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RG 48

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OFFICE OF THE SECRETARY
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1937-1953

9-1-10 British Columbia Alaska Highway
(Part 3)
9-1-11 Alaska Field Staff

Box No. 3675

RG 48, Sec. Interior
E. 749-B, CCF, 1937-53
Box 3675, 9-1-10, AK, Roads-Gen'l

1-094a
UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY

FILE ROOM
SECRETARY'S OFFICE

File No. 9 1 10
(Part 2)

~~STRICTLY CONFIDENTIAL~~

TERRITORIES AND ISLAND POSSESSIONS

-0-

ALASKA

-0-

ROADS

GENERAL

IMPORTANT

This file constitutes a part of the official records of the Department and should not be separated or papers withdrawn without express authority of the Secretary.

All files should be returned promptly to the File Room.

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

Harold L. Ickes

Secretary.

Part 2.

April 8, 1937
to
March 31, 1950



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

FILE COPY
Surname:
DLU

<i>Gooding</i>
<i>9-1-10</i>
<i>General</i>

12/29/51

JAN - 5 1952

Memorandum

To: Director, National Park Service

From: Assistant Secretary Doty

Subject: Your suggestion for simplifying administration and control of permissible uses of the Alaskan Road Rights-of-Way

Your memorandum of November 2 on the above-mentioned subject has been reviewed. A recent conference was held on the subject attended by representatives of my staff, the Bureau of Land Management, the Office of Territories, and the National Park Service.

I appreciate the views and recommendations of the National Park Service on this subject. It appears, however, that there is some misunderstanding of the present situation with respect to the administration of the highway rights-of-way and issuance of use permits. The problem is not so complex as indicated in your memorandum. Under present policy, which was announced in Assistant Secretary Warne's memorandum of March 24, 1949, no use permits are issued on highways with rights-of-way of 300 feet or less. The right-of-way areas on all roads except the Alaska Highway are under the sole administration of the Alaska Road Commission. The Bureau of Land Management was given the responsibility of drawing up regulations and administering issuance of use permits on portions of rights-of-way over 150 feet from the center line (the Alaska Highway from Boundary to Big Delta).

Your memorandum raises the question as to whether the policy adopted in 1949 should be reconsidered as it applies to the 300-foot through roads. Consideration could be given as to the desirability of providing for issuance of use permits on outer portions of the right-of-way on the 300-foot through highways. The local and feeder roads whose rights-of-way consist of easements would not appear to be subject to use permits for non-highway purposes.

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Under present policy, the magnitude of the zoning job contemplated in your memorandum is not large inasmuch as it would apply only to the 200 mile section of the Alaska Highway from Big Delta to the Alaska Boundary.

In accordance with your suggestion, a copy of your memorandum and this reply are being forwarded to the Alaska Field Committee for consideration and recommendation.

(sgd) Dale E. Doty

Assistant Secretary

Copy to: Bureau of Land Management
Office of Territories
Program Staff
Alaska Field Committee

MWGoding:baw

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UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF THE SECRETARY

Land Utilization

WASHINGTON 25, D. C.

Ltr rewritten NWEwards
12/5/51 DLU

FILE COPY
Surname:

Goding
Lee Muck
<i>Edwards</i>

DEC - 6 1951

*9-1-10
General*

My dear Mr. Johnson:

I was pleased to receive your letter of November 6 conveying the sentiment of the Fairbanks Chamber of Commerce on the amendments to the public land orders establishing easements in lieu of withdrawals for secondary and local roads in Alaska.

One of the nice things about a trip, such as my recent one to Alaska, is the opportunity it gave me of meeting and talking to you and others. I hope to have an occasion to see you again one of these days.

With kindest regards.

