

FORM CD-14 (10-27-53)	DEPARTMENT OF COMMERCE	DATE 2/8/56
TRANSMITTAL SLIP		
TO: Mr. A. C. Clark	REF. NO. (If any)	
FROM: Henry J. Kaltenbach	REF. NO. (If any)	
ACTION		
<input type="checkbox"/> NOTE AND FILE	<input type="checkbox"/> PREPARE REPLY FOR MY SIGNATURE	
<input type="checkbox"/> NOTE AND RETURN TO ME	<input type="checkbox"/> TAKE APPROPRIATE ACTION	
<input type="checkbox"/> RETURN WITH MORE DETAILS	<input type="checkbox"/> PER YOUR REQUEST	
<input type="checkbox"/> NOTE AND SEE ME ABOUT THIS	<input type="checkbox"/> SIGNATURE	
<input type="checkbox"/> PLEASE ANSWER	<input type="checkbox"/> FOR YOUR INFORMATION	
<input type="checkbox"/> FOR YOUR APPROVAL	<input type="checkbox"/> INVESTIGATE AND REPORT	
<input type="checkbox"/> PER OUR CONVERSATION		
COMMENTS:		
<p>Per our conversation.</p> <p><i>Geo. — Can you talk to Henry about this?</i></p> <p><i>Joe</i> <i>8-10</i></p>		

COMM-DC-3822

February 2, 1956

Mr. Kaltenbach:

There is attached a memorandum dated January 4, 1956, from Mr. Andrews in reply to the Commissioner's memorandum of January 4, which was prepared in the Legal Division. In our original draft of the memorandum to Mr. Andrews, we attempted to cover both policy and legal phases of the question. You discussed the situation at a staff meeting, and it was decided that our reply should be on a strictly legal basis. Mr. Andrews now again brings up the matter of policy, and it is thought that you may wish to discuss it further with the staff.

W. Phillips
W. Phillips

Forest Highway Projects

08-00
30-03

BUREAU OF PUBLIC ROADS

See Office Memorandum • UNITED STATES GOVERNMENT

TO : Commissioner
Washington, D. C.

FROM : F. E. Andrews, Division Engineer
~~Portland, Oregon~~

SUBJECT: Acquisition of Right-of-Way by the Territory of Alaska for Forest Highway Projects

DATE: January 24, 1956

Your reply of January 4, 1956, to our September 27, 1955, memorandum on the above subject has been received. We note that there are no statutes or regulations which require the Territory of Alaska to furnish right-of-way for Forest Highway Projects. We have not as yet replied to the inquiry received from the Territorial Highway Engineer for the reason that we believe this information may lead to complete withdrawal by the Territory from acquisition work.

We, therefore, believe it advisable to explore the matter further before answering their inquiry. If possible, we would like to have a statement, or rather a re-statement, covering the Bureau policy regarding the use of Forest Highway funds for right-of-way acquisition work. Also, in view of the information regarding the amount of time involved in such acquisition work, the amount of funds involved which may exceed \$5,000 to \$10,000 per parcel, and the difficulty in performing title searches and obtaining clear titles, we believe that answers to the following questions may be helpful:

1. Assuming that Forest Highway funds are available for the purchase of right-of-way, we presume that either the Department of Justice or some other Government agency would have to be called upon to make the actual purchases because of the fact that purchases would exceed the authority granted the Division or District Engineer.
2. It being our understanding that Division 10 had been advised that the Bureau would not have the right of condemnation or eminent domain, how would such cases be handled?
3. Detailed advice and instructions regarding procedures and authorities with respect to questionable titles, title searches, and property valuation would be necessary.
4. If Forest Highway funds are not available for payment for right-of-way across private lands and the Territory of Alaska should elect to withdraw from right-of-way acquisition, the entire Forest Highway program in Alaska would be at a standstill.

59
1-31-56

also refer
59
10-10-55

msc
5/23/56

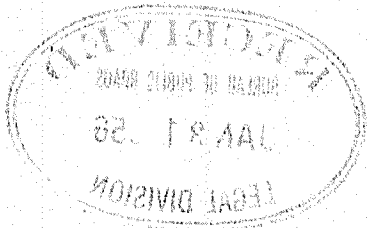
see memo
dated 6/15/56

January 24, 1956

5. If Forest Highway funds cannot be used for such acquisition work, the Territory would be in a position to practically dictate which projects were to be constructed by refusing to participate in right-of-way acquisition except on projects of their choosing.

6. We presume that, if Forest Highway funds are available for such acquisition, title to the rights-of-way would be vested in the United State's Government and presume that, should the Territory eventually be granted State-hood and Federal-aid, title to these rights-of-way could be transferred to the new State without special legislation.

These questions are being propounded previous to answering the Territory's inquiry for the reason as above stated that, should the Territory withdraw from acquisition work, the Forest Highway program will be very seriously hindered until they are satisfactorily answered.



*(Alaska) Forest Highways
(Right of Way)*

Mr. F. E. Andrews, Division Engineer
Portland, Oregon

January 4, 1956

C. D. Curtiss, Commissioner
Washington, D. C.

Acquisition of Right-of-Way by Territory of Alaska for Forest
Highway Projects

att
Reference is made to your memorandum of September 27, 1955, and to the discussion of Forest highway projects at the recent Division Engineers Meeting in New Orleans. You forwarded with your memorandum a letter dated September 16, 1955, from the Alaska Highway Engineer requesting advice on three questions in connection with the acquisition of right-of-way for highway projects in Alaska. You state that it has been the practice of the Territory to furnish such right-of-way although a good portion of the work involved in its acquisition has, in the past, been performed by Bureau personnel. The three questions raised and the answers are:

1. What are the specific citations to Federal statutes or regulations which require the Territory to secure and pay for rights-of-way in connection with the Bureau of Public Roads roadbuilding program?

