

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF TERRITORIES

RECORDS SECTION

( Part 3)

ALASKA

HIGHWAYS 13

RIGHTS-OF-WAY

**IMPORTANT**

This file constitutes a part of the official records of the Office of Territories and should not be separated or papers withdrawn without express authority of the Director.

All files should be returned promptly to the Records Section.

Officials and employees will be held responsible for failure to observe these rules, which are necessary to protect the integrity of official records.

WILLIAM C. STRAND  
Director

Jan. 13, 1951  
to

*Apr 28, 1958*

INT.-DUP. SEC., WASH., D.C.

53023

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF TERRITORIES

Washington 25, D. C.

APR 28 1958

*Al. Highway 13*  
*Rights of Entry*

FILE COPY  
Surname:

<i>Rypter 4/2</i>
<i>Stedman 4/23</i>
<i>Morgan 4/23</i>
<i>Coyle 4-27</i>

Memorandum

To: Assistant Secretary, Public Land Management

From: Director, Office of Territories

Subject: Proposed grant of right-of-entry pending withdrawal, Alaska

The Office of Territories is reluctant to approve the attached proposed right-of-entry upon a five-acre tract of a "reserved" school section for a Bureau of Public Roads communications facility.

Section 1 of the Act of March 4, 1915, as amended, provides for the reservation of sections 16 and 36 in each township in the Territory of Alaska for the support of the Territory's common schools. Title, however, remains in the United States although the Territory is granted certain restricted leasing authority.

The Bureau of Public Roads has requested the withdrawal of five acres of a reserved school section in the vicinity of Anchorage. The tract will be used for constructing three radio towers and a small communications sending and receiving station. Right of immediate entry on the lands has been requested pending the withdrawal.

The question of Federal use of reserved school sections has been considered by the Solicitor. In an opinion dated February 8, 1955, the Solicitor held that the Territory "... has no authority ... to lease to the Federal Government." In a subsequent opinion dated February 4, 1957, the Solicitor also held:

"If a school section reserved for the Territory by the Act of March 4, 1915 . . . is later withdrawn or reserved for governmental or other purpose, under the lieu selection provision of the act the Territory may select land in lieu of that withdrawn or reserved, provided that the withdrawal or reservation was made under authority of the act of June 25, 1910 (36 Stat. 847), as amended (43 U.S.C. 142), or other statutory authority. It is immaterial whether the withdrawal or reservation is permanent or temporary."

*Copy - Al. Road - 7-4- Rights of entry*

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However, the Solicitor in the same opinion held that a withdrawal or reservation made under the "nonstatutory" powers of the President does not entitle the Territory to a lieu selection. He added that "A 'Spot check' of withdrawals of public lands in Alaska for military purposes, discloses that most of them have been made under the nonstatutory powers of the President, rather than under the Act of June 25, 1910 (36 Stat. 847), as amended (43 U.S.C. 142), or other statutory authority."

The objections of the Office of Territories are twofold. First, the withdrawal, if made under the nonstatutory powers of the President, will not entitle Alaska to a lieu selection. The attached file fails to show that the withdrawal will be based on the Act of June 25, 1910, or other statutory authority. Second, the file fails to indicate that alternative sites are unavailable. The report of the Anchorage Operations Supervisor states that the tract is a suitable site but does not state that it is the only site. In addition, the Alaska Department of Lands has protested the proposed withdrawal, suggesting a lease from the Territory. This has been rejected because of the ruling of the Solicitor.

We are not opposing the grant of a right-of-entry upon and subsequent withdrawal of the five acres in question since it appears that the Bureau of Public Roads has an urgent need for the land. However, we wish to emphasize that continued withdrawals on reserved school lands serve to deprive the Territory of potential revenue, in many cases may prevent lieu selections, and are not in our opinion consistent with the intent of the Congress in providing for the reservation of these school lands to Alaska. In future withdrawals affecting reserved school lands we recommend that at least one of the following criteria be met:

1. The Alaska Department of Lands concurs in the withdrawal;
2. The withdrawal be based on statutory authority, thus permitting lieu selections by Alaska; or
3. The record clearly shows that there are no alternative nonschool land sites which meet the purposes of the withdrawal.

(Sgd.) Anthony T. Lausi

Anthony T. Lausi  
Director

Attachment  
GRMilner:mbb  
4-22-58

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George

This would take away 5 acres of land in a school section. The withdrawal would not defeat Territory's rights to <sup>remainder</sup> balance.

If lands are withdrawn under a statutory authority, the Territory could select land in lieu of that withdrawn. Withdrawal of the land under the act of June 29, 1910 - a statutory authority - runs into complications in regard to its being for "temporary" withdrawal of land. Possibly the enabling act under which BPR operates has authority to use as basis for withdrawal - thereby giving Territory chance for lieu selection.

Do not know if BPR is already on land now.

Doubt that there are alternate sites in area which would be available

J. J. Jones

Alaska Division:  
Mr. Stephens:

Since this proposal would take away a school section from the Territory without payment, ~~and~~ I wonder if we should not consider opposing the withdrawal on that ground. After all, there is plenty of other unused public land in Alaska.

In fact, ~~it~~ I wonder if we might not, as a statement of policy refuse henceforth any withdrawals which violate school sections, particularly since it has been held that the other fed. agency pays no rental to the Territory.

K.S.C.