Sincerely yours,

(sgd) Dale E. Doty

Assistant Secretary

Mr. Maurice T. Johnson, President
Fairbanks Chamber of Commerce
Fairbanks, Alaska

Goding:lp
Rewritten NWEwards 12/5

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OFFICE OF
SECRETARY

FAIRBANKS CHAMBER OF COMMERCE

GOLDEN BEAR
OF ALASKA

FAIRBANKS, ALASKA

Member U.S. Chamber of Commerce

November 6, 1951

The Honorable Dale Doty
Assistant Secretary of the Interior
Department of Interior
Washington, D. C.

INTERIOR DEPT.

NOV 19 1951

DIVISION OF
LAND UTILIZATION

Dear Mr. Doty:

The recent announcements of the Department of Interior concerning the change of withdrawals along the highways of Alaska to permit easements to be granted along the highway rather than outright withdrawals is a very gratifying one to the Fairbanks Chamber of Commerce. We feel that it is a decided step in the right direction toward eliminating a very serious handicap to the development of our Territory.

We wish to thank you for your efforts in getting this change accomplished and we hope that you will have the same success in obtaining the change with respect to all of the roads in Alaska.

With kind personal regards,

Sincerely yours,

FAIRBANKS CHAMBER OF COMMERCE

By *Maurice Johnson*
President

MFJ:CS

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

9-1-10
Gen

ORDER NO. 2665

SUBJECT: RIGHTS-OF-WAY FOR HIGHWAYS IN ALASKA

Sec. 1. Purpose. (a) The purpose of this order is to (1) fix the width of all public highways in Alaska established or maintained under the jurisdiction of the Secretary of the Interior and (2) prescribe a uniform procedure for the establishment of rights-of-way or easements over or across the public lands for such highways. Authority for these actions is contained in Section 2 of the Act of June 30, 1932 (47 Stat. 1416, 48 U.S.C. 321a).

Sec. 2. Width of Public Highways. (a) The width of the public highways in Alaska shall be as follows:

(1) For through roads:

The Alaska Highway shall extend 300 feet on each side of the center line thereof.

The Richardson Highway, Glenn Highway, Haines Highway, Seward-Anchorage Highway, Anchorage-Lake Spenard Highway and Fairbanks-College Highway shall extend 150 feet on each side of the center line thereof.

(2) For feeder roads:

Abbert Road (Kodiak Island), Edgerton Cutoff, Elliott Highway, Seward Peninsula Tram road, Steese Highway, Sterling Highway, Taylor Highway, Northway Junction to Airport Road, Palmer to Matanuska to Wasilla Junction Road, Palmer to Finger Lake to Wasilla Road, Glenn Highway Junction to Fishhook Junction to Wasilla to Knik Road, Slana to Nabesna Road, Kenai Junction to Kenai Road, University to Ester Road, Central to Circle Hot Springs to Portage Creek Road, Manley Hot Springs to Eureka Road, North Park Boundary to Kantishna Road, Paxson to

To Fed. Register
10-16-51

Copy in 1-12 Interior
2-200 Gen

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to Kantishna Road, Paxson to McKinley Park Road, Sterling Landing to Ophir Road, Iditarod to Flat Road, Dillingham to Wood River Road, Ruby to Long to Poorman Road, Nome to Council Road and, Nome to Bessie Road shall each extend 100 feet on each side of the center line thereof.

(3) For local roads:

All public roads not classified as through roads or feeder roads shall extend 50 feet on each side of the center line thereof.

Sec. 3. Establishment of rights-of-way or easements.

(a) A reservation for highway purposes covering the lands embraced in the through roads mentioned in section 2 of this order was made by Public Land Order No. 601 of August 10, 1949, as amended by Public Land Order No. 75 of OCT 16 1951. That order operates as a complete segregation of the land from all forms of appropriation under the public-land laws, including the mining and the mineral leasing laws.

(b) A right-of-way or easement for highway purposes covering the lands embraced in the feeder roads and the local roads equal in extent to the width of such roads as established in section 2 of this order, is hereby established for such roads over and across the public lands.