The Territory of Alaska has no regular Federal-aid highways, the question, therefore, would apply to Forest highways. There are no statutes or regulations requiring the Territory to furnish right-of-way for such projects.

2. What are the specific citations of Federal statutes or regulations which authorize the Bureau of Public Roads to require the Territory to secure the said rights-of-way?

There are no specific statutes or regulations which authorize the Bureau to require the Territory to furnish right-of-way for Forest highway projects. Section 23 (b) of the Federal Highway Act states that: "Cooperation of Territories, States, and civil subdivisions thereof may be accepted but shall not be required...". Section 15.5 of "Rules and Regulations for Administering Forest Highways (Revised)," effective March 22, 1950, makes provision for such cooperation.

3. What are the specific citations of Federal statutes or regulations which authorize the Bureau of Public Roads to construct Federal roads on property owned by the Territory?

Specific authority to construct roads on property owned by the Territory is not spelled out in the legislation. Section 2 of the Federal Highway Act defines the term "forest roads" to mean roads wholly or partly within or adjacent to and serving the National Forests, thus indicating that such highways could be and were expected to be constructed over lands other than those owned by the United States.

Cooperation of the Territory when voluntarily given may be accepted but shall not be required.

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10-10-55

CWP
CWPPhillips: *HJK*
SZPhillips:dws
cc: Central Files (2) ✓
Mr. F. E. Andrews ✓
R/W Branch ✓
R/W (folder) ✓
Legal
am 1-5-56 ✓

Mr. Kallenbach

noted
NJK.

November 2, 1955

Mr. C. D. Curtiss

A. C. Clark

AC

Some time ago it was agreed that we would canvas the western divisions in order to ascertain the feeling of the division engineers in regard to the use of Forest highway funds for right-of-way acquisitions.

The objections offered by Messrs. Archibald, Andrews and Chamberlain are summarized below. The objections listed are based on the assumption that if such a change in practice were adopted, the actual acquisition would be done by the States or counties on a reimbursable basis. If the Bureau were to handle the actual acquisition operations there would be additional objections, such as need for employing right-of-way personnel and more difficulty in dealing with property owners because of being strangers and not having the increased tax assessment club to use in keeping asserted values down.

Objections to Use of Forest Highway Funds
For Right-of-way Acquisition

1. Financial Interest of Cooperator

If the cooperating State or county has some funds invested in the project, it will have more interest in seeing that the project is properly maintained than it would if the project were a gift.

2. Right-of-way Costs

(a) Property owners are more inclined to provide right-of-way without condemnation and at low costs or even gratis when the State or county is paying for it than when they know the Federal government bears the entire expense. This is because they realize the money will come from their local taxes and because they are dealing with people who know them.

(b) The cooperator will have a more compelling incentive for negotiating low cost settlements if it has to provide the funds than it will if the cost is merely passed on to the Federal government.

3. Irritating Procedures and Audits

It is likely that the detailed procedures, justifications and audits required by the Federal government as requisites to reimbursement would prove very irritating to the cooperator, particularly in the case of counties that handle such matters in rather informal and loose manners.

4. Progress of Over-all Program

Better progress will be made in the over-all Forest highway program if the Forest highway funds are used for construction only instead of being partially consumed in right-of-way costs.

5. No Difficulties under Present Procedure

No problems have arisen under the present practice of requiring the cooperator to pay for the right-of-way and there have been no objections on the part of the States or counties. The Forest Service is also satisfied with the present practice. There is apparently nothing to be gained by disrupting firmly established policies and practices.

Mr. Spelman favors retention of principle that the Cooperator acquire right-of-way as in the past, but is willing to modify past procedures to permit limited (50 percent) purchase of right-of-way with Forest highway funds in cases where the State contributes 50 percent of the cost of subsequent construction.

cc--Mr. Kaltenbach

11-14-55
 for discussion
 at next staff
 meeting.

See Curtis on
 this -
 Ask him about
 law, etc.

Form CD-14 (10-15-46)	DEPARTMENT OF COMMERCE	DATE
TRANSMITTAL SLIP		10-10-55
TO:	Mr. C. N. Phillips	REF. NO. (If any)
FROM:	Henry J. Kattenbeck	REF. NO. (If any)
ACTION		
<input type="checkbox"/> NOTE AND FILE	<input type="checkbox"/> PREPARE REPLY FOR MY SIGNATURE	
<input type="checkbox"/> NOTE AND RETURN TO ME	<input type="checkbox"/> TAKE APPROPRIATE ACTION	
<input type="checkbox"/> RETURN WITH MORE DETAILS	<input type="checkbox"/> PER YOUR REQUEST	
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<input type="checkbox"/> FOR YOUR APPROVAL	<input type="checkbox"/> INVESTIGATE AND REPORT	
COMMENTS:		

A2.49

Comm-DC 5847

Form CD-14 (10-27-53)	DEPARTMENT OF COMMERCE	DATE
TRANSMITTAL SLIP		
TO:	Solicitor	REF. NO. (If any)
FROM:		REF. NO. (If any)
ACTION		
<input type="checkbox"/> NOTE AND FILE	<input type="checkbox"/> PREPARE REPLY FOR MY SIGNATURE	
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<input type="checkbox"/> PLEASE ANSWER	<input type="checkbox"/> FOR YOUR INFORMATION	
<input type="checkbox"/> FOR YOUR APPROVAL	<input type="checkbox"/> INVESTIGATE AND REPORT	
<input type="checkbox"/> PER OUR CONVERSATION		
COMMENTS: Henry - I have recently questioned our practice of requiring States or Countries to provide R of W on Forest Highway projects. Sent that the equivalent of requiring cooperation in the cost: 1/55		

COMM-DC-3822

Mr. F. E. Andrews, Division Engineer
Portland, Oregon

October 27, 1955

Henry J. Kaltenbach, Solicitor
Washington, D. C.