For Surname

~~1. Michael~~

2. Morgan

3. Stephens

4. Lausi

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Since this is a withdrawal and on a school section, I recommend no press release.  
I agree Ann Hulvers

Is BPR already on land?  
Are there alternate sites?  
(not on school section)

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OFFICE OF TERRITORIES

*Al. Highways - 13*  
FILE COPY  
Surname:  
*Rights of Way*  
*Rafter*  
*Hilmer 4/7*  
*Morgan 4/7*  
*Stephens 4/7*

APR - 7 1958

Rafter - Ext. 764

DEPARTMENT OF THE INTERIOR  
OFFICE OF TERRITORIES

VIA GOVERNMENT RADIO

FROM: INTDEPT/OFTERRITORIES  
TO: GOVALASKA, JUNEAU, ALASKA  
INT: ORNC

ASSISTANT SECRETARY ERNEST ON APRIL 7 ANNOUNCED THE REVOCATION OF HIGHWAY RIGHT-OF-WAY WITHDRAWALS IN ALASKA, AS WELL AS WITHDRAWALS ALONG THE ALASKA HIGHWAY FOR PIPELINES AND TELEPHONE LINES.

PUBLIC LAND ORDER 601, DATED AUGUST 10, 1949, SET ASIDE 300 FEET ON EACH SIDE OF THE CENTER LINE OF THE ALASKA HIGHWAY AND 150 FEET ON EACH SIDE OF THE CENTER LINE OF THE RICHARDSON, GLENN, HATHES, SEWARD-ANCHORAGE, ANCHORAGE-LAKE SPENARD AND FAIRBANKS-COLLEGE HIGHWAYS. PUBLIC LAND ORDER 386, DATED JULY 31, 1947, WITHDREW STRIPS OF LAND 20 AND 50 FEET WIDE ROUGHLY PARALLELING THE ALASKA HIGHWAY FROM THE ALASKA-CANADIAN BOUNDARY TO THE VICINITY OF BIG DELTA, ALASKA, FOR RIGHTS-OF-WAY FOR A TELEPHONE LINE AND AN OIL PIPE LINE.

THESE WIDE WITHDRAWALS KEPT HOME AND BUSINESS DEVELOPMENT EXCESSIVE DISTANCES FROM THE HIGHWAYS AND CAUSED NUMEROUS PROBLEMS IN LAND MANAGEMENT. THE NEED FOR REVISION BECAME APPARENT BUT REQUIRED PRIOR LEGISLATIVE ACTION IN ORDER TO PROTECT FULLY THE FRONTAGE HOLDINGS OF INDIVIDUALS HAVING PROPERTY ADJACENT TO THE HIGHWAY WITHDRAWALS. PUBLIC LAW 892, SPONSORED BY THE DEPARTMENT OF THE INTERIOR AND APPROVED AUGUST 1, 1956, AFFORDS PROTECTION TO LAND OWNERS AND ENTRYMEN BY GIVING THEM PREFERENCE TO ACQUIRE THE LAND ADJOINING THEIR OWN PROPERTY WHICH IS

*Spec. in. Al. Lands. 8-*

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POLICY DE ACT 11  
DEPARTMENT OF TERRITORIES  
12 APR 58 10 30 AM '58



VIA GOVERNMENT RADIO

PAGE 2

RELEASED FROM THE HIGHWAY WITHDRAWALS. THESE CLAIMANTS MAY NOW VOLUNTARILY MAKE APPLICATIONS TO ACQUIRE THE LANDS, BUT WILL LOSE THEIR PRIVILEGES IF THEY FAIL TO FILE APPLICATIONS WITHIN 60 DAYS AFTER FORMAL NOTIFICATION FROM THE BUREAU OF LAND MANAGEMENT OFFICIALS.

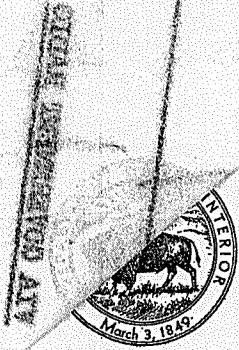
IN PLACE OF WITHDRAWALS THE REVOCATION ORDER CREATES EASEMENTS FOR HIGHWAY, TELEPHONE AND PIPELINE PURPOSES. PROPERTY SUBJECT TO THE EASEMENTS MAY BE ACQUIRED UP TO THE CENTER LINE OF THE HIGHWAYS. THE LANDS COVERED BY THE HIGHWAY EASEMENTS ARE NOT SUBJECT TO USE OR OCCUPANCY FOR OTHER THAN HIGHWAY PURPOSES EXCEPT WITH THE CONSENT OF THE SECRETARY OR HIS DELEGATE. THE RESTRICTIONS ALSO APPLY TO BILLBOARDS. SUGGEST IMMEDIATE ANNOUNCEMENT BE MADE. COPY OF PRESS RELEASE BEING AIR-MAILED. FROM ANTHONY T. LAUST, DIRECTOR, OFFICE OF TERRITORIES.

(Sgd.) Anthony T. Laust

ANTHONY T. LAUST

GRafter:mbb  
4-7-58

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF TERRITORIES

Washington 25, D. C.

Airmail

FILE COPY  
Surname:

*Rafter 4/7*  
*Stepovich 4/7*


APR - 7 1958

Hon. Mike Stepovich  
Governor of Alaska  
Juneau, Alaska

Dear Governor Stepovich:

Enclosed is a copy of the announcement on the revocation of highway right-of-way withdrawals in Alaska which was quoted in our radiogram to you of this date. Assistant Secretary Ernst signed the Public Land Order on April 7.

If you have not already done so, we suggest that you make an immediate announcement to the press.

