

Permit E-48-KE
Homer Electric Association, Inc.
Electrical Transmission Lines

THE SECRETARY OF THE INTERIOR, through his authorized representative, the Regional Director of the U.S. Fish and Wildlife Service (the Service), in accordance with 16 U.S.C. § 668dd(d), 50 C.F.R. § 29.21, 16 U.S.C. § 3161 – 3173, and 43 C.F.R. § 36, does hereby grant a permit to Homer Electric Association, Inc., herein referred to as Permittee, to use and occupy certain land of the Kenai National Wildlife Refuge (the Refuge). Permittee, by accepting this permit, agrees to the terms and conditions contained herein.

1. LOCATION AND LIMITATIONS:

- 1.1. This right-of-way permit authorizes the continuing operation and maintenance of existing 115 kV electrical transmission lines located within the Kenai National Wildlife Refuge, hereinafter referred to as “the Project”. The location and right-of-way widths of the Project are depicted on two (2) maps entitled “Right-of-Way Permits E-47-KE and E-48-KE, Sterling Highway Segment” and “Right-of-Way Permit E-48-KE, Beaver Creek and Kasilof Segments”, which are hereby incorporated into this permit as attached Attachment “A”. The Project location (located within the Seward Meridian) is further described as follows:
- 1.1.1. 25-foot right-of-way width. Note this 25-foot wide segment consists of a right-of-way length of 0.55 mile or 2,883 feet (1.66 acres).
- T5N, R4W – Section 33.
- 1.1.2. 100-foot right-of-way width. Note this 100-foot wide segment consists of a right-of-way length of 26.44 miles or 139,589 feet (321.26 acres). The total length of both 25’ and 100’ segments is a total right-of-way length of 26.98 miles or 142,472 feet (322.92 acres).
- T5N, R4W – Sections 29, 30, 32, 33;
T5N, R5W – Sections 17, 18, 20, 21, 25-28, 34, 35;
T5N, R6W – Sections 7, 13-18;
T5N, R7W – Sections 7-12;
T6N, R10W – Sections 7, 16-18, 21;
T6N, R11W – Section 12.
- 1.2. This permit provides authorization for use and occupancy of land owned by the United States that is located within the boundaries of the Refuge. The Refuge boundary is reflected in Attachment “A” as a thick green line. Privately owned lands or lands owned by Native corporations are excluded from this permit. The location of lands owned by Native corporations are reflected in the land status portion of Attachment “A” and are depicted with the color purple, and are excluded from jurisdiction under this permit.
- 1.3. This permit is granted subject to outstanding rights, if any, in third parties.

2. TERM AND RENT:

- 2.1. The term of this permit is for **fifty (50) years** or while it is used for the purpose granted, whichever period is shorter. The Permittee has the option to apply for renewal of the permit. The term of the permit shall commence upon signature by both parties.
- 2.2. The Permittee is required to make a fair market rental payment for use and occupancy of lands. The fair market rental as of the date of issuance is **\$19,900.00 annually or a lump sum payment of \$86,160.00 for 5 (five) years**. Payment(s) must be made payable to the U.S. Fish and Wildlife Service and forwarded to the attention of the Chief, Division of Realty and Natural Resources, 1011 East Tudor Road, Anchorage, Alaska 99503.
- 2.3. Rental rates may be reviewed and adjusted by the Service at any time not less than 5 (five) years after the grant of the permit or the last revision of charges. The Permittee is responsible for the cost of reappraisal and associated administrative costs incurred by the Service. The Service will furnish a notice in writing to the Permittee of intent to impose new charges to reflect fair market value commencing with the ensuing charge year. The revised charges will be effective unless the Permittee files an appeal according to 50 C.F.R. § 29.22.

3. TERMS AND CONDITIONS:

3.1. Meanings of certain terms used herein:

- 3.1.1. The term "Refuge Manager" means the Refuge Manager of the Kenai National Wildlife Refuge, or an authorized representative of the Refuge Manager in charge of the land under administration by the U.S. Fish and Wildlife Service.
- 3.1.2. The term "Permittee" means Homer Electric Association, Inc., its employees, contractors, agents, employees of the contractors or agents of the contractors.
- 3.1.3. The terms "resource" and "Refuge resources" includes all fish, animals and birds and all vegetation including trees, plants, shrubs, grass, muskeg and marsh within, on, under or over the permit area; and all lands, waters and all beds of waters within the permit area and all appurtenances to lands and waters and beds of waters within the permit area, whether natural or constructed.

- 3.2. The permit herein granted is for the specific use described and may not be construed to include the further right to authorize any other use within the permit area unless approved in writing by the Service.
- 3.3. The Chief, Division of Realty and Natural Resources, and the Refuge Manager must be kept informed of the address of the Permittee's principal place of business and the names and addresses of its principal officers.

