

FORM 13-14 U.S. DEPARTMENT OF COMMERCE DATE (12-12-56)

TRANSMITTAL SLIP 815

TO: Mr. Tallamy's office REF. NO. OR ROOM, BLDG.

FROM: Mr. Margolin's office REF. NO. OR ROOM, BLDG.

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:

Please have reply prepared for the signature of Mr. Rothschild.

DPO: 1957 O - 415035 COMM-OC 969

EGW

upon its admission
 National System of Interstate
 designated in accordance
 Act of 1944, and amended
 If so, how will the portion
 established? What agency
 of Interstate System

be extended to Alaska, what
 the cost of construction?
 as a part of the Interstate

information will be appreciated.

Very truly yours,

Robert E. Sharp
 City Manager

RES:km

REC'D
 NOV 13 1958
 COMM. DIV.



August 10, 1958

Honorable Louis S. Rothschild
Under-Secretary of Commerce
Department of Commerce
Washington, D.C.

Dear Mr. Rothschild:

Please advise me if the State of Alaska upon its admission to the Union, will be included in the National System of Interstate and Defense Highways as authorized and designated in accordance with Section 7 of the Federal-aid Highway Act of 1944, and amended by the Federal-aid Highway Act of 1956. If so, how will the portion of the system in Alaska be determined and established? What agency or official, has responsibility for designation of Interstate System routes?

Presuming the Interstate System will be extended to Alaska, what will be the State's matching fund share of the cost of construction? May ferry system connections be established as a part of the Interstate System?

Your cooperation in supplying this information will be appreciated.

Very truly yours,

Robert E. Sharp
City Manager

RES:km

REC'D MAIL ROOM
OCT 9 1958

23-10
10-00

BUREAU OF PUBLIC ROADS

FH. ALASKA - Gen.
FH. ALASKA - 14
FH - Reg. - Proj.
July 30, 1958
FH. 17 procedures.
Paul F. Royster

Mr. E. H. Swick, Regional Engineer
Juneau, Alaska

Paul F. Royster, Assistant Commissioner
Washington 25, D. C.

We have received a copy of your letter of July 24 to Mr. Metcalf which was in reply to Mr. LeFevre's criticism regarding the lack of progress toward completing the Point Whitedshed Road. It is noted that you refer in the penultimate paragraph of your letter to design standards acceptable to the Forest Service.

The situation with respect to the subject road, and to Mr. LeFevre's concept of highway programing in the Cordova area is understood. However, we would like to call your attention to a matter which may be of importance in connection with the Alaska Forest Highway Program in general.

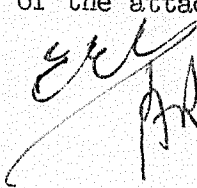
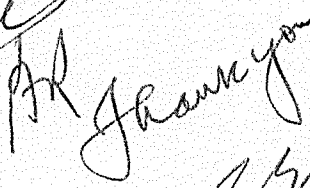
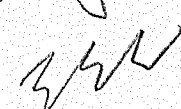
The Forest Highway Regulations define the responsibilities of the several interested agencies and Section 15.6(b) sets forth the only approval action required of the Forest Service with regard to surveys for Forest highway projects. This reads as follows:

"Before the completion of a survey, the regional forester shall be notified in writing so that he shall have opportunity to examine the surveyed line or the location map and to indicate any details of location desirable for the protection or development of the national forests."

Public Roads has the primary responsibility for survey, design and construction of Forest highway projects. The regulations provide for approval of the survey and cost estimate by the State (or Territorial) highway department. Approval of the PS&E (and also of the project upon completion) by the agency responsible for maintenance is standard practice in continental United States. We do not ask the Forest Service to approve the plans. Upon completion of a construction project approval by that agency of the clearing and refuse disposal is required (See Section 15.7(d) of the regulations).