Sincerely yours,

(Sgd.) Anthony T. Lausi

Anthony T. Lausi  
Director

GRafter:mbb  
4-7-58

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OFFICE OF TERRITORIES  
DEPARTMENT OF THE INTERIOR  
UNITED STATES



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OFFICE OF TERRITORIES

Press Release

SECRETARY SEATON ANNOUNCES REVOCATION OF HIGHWAY  
RIGHT-OF-WAY WITHDRAWALS IN ALASKA

Secretary of the Interior Fred A. Seaton today announced the revocation of highway right-of-way withdrawals in Alaska, as well as with-

drawals along the Alaska Highway for pipelines and telephone lines. Public Land Order 601, dated August 10, 1949, set aside 300 feet on each side of the center line of the Alaska Highway and 150 feet on each side of the center line of the Richardson, Glenn, Haines, Seward-Anchorage, Anchorage-Lake Spenard and Fairbanks-College Highways. Public Land Order 386, dated July 31, 1947, withdrew strips of land 20 and 50 feet <sup>wide</sup> roughly paralleling the Alaska Highway from the Alaska-Canadian boundary to the vicinity of Big Delta, Alaska, for rights-of-way for a telephone line and an oil pipe line.

These wide withdrawals kept homes and ~~buildings~~ <sup>BUSINESS DEVELOPMENT</sup> excessive distances from the highways and caused numerous problems in land management. The need for revision became apparent but required prior legislative action in order to protect fully the frontage holdings of individuals having property adjacent to the highway withdrawals. Public Law 892, sponsored by the Department of the Interior and approved August 1, 1956, affords protection to land owners and entrymen by giving them preference to acquire the land adjoining their own property which is released <sup>FROM THE</sup> by highway withdrawals. These claimants may now voluntarily make applications to acquire the lands, but will lose their privileges if they fail to file applications within 60 days after formal notification from the Bureau of Land Management officials.

In place of withdrawals the revocation order creates easements for highway, telephone and pipeline purposes. Property subject to the

*Long*

*Mittler 12/3*  
*Milner 12/3*  
*Morgan 12/3*  
*Stephens 12/3*  
*Coutler 12-3*  
*Lynn 12/3*  
*Rodgers 12-5*  
*Heller 4/2*  
*Stannard 4/4*  
*Spent*

APR 4 1958

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SECRET  
Highway Easements  
OFFICE OF TERRITORIES  
WEST - 11/26

easements may be acquired up to the center line of the highways. The lands covered by the highway easements are not subject to use or occupancy for other than highway purposes <sup>(including billboards)</sup> except with the consent of the Secretary or his delegate. *The restrictions also apply to billboards, etc.*

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UNITED STATES  
DEPARTMENT OF THE INTERIOR

CODE OF FEDERAL REGULATIONS  
TITLE 43 - PUBLIC LANDS: INTERIOR

Chapter I - Bureau of Land Management  
Appendix - Public Land Orders

Public Land Order 1613

[22506]

ALASKA

REVOKING PUBLIC LAND ORDER NO. 601 OF AUGUST 10, 1949, WHICH  
RESERVED PUBLIC LANDS FOR HIGHWAY PURPOSES, AND PARTIALLY  
REVOKING PUBLIC LAND ORDER NO. 386 OF JULY 31, 1947

By virtue of the authority vested in the President and pursuant to Executive Order No. 10255 of May 26, 1952, and the act of August 1, 1956 (70 Stat. 898) it is ordered as follows:

1. Public Land Order No. 601 of August 10, 1949, as modified by Public Land Order No. 757 of October 16, 1951, reserving for highway purposes the public lands in Alaska lying within 300 feet on each side of the center line of the Alaska Highway and within 150 feet on each side of the center line of the Richardson Highway, Glenn Highway, Haines Highway, the Seward-Anchorage Highway (exclusive of that part thereof, within the boundaries of the Chugach National Forest), the Anchorage-Lake Spenard Highway, and the Fairbanks-College Highway, is hereby revoked.

2. Public Land Order No. 386 of July 31, 1947, so far as it withdrew the following-described lands, identified as items (a) and (b) in said order, under the jurisdiction of the Secretary of War for right-of-way purposes for a telephone line and an oil pipeline with appurtenances, is hereby revoked:

OFFICE OF TERRITORIES

*Al-Highway-13  
Rights-of-Way  
Am 4/9  
Files  
April-7-1958*

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(a) A strip of land 50 feet wide, 25 feet on each side of a telephone line as located and constructed generally parallel to the Alaska Highway from the Alaska-Yukon Territory boundary to the junction of the Alaska Highway with the Richardson Highway near Big Delta, Alaska.

(b) A strip of land 20 feet wide, 10 feet on each side of a pipeline as located and constructed generally parallel to the Alaska Highway from the Alaska-Yukon Territory boundary to the junction of the Alaska Highway with the Richardson Highway near Big Delta, Alaska.

3. An easement for highway purposes, including appurtenant protective, scenic, and service areas, over and across the lands described in paragraph 1 of this order, extending 150 feet on each side of the center line of the highways mentioned therein, is hereby established.

4. An easement for telephone line purposes in, over, and across the lands described in paragraph 2(a) of this order, extending 25 feet on each side of the telephone line referred to in that paragraph, and an easement for pipeline purposes, in, under, over, and across the lands described in paragraph 2(b) of this order, extending 10 feet on each side of the pipeline referred to in that paragraph, are hereby established, together with the right of ingress and egress to all sections of the above easements on and across the lands hereby released from withdrawal.