Acquisition of Right-of-way by Territory of Alaska for Forest
Highway Projects

Reference is made to your memorandum of September 27, 1955, forwarding a letter dated September 16 from the Alaska Highway Engineer requesting advice on three questions in connection with the acquisition of right-of-way for highway projects in Alaska. You state that it has been the practice of the Territory to furnish such right-of-way although a good portion of the work involved in its acquisition has in the past been performed by Bureau of Public Roads personnel. The three questions raised by the territorial highway engineer are discussed below:

1. What are the specific citations to Federal statutes or regulations which require the Territory to secure and pay for rights-of-way in connection with the Bureau of Public Roads roadbuilding program?

The construction of forest highways is not primarily a Bureau of Public Roads roadbuilding program but is a program designed to provide highways of "primary importance to the State, counties, or communities within, adjoining, or adjacent to the national forests." After the passage of the Federal Highway Act of 1921 the State Highway Departments of the States in which national forests are located made a study, in cooperation with the Bureau of Public Roads and the Forest Service, of the highway situation in the forest areas and designated a forest highway system for each State and Territory. Annual construction programs for forest highways are prepared as a result of conferences between the State Highway departments, the Bureau of Public Roads, and the Forest Service.

There are no statutes or regulations requiring the Territory to furnish right-of-way for such projects. However, it has been the practice since the inception of the forest highway program for the cooperators to furnish such rights-of-way under agreement with the Bureau. There were and are sound reasons for establishing such a practice. The Federal funds available have always been limited and more highways could be constructed if the cooperator furnished the right-of-way. It is a good investment from the standpoint of

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10-16-55

Use
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the local highway authorities since for a comparatively small investment in rights-of-way it can secure the entire project. The Bureau of Public Roads has never maintained a right-of-way organization staffed and equipped for acquiring such rights-of-way. The law establishing the forest highway program did not specifically authorize the acquisition of rights-of-way by the Bureau of Public Roads. The acquisition of rights-of-way by the cooperator places the jurisdiction of the completed facility in the local authorities rather than in the Federal Government which is not staffed for policing of such highways. Should rights-of-way for such projects have to be acquired by the Bureau of Public Roads title to such lands would have to meet the rigid requirements of the Department of Justice and would have to be approved by the Attorney General. Construction of the project could not begin until title was cleared and such approval secured. Because of lack of personnel such rights-of-way would probably have to be acquired by Federal condemnation proceedings which would further delay the projects.

Taking all things into consideration the only logical procedure would seem to be for the cooperator to acquire the right-of-way and make it available for the construction of the highway even though such action is not specifically required by law. The law by its terms permits such cooperation by Territories, States and civil subdivisions thereof. The States have always recognized the cooperative nature of the Federal-aid program and the mutual benefits derived from the acquisition of the right-of-way by the cooperator and have acquiesced in such procedure. (To do otherwise would create confusion in the administration of the highways.)

2. What are the specific citations of Federal statutes or regulations which authorize the Bureau of Public Roads to require the Territory to secure the said rights-of-way?

As stated in connection with the first question there are no specific statutes or regulations presently in force which authorize the Bureau to require the Territory to furnish right-of-way for forest highway projects. Section 23(b) of the Federal Highway Act of 1921 states that: "Cooperation of Territories, States, and civil subdivisions thereof may be accepted but shall not be required by the Secretary of Agriculture." However, the discussion under question one is equally applicable to this question. // 10/20/27

3. What are the specific citations of Federal statutes or regulations which authorize the Bureau of Public Roads to construct Federal roads on property owned by the Territory?

Specific to Construct roads on property owned by Territory

Such authority is not spelled out in the legislation but is implied from the wording of the statute. Section 2 of the Federal Highway Act of 1923 defines the term "forest roads" to mean roads wholly or partly within or adjacent to and serving the national forests, thus indicating that such highways could be and were expected to be constructed over lands other than those owned by the United States. The Territory of Alaska has no regular Federal-aid highways but it would seem that the same principles should apply to the forest highways as apply to Federal-aid highways in the States and the principle of construction of Federal-aid highways upon rights-of-way acquired by and in the name of the States or their civil subdivisions has been so well established over the years that it is believed that such authority cannot now be denied or seriously questioned. The entire Federal-aid program is based on the premise that the rights-of-way for such highways will be acquired by and in the name of the States, and Congress has made its appropriations with such premise in mind. In fact it was not until 1943 that Congress was fit to permit Federal funds to even participate in the cost of such rights-of-way.

(If the Territory refuses to furnish the rights-of-way there is, of course, no legal basis for forcing them to do so. (However, such refusal would result in at least a temporary suspension of the highway program pending the establishment of some other method of securing the rights-of-way.) *over*

RP
SZPhillips:md
cc: Central Files (2)
Mr. F. E. Andrews
R/W Branch
Legal
RP

December 29, 1955

SENSE OF STAFF MEETING HELD IN MR. CURTISS' OFFICE
ON DECEMBER 29 REGARDING THE ATTACHED MATTER.

