This order is intended to take the place of all other orders making provisions for the sale and disposal of lots in said town sites along Government railroads in Alaska under the provisions of said act.

WARREN G. HARDING.

THE WHITE HOUSE.

June 10, 1921.

(No. 3489)

NOTE.—The designation of the "Alaskan Engineering Commission" has been changed to "The Alaska Railroad." All matters which formerly were under the control of the chairman of said commission are now under the supervision of the general manager of the said railroad.

## EXECUTIVE ORDER

## AMENDING ALASKAN RAILROAD TOWN-SITE REGULATIONS

Under and pursuant to the provisions of the act of Congress, approved March 12, 1914 (38 Stat. 305), it is ordered that Executive Order No. 3489, issued June 10, 1921, be, and the same is hereby, amended to authorize and empower the Alaskan Engineering Commission to levy and collect assessments for town-site expenses for the town site of Nenana, for the improvements of streets, sidewalks, alleys, and for promotion of sanitation and fire protection, for the period from July 1, 1920, to August 31, 1921.

WARREN G. HARDING..

THE WHITE HOUSE.

August 9, 1921.

(No. 3529)

## TRADE AND MANUFACTURING SITES

1. Section 10 of the act of May 14, 1898 (30 Stat. 413), authorizes the sale at the rate of \$2.50 per acre of not exceeding 80 acres of land as a trade and manufacturing site.

## EXECUTION OF APPLICATION

2. Application for a trade and manufacturing site should be executed in duplicate and should be filed in the proper district land office. It must be sworn to by the applicant and must be corroborated by the affidavits of two persons. It may be executed before any officer authorized to administer oaths in homestead cases in Alaska.<sup>44</sup>

<sup>44</sup> See p. 209, par. 7.

## QUALIFICATIONS OF APPLICANT

3. An application must show that the applicant is a citizen of the United States and 21 years of age, and that he has not theretofore applied for land as a trade and manufacturing site. If such site has been applied for and the application not completed, the facts must be shown. If the application is made for an association of citizens or a corporation, the qualifications of each member of the organization must be shown. In the case of a corporation, proof of incorporation must be established by the certificate of the officer having custody of the records of incorporation at the place of its formation and it must be shown that the corporation is authorized to hold land in Alaska.

## DESCRIPTION OF LAND IN APPLICATION

4. If the land be surveyed, it must be described in the application according to legal subdivisions of the public-land surveys. If it be unsurveyed, the application must describe it by approximate latitude and longitude and otherwise with as much certainty as possible without survey.

## FORM OF ENTRY

5. Claims initiated by occupancy after survey must conform thereto in occupation and application, but if the public surveys are extended over the lands after occupancy and prior to application, the claim may be presented in conformity with such surveys, or, at the election of the applicant, a special survey may be had.

## FACTS WHICH MUST BE SHOWN IN APPLICATION

6. The application to enter must show:

(1) That the land is actually used and occupied for the purpose of trade, manufacture or other productive industry, when it was first so occupied, the character and value of the improvements thereon and the nature of the trade, business or productive industry conducted thereon and that it embraces the applicant's improvements and is needed in the prosecution of the enterprise. A site for a prospective business can not be acquired under section 10 of the act of May 14, 1898 (30 Stat. 413).

(2) That no portion of the land is occupied or reserved for any purpose by the United States or occupied or claimed by natives of **Alaska**; that the land is unoccupied, unimproved, and unappropriated by any person claiming the same other than the applicant.

(3) That the land does not abut more than 80 rods of navigable water.

(4) That the land is not within a distance of 80 rods along any such water from any location theretofore made with soldiers' additional rights, or as a trade and manufacturing site, homestead, Indian or Eskimo allotment, or school indemnity selection, or that it has been restored from reservation.<sup>45</sup>

(5) That the land is not included within an area which is reserved because of springs or water holes thereon. All facts relative to

<sup>45</sup> See p. 244.



medicinal or other springs or water holes must be stated, as set forth in paragraph 3 under the heading "Springs and Water Holes."<sup>46</sup>

(6) That no part of the land is valuable for coal, oil, gas, or other valuable mineral deposits and that at the date of the location no part of the land was claimed under the mining laws.