5. The easements established under paragraphs 3 and 4 of this order shall extend across both surveyed and unsurveyed public lands described in paragraphs 1 and 2 of this order for the specified distance on each side of the centerline of the highways, telephone line and pipeline, as those center lines are definitely located as of the date of this order.

6. The lands within the easements established by paragraphs 3 and 4 of this order shall not be occupied or used for other than the highways, telegraph line and pipeline referred to in paragraphs 1 and 2 of this order except with the permission of the Secretary of the Interior or his delegate as provided by Section 3 of the act of August 1, 1956 (70 Stat. 898), provided; that if the lands crossed by such easements are under the jurisdiction of a Federal department or agency, other than the Department of the Interior, or of a Territory, State, or other Government subdivision or agency, such permission may be granted only with the consent of such department, agency, or other governmental unit.

7. The lands released from withdrawal by paragraphs 1 and 2 of this order, which, at the date of this order, adjoin lands in private ownership, shall be offered for sale at not less than their appraised value, as determined by the authorized officer of the Bureau of Land Management, and pursuant to Section 2 of the act of August 1, 1956, supra. Owners of such private lands shall have a preference right to purchase at the appraised value so much of the released lands adjoining their private property as the authorized officer of the Bureau of Land Management deems equitable, provided, that ordinarily, owners of private lands adjoining the lands described in paragraph 1 of this order will have a preference right to purchase released lands adjoining their property, only up to the centerline of the highways located therein. Preference right claimants may make application for purchase of released lands at any time after the date of this order by giving notice to the appropriate land office of the Bureau of Land Management. Lands described in this paragraph

not claimed by and sold to preference claimants may be sold at public auction at not less than their appraised value by an authorized officer of the Bureau of Land Management, provided that preference claimants are first given notice of their privilege to exercise their preference rights by a notice addressed to their last address of record in the office in the Territory in which their title to their private lands is recorded. Such notice shall give the preference claimant at least 60 days in which to make application to exercise his preference right; and if the application is not filed within the time specified, the preference right will be lost. Preference right claimants will also lose their preference rights if they fail to pay for the lands within the time period specified by the authorized officer of the Bureau of Land Management, which time period shall not be less than 60 days.

8. The lands released from withdrawal by paragraphs 1 and 2 of this order, which at the date of this order, adjoin lands in valid unperfected entries, locations, or settlement claims, shall be subject to inclusion in such entries, locations and claims, notwithstanding any statutory limitations upon the area which may be included therein. For the purposes of this paragraph entries, locations, and claims include, but are not limited to, certificates of purchase under the Alaska Public Sale Act (63 Stat. 679 & 48 U.S.C. 364a - e) and leases with option to purchase under the Small Tract Act (52 Stat. 609; 43 U.S.C. 602a) as amended. Holders of such entries, locations, and claims to the lands, if they have not gone to patent, shall have a preference right to amend them to include so much of the released

lands adjoining their property as the authorized officer deems equitable, provided, that ordinarily such holders of property adjoining the lands described in paragraph 1 of this order will have the right to include released lands adjoining such property only up to the centerline of the highways located therein. Allowances of such amendments will be conditional upon the payment of such fees and commissions as may be provided for in the regulations governing such entries, locations, and claims together with the payment of any purchase price and cost of survey of the land which may be established by the law or regulations governing such entries, locations and claims, or which may be consistent with the terms of the sale under which the adjoining land is held. Preference right claimants may make application to amend their entries, locations, and claims at any time after the date of this order by giving notice to the appropriate land office of the Bureau of Land Management. Lands described in this paragraph, not claimed by and awarded to preference claimants, may be sold at public auction at not less than their appraised value by the authorized officer of the Bureau of Land Management, provided that preference claimants are first given notice of their privilege to exercise their preference rights by a notice addressed to their last address of record in the appropriate land office, or if the land is patented, in the Territory in which title to their private land is recorded. Such notice shall give the claimant at least 60 days in which to make application to exercise his preference right, and if the application

is not filed within the time specified the preference right will be lost. Preference right claimants will also lose their preference rights if they fail to make any required payments within the time period specified by the authorized officer of the Bureau of Land Management, which time period shall not be less than 60 days.

9.(a) Any tract released by Paragraph 1 or 2 of this order from the withdrawals made by Public Land Orders Nos. 601, as modified, and 386, which remains unsold after being offered for sale under Paragraph 7 or 8 of this order, shall remain open to offers to purchase under Section 2 of the act of August 1, 1956, supra, at the appraised value, but it shall be within the discretion of the Secretary of the Interior or his delegate as to whether such an offer shall be accepted.

(b) Any tract released by Paragraph 1 or 2 of this order from the withdrawals made by Public Land Orders Nos. 601, as modified, and 386, which on the date hereof does not adjoin privately-owned land or land covered by an unpatented claim or entry, is hereby opened, subject to the provisions of Paragraph 6 hereof, if the tract is not otherwise withdrawn, to settlement claim, application, selection or location under any applicable public land law. Such a tract shall not be disposed of as a tract or unit separate and distinct from adjoining public lands outside of the area released by this order, but for disposal purposes, and without losing its identity, if it is already surveyed, it shall be treated as having merged into the mass of adjoining public lands, subject, however, to the easement as far as it applies to such lands.




(c) Because the act of August 1, 1956 (70 Stat. 896; 48 U.S.C. 420-420a) is an act of special application, which authorizes the Secretary of the Interior to make disposals of lands included in revocations such as made by this order, under such laws as may be specified by him, the preference-right provisions of the Veterans Preference Act of 1944 (58 Stat. 747; 43 U.S.C. 279-284) as amended, and of the Alaska Mental Health Enabling Act of July 28, 1956 (70 Stat. 709; 48 U.S.C. 46-3b) will not apply to this order.