- 3.4. Permittee will not disturb or remove any public land survey monument or project boundary monument, unless Permittee requests and receives from the Service approval of measures Permittee will take to perpetuate the location of an aforesaid monument.
- 3.5. The Permittee will rebuild and repair such roads, fences, structures, and trails as may be destroyed or damaged by Permittee construction or maintenance work.
- 3.6. Permittee must comply with State and Federal laws applicable to the project within which the permit is granted, and to the lands included in the right-of-way, and lawful existing regulations thereunder.
- 3.7. Permittee shall pay the United States the full value for all damages to the lands or other property of the United States caused by Permittee, its employees, agents, contractors, or employees or agents of the contractors. Permittee shall indemnify the United States against any liability for damages to life, person or property arising from the use of the lands under the permit. Where the permit involves lands that are under the exclusive jurisdiction of the United States, the holder or its employees, contractors, or agents of the contractors, will be liable to third parties for injuries incurred concerning the easement or permit area. The grant of this permit imposes liability without fault for injury and damage to the land and property of the United States up to a maximum of \$1,000,000.00.
- 3.8. As required by the provisions of 50 C.F.R. 29.21-8, the Permittee shall protect in a workmanlike manner, at crossings and at places in proximity to Permittee's transmission lines on the right-of-way authorized, in accordance with the rules prescribed in the National Electric Safety Code, all Government and other telephone, telegraph and power transmission lines from contact and all highways and railroads from obstruction and to maintain Permittee's transmission lines in such manner as not to menace life or property.
- 3.9. As required by the provisions of 50 C.F.R. 29.21-8, neither the privilege nor the right to occupy or use the lands for purpose authorized shall relieve Permittee of any legal liability for causing inductive or conductive interference between any project transmission line or other project works constructed, operated or maintained by Permittee on the servient lands, and any radio installation, telephone line, or other communication facilities now or hereafter constructed and operated by the United States or any agency thereof.
- 3.10. In the installation, operation, and maintenance of the project, Permittee will not discriminate against any employee or applicant for employment because of race, creed, color, or national origin and shall require an identical provision to be included in all subcontracts.
- 3.11. The Permittee is responsible for ensuring that all persons working for the Permittee and conducting activities allowed by this permit are familiar with and adhere to the conditions of this permit.
- 3.12. Grant of the permit is subject to the express condition that the exercise thereof will not unduly interfere with the management, administration, or disposal by the United States of the land affected thereby. The Permittee agrees and consents to the occupancy and use by the United States, its grantees, permittee's, or lessees, of any part of the permit area not actually occupied for the purpose of the granted rights to the extent that it does not interfere with the full and safe utilization thereof by the Permittee. The Permittee also agrees that authorized representatives of the United States will have the

right of access to the permit area for making inspections and monitoring the construction, operation and maintenance of facilities.

3.13. The grant of the permit is subject to the express covenant that any facilities constructed thereon will be modified or adapted, if such is found by the Service to be necessary, without liability or expense to the United States, so that such facilities will not conflict with the use and occupancy of the land for any authorized works which may hereafter be constructed thereon under the authority of the United States. Any such modification will be planned and scheduled so as not to interfere unduly with or to have minimal effect upon continuity of energy or delivery requirements.

3.14. Consistent with 50 C.F.R. 25.21(h), the authorized officer may require permit modifications at any future time to ensure compatibility with the use and occupancy of the land. Compatibility will be based on the existing conditions of the permitted use at the time of the permit authorization, not from a pre-use perspective.

3.15. The use of pesticides, herbicides or other toxicants is prohibited unless otherwise approved in writing by the Refuge Manager in consultation with the Alaska Department of Environmental Conservation. The Permittee shall not allow chemicals used in the treatment of wood or other structures to spread more than six (6) inches from the structure

3.16. FUEL, OIL, AND LUBRICANTS:

3.16.1. Fuels, lubricants and other potential pollutants will not be stored on Refuge lands without authorization from the Refuge Manager.

3.16.2. Oil changes and fueling operations shall be conducted at least 300 feet from any river, stream, drainage channel or water body. The discharge of oil or other pollutants on the Refuge lands is prohibited. The Permittee shall give immediate notice of any discharge of oil, fuel or other pollutants to the Refuge Manager.

3.16.3. The Permittee is responsible for the timely cleanup of any oil or fuel spills or other pollutants which result from activities associated with the Project.