#### ACTION ON APPLICATION—REPORT OF DIVISION INSPECTOR

7. Upon receipt of the application, the register and receiver will note its filing, assign a current serial number thereto and transmit the original copy, unallowed, together with the accompanying papers, to the General Land Office. They will forward the duplicate copy of the application to the division inspector for report. With each copy they will report the status of the land as shown by their records.

The report of the division inspector will be made to the General Land Office and it should show whether the lands contain valuable deposits of coal, oil, gas, or other minerals, whether they have power or reservoir possibilities, whether they are within an area which is reserved because of hot, medicinal, or other springs, or water holes, and any other facts deemed appropriate.

#### APPLICATION FOR SURVEY

8. If the land applied for be unsurveyed and no objection to its survey is known to the register and receiver, they will furnish the applicant with a certificate to the cadastral engineer in charge of the public survey office stating the facts, and, after receiving such certificate, the applicant may make application to the public survey office for the survey of the land. The register and receiver will advise the public survey office of the issuance of the certificate, and, unless the applicant promptly makes application for the survey, the public survey office will report the facts to the General Land Office for such action as may be deemed proper.

#### SURVEY—PUBLICATION AND POSTING—ADVERSE CLAIMS—PROOF OF PUBLICATION AND POSTING

9. The instructions given under the above headings in connection with applications for soldiers' additional homestead entries will be followed in connection with trade and manufacturing sites.<sup>47</sup>

#### ALLOWANCE OF ENTRY AND ISSUANCE OF FINAL CERTIFICATE

10. The application and proofs filed therewith, and the report of the division inspector thereon, will be carefully examined in the General Land Office, and, if all be found regular, the register will be instructed to allow the application and to issue final certificate thereunder, upon payment for the land being made at the rate of \$2.50 per acre, and in the absence of objections shown by his records.

#### HOMESTEADS OR HEADQUARTERS<sup>8</sup>

1. The act of March 3, 1927 (44 Stat. 1364), authorizes the sale as a homestead or headquarters of not to exceed 5 acres of unreserved

<sup>46</sup> See p. 253.

<sup>47</sup> See pp. 250 and 251.

<sup>8</sup> The instructions under this heading are based on Circular No. 1121, not carried in this publication.

public lands in Alaska, not including mineral, coal, oil or gas lands, at the rate of \$2.50 per acre, to any citizen of the United States 21 years of age employed by citizens of the United States, associations of such citizens, or by corporations organized under the laws of the United States, or of any State or Territory, whose employer is engaged in trade, manufacture, or other productive industry in Alaska, and to any such person who is himself engaged in trade, manufacture or other productive industry in Alaska.

#### PURPOSE OF STATUTE

2. The purpose of this statute is to enable fishermen, trappers, traders, manufacturers, or others engaged in productive industry in Alaska to purchase small tracts of unreserved land in the Territory, not exceeding five acres, as homesteads or headquarters.

#### USE OF LANDS

3. Care will be taken in all cases before patent issues to see that the lands applied for are used for the purposes contemplated by the said act of March 3, 1927, and that they are not used for any purpose inconsistent therewith.

#### APPLICATIONS

4. Applications under said act must be filed in duplicate in the district land office within which the land is situated.

Each application must be sworn to by the applicant and must be corroborated by the affidavits of two witnesses, and must show the following facts:

- (1) The age and citizenship of applicant.
- (2) The actual use and occupancy of the land for which application is made for a homestead or headquarters.
- (3) The date when the land was first occupied as a homestead or headquarters.
- (4) The nature of the trade, business, or productive industry in which applicant or his employer, whether a citizen, an association of citizens, or a corporation, is engaged.
- (5) The location of the tract applied for with respect to the place of business and other facts demonstrating its adaptability to the purpose of a homestead or headquarters.
- (6) That no portion of the tract applied for is occupied or reserved for any purpose by the United States, or occupied or claimed by any natives of Alaska, or occupied as a town site or missionary station or reserved from sale, and that the tract does not include improvements made by or in possession of another person, association, or corporation.
- (7) That the land is not within a distance of 80 rods along any navigable water from any location theretofore made with soldiers' additional rights, or as a trade and manufacturing site, homestead, Indian or Eskimo allotment, or school indemnity selection, or that it has been restored from reservation.<sup>48</sup>
- (8) That the land is not included within an area which is reserved because of springs or water holes thereon. All facts as to medicinal