10. All disposals of lands included in the revocation made by this order, which are under the jurisdiction of a Federal department or agency other than the Department of the Interior may be made only with the consent of such department or agency. All lands disposed of under the provisions of this order shall be subject to the easements established by this order.

11. The boundaries of all withdrawals and restorations which on the date of this order adjoin the highway easements created by this order are hereby extended to the centerline of the highway easements which they adjoin. The withdrawal made by this paragraph shall include, but not be limited to the withdrawals made for Air Navigation Site No. 7 of July 13, 1954, and by Public Land Orders No. 306 of July 31, 1947, No. 622 of December 15, 1949, No. 808 of February 27, 1952, No. 975 of June 18, 1954, No. 1037 of December 16, 1954, No. 1059 of January 21, 1955, No. 1129 of April 15, 1955, No. 1179 of June 29, 1955, and No. 1181 of June 29, 1955.

APR - 7 1958

  
Assistant Secretary of the Interior

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take the land

*Al. Highways - 13*



UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
WASHINGTON 25, D. C.

MAR 19 1957

Memorandum

To: The Solicitor  
 Director, Bureau of Sport Fisheries & Wildlife  
 Director, Geological Survey  
 Commissioner, Bureau of Indian Affairs  
 Director, Bureau of Land Management  
 Director, Bureau of Mines  
 Director, National Park Service  
 Commissioner, Bureau of Reclamation  
 Director, Office of Territories  
 Administrator, Bonneville Power Administration

From: Acting Director, Technical Review Staff

Subject: Bureau of Public Roads Policy and Procedure Memorandum  
 21-4.3; Right-of-Way Procedures (Public Lands and  
 Reservations)

<i>Handled X/C 3-20</i>		
FILED		

This memorandum already has been approved by the Federal Highway Administrator. Its date of issuance will be sometime in March. The memorandum is an internal operating instruction within the Bureau of Public Roads and for use by the State Highway Departments.

The Department of the Interior has been asked to review the attachment and furnish, at an early date, any comments it may have concerning any additional instructions which should be issued by the Bureau of Public Roads from the standpoint of Interior, and an indication of how Interior proposes to operate in this relationship.

Will you please have these instructions reviewed and designate a Bureau representative to meet with me at 10:00 A.M., March 27, 1957, in Room 7258, prepared to submit, in writing, any additional instructions which may be required and to discuss any problems confronting the Bureau with respect to these right-of-way procedures.

30 0 03 MAR 20 1957

RECEIVED

*John B. Bennett*  
John B. Bennett

Attachment

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<b>U. S. DEPARTMENT OF COMMERCE</b> Bureau of Public Roads	<b>POLICY AND PROCEDURE MEMORANDUM 21-4.3</b> Date of issuance: March 27, 1957
PROGRAM AND PROJECT PROCEDURES	
SUBJECT: RIGHT-OF-WAY PROCEDURES (Public Lands and Reservations)	
Supersedes: Memorandum dated April 2, 1923, (Temporary Topic 20-D)	

**1. PURPOSE**

The purpose of this memorandum is to prescribe the policies and procedures relating to the acquisition by the States of interest in public lands or reservations of the United States for highway purposes.

**2. SECTION 17 OF THE FEDERAL HIGHWAY ACT OF 1921**

a. This section authorizes the transfer of public lands and reservations of the United States to the State highway departments on determination by the Secretary of Commerce that such lands are reasonably necessary for the right-of-way for any highway or forest road; as a source of materials for the construction and maintenance of such roads and highways; for maintenance and stockpile sites; or for roadside and landscape development. It does not authorize transfers to Territories.

b. This section has been interpreted as applying only to projects located on a Federal-aid system or which are being constructed in whole, or in part, with Federal funds.

c. Applications under this section should be filed by the State highway department and not by a subdivision of the State, through Public Roads with the appropriate Federal agency. No special form of application is required but it should state the purpose for which the land is to be used and should specify that the applicant agrees that the acquisition, if approved, will be subject to the terms and conditions of the applicable regulations of the department making the grant.

d. Each application should be accompanied by (1) a map prepared on tracing linen and four print copies thereof, showing the survey of the land desired, properly located with respect to the public land surveys, so that it may be accurately located on the ground by a competent engineer or land surveyor, and (2) a description (original and four copies) of the lands desired in terms of the public land surveys or by metes and bounds and showing the approximate area. If the project to be constructed is a controlled access project, the extent of such control should be specifically set out in the application.

e. Upon approval or disapproval of the State's application, notice is given by the agency which controls the lands. Normally such notice will be routed through the Washington office of Public Roads, but where the State is notified direct, it should advise Public Roads.

f. If and when the need for the land acquired under this section shall no longer exist, notice of that fact must be given by the State highway department to the Secretary of Commerce, and such lands will immediately revert to the control of the Federal agency from which they were appropriated.

**3. SECTION 109(d) OF THE FEDERAL-AID HIGHWAY ACT OF 1956**

a. This section authorizes the Secretary of Commerce to make necessary arrangements with the agency having jurisdiction over the land, for rights-of-way including control of access whenever such right-of-way on the Interstate System are required over public lands or reservations of the United States.

b. Applications under this section will be processed in the same manner as applications under Paragraph 2.