1. The reply should be made through Division Engineer Andrews. (Because of the Commissioner's interest and its general effect, it probably should be for the Commissioner's signature.)
2. Reply should indicate that Territorial participation in right-of-way acquisition for forest highways under the law may be accepted but cannot be required.
3. While it has been the Bureau's practice to have the States furnish right-of-way for forest highway projects, it was indicated that the Bureau would not, as a matter of policy, require Territorial participation in right-of-way on a 100-percent basis or even on a 50-percent basis if the Territory should ask for Federal participation. Of course, if we should participate in right-of-way for forest highway projects on a 100-percent basis, the Bureau would not stand idly by if any irregularities arise.
4. Mr. Curtiss indicated that he had been thinking about having a memorandum covering this general matter issued to all the States. (Perhaps our reply to the Alaska inquiry could be used as a basis for a Cherry Memorandum.)

SKB

Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. C. D. Curtiss, Commissioner

DATE: Sept. 27, 1955

FROM : *[Signature]* E. Andrews, Division Engineer

SUBJECT: Acquisition of Right-Of-Way by Territory of Alaska for Forest Highway Projects

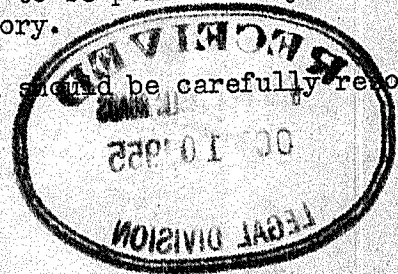
There is transmitted herewith copy of a letter from the office of the Alaska Territorial Highway Engineer which raises important questions relative to the acquisition of rights-of-way by the Territory for Forest Highway Projects.

While several of the questions could be adequately answered from this level, it is our thinking that they are of sufficient importance to warrant referral for additional advice.

Previous to the time the present Territorial Highway Engineer took office in 1953 no particular difficulty was experienced in rights-of-way acquisition in Alaska except that beginning in 1949 when the accelerated program was started in southeastern Alaska the costs greatly increased as did both the effort and volume of the actual acquisition work. Up to 1953 the actual acquisition work was performed by Bureau personnel. In 1950 to 1952 this required about one-third the time of a GS-12 engineer. In 1953 Division 10 required the Territory to assume the acquisition work, but it has never been possible for them to take such work over in full. All deeds and papers having to do with the work are still prepared by the Bureau of Public Roads. The Territorial Highway Engineer has no staff and his department consists of two field men, an administrative assistant, and himself.

During the 1953 session of the Territorial Legislature a Territorial Law was passed granting the Territory the right of condemnation and eminent domain. So far as is known the Bureau has no such rights. Consequently, it is almost impossible to conceive of their being forced to take over acquisition. In 1951 and 1952 the Territory paid out about \$50,000 per year for rights-of-way on Forest Highways and in 1954 one parcel on Kenai Peninsula across a mining claim cost them \$15,000. The ownership in the latter case was even questionable. There are no abstract companies in southeastern Alaska, descriptions and ownerships are vague and title searches required to be performed by Bureau personnel have been sketchy and unsatisfactory.

All in all, it appears the question should be carefully resolved.



Territory of Alaska
Office of
Highway Engineer
and
Superintendent of Public Works
Box 2073
Juneau, Alaska

September 16, 1955

Mr. Chr. Wyller
District Engineer
Bureau of Public Roads
Box 1511
Juneau Alaska

Re: Expenditure of Territorial funds for the acquisition of rights-of-way on roads built and maintained by the Bureau of Public Roads

Dear Mr. Wyller:

In discussing our present right-of-way problems on the Mendenhall Loop Road with the Office of the Attorney General a point was raised which will have to be answered.

The Territorial Attorney General's Office was of the opinion that the diversion of Territorial funds to Federal road projects should have explicit legal justification. It would be appreciated if you could supply this office with specific citations of any Federal statutes or regulations which:

1. require the Territory to secure and pay for rights-of-way in connection with the Bureau of Public Roads road-building program,
2. authorize the Bureau of Public Roads to require the Territory to secure the said rights-of-way,
3. authorize the Bureau of Public Roads to construct Federal roads on property owned by the Territory.

Inasmuch as the Bureau does build roads in National Forests throughout the states as well as in Alaska it would appear most likely that there are statutes and regulations pertinent to the above request and which therefore may be furnished us.

The Territory is particularly concerned over the subject problem since the Alaska Road Commission secures and pays for its rights-of-way while the Bureau of Public Roads requires the Territory to purchase rights-of-way for Federal construction on roads owned and controlled by the Federal Government.

Mr. Chr. Wyller

2.

September 16, 1955

I am sending a copy of this letter to the Territorial Attorney General but will request that he, (1) do not contact the Solicitor for the Department of Commerce concerning the authority of the Bureau of Public Roads to require the expenditure of Territorial funds for the purchase of road rights-of-way in the National Forests, or (2) render an opinion concerning the authority of the Territory to purchase such rights-of-way until this office has received a reply to this letter. A prompt reply will be most appreciated.

Very truly yours,

IRVING REED
Highway Engineer

By

(Mrs) Thelma Zenger
Administrative Assistant

cc: Attorney General

1. DATE OF RECORD <i>11-16-55</i>	1. DATE OF RECORD <i>1/4/56</i>
2. CLASSIFICATION <i>Pers. 8-1(Bart, M.C.)</i>	2. CLASSIFICATION <i>(Alaska) Forest Hwy (R/W)</i>
3. TO <i>Bureau of Employees Comp.</i>	3. TO <i>Andrews -</i>
4. FROM <i>A. E. Cunningham (HEC)</i>	4. FROM <i>Curtiss (30-03 CWP)</i>
5. SUMMARY <i>injury to above</i>	5. SUMMARY <i>acquisition of R/W by Territory for F. H. projects re your memo 9/27/55, att etc. All Enpro meeting in New Orleans etc. att. memo 11/2/55 to Clerk to Curtiss</i>
6. CHARGED TO <i>Miss Seal</i>	6. CHARGED TO <i>10/27/55 to Kallenbach by Andrews note 12/29/55 to B. K. B. re staff member charged out Curtiss transmitted to ship to Alaska no date to 9/16/55 - W. Irving Reid to Weyler</i>
7. DATE CHARGED OUT <i>1-6-55</i>	7. DATE CHARGED OUT <i>1/31/56</i>