<sup>48</sup> See p. 244.



or other springs or water holes must be stated, as set forth in paragraph 3 under the heading "Springs and Water Holes."<sup>46</sup>

(9) That no part of the land is valuable for coal, oil, gas, or other valuable mineral deposits and that at the date of location no part of the land was claimed under the mining laws.

#### OTHER REQUIREMENTS

5. In the matter of procedure, applications for homesteads or headquarters will be governed by the instructions given under the heading "Trade and Manufacturing Sites."<sup>49</sup>

#### WATER-POWER LANDS

Applications for other than power purposes which conflict in whole or in part with lands reserved or classified as power sites, or covered by power applications under the act of June 10, 1920 (41 Stat. 1063), known as "The Federal Water Power Act," will be acted upon and disposed of in accordance with instructions under section 24 of the act contained in Circular No. 729 (47 L. D. 595).

THOS. C. HAVELL,  
*Acting Commissioner.*

Approved.

E. C. FINNEY,  
*First Assistant Secretary.*

(Acts omitted.)

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#### CIRCULAR NO. 1181

#### METES AND BOUNDS DESCRIPTION OF LAND TO BE OMITTED IN PROOF NOTICES FOR CERTAIN CLAIMS IN ALASKA.—CIRCULAR NO. 491 AMENDED

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
*Washington, February 19, 1929.*

*Registers and Receivers, Anchorage, Fairbanks, and Nome, Alaska.*

SIRS: The requirements with reference to publication of proof notices in homestead cases in Alaska, where a special survey has been made, are set forth in paragraph 25, page 33, of Circular No. 491, approved February 24, 1928.<sup>50</sup> The requirements of the law with reference to publication are contained in section 10 of the act of May 14, 1898 (30 Stat. 409, 414). These requirements are applicable to homestead entries, soldiers' additional entries, and trade and manufacturing sites.

In Alaska, in the classes of entries mentioned, the important feature of proof notices is to inform all interested parties of the geographical location of the land, and the information should be given in such a way that the people who read the notice will be able to interpret it properly. The metes and bounds description is technical, and not generally understood. Hence, in these cases, it is not of much value to the general public as a means of identification of land. The metes

<sup>46</sup> See p. 253.

<sup>49</sup> See pp. 273 to 275, inclusive, pars. 2, 4, 5, 7, 8, 9, and 10.

<sup>50</sup> The reference is to paragraph 25, page 33 of Circular No. 491 as issued in pamphlet form, reproduced on p. 214 hereof.

and bounds description adds to the length of the notice and to the cost of the notice to the claimant. The statute does not require the inclusion of such description in the published notice.

Adverse claimants may inform themselves as to the exact location of the land by the markings on the ground or from a copy of a plat of survey which must be filed in the district land office and posted on the land.

It is believed, therefore, that in the cases mentioned, and for the reasons stated, the inclusion of the metes and bounds descriptions in the published notices is objectionable and unnecessary. It is directed, therefore, that hereafter such descriptions be omitted.

In the cases referred to, as a means of identification of the land, the register will cause each notice hereafter issued to give the survey number and area of the claim, with a statement as to the general location of the land. If the survey is not tied to a corner of the rectangular system of the public-land surveys the notice should give the name and number of the location monument to which some corner of the survey is tied, and the course and distance from the location monument to such corner, with approximate latitude and longitude. If the survey is tied to a corner of the rectangular system of the public-land surveys, such corner should be identified by section, township, and range. The statement as to general location will identify the land as shown on the plat of survey or otherwise as the register may deem best. The statement, where possible, should refer to the land in connection with some well-known topographical point or natural object or monument, river, trail, town, mining camp, etc.

Circular No. 491 is hereby amended to agree with the above instructions.