(c) The reservation mentioned in paragraph (a) and the rights-of-way or easements mentioned in paragraph (b) will attach as to all new construction involving public roads in Alaska when the survey stakes have been set on the ground and notices have been posted at appropriate points along the route of the new construction specifying the type and width of the roads.

Sec. 4. Road maps to be filed in proper Land Office.

Maps of all public roads in Alaska heretofore or hereafter constructed showing the location of the roads, together with appropriate plans and specifications, will be filed by the Alaska Road Commission in the proper Land Office at the earliest possible date for the information of the public.

Oscar L. Chapman

Secretary of the Interior



UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF TERRITORIES

FILE COPY
Surname:

Fisher
Schuyler
Franklin
Bradley
Northing
Waters

AUG 29 1951

Memorandum

To: The Secretary

Through: Bureau of Land Management

From: Director, Office of Territories

Subject: Rights-of-Way for Highways in Alaska

There is submitted a proposed order fixing the width of all public highways in Alaska established or maintained under the jurisdiction of the Secretary of the Interior and prescribing a uniform procedure for the establishment of rights of way or easements over or across the public lands for such highways.

A proposed amendment of Public Land Order No. 601 of August 10, 1949, so as to apply only to through roads in Alaska will be submitted for your signature and should be signed simultaneously herewith. The proposed order transmitted herewith, if approved, will establish rights of way or easements for feeder roads and local roads in Alaska.

(Sgd.) James P. Davis

Director

Approved by:

OCT 16 1951

(Sgd.) *James L. [unclear]*

Secretary of the Interior
and forwarded to the Chief Clerk

Attachment

Fisher/pgr - 8/27/51

TERRITORIES
TO SECRETARY
AUG 29 1951
FOR SIGNATURE

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

22506 ADL:WK

W. Kephart
James

JUL 10 1951
App'd. Sol. Off.
W. Kephart
James
Leitch
9-1-10
Gen

SECRETARY'S
MAIL CENTER
JUN 19 1951
INTERIOR DEPT.

The Director of the
Bureau of the Budget
Washington 25, D. C.

Sir:

Enclosed for your consideration and that of the Attorney General is the draft of a proposed public land order. Pursuant to Executive Order No. 9337 of April 24, 1943, please inform this Department whether the draft meets with your approval.

Very truly yours,

(sgd) Dale E. Doty
Assistant Secretary

INTERIOR DEPARTMENT
RECEIVED
JUL 17 1951
DIVISION OF
LAND UTILIZATION

Title of proposed order:

Amendment of Public Land Order No. 601 of August 10, 1949
reserving public lands for highway purposes

Pertinent information: It has been found that the withdrawal made by Public Land Order No. 601, reserving public lands in Alaska for highway purposes, has involved numerous administrative problems and difficulties in connection with the survey and disposal of the public lands traversed by the highways, and it appears desirable, so far as feeder roads and local roads are concerned, to substitute easements for withdrawals. The proposed order will in effect revoke the withdrawal so far as it affects the lands within 100 feet on each side of the center line of feeder roads and within 50 feet on each side of the center line of local roads. therefore, amends the withdrawal so as to limit its application to the Alaska Highway and other through roads.

W. Kephart:crd
5/22/51

Enclosures

COPT FOR THE SECRETARY'S OFFICE

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UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF TERRITORIES

November 28, 1950

Memorandum

To: The Director
From: Chief, Alaska Division
Subject: Width of Rights-of-ways of Alaska Roads

This is in reference to Assistant Secretary Doty's memorandum of November 17 on the above subject and the minutes of the Ninth Meeting of the Alaska Field Committee, held October 16-19. I am of the opinion that the arguments against wide rights-of-ways expressed by the Field Committee are largely based upon earlier difficulties encountered in settling the Alaska Highway withdrawal and upon past failures to get surveys completed. I do not feel that those considerations should be allowed to formalize a policy which would lead us to establish inadequate road widths.