CORRESPONDENCE CHARGE-OUT FORM

U.S. DEPARTMENT OF COMMERCE
BUREAU OF PUBLIC ROADS

FORM PR-852
(4-18-55)

1. DATE OF RECORD <i>1-16-56</i>	1. DATE OF RECORD <i>1-18-56</i>
2. CLASSIFICATION <i>Forest Hwy. R/W No. 120-A</i>	2. CLASSIFICATION <i>Forest Hwy. R/W No. 120-A</i>
3. TO <i>Warren & Boucsein</i>	3. TO <i>Warren & Boucsein</i>
4. FROM <i>C. W. Phillips (S. Phillips)</i>	4. FROM <i>C. W. Phillips (S. Phillips)</i>
5. SUMMARY	5. SUMMARY
6. CHARGED TO <i>Lease</i>	6. CHARGED TO <i>Lease</i>
7. DATE CHARGED OUT	7. DATE CHARGED OUT

PLACE IN UPRIGHT POSITION IN FOLDER

PLACE IN UPRIGHT POSITION IN FOLDER

1. DATE OF RECORD 11-17-55

2. CLASSIFICATION Reg. 1-1

3. TO Hon. E. A. Bartlett

4. FROM Mr. Curtis (Booth)

5. SUMMARY

6. CHARGED TO Miss Swanson Legal

7. DATE CHARGED OUT 1-12-56

1. DATE OF RECORD

2. CLASSIFICATION

3. TO

4. FROM

5. SUMMARY

6. CHARGED TO

7. DATE CHARGED OUT

re whether the Alaska Territorial Board of Rd Commissioners would meet the requirements set up for St. Hwy. agencies

CORRESPONDENCE CHARGE-OUT FORM

U.S. DEPARTMENT OF COMMERCE
BUREAU OF PUBLIC ROADS

FORM PR-852
(4-18-55)

1. DATE OF RECORD	1. DATE OF RECORD
2. CLASSIFICATION	2. CLASSIFICATION
3. TO	3. TO
4. FROM	4. FROM
5. SUMMARY	5. SUMMARY
6. CHARGED TO	6. CHARGED TO
7. DATE CHARGED OUT	7. DATE CHARGED OUT

PLACE IN UPRIGHT POSITION IN FOLDER

PLACE IN UPRIGHT POSITION IN FOLDER

(Alaska) Forest Highway -

40-00

July 13, 1955

Mr. Robert E. Sharp
City Manager
Ketchikan, Alaska

Dear Mr. Sharp:

*his memo - 7/7
part*

Our division engineer at Portland, Oregon, has forwarded here the letter of July 5, 1955 you addressed to this office, through his office, requesting the redesignation of the Alaska Forest Highway Route 1 to include the connecting arterial streets in the City of Ketchikan.

We can appreciate the need for improvement of the streets in Ketchikan and the difficulty the city is encountering in providing funds for that purpose.

There is no provision of existing law or regulation that prohibits the extension of Forest highway routes into or through incorporated cities or towns or the expenditure of Forest highway funds for the construction of roads on such extensions. However, a fundamental principle behind the adoption of authorizations for Forest highways in the basic Federal-aid Road Act of 1916 was that because the large areas of Federally controlled land constituting the national forests are not taxable by States, Territories or subdivisions thereof, the Federal government had an obligation to aid in financing and constructing principal roads within and adjacent to the forest areas. The lands within incorporated cities and towns are largely privately owned and subject to local taxation. Accordingly it does not appear that the Federal government has an obligation to aid in financing roads and streets within incorporated areas with funds authorized for Forest highways.

At present there are some 366 miles of rural roads on the approved Forest highway system for Alaska. The most recent estimate of cost for bringing this rural mileage to adequate standards is \$20,854,000. The annual apportionment of Forest highway funds for Alaska under current authorization is \$1,960,694, of which some \$500,000 is used each year to cover the costs of maintenance performed by the Bureau of Public Roads. The data indicate that the amounts authorized annually for Forest highways under current legislation are considerably less than the amounts required to provide facilities of adequate standards on the presently designated Forest highways of Alaska within a reasonable period of time.

For these reasons the agencies in charge of administering Forest highways have established and followed the policy of excluding from the Forest highway system the extensions of routes into or through incorporated cities and towns. If an exception were to be made for the City of Ketchikan, there would, no doubt, be considerable pressure almost immediately to make similar exceptions for other cities and towns, not only in Alaska, but in the States as well. If such exceptions were made, or if the established policy were changed, the probable result would be that a substantial portion of the available Forest highway funds would be consumed in the construction of city streets with corresponding reduction in the amounts available for work in the rural areas.

Under the circumstances, the Bureau of Public Roads does not believe there is justification for departing from the established policy with respect to the City of Ketchikan.

Although the Bureau of Public Roads is sympathetic toward the problems confronting the City of Ketchikan in connection with financing the needed improvements of its streets, we are of the opinion that such improvements should be financed from funds other than Forest highway funds. Under the circumstances, we consider that no action should be taken toward revising the designation of Alaska Forest Highway Route 1 to incorporate the section within the city limits of Ketchikan.