3.17. CONSERVATION MEASURES:

3.17.1. Permittee will do everything reasonably within its power, both independently and on request of any duly authorized representative of the United States, to prevent fires on or near lands to be occupied under this permit. The Permittee's responsibility for physical suppression of fires on or near lands occupied under this permit are waived, except for minor suppression actions of initial fire starts that result during the presence of the Permittee, and where such suppression could reasonably be expected to be safely conducted.

3.17.2. Permittee must take such soil and resource conservation and protection measures needed, including exotic/invasive weed control, due to impact of the Project on the land covered by the easement or permit as the Refuge Manager may request.

3.17.3. Any problems with wildlife must be reported immediately to the Refuge Manager. The Permittee, contractors, and employees shall not feed animals. Wildlife shall not be harassed or intentionally approached closely enough to disrupt the animal's activity or to endanger human life. There shall be no taking of any animal except in the case of defense of life and property. In the case of a defense of life and property taking, the Permittee shall immediately contact the Alaska Department of Fish and Game and the Refuge Manager, and salvage those parts of the animal required by State regulations.

3.17.4. Permittee will comply with the Archaeological Resources Protection Act (16 U.S.C. 470aa). The disturbance of archaeological or historical sites and the removal of artifacts from Federal land are prohibited. If such sites or artifacts are encountered, the Permittee will immediately cease all work upon Federal land and notify the Refuge Manager.

3.18. By accepting this permit, the Permittee agrees to reimburse the United States for costs incurred by the Service in processing the permit application, issuing the permit, and monitoring the installation, operation, maintenance, and removal of facilities within the permit area.

3.19. As authorized officer, The Refuge Manager will monitor compliance with permit stipulations.

4. DISPOSAL, TRANSFER, OR TERMINATION OF INTEREST:

4.1. All or part of this permit may be terminated by the Service, for failure to comply with any of the terms or conditions of the grant, or for abandonment. A rebuttable presumption of abandonment is raised by deliberate failure of the Permittee to use for any continuous 2-year period the permit for the purpose for which it was granted or renewed. In the event of noncompliance or abandonment, the Service will notify the Permittee in writing of its intention to suspend or terminate the grant 60 days from the date of the notice, stating the reasons therefore, unless before that time the Permittee completes such corrective actions as are specified in the notice. The Service may grant an extension of time within which to complete corrective actions when, in its judgment, extenuating circumstances not within the Permittee's control such as adverse weather conditions, disturbances to wildlife during breeding periods or periods of peak concentration, or other compelling reasons warrant. Failure to take corrective action within the 60-day period will result in suspension or termination of the permit.

4.2. Within 90 days after abandonment, or upon expiration or other termination of this permit, a restoration plan will be submitted by the Permittee to the Refuge Manager for approval. Termination includes permits that terminate under the terms of the grant. The Refuge Manager will provide guidance to the Permittee for developing a restoration plan. All structures, facilities, equipment, pipelines, and utility lines will be removed from the right-of-way by the Permittee. Restoration activities will be conducted as specified in the approved restoration plan. Prior to commencing restoration activities, the Permittee will furnish a surety bond, the amount of which to be determined by the Refuge Manager, to cover the anticipated cost of restoration activities. The bond must meet the requirements of 31 U.S.C. § 9301, et seq. Permittee shall restore the land to its original condition to the satisfaction of the Refuge Manager. Final inspection of the site will be by the Refuge Manager or his/her designee and will be at the expense of the Permittee.

- 4.3. The final disposal by the United States of any tract of land traversed by a right-of-way will not be construed to be a revocation of the right-of-way in whole or in part. Such final disposition will be deemed and taken to be subject to such right-of-way unless it has been specifically canceled.**
- 4.4. Any proposed transfer, by assignment, lease, operating agreement or otherwise, of this permit, or any of the rights conferred by this permit, must be filed in triplicate with the Chief, Division of Realty and Natural Resources. Additionally, it must be supported by written agreement by the transferee to comply with and be bound by the terms and conditions of the original grant and applicable amendments if any. A \$25.00 non-returnable service fee must accompany the proposal. No transfer will be recognized until approved in writing by the Service.**

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THIS IS TO CERTIFY that the Permittee hereby accepts the right-of-way permit described in this instrument, together with all terms and conditions thereof.

IN WITNESS WHEREOF, I have hereunto set my hand this 28th day of October, 2008.



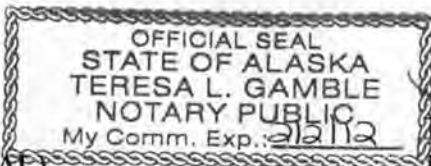
Name: Bradley P. Janorschke
Title: General Manager
Company: Homer Electric Association

ACKNOWLEDGEMENT

STATE OF ALASKA)
) ss.
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 28th day of October, 2008 before me, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Bradley Janorschke, whose title is General manager of Homer Electric Association, Inc., an Alaska corporation, who executed the within instrument on behalf of the corporation, and who acknowledged to me that the same was signed freely and voluntarily for the uses and purposes therein stated.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year first written above.