**4. SECTION 2477, REVISED STATUTES**

This statute grants right-of-way for the construction of highways over public lands not reserved for public uses. The grants of right-of-way by this section become effective upon the construction or establishment of highways, in accordance with the State laws, over public lands not reserved for public uses. No application should be filed under Revised Statutes 2477, as no action on the part of the Government is necessary. The Bureau of Land Management will not receive and record on its tract books rights-of-way acquired under this section. This section does not grant the right to take materials for roads from the public lands nor does it properly document the control of access. In such cases Section 17 of the 1921 Act or Section 109(d) of the 1956 Act should be used. This law is in the nature of an offer of the right-of-way, and an acceptance is necessary before the public right becomes effective. If

--10853

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superior adverse rights have accrued, the State or other public authority would have to take the land subject to such rights.

#### 5. EXECUTIVE ORDER NO. 10355

a. By this order the President delegated to the Secretary of the Interior the authority to withdraw or reserve lands of the public domain and other lands owned or controlled by the United States in the continental United States or Alaska for public purposes, including the authority to modify or revoke withdrawals and reservations of such lands.

b. The head of any Federal or State agency desiring lands owned or controlled by the United States to be withdrawn or reserved under the authority of said Executive Order for use of the agency, should file an application for such withdrawal or reservation with the manager of the land office of the area in which the lands are situated, or, if there is no land office for the area, with the Director of the Bureau of Land Management, Department of the Interior, Washington 25, D. C. Such application should conform to the requirements of Department of Interior Circular 1830 (43 CFR Sections 295.9 through 295.11).

c. The application for material sites on forest land should not be filed as a withdrawal under Executive Order No. 10355 but should be filed as a request for a special use permit under the Mineral Materials Act, as amended July 23, 1955, and pursuant to Regulation U-13 of the Secretary of Agriculture (36 CFR 251.4).

#### 6. INDIAN LANDS

The Bureau of Indian Affairs has jurisdiction over applications for rights-of-way across Indian lands. All applications for the use and occupancy of Indian lands for right-of-way purposes should, therefore, be filed with the Superintendent of the Indian Agency or other superintendent in charge of the reservation on which the lands involved are situated, in accordance with the regulations of the Bureau of Indian Affairs contained in 25 CFR, Part 256.

#### 7. FOREST AND PARK LANDS

a. The Forest Service and the National Park Service, as a rule, do not grant rights-of-way through their reservations under Section 17 of the 1921 Act. Both of these agencies resort to a "special use permit." These permits contain certain conditions with which the States must comply and are in the nature of revocable licenses.

b. Applications involving lands under the jurisdiction of the Forest Service or National Park Service should follow the procedure for applications under Section 17 and should be forwarded through the Washington office of Public Roads.

#### 8. OTHER LAWS

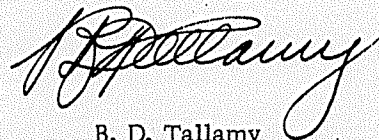
a. Some departments have special legislation for granting rights-of-way over lands under their jurisdiction and often prefer to proceed under their own laws rather than under Section 17. The Department of Defense has such a provision in the Act of July 24, 1946 (43 USC 931b) as amended by the Act of October 25, 1951 (50 USC 171-1), and the Veterans Administration has a similar provision in the Act of May 31, 1947, (38 USC 11i).

b. Where it is known that an agency desires to proceed under its own laws, the State may file application direct with such agency; but where Section 17 is to be invoked, the procedure outlined in Paragraph 2 hereof should be followed. When there is doubt as to which law will govern, the application should be filed under Section 17. The granting agency will then determine which act it will follow.

#### 9. GENERAL

a. If a State's application is forwarded to Public Roads, it is suggested that in order to expedite approval a copy of the application be forwarded directly to the local office of the Federal agency having jurisdiction over the land involved.

b. Applications should be made sufficiently in advance of the need for the right-of-way to provide ample time for action thereon.



B. D. Tallamy  
Federal Highway Administrator

10853--U.S. Dept. of Comm--DC--1957

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF TERRITORIES  
Washington 25, D. C.

*Al. Highway - 13*

DEC -3 1956

Memorandum

To: Commissioner, Bureau of Indian Affairs  
From: Acting Director, Office of Territories  
Subject: Annette Island Road Right-of-Way

Attached is a letter dated November 13, 1956, from Mr. J. H. Goding, Mayor of the City of Ketchikan, with respect to the problem of obtaining rights-of-way for ferry service and a road on Annette Island.

I believe that this letter can better be answered by your office. We should appreciate, however, having a copy of your reply.

(Sgd.) Kirkley S. Coulter

Kirkley S. Coulter

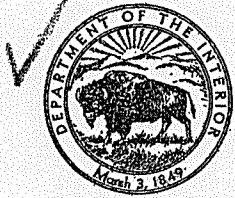
Attachment

Copy to: Mrs. B. D. Fuss

GMLiner:veh  
11-30-56

*Based on Al. Highway - 2*

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*Re - Highway - 13*  
IN REPLY REFER TO:  
Realty-Ten & Mgmt  
14812-56

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS  
WASHINGTON 25, D. C.

Memorandum

To: Acting Director, Office of Territories **NOV 29 1956**

From: Assistant Commissioner (Resources)  
Bureau of Indian Affairs

Subject: Proposed Ketchikan-Metlakatla Road and Ferry System

Thank you for forwarding information from the report covering action of the Federal Grand Jury at the regular October 1956 term of the United States District Court of the District of Alaska, held at Ketchikan.

We have received information to the same effect from other sources also, and our Area Director at Juneau is fully advised of the situation. A copy of our letter of October 31 to him is attached.