We realize that there has not been uniform application of procedures and in certain areas the Forest Service has taken a more active interest in the Forest highway program than is provided by the regulations. We do not intend to imply by the foregoing that this interest should be discouraged. However, there should be no misunderstanding as to our responsibilities concerning engineering features pertaining to Forest highway projects.

EEErhart:nk
cc - Files (2)
Federal Hwy. Projs. Div.
Mr. Royster - Room 814

FORM CD-14 U.S. DEPARTMENT OF COMMERCE DATE (12-12-56)		7/22/58
TRANSMITTAL SLIP		
TO: Mr. Paul F. Royster	REF. NO. OR ROOM, BLDG. Room 812	
FROM: Eric E. Erhart	REF. NO. OR ROOM, BLDG. Room 814	
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: You will be interested in the statement made on the top of page 3 of the attached letter. <div style="display: flex; justify-content: space-around;"> <div style="text-align: center;">  </div> <div style="text-align: center;">  </div> <div style="text-align: center;">  </div> </div>		

GPO: 1957 O - 414035

COMM-DC 969


 Alaska - general
 Legislative Council
 (under review)

JUL 17 1958
 U.S. DEPARTMENT OF COMMERCE
 OFFICE OF THE SECRETARY
 WASHINGTON, D.C.

concerning several legislative bills of the Senate Committee on the Department of Commerce appeared to S. 3953 and H.R. 12776, which codify existing Federal highway legislation. In one of these bills, a question was raised by the recently-enacted law granting Statehood to Alaska (July 7, 1958), and the Department is currently studying the question for the purpose of determining whether the enactment of the Alaska Statehood Act would necessitate any revision of H.R. 12776.

Careful study and analysis has been devoted to the problem, and it has been concluded that the enactment of the Alaska Statehood Act does not necessitate any revision, amendment or modification of S. 3953 and H.R. 12776.

This conclusion is based upon the nature and effect of the bills concerned. It is to be borne in mind that S. 3953 and H.R. 12776 are designed to restate and codify existing Federal highway legislation. As was stated in the letter of the Secretary of Commerce transmitting the proposed legislation to the Congress, "No substantive changes of law have been made in the proposed legislation with the exception of certain minor changes and additions, principally in areas of administration, which are in line with existing practices and procedures." The provisions of the bills are derived from and are supported by existing Federal highway legislation, including the Federal-Aid Highway Act of 1958.

The Alaska Statehood Act provides that "subject to the provisions of this Act, and upon issuance of the proclamation required by section 9(c) of this Act, the State of Alaska is hereby declared

Frank B. Eubank
x Alaska - general
x Legislative Book
under (Bills)

JUL 17 1958

Honorable Dennis Chavez
Chairman, Committee on Public Works
United States Senate
Washington, D. C.

Dear Mr. Chairman:

On July 9, 1958, hearings concerning several legislative proposals were held by a Subcommittee of the Senate Committee on Public Works. Representatives of the Department of Commerce appeared before the Subcommittee with respect to S. 3953 and H.R. 12776, which are bills that would restate and codify existing Federal highway legislation. During the discussion of these bills, a question was raised as to the effect of the recently-enacted law granting Statehood to Alaska (Public Law 85-508, approved July 7, 1958), and the Department was asked to study the matter for the purpose of determining whether the enactment of that legislation would necessitate any revision or modification of S. 3953 and H.R. 12776.

Careful study and analysis has been devoted to the problem, and it has been concluded that the enactment of the Alaska Statehood Act does not necessitate any revision, amendment or modification of S. 3953 and H.R. 12776.

This conclusion is based upon the nature and effect of the bills concerned. It is to be borne in mind that S. 3953 and H.R. 12776 are designed to restate and codify existing Federal highway legislation. As was stated in the letter of the Secretary of Commerce transmitting the proposed legislation to the Congress, "No substantive changes of law have been made in the proposed legislation with the exception of certain minor changes and additions, principally in areas of administration, which are in line with existing practices and procedures." The provisions of the bills are derived from and are supported by existing Federal highway legislation, including the Federal-Aid Highway Act of 1958.