(SEAL)  Teresa L. Gamble
Notary Public in and for Alaska
My commission expires: 2/2/12

The Secretary of the Interior, acting by and through his authorized representative has executed this permit, known as Right-of-Way Permit No. E-48-KE, for the United States of America on this 31st day of October, 2008.

U.S. Fish and Wildlife Service
Danielle G. Jerry
Chief, Division of Realty
and Natural Resources

ACKNOWLEDGMENT

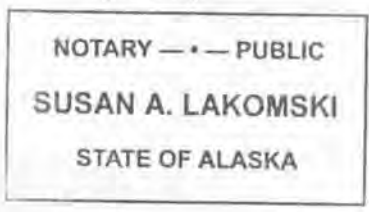
STATE OF ALASKA)
) ss:
THIRD JUDICIAL DISTRICT)

THIS IS TO CERTIFY that on the 31st day of October, 2008, before me, a Notary Public in and for the State of Alaska, duly commissioned and sworn as such, personally appeared Danielle G. Jerry, known to me to be the Chief, Division of Realty and Natural Resources, U.S. Fish and Wildlife Service, Region 7, who executed the within instrument and who acknowledged to me that the same was signed freely and voluntarily for the uses and purposes therein stated.

WITNESS my hand and notarial seal the day and year first above written in this certificate.