You may be interested to know, if you do not already have such information, that the Metlakatla Indian Community exercises comprehensive powers of self-government, detailed in a Constitution and Bylaws approved by the Department on August 23, 1944. Authority is vested in an elected council and includes the power " \* \* \* to prevent the sale, disposition, lease or encumbrance of community lands, interests in lands, or other community assets without the consent of the Community; \* \* \* ." General departmental authority for the granting of rights of way is found in the act of February 5, 1948 (62 Stat. 17, 25 U.S.C. 328), which requires the consent of tribes organized as are the Metlakatla people. Although departmental authority for the granting of highway rights of way is not confined to this statute, it is the policy to observe the requirement of tribal consent.

(Sgd) E. J. UIZ

Assistant Commissioner (Resources)

Attachment

*Re - Highway - 2 - Annette Island Road*

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF TERRITORIES

Washington 25, D. C.

NOV -5 1956

*U- Highp -13*

Memorandum

To: Assistant Commissioner Ervin J. Utz  
Bureau of Indian Affairs

From: Acting Director, Office of Territories

Subject: Ketchikan-Metlakatla Road and Ferry System Situation

Quoted below for your information is a portion of the report of the Federal Grand Jury impaneled for the regular October 1956 term of the United States District Court of the District of Alaska, Division No. 1, held at Ketchikan. This excerpt from the Grand Jury Report deals with the impasse which has developed between the City of Ketchikan and the Town of Metlakatla concerning the proposed road and ferry system.

"The Grand Jury investigated quite thoroughly the question of the proposed Ketchikan-Metlakatla road and ferry system. This investigation was undertaken on the premise that the public interest is involved, including the expenditure up to this point of large sums of tax monies on the Annette Island airfield, on the presently existing Annette Island road system, on the cost of surveying the proposed Metlakatla-Point Walden road, on the payment of operating subsidies to scheduled airlines serving the airfield and general Ketchikan area and the fact that the general public, with the exception of the community of Metlakatla, is denied, from a practical standpoint, a surface access route to the Annette airfield which would make possible 24-hour usage of the field.

"In the course of the Grand Jury investigation on this matter it was revealed that the citizens of Metlakatla have had no chance to vote on the matter of establishing a Metlakatla-Ketchikan road and/or ferry system nor are they allowed the opportunity of voting on the many other issues of a community nature. It was revealed that the principle of the "Referendum" is almost never accorded the citizens of Metlakatla on matters pertaining to their own internal affairs with, perhaps, the exception of electing their own City

*Office in - U- Highp -2- Annette Island*

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Council. From testimony presented to the Grand Jury it appeared that the majority of the Metlakatla citizens would favor a Metlakatla-Ketchikan road and ferry connection if they were given an opportunity to vote or otherwise express their opinion on the matter."

((Sgd.)) Kirkley S. Coulter

Kirkley S. Coulter

OMilner:veh  
11-2-56

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF TERRITORIES

*Al - Highways - 13*

FILE COPY  
Surname:

SEP 25 1956

<i>Coulter 9-25</i>
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Memorandum

To: Acting Commissioner, Bureau of Indian Affairs  
From: Director, Office of Territories  
Subject: Proposed reply to letter of September 7, 1956 from  
Mayor Goding of Ketchikan, Alaska

We suggest that the following new paragraph be  
inserted:

"Your letter also refers to the possibility of obtaining legislation to acquire the necessary easements. In the event that legislation along those lines should be introduced, this Department would be glad to give it most sympathetic consideration. The chances for success of such legislation, however, might depend to a large degree on the extent to which it was acceptable to the Indian Community."

(Sgd.) Anthony T. Lausi

Anthony T. Lausi

KSCoulter-gt  
9/25/56

*Basic on - Ask - Highways - 2 - Annette Island*

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Al - Highway - 13  
Kraften  
Morgan  
Giles

CLIPPING FROM FEDERAL REGISTER - FRIDAY, SEPT. 21, 1956

### NOTICES

#### DEPARTMENT OF THE INTERIOR

Office of the Secretary

[Order 2665, Amdt. 2]

ALASKA

#### RIGHTS-OF-WAY FOR HIGHWAYS

SEPTEMBER 15, 1956.

1. Section 2 (a) (1) is amended by adding to the list of public highways designated as through roads, the Fairbanks-International Airport Road, the Anchorage-Fourth Avenue-Post Road, the Anchorage International Airport Road, the Copper River Highway, the Fairbanks-Nenana Highway, the Denali Highway, the Sterling Highway, the Kenai Spur from Mile 0 to Mile 14, the Palmer-Wasilla-Willow Road, and the Steese Highway from Mile 0 to Fox Junction; by re-designating the Anchorage-Lake Spenard Highway as the Anchorage-Spenard Highway, and by deleting the Fairbanks-College Highway.

2. Section 2 (a) (2) is amended by deleting from the list of feeder roads the Sterling Highway, the University to

<sup>1</sup>This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure, as amended, governing proceedings to formulate marketing agreements and orders have been met.

Ester Road, the Kenai Junction to Kenai Road, the Palmer to Finger Lake to Wasilla Road, the Paxson to McKinley Park Road, and the Steese Highway, from Mile 0 to Fox Junction, and by adding the Kenai Spur from Mile 14 to Mile 31, the Nome-Kougarok Road, and the Nome-Teller Road.

FRED A. SEATON  
Secretary of the Interior

[F. R. Doc. 56-7583; Filed, Sept. 20, 1956; 8:45 a. m.]

9/27

M.M.

Since this order was signed on Sept. 15 (Saturday) and transfer date of ACR was Monday the 16, I informally advised Shighone of this order & furnished him copies. Therefore, no further action need be taken.