Very truly yours,

C. D. CURTISS
C. D. Curtiss
Commissioner of Public Roads

mad
MBChristensen:nc

cc: Files (2) ✓
Mr A. C. Clark ✓
Mr M. B. Christensen ✓
Federal Projects Branch ✓
Division Engineer Andrews (2) ✓

7-14-55 ✓

smw

6046 Office Memorandum • UNITED STATES GOVERNMENT

TO : Mr. C. D. Curtiss, Commissioner
Washington, D. C.

FROM : F. E. Andrews, Division Engineer
Portland, Oregon

SUBJECT:

DATE: July 7, 1955

Attached please find original correspondence from the city of Ketchikan, Alaska, and having to do with the inclusion in the Alaska Forest Highway System of sections of the Tongass Highway Route #1 within the city limits of Ketchikan. This is the same matter regarding which response has been made in connection with other direct communications with your office and copies of which replies you have furnished us.

While we can sympathize with the problem confronting the city of Ketchikan, we are concerned with the probable effect of establishing a precedent which might prove extremely difficult to administer equitably throughout the Western Region.

att.

L
Lmmw
7/13.

City of Ketchikan

OFFICE OF CITY MANAGER
P. O. BOX 1110
KETCHIKAN, ALASKA

July 5, 1955

Mr. C. D. Curtis
Commissioner of Public Roads
Department of Commerce
Washington, D. C.

[Handwritten signature]
Through: Division Engineer
Portland, Oregon

Dear Mr. Curtis:

C-2
Since receipt of your letter of May 26th, the Mayor and City Council met with Mr. Wyller, District Engineer for the Bureau of Public Roads, Juneau, and Mr. Johnson, Assistant Regional Forester, Department of Agriculture, Juneau. The City has summarized its presentation in support of the request for the re-designation of Forest Highway Route No. 1 to include the connecting arterial streets in the City of Ketchikan in a memorandum, dated June 30, 1955, copy of which is enclosed herewith.

The City feels that its request is reasonable and justified. Cities of Alaska served by Alaska Road Commission roads will receive federal assistance for arterial highways through their corporate limits. The cities of the United States, District of Columbia, Hawaii, and Puerto Rico receive assistance under the Federal-aid Highway Program. Thus, it appears that Ketchikan's request is justified and the need is apparent. The increased traffic in the City since 1950 is directly attributable to increased lumber, timber, and pulp activities. The pulp mill at Ward's Cove alone has brought about an increased traffic load of five hundred twenty (520) cars per day over our arterial streets for workers going to and from work. The street in question is gravel surfaced, with inadequate drainage. You can imagine our problem of trying to maintain gravel streets in a climate of 150 inches annual rainfall and with traffic loads from 1200 to 3600 motor vehicles per day average and peak, respectively.

Our problem of streets is only one of a multiplicity of problems, including schools, power and light, telephone, water, sanitary sewers, fire protection, library, park and

"THE SALMON PACKING CAPITOL OF THE WORLD"

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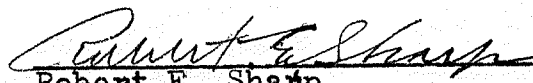
Mr. C. D. Curtis

July 5, 1955

recreational facilities. The impact is such that we are not in a financial position to meet it. The City has already incurred debt amounting to millions of dollars to meet as much of the demand for improvements as possible.

Your consideration and favorable action on the City's request is solicited.

Very truly yours,
CITY OF KETCHIKAN


Robert E. Sharp
City Manager

RES:reb

Enclosure

CITY OF KETCHIKAN

P. O. BOX 1110

KETCHIKAN, ALASKA

June 30, 1955

MEMORANDUM:

TO: : FOREST SERVICE, U. S. DEPARTMENT OF AGRICULTURE,
AND BUREAU OF PUBLIC ROADS, U.S. DEPARTMENT OF
COMMERCE

FROM : MAYOR AND CITY COUNCIL,
CITY OF KETCHIKAN, ALASKA

SUBJECT : HIGHWAY CONSTRUCTION THROUGH THE CITY OF KETCHIKAN

1. POPULATION AND GROWTH: The 1950 Census lists Ketchikan's population at 5,305 in the corporate limits of the City and an additional 4,150 in the census area. The total in 1950 for the Ketchikan District was 9,455. The estimated population, as of December 31, 1954, is 7,500 in the corporate limits of the City of Ketchikan and another 6,000 in the census area, for a total of 13,500 in the Ketchikan District. This population growth inside the City represents an increase since 1950 of over 41% and in the census area outside the City an increase of over 44%. The over-all increase in the Ketchikan District amounts to over 42% since 1950. This rapid population growth has been brought about by the increase in lumber and timber activities and the construction and operation of the Ketchikan Pulp Company's new plant at Ward's Cove in 1954.

2. GENERAL PROBLEMS: The population growth of over 42% since 1950 in Ketchikan and surrounding District has brought about many municipal problems. The classroom and school plant requirements have necessitated the construction of a high school building, which prior to completion and occupancy, requires the addition or more classrooms to meet the demand and need. This growth has increased the demand for power and light facilities, telephone facilities, water source of supply and distribution system, sanitary sewers, new street construction to service the new high school plant as well as new residential areas, fire fighting equipment and fire station, and other general government improvements. The City has undertaken a general utility and public works improvement program to meet these needs, but finds itself in the position of being unable to finance all the needed improvements required by this new population, which continues to increase year by year.