The Alaska Statehood Act provides that "subject to the provisions of this Act, and upon issuance of the proclamation required by section 9(a) of this Act, the State of Alaska is hereby declared

to be a State of the United States of America. . . ." The proclamation referred to is to be issued by the President following certification of the returns of elections to be held on dates to be fixed by the Governor of Alaska. As of this time, the elections have not been held, and no dates for the same have been fixed. Until the elections have been held, and the proclamation of the President issued, Alaska will not be a State, and existing laws (insofar as this problem is concerned) remain unchanged.

It is to be further noted that, while the Alaska Statehood Act expressly repeals or amends certain provisions of existing law (effective upon the admission of Alaska into the Union), it does not contain any express repeal or amendment of any existing Federal highway legislation. Consequently, any repeal or amendment of Federal highway legislation effected by the Alaska Statehood Act would be by implication, through operation of section 30 of the Act, which provides that "All Acts or parts of Acts in conflict with the provisions of this Act . . . are hereby repealed." The effect of that section upon Federal highway legislation will be the same, irrespective of whether the law existing at the time Alaska is admitted to the Union is set forth in the statutes which are effective at this time, or whether such statutes have been restated and codified, by enactment of S. 3953 or H.R. 12776.

Upon the basis of the above, it is concluded that the enactment of the Alaska Statehood Act does not necessitate any revision, modification or amendment of S. 3953 or H.R. 12776.

It may be pointed out that in section 101(a) of both S. 3953 and H.R. 12776 the term "the forty-eight States" appears, and that in sections 103(f), 116(d) and 120(h) of both bills reference is made to the "Territory of Alaska." As a purely technical change, in anticipation of Alaska becoming a State, the words "forty-eight" and "the Territory of" could be stricken. It is our opinion, however, that these words have no effect upon the interpretation of the law, and that their deletion is not necessary. In this connection, your attention is respectfully drawn to the fact that after Alaska is admitted to the Union no "Territory of Alaska" will exist, since section 2 of the Alaska Statehood Act provides that "The State of Alaska shall consist of all the territory . . . now included in the Territory of Alaska." This provision is not affected by the provisions of section 10 of the Act, which authorizes the President to establish one or more special national defense withdrawals within the exterior boundaries of Alaska.

A detailed analysis of the Alaska Statehood Act and the legislative history thereof has led us to the conclusion that

admission of Alaska to the Union will not change any of the existing Federal highway legislation pertaining to Alaska which is set forth in S. 3953 and H.R. 12776. For example, it is our opinion that the provisions of section 107 of the Federal-Aid Highway Act of 1956, which pertain to the apportionment and expenditure of Federal-aid highway funds for highways on the Federal-aid systems in Alaska, and to the functions, duties and authority of the Department of Commerce with respect to roads, etc., in Alaska, will remain in full force and effect. By virtue of becoming a State, however, Alaska may become entitled to some benefits to which it is not now entitled. For example, funds authorized for the survey, construction and maintenance of main roads through unappropriated or unreserved public lands, non-taxable Indian lands, or other Federal reservations, are not now available for expenditure in Alaska, but will be available upon admission of Alaska to the Union.

After Alaska becomes a State, the Congress may desire to give consideration to modifying or revising Federal highway legislation pertaining to Alaska. Such modifications or revisions, however, would be substantive legislation affecting existing laws. S. 3953 and H.R. 12776, as noted above, are designed to merely restate and codify existing Federal highway legislation. It is respectfully recommended, therefore, that any such modifications or revisions be made the subject of separate bills, and that no amendments of S. 3953 or H.R. 12776 be made at this time, unless the Committee desires to make the purely technical changes referred to above.