Gandy

Davis  
9/27/56

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*Al. Highways - 13*

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
Washington 25, D. C.

September 15, 1956

ORDER NO. 2665 (October 16, 1951), Amendment No. 2

SUBJECT: Rights-of-Way for Highways in Alaska

1. Section 2(a)(1) is amended by adding to the list of public highways designated as through roads, the Fairbanks-International Airport Road, the Anchorage-Fourth Avenue-Post Road, the Anchorage International Airport Road, the Copper River Highway, the Fairbanks-Nenana Highway, the Denali Highway, the Sterling Highway, the Kenai Spur from Mile 0 to Mile 14, the Palmer-Wasilla-Willow Road, and the Steese Highway from Mile 0 to Fox Junction; by re-designating the Anchorage-Lake Spenard Highway as the Anchorage-Spenard Highway, and by deleting the Fairbanks-College Highway.

2. Section 2(a)(2) is amended by deleting from the list of feeder roads the Sterling Highway, the University to Ester Road, the Kenai Junction to Kenai Road, the Palmer to Finger Lake to Wasilla Road, the Paxson to McKinley Park Road, and the Steese Highway, from Mile 0 to Fox Junction, and by adding the Kenai Spur from Mile 14 to Mile 31, the Nome-Kougarok Road, and the Nome-Teller Road.

*Fred A. Seaton*  
Secretary of the Interior

Prepared for publication in the Federal Register.

4031

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*Ab. Highway -13*

*Copy*  
*Handwritten notes and signatures*

UNITED STATES  
DEPARTMENT OF THE INTERIOR  
WASHINGTON 25, D. C.

ORDER NO. 2665 (OCTOBER 16, 1951), AMENDMENT No. 2  
SUBJECT: RIGHTS-OF-WAY FOR HIGHWAYS IN ALASKA

*Sept. 15, 1956*

1. SECTION 2 (A)(1) IS AMENDED BY ADDING TO THE LIST OF PUBLIC HIGHWAYS DESIGNATED AS THROUGH ROADS, THE FAIRBANKS-INTERNATIONAL AIRPORT ROAD, THE ANCHORAGE-FOURTH AVENUE-POST ROAD, THE ANCHORAGE INTERNATIONAL AIRPORT ROAD, THE COPPER RIVER HIGHWAY, THE FAIRBANKS-NENANA HIGHWAY, THE DENALI HIGHWAY, THE STERLING HIGHWAY, THE KENAI SPUR FROM MILE 0 TO MILE 14, THE PALMER-WASILLA--WILLOW ROAD, AND THE STEESE HIGHWAY FROM MILE 0 TO FOX JUNCTION; BY RE-DESIGNATING THE ANCHORAGE-LAKE SPENARD HIGHWAY AS THE ANCHORAGE-SPENARD HIGHWAY, AND BY DELETING THE FAIRBANKS-COLLEGE HIGHWAY.

2. SECTION 2 (A)(2) IS AMENDED BY DELETING FROM THE LIST OF FEEDER ROADS THE STERLING HIGHWAY, THE UNIVERSITY TO ESTER ROAD, THE KENAI JUNCTION TO KENAI ROAD, THE PALMER TO FINGER LAKE TO WASILLA ROAD, THE PAXSON TO MCKINLEY PARK ROAD, AND THE STEESE HIGHWAY, FROM MILE 0 TO FOX JUNCTION, AND BY ADDING THE KENAI SPUR FROM MILE 14 TO MILE 31, THE NOME-KOUGAROK ROAD, AND THE NOME-TELLER ROAD.

*Fred A. Senton*  
SECRETARY OF THE INTERIOR

*5*

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*Acc - Highway - 13*  
IN REPLY REFER TO:

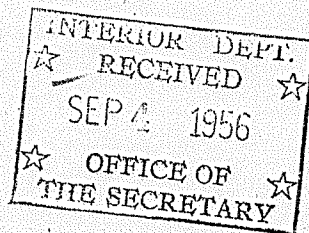
UNITED STATES  
DEPARTMENT OF THE INTERIOR  
BUREAU OF INDIAN AFFAIRS

Juneau Area Office  
Juneau, Alaska

Via Air Mail

August 30, 1956

Hon. Fred G. Aandahl  
Assistant Secretary of Interior  
Department of the Interior  
Washington 25, D. C.



My dear Mr. Aandahl:

This will acknowledge your letter of August 24 together with enclosures, concerning the exchange of correspondence relating to the question of easement for the proposed Annette Island road and ferry ramp installations.

Immediately upon receipt of your communication I had a conference with Robert Sharp, Ketchikan city manager who happened to be in Juneau at that particular period. I then called the head of the Alaska Road Commission and as a result of the aforesaid meeting and telephone call, I communicated with the mayor of Metlakatla and arranged to have a meeting September 5 at Metlakatla. Those present will be the mayor of Ketchikan, city manager of Ketchikan, head of the Alaska Road Commission, a representative from the Territorial Highway Engineer's department, president of the Ketchikan Chamber of Commerce and the Realty Officer from this office. I had planned to attend personally but due to the fact that I have representatives from the Washington office arriving for a rather important meeting with the top educators in the Territory, I find it impossible to attend the Metlakatla meeting.

Assuming that you will be interested in the outcome of this meeting, I shall be happy to again communicate with you, advising you of the results. Finding me at your command, I am

Sincerely yours,

William H. Olsen  
Area Director

*Pass on Acc - Highway - 2 - Annette I. Road*

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