The City's electric generating facility and electric distribution plant have been expanded and appear to be adequate to service the Ketchikan area until about 1959. Plans are being made at this time to increase the generating capacity by that date. The City has installed new central office telephone equipment with sufficient capacity to meet the immediate requirements and it is designed for expansion at a later date. The outside telephone plant is being expanded from year to year to provide communications in the city and the adjacent area. Contracts have been let to improve the water source of supply and to replace a number of

mains, some of which are over forty years old. The City has completed a number of extensions to the water distribution system and its sanitary sewer system. Planning and engineering is going forward on further extension of water and sanitary sewer facilities to meet the current demand and to replace worn-out facilities. The City has preliminary plans for the construction of a new fire station and for the acquisition of one new pumper. The completion of this project in the near future is mandatory if the City is to retain the present classification with the Board of Fire Underwriters. The City also has preliminary plans for the construction of a new library building which is needed to service the increased population. The City will commence planning this year on a program to provide park and other recreational facilities. The City is presently engaged in a parking survey with the view of determining a method of providing and financing off-street parking facilities to relieve the critical parking problem that presently exists in the central business district of the City. The City has completed one major project on its Waterfront Arterial System, and there is now under contract another section on this system. A third phase or project is now under engineering design. It is obvious from the general outline of problems and projects which have been undertaken that the population and growth has created an impact on all the utilities of the City and all the general government facilities and services of the City. This impact is such that the city's ability to finance is not capable of undertaking all the needed improvement projects.

3. STREET AND HIGHWAY PROBLEMS: The areas immediately adjacent to the City of Ketchikan are largely in the Tongass National Forest. The Forest Service Highway (Route No. 1) from Beaver Falls to Loring is terminated at the South boundary of the City and commences again at the North boundary of the City. The arterial street system in the City measuring 20,820 feet serves as a connection between the two termination points of the Forest Service Highway, although not officially designated as a part thereof. The Forest Service Highway has been recently improved and is a good asphalt surfaced highway. The arterial street system in the City is sub-standard in width, layout and construction for the present traffic load.

There are some 2,500 motor vehicles in the Ketchikan District. The road and street system in and adjacent to the City is limited in distance thereby creating an abnormal traffic load for the total number of motor vehicles in the area. The average traffic load at the North boundary of the City is 1,200 motor vehicles per day. This number on peak days is probably two to three times this amount. The traffic load on the arterial streets in the central business district will average approximately 7,000 motor vehicles per day, with peak days amounting to 10,000 motor vehicles. The traffic load over North Tongass Avenue for workers going to Ketchikan Pulp Company at Ward's Cove amounts to 520 motor vehicles per day.

The North Tongass Avenue section of the arterial street system for a distance of 5,962 feet is a poor condition gravel surface road, with limited surface drainage, constructed to a width of 25 feet. With an average annual rainfall in excess of 150 inches and an average traffic load in excess of 1,200 motor vehicles per day, it is impossible to maintain this section of road in an acceptable condition. The balance of the arterial street system, except for 3,755 feet of new construction on Water Street and Tongass Avenue, is hard surfaced with concrete, but generally it is too narrow to facilitate traffic flow. For 14,957 feet, the roadway width varies from 20.5 feet to 28 feet; and for 2,108 feet, the width varies from 30 feet to 38 feet. These narrow widths, with on-street parking, creates a bottleneck that is aggravated by increased traffic and speed on the improved sections leading into the sections with narrow widths.

The City has commenced improving its arterial street system. One section of Water Street 1,897 feet in length has been improved, with concrete roadway 50 feet in width. A second section approximately 1,200 feet in length, and 50 foot roadway width, is under contract. A third section approximately 658 feet in length, and 50 feet roadway width, is under design. These sections of highway streets are constructed over tidelands and concrete pilings and the construction cost, for this reason, is extremely high. The cost of the first and second sections will amount to \$4,288,000 for construction, engineering and right-of-way acquisition. The cost of the balance to the North boundary is estimated at \$2,815,000, plus the cost of engineering and right-of-way acquisition. An engineering estimate of widening existing narrow concrete streets to the South boundary has not been completed. The City's ability to finance is insufficient to complete the arterial street system even if all its other needs were ignored.

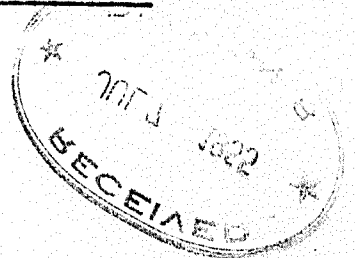
4. POLICY OF FEDERAL GOVERNMENT ASSISTANCE ON HIGHWAYS THROUGH CITIES: The policy of Federal Government assistance on highways through cities is reflected in The Federal Aid Highway Act of 1954 and subsequent legislation, although the Federal Aid Highway Program does apply to Alaska. During fiscal 1956 and 1957, the funds available each year for Federal Aid Highway construction totals \$966 Million and is divided according to the following formula: 45% for the Federal Aid Primary System (\$315,000,000); 30% for the Federal Aid Secondary System (\$210,000,000); and 25% for the Federal Aid Urban System (\$175,000,000). In addition there is appropriated \$175,000,000 for use on the interstate highway system and \$91,000,000 for use on forest highways, development roads, park roads, parkways, Indian roads, the inter-American Highway, and the Rama Road. In addition, the House has passed, and the Senate Committee favorably reported, a bill to authorize the Alaska Road Commission to construct highways through cities in Alaska.



Thus, it appears that Ketchikan and other Southeastern Alaska cities, which are largely surrounded by National Forest lands, will be the only cities in Alaska and the United States that are not receiving federal assistance for their arterial and urban highway system.