Sincerely yours,

/s/ BRADLEY NASH

ACTING

Bureau of Public Roads
RLMay:fpc (7/17/58)

cc: Signer
General Counsel (Dept)
Bureau of Public Roads
Files (2)
Mr. Tallamy
Legis (2)
Chron

Senator Case
Senator Kerr
Senator McNamara
Mr. Moore, Chief Clerk, Senate Comm.
Mr. Turner
Mr. E. H. Swick, Reg. Engr.
Mr. H. E. Cunningham, Western Office
Mr. Eric Erhart

Mr. Louis S. Rothschild, Under Secretary for
Transportation
Department of Commerce
E. D. Tallamy, Federal Highway Administrator

July 10, 1958

Attached for your consideration is a draft of a proposed letter to the Honorable Albert Thomas, House of Representatives, supplementing your reply to him of June 19, 1958. *attached*

It is noted that Mr. Thomas' memorandum to you transmitted a copy of a letter dated April 22, 1958, from the Manager of the Alaska Chapter of the Associated General Contractors to the Officers and Directors of said Chapter together with excerpts from a letter to him from an unidentified contractor. Information received from our Juneau office indicates that this unidentified contractor is, in all probability, Mr. L. W. Huncke, who is President of W. A. Smith Contracting Company of Kansas City, Kansas, which firm has a joint venture in a road contract in Alaska with Brown and Root, a Texas contracting firm. The reason for this assumption is that Mr. Huncke is the only person who has made any complaint to that office concerning their handling of the permafrost problem in the specifications. It appears that this assumption is correct in view of Mr. Thomas' subsequent memorandum to you transmitting letters to him, dated June 24 and June 25, from Mr. Huncke.

It is believed that you may be interested in the following information furnished by Juneau with regard to the Smith, Brown and Root combine:

They entered Alaska highway bidding with the Alaska Road Commission project for construction on the Denali Highway. This construction originally had been scheduled for force account by the Alaska Road Commission, but was changed to contract on the orders of the Office of the Secretary of Interior based on recommendations made by a team sent to the Territory by the Secretary to investigate the operations of the Road Commission. The project has been a difficult one since its inception. The low bidder pleaded error and was sustained, and the award was made to the second low bidder, which was Smith, Brown and Root. The firm had done work for the Alaska Railroad on rehabilitation of roadbed but had not attempted to do highway construction. They had little knowledge of work procedures and did not organize in such a manner that the project could be opened to traffic within the time prescribed. In consequence, liquidated damages are pending for 62 days last summer and the project is not yet completed. The contractor has made constant and detailed oral and written complaints to the Juneau

office about practically everything concerned with the project. Mr. Huncke has made numerous oral complaints about the permafrost conditions which were encountered and the requirement that he utilize the permafrost materials as embankment. It has been his contention that he should have been permitted to waste those thawed materials as soon as they could be removed and substitute borrow. He has ignored the District and Division office in many project dealings and carried his problems and complaints to the Regional office.

Subsequent to the award of their Denali Highway job, Smith, Brown and Root have bid on a number of other Alaska projects and have been unsuccessful. Evidence now of record indicates that since that time they have submitted bids on eight projects. On four of these projects their bid was the highest submitted and on two others it was the second highest bid. It may be interesting to note that in connection with their bid on Project F-037-1(5), which was the project referred to by Mr. Moore in his circular letter of April 22, the combine telephoned the Juneau office and asked for revision of the specifications, protesting that we were not supplying adequate information to them. Their bid which, as it developed, was already the highest of eight bids submitted, was then revised by wire, increasing their price with the explanation "Due to lack of information of permafrost....". This procedure, it would appear, was patently used to establish a record of their protest.

As pointed out in the proposed draft reply to Mr. Thomas, other than protests by this firm and the release of April 22 by the Associated General Contractors' Manager to the Officers and Directors of the Alaska Chapter, no others have been received on the form of our specifications on this or subsequent projects involving permafrost. It is further understood that Mr. Moore has now resigned, by request, from the Associated General Contractors.