Very respectfully,

WILLIAM SPRY, *Commissioner.*

Approved February 19, 1929.

E. C. FINNEY,  
*First Assistant Secretary.*

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CIRCULAR No. 1183

AMENDING CIRCULARS NOS. 491 AND 1108

DEPARTMENT OF THE INTERIOR,

GENERAL LAND OFFICE,

Washington, March 19, 1929.

*Register and Chief of Field Division, Anchorage, Alaska; Register and Receiver, Fairbanks and Nome, Alaska.*

GENTLEMEN: The regulations governing fur farming in Alaska, issued in pursuance of the act of July 3, 1926 (44 Stat. 821), on January 22, 1927, and amended January 30, 1928, as set forth on pages 17, 18, and 19 of Circular No. 491,<sup>51</sup> approved February 24, 1928, and in Circular No. 1108, are hereby further amended by inserting after :

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<sup>51</sup> The pages referred to are pages in Circular No. 491 as issued in pamphlet form, reproduced on pages 201, 202, and 203 hereof. See footnote, p. 201.



Applications should cover, in substance, the following points, and be under oath:

(a) Applicant's name and post-office address.  
the following:

- (1) Married or single person.
- (2) If married, whether the husband or wife of applicant, as the case may be, is the holder of a lease under said act, or has an application pending.
- (3) If both husband and wife are applicants, proof must be furnished that each is acting solely on his or her separate account and not under any agreement or understanding with the other for joint operation.

Very respectfully,

WILLIAM SPRY, *Commissioner.*

Approved March 19, 1929.

JOHN H. EDWARDS,  
*Assistant Secretary.*

CIRCULAR NO. 1184

AMENDING CIRCULAR NO. 1092, REGULATIONS PERMITTING THE EXPORTATION OF TIMBER FROM ALASKA <sup>52</sup>

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
*Washington, March 20, 1929.*

Circular No. 1092 of August 27, 1926, is hereby amended by substituting for provision (e) of paragraph 3 thereof, the following:

(e) The estimated annual capacity of the mill or proposed mill, and the amount of money invested or to be invested in the establishment of the enterprise, accompanied by evidence as to the financial standing of the applicant and a statement showing the general plan of operation and the purpose for which the timber is to be used. A minimum sum of \$200 must be deposited with each application, as an evidence of good faith and for the purpose of helping to defray the cost of appraisal. The sum of such deposit may be increased when, in the opinion of the Secretary of the Interior, the interests of the Government require that a larger amount be deposited. If the sale is consummated, the amount of the deposit will be credited on the purchase price without deduction for the cost of appraisal. All remittances must be in cash or by certified check or postal money order.

WILLIAM SPRY, *Commissioner.*

Approved March 20, 1929.

JOHN H. EDWARDS, *Assistant Secretary.*

GRANT TO ALASKA FOR AGRICULTURAL COLLEGE AND SCHOOL OF MINES

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
*Washington, June 11, 1929.*

*Register, Anchorage, Alaska; Registers and Receivers, Fairbanks and Nome, Alaska.*

GENTLEMEN: By the act of Congress approved January 21, 1929 (45 Stat. 1091), it is provided as follows:

That in addition to the provision made by the Act of Congress approved March 4, 1915 (Thirty-eighth Statutes at Large, page 1214), for the use and

<sup>52</sup> See footnote j, p. 262.

benefit of the Agricultural College and School of Mines, there is hereby granted to the Territory of Alaska, for the exclusive use and benefit of the Agricultural College and School of Mines, one hundred thousand acres of vacant nonmineral surveyed unreserved public lands in the Territory of Alaska, to be selected, under the direction and subject to the approval of the Secretary of the Interior, by the Territory, and subject to the following conditions and limitations:

SEC. 2. That the college and school provided for in this Act shall forever remain under the exclusive control of the said Territory, and no part of the proceeds arising from the sale or disposal of any lands granted herein shall be used for the support of any sectarian or denominational college or school.