During the conference held on June 21, 1955, with representatives of the Forest Service and Bureau of Public Roads, these officials were requested to recommend the re-designation of Forest Service Highway No. 1 to include the arterial street system in the City of Ketchikan. They were hesitant to commit themselves because of the general policy throughout the Forest Service to include streets within cities and because funds were insufficient to build all the Forest Service Highways needed in Alaska. These reasons, in the opinion of the City of Ketchikan, are not valid ones. First, Ketchikan is not eligible for Federal Aid Highway Program funds and the various cities in the United States are eligible. Second, unless the arterial streets are included in the Forest Service Highway System, federal funds cannot be appropriated to the agency concerned. Direct appropriation to the City of Ketchikan does not appear feasible from advice received from Delegate Bartlett inasmuch as "requests for appropriations are initiated by the Agencies concerned." Delegate Bartlett further states: "The Congress rarely appropriates any money which is not requested by the Department involved with the further blessing of the Bureau of the Budget. I hope, therefore, that the federal officials concerned in Alaska may be prevailed upon to include a request for improving the highway system through Ketchikan in their 1957 fiscal year budget justifications."

5. CONCLUSION: The City of Ketchikan feels that the arterial street system in the City are "actually" a part of Forest Service Highway Route No. 1, although not officially designated as such; that the existing arterial street system is sub-standard and requires immediate improvement to carry the existing traffic load; that the re-designation of Forest Service Highway Route No. 1 to include the Arterial Street System through the City would be in accordance with federal policy in view of the authority being granted the Alaska Road Commission in Alaska and due to the absence of federal assistance to Alaskan municipalities under the Federal Aid Highway Program; and that the Forest Service, U. S. Department of Agriculture is the agencies which include a request for appropriation of funds for improving the highway system through the City of Ketchikan.



City Still Seeking Road Funds

Federal road agency representatives meeting here today with the city council gave no promise that their agencies would be willing to re-designate the forest service road from Beaver Falls to Loring to include the portion of the road within the city limits.

Chris Wyller, district engineer for the bureau of public roads (BPR), and W. H. Johnson, assistant regional forester for the U. S. forest service (FS), met with members of the council and representatives of the Chamber of Commerce in answer to a local request for federal or territorial funds for construction and maintenance of a thru highway through Ketchikan.

Peter McCormick, a member of the territorial road commission, also invited to the meeting, was unable to attend but will visit here next week.

Wyller said forest service roads have historically always terminated at city boundaries and because of inadequate funds, he believed his department would not consider any change in policy.

JUSTIFIED, SAYS SHARP

As justification for a change in Southeastern Alaska, City Manager R. E. Sharp pointed out that a federal aid program to urban area systems is available to cities in the states, but not in Alaska, and that the ARC is now authorized to construct highways through cities but the majority of its work is done in interior Alaska to the neglect of Southeastern.

Sharp also pointed out that if the city is to undertake completion of present arterial project to the city's northern limits, it would be at the expense of other necessary projects such as sewers, secondary roads, library and others. Cost of the first two sections of the arterial is \$4,200,000 and that same amount would be needed, Sharp said, to complete the road from the tunnel to the northerly city limits.

Wyller pointed out that at that figure the BPR's allocation for roads in Alaska for three years would be consumed with only that single project. The annual

—Continued on page 2

City Still Seeking Road Funds

(Continued from Page One)

allocation to the BPR in the Territory has been about \$1,200,000 for the construction of new roads.

SUGGESTS CONGRESS' AID

Wyller suggested the only answer would be to get a special appropriation from congress but Sharp pointed out this could not be done unless the road in the city were included in the BPR system. Sharp further suggested that FS roads terminating at city boundaries in Southeastern Alaska should all be re-designated to run through the cities. A special appropriation might then be obtained from congress.

Because of the ARC's authority to build through cities, Sharp queried the federal agency representatives as to the advisability of redesignating the road here as an ARC road. They were unable to answer.

As Sharp outlined it, the problem is either to obtain re-designation of the local route as an ARC route and then get ARC funds for work on the road or to continue the route as a forest service road but get re-designation to include the connecting link which lies within the city and then get a federal appropriation for work on the route.

FERRY NEED CITED

As a partial solution, Johnson suggested the city might make application for a portion of the monies collected through the sale of Tongass national forest timber and held in escrow until settlement of the Indian claims. Johnson said 25 per cent of the 1½ million will be turned over to the Territory when it is released from escrow and because most of it was received from sales in this area, the city might have a strong point in asking for its allocation

for roads in this area but that would not include roads within the city limits.

Victor P. Guns, local attorney, also outlined for the benefit of Wyller and Johnson the need for a ferry connection between Reville and Annette islands. Under present plans, local businessmen are considering forming a company to inaugurate such a ferry system but they would seek territorial funds for construction of ferry slips at either end of the ferry route. The matter will be again discussed when McCormick visits here next week.

Wyller and Johnson made a special trip from their Juneau headquarters to meet with the council here and are expected to return north today.

City Probes U.S. Aid On Tongass Ave.

While the immediate issue of redesignating Tongass avenue into a federal primary highway remained unsettled, the matter of U. S. assistance to the city in repairing the no-man's land of north Tongass near the city limits brought out some hopeful suggestions this morning.

Here to meet with the mayor and city council were Chris Wyller, district engineer for bureau of public roads; and Howard Johnson, assistant regional forester. They said it takes years of pressure to squeeze extra moneys from congress for roads, but that some of the Tongass timber sale revenue of around \$1.5 millions now in a frozen fund might be made available to help SE Alaska cities where industrial growth causes hardships.

City Manager Bob Sharp felt the redesignation might do the job, or else that the Alaska road commission, which already can build roads in cities, might be induced to come to the rescue of the city. Sharp said finances are the obstacle.

Other proposals were discussed, and it was indicated more help may be asked from Delegate Bob Bartlett.

Victor P. Guns explained work thus far on the proposed Annette-Revilla ferry, and the city approved three KPU work orders from last night's board of control meeting.