Attachment - 1

RMChambers:vcm

Control Unit No. FR-2349

cc: Mr. C. W. Enfield

Contracts

Chron

Files

Operations

Honorable Albert Thomas
House of Representatives
Washington 25, D. C.

Dear Mr. Thomas:

This is in further reference to the interest which you have expressed in certain activities of the Bureau of Public Roads in Alaska and also, in particular, the clause relative to permafrost contained in certain of the contracts let by Public Roads in Alaska. This will also supplement my letter to you of June 19, 1954. As I mentioned at that time, a detailed report was being obtained from the field on this subject which has now been received.

Forwarded with your memorandum were excerpts from a letter from one of your correspondents, together with a copy of a letter dated April 22, 1954, from Mr. L. A. Moore, the Manager of the Alaska Chapter of the Associated General Contractors, addressed to the Officers and Directors of said Chapter. Mr. Moore, in his circular letter of April 22, took issue with a provision in the specifications for Alaska Project F-357-2(5) Fairbanks-Seward Road, which states that permafrost conditions encountered in the performance of the work shall not be considered as a changed condition or unforeseeable within the terms of the contract; contended that the provision was in conflict with another provision pertaining to piles in permafrost, and requested comments as to whether such a provision was "objectionable enough to pursue for modification and if so what action be initiated by the Chapter manager or the Chapter Highway Committee?"

"Permafrost" is defined as the thickness of permanently frozen ground at a variable depth beneath the surface of the earth in which a temperature below freezing has existed continuously for a long time. It is defined solely on the basis of temperature and can exist, therefore, only where the mean annual temperature of the ground is below freezing temperature. Areas in which it may reasonably be expected to exist embrace the great bulk of Alaska and I am enclosing for your information a map, identified as Attachment A, showing the zone of possible permafrost. In view of its prevalence, encountering the condition in such areas would not constitute a "Changed Condition" as contemplated by the "Changed Conditions" clause in Standard Form 23A (copy attached)—the General Provisions for construction contracts—since it would not be

Honorable Albert Thomas

regarded as particularly unusual and the possibility of an encountering it would be recognized by contractors as being inherent to work in that region.

I have been advised, however, that Public Works does not routinely include the clause in question in all of its Alaska contracts. On the contrary, in contracts for work in areas where the existence of permafrost is considered unlikely, the clause is not included and, therefore, if permafrost should be encountered on such projects the standard "Changed Conditions" clause referred to above would be applicable.

It is not considered that there is any conflict between the permafrost provision and the provision providing extra payment for thawing piles in permafrost. The provision relating to piles states, in part, "The construction work is to be done in an area of Alaska known to have permafrost, and it is possible that permafrost will be encountered at the bridge sites." This provision, therefore, is simply a case of eliminating uncertainties in bidding wherever possible. In the case of piling for bridge foundations, recognition has been made of possible changed conditions inasmuch as this involves operations in a well-defined restricted area in which detailed investigations are generally feasible. It is also possible in such a case to measure the amount of thawing required on a linear foot basis.

Information received from the Jensen office of Public Works is to the effect that only one contractor has made any complaint concerning its handling of the permafrost problem. Other than this one contractor and Mr. Moore's release of April 23, no other complaints have been received in the form of the specifications used on the project referred to above or on subsequent projects involving permafrost. Although Mr. Moore's release asked if the Officers and Directors of the Chapter desired action to be initiated on the permafrost clauses being used, it is not indicated that any action was taken and it appears that there was no feeling by the Chapter as a whole that the questioned provisions were not satisfactory. Mr. Moore, it is further understood from information received from the field, is no longer with the Associated General Contractors.