Susan A. Lakowski
Notary Public in and for Alaska
My commission expires 5/7/2009

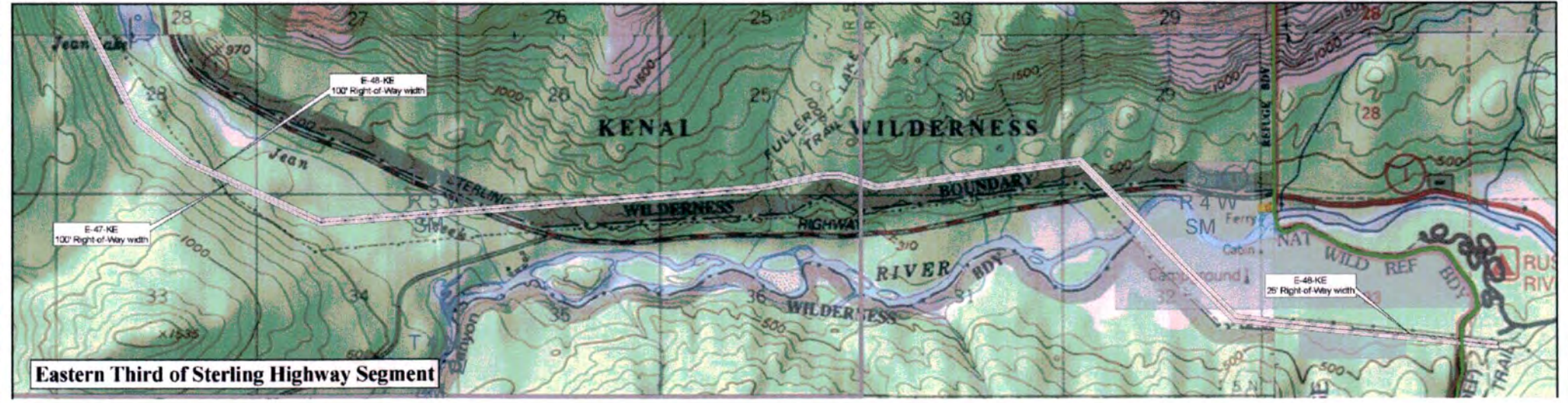