SEC. 3. That it is hereby declared that all lands hereby granted to said Territory are hereby expressly transferred and confirmed to the said Territory and shall be by the said Territory held in trust, to be disposed of, in whole or in part, only in the manner herein provided and for the objects specified in the granting provisions, and that the natural products and money proceeds of any of said lands shall be subject to the same trusts as the lands producing the same. Disposition of any of said lands or of any money or thing of value directly or indirectly derived therefrom for any object other than that for which such particular lands or the lands from which such money or thing of value shall have been derived or granted or in any manner contrary to the provisions of this Act shall be deemed a breach of trust.

SEC. 4. That no mortgage or other encumbrance of said lands shall be valid in favor of any person for any purpose or under any circumstances whatsoever. Said lands shall not be sold or leased, in whole or in part, except to the highest bidder at public auction, notice of which public auction shall first have been duly given by advertisement, which shall set forth the nature, time, and place of the transaction to be had, with full description of the lands to be offered, published once each week for not less than ten successive weeks in a newspaper of general circulation published regularly at the capital and in a newspaper of like circulation which shall then be regularly published nearest to the location of the lands so offered; nor shall any sale or contract for the sale of any timber or other natural product of such lands be made, save at the place, in the manner, and after the notice thus provided for sales and leases of the lands themselves: Provided, That nothing herein contained shall prevent said Territory from leasing any of said lands referred to in this section for a term of five years or less without such advertisement herein required.

SEC. 5. That all lands, leasehold, timber, and other products of the land before being offered shall be appraised at their true value, and no sale or other disposal thereof shall be made for a consideration less than the value so ascertained, nor, in case of the sale of the land, less than a minimum price of \$5 per acre; nor upon credit unless accompanied by ample security, and the legal title shall not be deemed to have passed until the consideration shall have been paid.

SEC. 6. That a fund shall be established in the Territorial treasury to carry out the purposes of this Act, and whenever any money shall be in any manner derived from any of the land granted same shall be deposited in the Territorial treasury in the fund. The Territorial treasurer shall keep all such money invested in safe interest-bearing securities, which securities shall be approved by the governor and the secretary of state of the Territory, and shall at all times be under a good and sufficient bond or bonds conditioned for the faithful performance of his duties in regard thereto, as defined by this Act and the laws of the Territory not in conflict herewith. The income from said fund may and shall be used exclusively for the purposes of such Agricultural College and School of Mines: Provided, That no portion of said income shall be applied, directly or indirectly, under any pretense whatever, to the purchase, erection, preservation, or repair of any building or buildings.

SEC. 7. That every sale, lease, conveyance, or contract of or concerning any of the lands hereby granted or confirmed or the use thereof of the natural products thereof, not made in substantial conformity with the provisions of this Act, shall be null and void. It shall be the duty of the Attorney General of the United States to prosecute in the name of the United States and in its courts such proceedings at law or in equity as may from time to time be necessary and appropriate to enforce the provisions hereof relative to the application and disposition of the said lands and the products thereof and the funds derived therefrom."



Applications to select lands under this grant will be made by the proper selecting agent of the Territory and will be filed in the local land office of the district in which such selected lands are situated. Such selections must be made in accordance with the law, and with the regulations governing the selections of lands by States and Territories, approved June 23, 1910 (39 L. D. 39), as applying to "special grants" or "grants in quantity."

Each list of selections must contain a reference to this act under which the selections are made and must be accompanied by a certificate of the selecting agent showing the selections are made under and pursuant to the laws of the Territory of Alaska.

The selections in any one list should not exceed 6,400 acres. No more than one serial number must be given to any list of selections, notwithstanding it may contain more than one selection.

Each list must be accompanied by a certificate of the selecting agent showing that the selections therein and those pending, together with those approved, do not exceed the total amount granted for the purpose stated.

The nonmineral character of the land applied for must be shown by an affidavit of some responsible party, having and testifying to a personal knowledge of the land, based upon examination made not more than three months prior to the filing of the list, and shall apply to each smallest legal subdivision of land selected. This affidavit should also show that the land is not occupied by nor does it contain improvements placed thereon by any Indian.