In the extracts from the letter forwarded with your memorandum, it is stated: "The contractors are forced into position where in order to bid a job intelligently we must take some borings every few feet along a new location or have to guess at the quantity of permafrost to be expected." This sentence well explains the problem presented by the very existence of permafrost and the impracticability of delineating permafrost

Honorable Albert Thomas

areas on the plans furnished by Public Roads. To delineate accurately such areas would require just what the contractor says; that is, borings at very frequent intervals, not only on the centerline but probably to both sides of the centerline in order to determine positively where the frost existed. Further, these borings would have to be taken in the months when it could be assumed that the seasonal frost was out of the ground. If the results of these borings were to be used effectively, it would be necessary to limit the operations of the contractors, in areas where the seasonal frost reaches the permanent frost, to those months when the seasonal frost was completely out of the ground. To carry the procedure to its logical conclusion, the unfrozen ground should be stripped from the proposed roadbed and cross-sections taken of the permanent area before proceeding with the excavation of the frozen ground under a separate bid item. The quantities of unfrozen and frozen excavation, of course, would have to be estimated for use in the proposal.

The cost of following such a method would, of course, be far greater than the procedure now used even with recognition of the fact that the bid prices submitted for unclassified excavation are increased to provide for the contingency of incurring increased costs as a result of encountering permanent and to cover the uncertainty regarding the extent of the frozen material.

Although no entirely successful approach to the permanent problem has been evolved, it is the considered opinion of the Bureau of Public Roads that the present method of handling permanent in the contract specifications is working satisfactorily and, as the clause relative thereto is included only in those contracts where there is a reasonable likelihood that the condition will be encountered, the procedure is regarded as being the most feasible method to be followed.

One method of handling permanent which has proven practical in the past is to have Government forces go into the areas, clear and make the lines accessible to prospective bidders and in so doing permit sufficient investigation to supply intelligent general analyses of permanent conditions. This method, however, is both unacceptable to the contractors in the Alaskan area and against the policies of the Bureau of Public Roads. As I mentioned in my earlier letter, it is the policy of that agency to promote highway construction by contract methods based on competitive bidding and a transition from construction by Government forces and equipment to contract construction is being carried out as rapidly as possible. In this connection, information now available indicates that except for a few projects now being completed by Public

Honorable Albert Thomas

Roads, which had their inception in 1957, it is anticipated that all Public Roads force account work will be completely closed out by the end of this year. This information will serve, I believe, to adequately refute the comment "I think the real intent on the part of some of the employees is to force all contractors to bid high and justify a return to the Force Account System formerly pursued at a gross waste of the taxpayers' money."

The data transmitted with your memorandum strongly hinted, but did not actually state, that all prospective bidders in Alaska may not receive the same treatment and that some may receive information not made available to others. In my initial reply of June 19 I assured you that all bidders were being treated equally and that all available information was being furnished to prospective bidders. This assurance has now been confirmed by information received from the field that every effort is made to keep the entire contracting fraternity familiar with the work proposed to be done by Public Roads. As evidence of this, I am enclosing a listing, identified as Attachment B, which was published and mailed to the contractors on the bidding list on or about March 10, 1958, of all projects which could be foreseen by Public Roads at that time as being let to contract before the next construction season. This publication gave the proposed dates for advertisement and the list permitted any interested contractor to get in and take a look at any project on which he thought he might be wanting to bid. I have also been informed that examination of the records since since highway construction in Alaska was placed under the jurisdiction of the Bureau of Public Roads reveals that virtually the entire contracting fraternity which operates in Alaska, including both the large concerns and the small new contractors, have successfully bid on Public Roads projects.

It is trusted that the information contained herein will serve to resolve any questions which you may have had regarding the activities of the Bureau of Public Roads in the highway construction field in Alaska. If, however, any additional information should be desired, you may be assured that I shall be only too glad to secure it for you upon request.

Sincerely yours,

Louis S. Rothchild

Operations
Contracts
Chron
Files

General Counsel
BPR Files
CCUnit

Enclosures - 3
Bureau of Public Roads
RMChambers:rvn
Control No. PR-2349 (7-10-58)
cc: Signer
Under Sec'y for Transportation