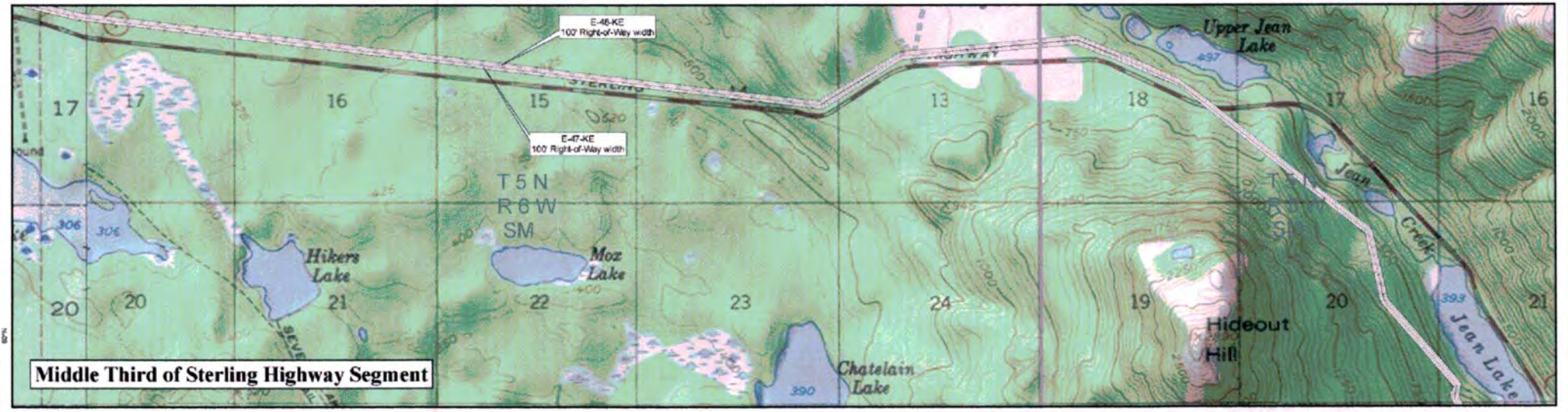
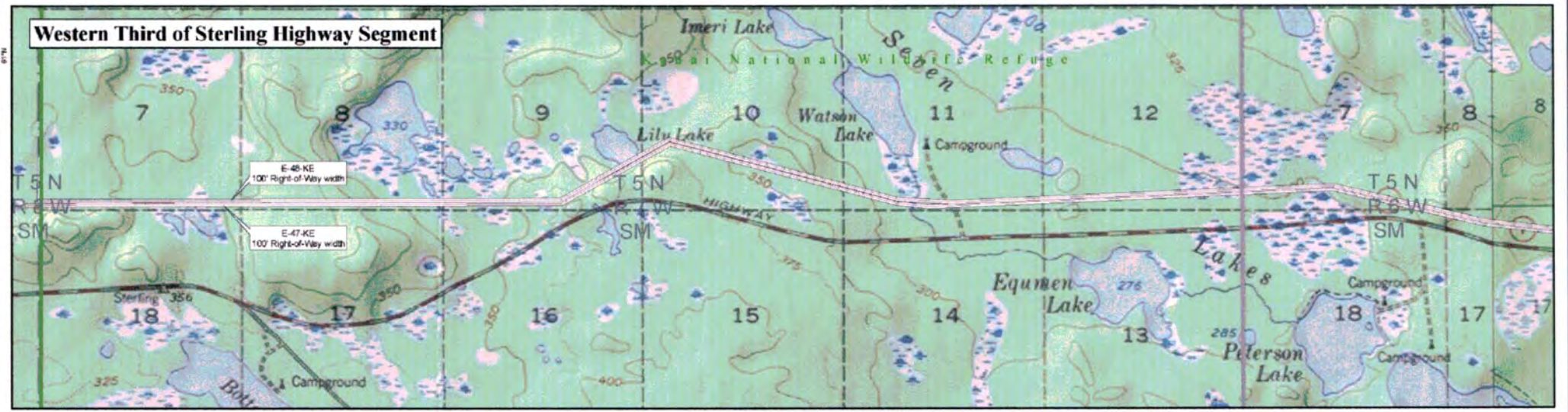
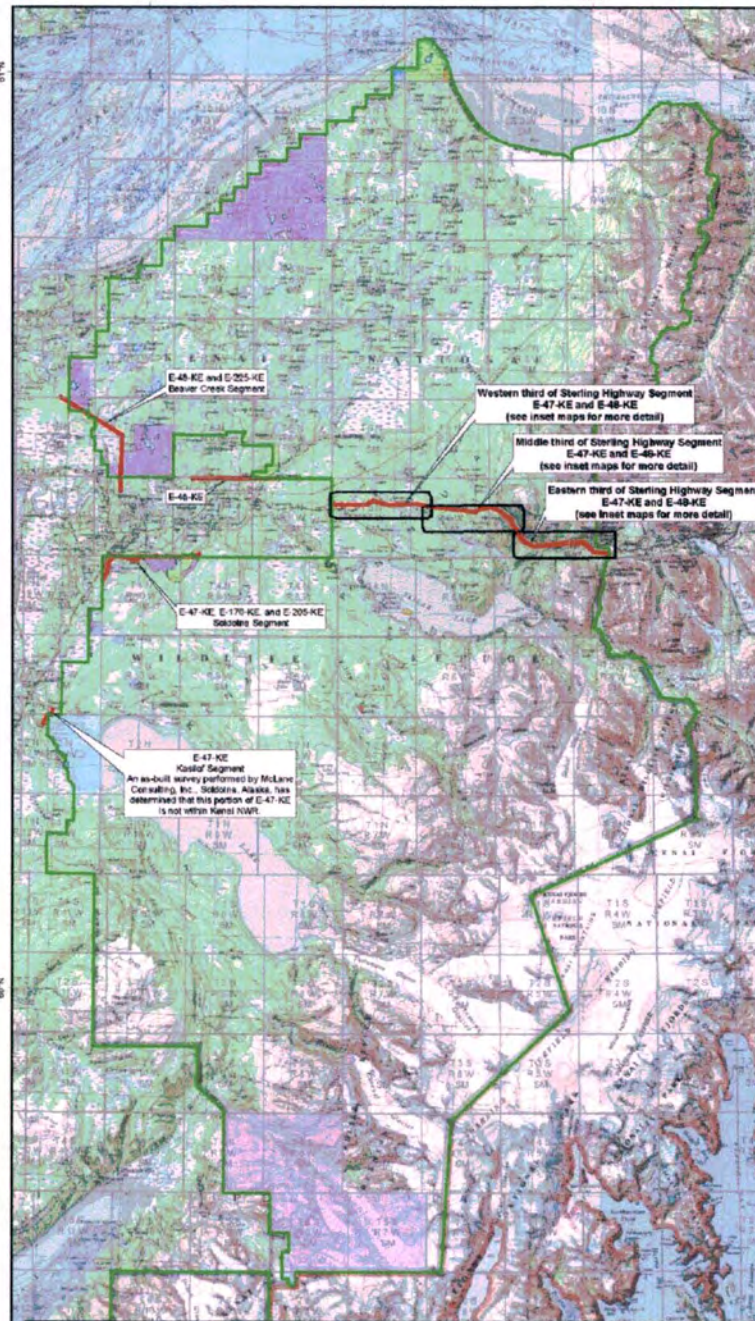
(SEAL)