Every application list must be accompanied by a duly corroborated affidavit making the following showing as to the lands sought to be selected:

(1) That no portion of the land is occupied or reserved for any purpose by the United States or occupied or claimed by natives of Alaska; that the land is unoccupied, unimproved, and unappropriated by any person claiming the same other than the applicant; that no part of the land is valuable for coal, oil, gas or other mineral deposits, and that at the date of the application no part of the land was claimed under the mining laws.

(2) That the land applied for does not extend more than 160 rods along the shore of any navigable water or that such restriction has been waived; and that it is not within a distance of 80 rods along any navigable or other waters from any location theretofore made with soldiers' additional rights, or as a trade and manufacturing site, homestead, Indian or Eskimo allotment or Territorial selection, or that it has been restored from reservation.

(3) All facts relative to medicinal or hot springs upon the land must be stated. The facts as to all waters upon the land other than springs and water holes, whether creek, pond, lagoon or lake, their source, depth, width, outlet and current (whether swift or sluggish), whether or not the same or any of them are navigable for skiffs, canoes, motor boats, launches or other small water craft, and whether or not the same or any of them constitute a passageway for salmon or other merchantable sea-going fish to spawning grounds.

A copy hereof has been transmitted to the Governor of Alaska.

Very respectfully,

C. C. MOORE, *Commissioner.*

Approved June 11, 1929.

JOHN H. EDWARDS,  
*Assistant Secretary.*

## EXECUTIVE ORDER

## NENANA TOWN SITE, ALASKA

Under and pursuant to the provisions of the act of Congress approved March 12, 1914 (38 Stat. 305), it is ordered that Executive Order No. 3489, issued June 10, 1921, containing the Alaska Railroad town site regulations, is hereby amended to authorize the Secretary of the Interior to reappraise and sell the unimproved lots in Nenana town site, Alaska, belonging to the United States, and to readjust the assessments levied against them for the improvement of streets, sidewalks, and alleys, and for the promotion of sanitation and fire protection by the Alaska Railroad prior to August 31, 1921.

As to the lots within said town site which have been forfeited for failure to pay such assessments, upon which valuable improvements have been placed, the provisions of said order regarding the collection of the unpaid assessments remain effective.

This order shall continue in full force and effect unless and until revoked by the President or by act of Congress.

HERBERT HOOVER.

THE WHITE HOUSE,  
June 12, 1929.

[No. 5136]

## CIRCULAR No. 1198

REGULATIONS PERMITTING THE EXPORTATION OF TIMBER  
FROM ALASKA (CIRCULAR NO. 1092) AMENDED<sup>1</sup>

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
Washington, August 5, 1929.

Circular No. 1092, approved August 27, 1926, containing the regulations governing the exportation of timber from Alaska under the act of April 12, 1926 (44 Stat. 242), is hereby amended as follows:

(2) Sales of timber suitable for manufacturing purposes are hereby authorized in quantities, if found available, sufficient to supply a mill or proposed mill for a period of as much as twenty years, when it is satisfactorily shown that the purchaser in good faith intends to develop an enterprise for the cutting of this class of timber for export from Alaska and the sale does not endanger the supply of such timber for local use. The amount of timber that any one purchaser will be permitted to purchase under this provision and the period of the contract will be governed by the capacity of the mill and the estimated quantity that it will be capable of producing during the period covered by the contract of sale. When a twenty years' supply is sold the period within which the same must be cut (twenty years) will begin to run from the time that the contract of sale is executed, if the manufacturing plant has been built, or from the time that the mill has been constructed and ready to begin operations if it is to be built, but in no case will more than two years be allowed for construction, and each contract shall contain a provision that all rights acquired thereunder shall be forfeited if operations have not been commenced within three years from the date of execution of the contract, unless, upon satisfactory showing the Secretary of the Interior, shall, in his discretion, excuse the

<sup>1</sup> See footnote j, p. 262.



delay. Commencement of operations in this sense will be construed as a bona fide commencement of actual cutting of timber in quantity sufficient to show that it is the purpose of the purchaser to fulfill the conditions of the contract and that it was not entered into merely for speculative purposes.