U.S. Fish & Wildlife Service
Kenai National Wildlife Refuge
 Alaska

Right-of-Way Permits E-47-KE and E-48-KE
Sterling Highway Segment



Selected	Land Status	Conveyed
	Native Allotment	
	Other Private	
	State of Alaska	
	Village Corporation	
	Regional Corporation	None

Notes

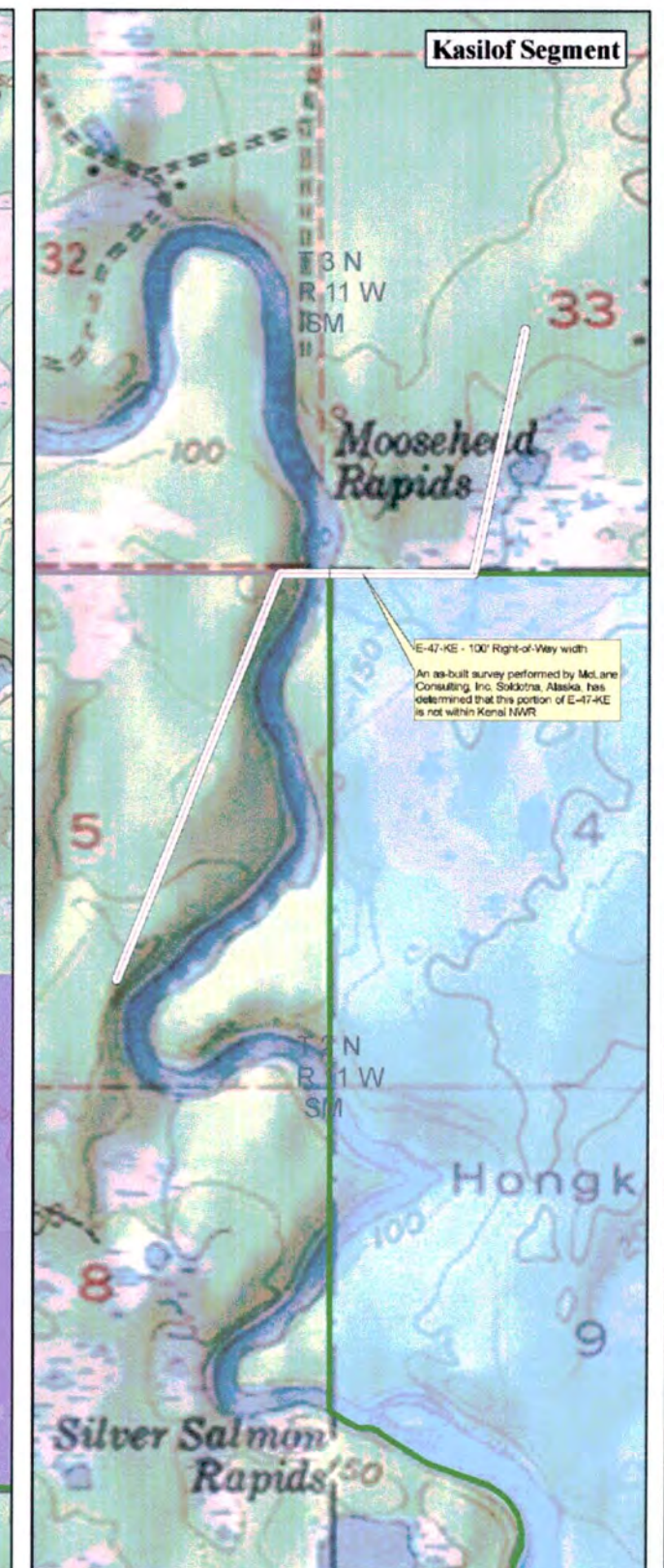
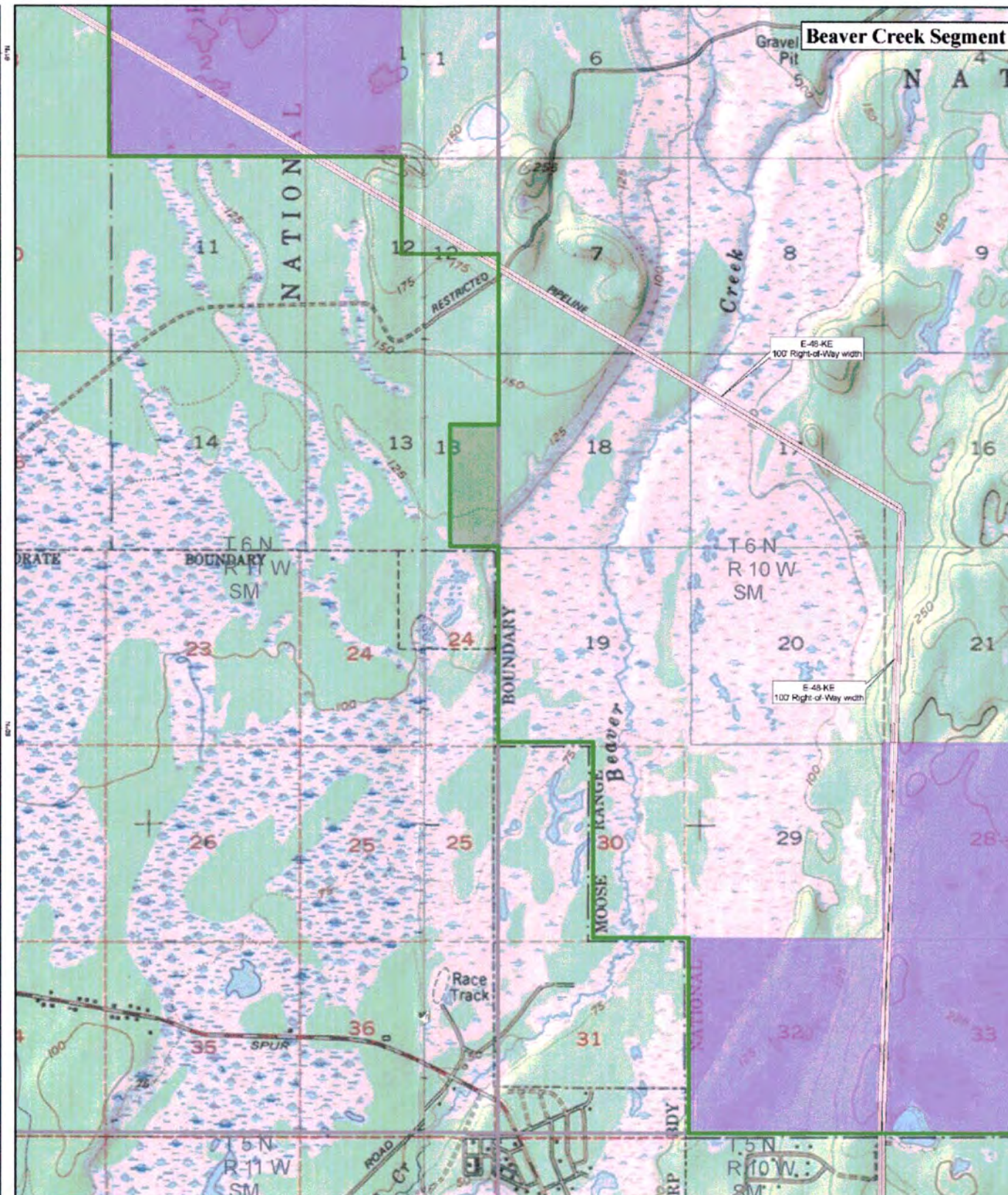
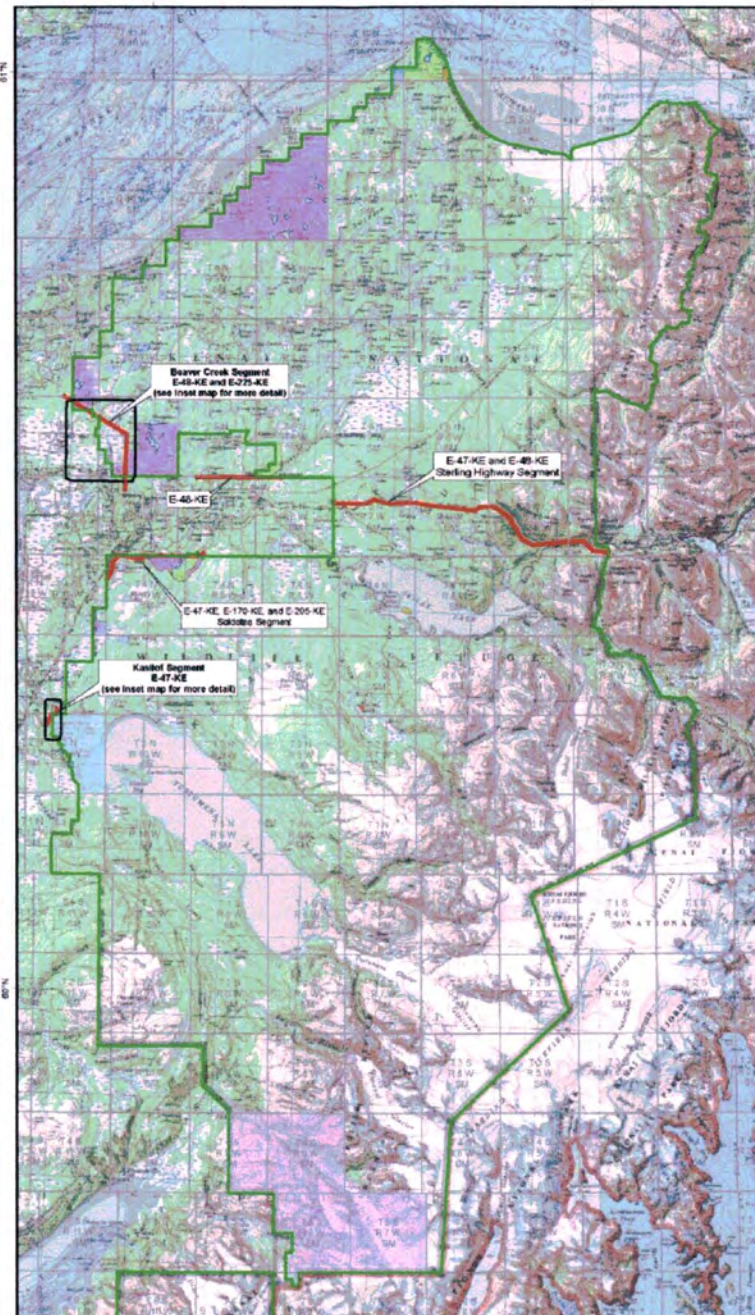
- 1) All powerline locations shown on this map were obtained by the USFWS, Division of Realty, Anchorage, Alaska using Rockwell PLGR GPS units. Positional accuracy is approximately 2-5 meters. Fieldwork was done between June, 1998 and March, 1999.
- 2) Right-of-Way widths were obtained from easements held by the USFWS, Division of Realty, Anchorage, Alaska.
- 3) In many cases, a particular powerline right-of-way may overlap with an adjacent right-of-way.

Produced in the Division of Realty
 Anchorage, AK
 Current to June 4, 2007



U.S. Fish & Wildlife Service
Kenai National Wildlife Refuge
Alaska

Right-of-Way Permit E-48-KE
Beaver Creek and Kasilof Segments



Selected	Land Status	Conveyed	Notes
	Native Allotment		1) All powerline locations shown on this map were obtained by the USFWS, Division of Realty, Anchorage, Alaska using Rockwell PLGR GPS units. Positional accuracy is approximately 2-5 meters. Fieldwork was done between June, 1998 and March, 1999.
	Other Private		
	State of Alaska		
	Village Corporation		2) Right-of-Way widths were obtained from easements held by the USFWS, Division of Realty, Anchorage, Alaska.
	Regional Corporation		
3) In many cases, a particular powerline right-of-way may overlap with an adjacent right-of-way.			

Produced in the Division of Realty
Anchorage, AK
Current to: June 4, 2007