(5). The district officers will make appropriate notations upon the records of their office and transmit the application to the Commissioner of the General Land Office, and at the same time transmit the duplicate to the Chief of Field Division at Anchorage, Alaska, or to an examiner located in the particular land district who shall have been designated by the Chief of Field Division to make appraisals. Upon receipt of the same the latter will without delay cause the timber applied for to be examined and appraised. The appraisal rates will be based upon a fair stumpage rate taking into consideration the quality of the timber and its accessibility to market. In no event will any timber suitable for manufacturing purposes be appraised at less than \$1 per thousand feet, board measure. After an examination and appraisal has been made the Chief of Field Division will at once submit his report and recommendation to the Commissioner of the General Land Office, together with a statement of facts showing whether such sale would endanger the supply of timber for local use. The Government reserves the right to reappraise the remaining standing timber at the expiration of five years from the date of commencement of the timber cutting period as set forth in paragraph 2 hereof and at intervals of five years thereafter, but in no instance shall the appraisal be at more than double the rate of the original appraisal.

(7). All contracts shall contain provisions against waste and precaution against forest fires. The Government may reserve the right to insert in a contract a provision authorizing the disposition for local use of timber that is not suitable for manufacturing purposes upon the area described in the contract, to another or others pursuant to the provisions of Circular No. 491, page 92, sections 1 and 2.<sup>1</sup> Contracts entered into under these rules and regulations will also be subject to the right of qualified persons to locate, select, settle upon, or enter the lands involved under the provisions of the public land laws applicable to Alaska, but such claimants shall not have any title to or interest in the timber purchased under the contract or be permitted to interfere with the purchaser's operations incident to the cutting and removal of the timber.

(8). At the expiration of a contract a new contract may, in the discretion of the Secretary of the Interior, be entered into for a period of not to exceed twenty years, where there is sufficient timber available to warrant it. Prior good faith of the purchaser and substantial compliance with the conditions of the expired contract will be given consideration with reference to awarding a new contract. A new appraisal shall be made at that time for the purpose of fixing the stumpage price.

#### TIMBER SALE CONTRACT

(9) At the end of the period designated herein a new contract may, in the discretion of the Secretary of the Interior, be entered into, for a period of not exceeding twenty years, provided that there is sufficient timber suitable for manufacturing purposes available to warrant, and further provided that the provisions and conditions of this contract shall have been faithfully complied with. The price to be paid for the timber will be based upon an appraisal to be made at that time.

Very respectfully,

C. C. MOORE, *Commissioner.*

Approved August 5, 1929.

RAY LYMAN WILBUR, *Secretary.*

<sup>1</sup> The reference is to sections 1 and 2, page 92, of Circular No. 491 as issued in pamphlet form, reproduced on p. 257 hereof.

## CIRCULAR No. 1203

## GRAZING REGULATIONS CONTAINED IN CIRCULARS NOS. 491 AND 1138 AMENDED

DEPARTMENT OF THE INTERIOR.

GENERAL LAND OFFICE,

Washington, December 2, 1929.

Mr. GEORGE A. PARKS,

*Ex Officio Commissioner, Juneau, Alaska.*

REGISTER AND CHIEF OF FIELD DIVISION,

*Anchorage, Alaska.*

REGISTERS AND RECEIVERS,

*Fairbanks and Nome, Alaska.*

GENTLEMEN: In order to conform to the order of the Secretary of the Interior of October 3, 1929, transferring supervision of all reindeer activities in Alaska, from the office of education to the ex officio commissioner of Alaska, representing the Interior Department, subject to the general supervision and control of the Secretary of the Interior, effective November 1, 1929, the regulations governing the leasing of lands in Alaska for grazing livestock issued in pursuance of the act of March 4, 1927 (44 Stat. 1452), approved January 7, 1928, contained in Circulars Nos. 491 and 1138, are hereby amended by substituting for sections 3 and 4 thereof, the following:

3. After the establishment of a grazing district applications for leases may be filed in the proper district land office. Applications should be filed in duplicate except applications for reindeer grazing which should be in triplicate:

(a) Applications to lease lands for reindeer grazing filed by natives of Alaska or associations of such natives may be filed by the natives themselves or through a supervisor or other responsible official designated by the ex officio commissioner of Alaska for the Department of the Interior.

(b) After a serial number has been assigned by the Register of the district land office to an application for a lease, one copy will be forwarded to the Commissioner of the General Land Office and one to the chief of field division, Anchorage, Alaska, each copy to be accompanied by a status report. If the application is for reindeer grazing the register will attach to the triplicate copy thereof a status report and will make such disposition thereof as may be requested by the said ex officio commissioner of Alaska.

(c) Applications for leases must conform substantially to the appended Form 4-469.

4. The chief of field division will cause an investigation to be made of all applications to lease for grazing purposes except of applications filed by natives of Alaska for reindeer grazing and report to the General Land Office as to the livestock to be grazed on the land; as to the carrying capacity of the areas sought; as to the improvements, if any, existing thereon; as to their use and occupancy and as to the feasibility of granting the lease applied for. Recommendation should also be made as to what rental should be charged and whether such charge should be deferred for any particular period.

(a) The said ex officio commissioner or such official as he may designate to act for him, will make report, in duplicate, similar to that described in section 4, except as to charge for rental, on all applications to lease for reindeer grazing filed by natives of Alaska. The report will be filed in the proper district land office. The register will transmit the original copy to the General Land Office and the duplicate copy to the chief of field division.

(b) The chief of field division will submit to the General Land Office such report and recommendation as he may deem proper in connection with all applications to lease lands for reindeer grazing filed by natives of Alaska.

Very respectfully,

C. C. MOORE, *Commissioner.*

Approved, December 2, 1929.

JOHN H. EDWARDS,  
*Assistant Secretary.*



## AMENDMENT OF ENTRIES

[Reported, 44 L. D. 181]

CIRCULAR No. 423

REVISED REGULATIONS GOVERNING AMENDMENT OF ENTRIES  
PURSUANT TO SECTION 2372 R. S., AS AMENDED, BY ACT OF  
FEBRUARY 24, 1909 (35 STAT. 645), AND OTHERWISE

DEPARTMENT OF THE INTERIOR,  
GENERAL LAND OFFICE,  
*Washington, D. C., July 10, 1915.*

*Registers and Receivers, United States Land Offices.*

SIRS: Section 2372, United States Revised Statutes, as amended by the act of Congress approved February 24, 1909 (35 Stat. 645), reads as follows:

SEC. 2372. In all cases where an entry, selection, or location has been or shall hereafter be made of a tract of land not intended to be entered, the entryman, selector, or locator, or, in case of his death, his legal representatives, or, when the claim is by law transferable, his or their transferees, may, in any case coming within the provisions of this section, file his or their affidavit, with such additional evidence as can be procured showing the mistake as to the numbers of the tract intended to be entered and that every reasonable precaution and exertion was used to avoid the error, with the register and receiver of the land district in which such tract of land is situate, who should transmit the evidence submitted to them, in each case, together with their written opinion both as to the existence of the mistake and the credibility of every person testifying thereto, to the Commissioner of the General Land Office, who, if he be entirely satisfied that the mistake has been made and that every reasonable precaution and exertion has been made to avoid it, is authorized to change the entry and transfer the payment from the tract erroneously entered to that intended to be entered, if the same has not been disposed of and is subject to entry, or if not subject to entry, then to any other tract liable to such entry, selection, or location; but the oath of the person interested shall in no case be deemed sufficient, in the absence of other corroborating testimony, to authorize such change of entry, nor shall anything herein contained affect the right of third persons.

For the purpose of governing the administration of the provisions of this statute and to define the circumstances under which amendments of entries will be granted pursuant to its provisions, or by virtue of the authority of the department to recognize and establish rights and equities not strictly within the purview and contemplation of such statute, the following rules are provided and will be followed:

1. Applications for amendment must be filed in the local land office of the United States having jurisdiction over the land sought to be entered, and should be substantially in accordance with the printed form herewith. This form may be used for the amendment of nonmineral entries where the applicant is either the original entryman, the assignee, or transferee, by making such modifications as the facts may justify. Each application must be verified by the oath