It is unlikely that future development will be such to require express highways linking major terminal points. However, that is an added reason for establishing rights-of-ways sufficiently wide to allow future development of existing roads. Many of the States are now experiencing difficulty in widening and otherwise improving their highways because of lack of control over adjacent areas. Establishment of 300 foot rights-of-ways for through roads appears to be adequate for any anticipated future improvement and development while ensuring adequate control over the roadside area. The National Park Service and the Bureau of Public Roads have had considerable experience with all the problems likely to be encountered in Alaska and I believe due weight should be given their recommendations.

With respect to the specific arguments for narrow rights-of-ways raised by the Field Committee, I should say that:

1. Snow drifting and resultant blocking of driveways are overemphasized. This problem occurs only for a few months out of the year and is not excessive in areas where settlement is likely. In any case, settlers should locate their homes a reasonable distance from the roadside in order to avoid dust, traffic noises, and danger to children and livestock.

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2. The strip of forested land left between the road and "establishments" would necessarily be narrow and not a real obstacle to development. In fact, States are now spending considerable amounts of money to landscape highways in order to provide a more pleasant route for travelers and also to protect homes and other property from road noises, etc. If we had a realistic and effective leasing policy, I see no reason why use permits could not be issued, the forested strip cut and the land put to other use when such use would be of benefit to the general public and the adjoining landowner.

3. This is partly answered by (1) above. Use of a 300 foot right-of-way over the 200 foot right-of-way would only increase the length of driveways a maximum of 50 feet.

4. Since population centers usually grow up along roads, rather than the reverse, it is unlikely that present through roads will be drastically relocated. In any case, present roads would undoubtedly be retained, even as local roads. Under an easement system the excess roadway would automatically revert to the owners as soon as the road is declassified downward.

5. I disagree with the objection to the special use permit expressed in the Field Committee minutes. Permits may be required for driveways, but they would also appear to be equally necessary in the case of narrower rights-of-ways. Filling stations and roadhouses would have to be located only 150 feet from the center lines of through roads; this is not an excessive distance in view of the safety factor and attractiveness of operation. The use of permits, issued by the Bureau of Land Management on recommendation of the Road Commission, would give the Road Commission control of the roadside area and allow supervision of its use. If the Road Commission then should feel the motoring public would better be served and its safety protected, there would be no reason why a use permit could not be granted to the pavement edge. As an extreme example, a permit could even be granted to place pumps, if advantageous, in the center of the highway with the lanes routed around them.

I firmly believe that the 300-200-100 foot ratio for through, feeder and local roads is sound and would lead to future economic development as rapidly as the proposed 200-200-100 foot ratio. It also would serve as better protection to the traveler, businessman, settler and Road Commission. In addition, I strongly support the use of easements rather than withdrawals for road locations and am in full accord with the recommendations of the Field Committee in this instance.

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I hope that an early decision can be made with respect to both the above questions. It is my opinion that if the Department firmly establishes such policies as to the planning of roads, completes its surveys and operates under liberal use permit policy, we will immediately gain widespread support in Alaska.

(Sgd.) Jos. T. Flakne

Jos. T. Flakne
Chief, Alaska Division

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

DEC - 8 1950

SECRETARY'S
MAIL CENTER

Memorandum

DEC - 8 1950

To: Assistant Secretary Doty

INTERIOR DEPT.

From: Director, National Park Service

INTERIOR DEPARTMENT

Subject: Widths of Rights-of-way for Alaska Roads

RECEIVED
DEC 8 1950
OFFICE OF
LAND UTILIZATION

My memorandum of November 21, advising you that we were in accord with Mr. Warne's thoughts on Alaska road right-of-way widths, was sent before your request of November 17 for comment on the Alaska Field Committee's recommendations came to our attention.

We still believe that the planning objectives for which Mr. Warne speaks are sound and that it would be unfortunate to give up the gains already made. However, if the Department is seriously considering a change in the present right-of-way widths, we believe and recommend that prudent planning and administration require that they not be compromised beyond the following, subject to the condition stated below:

All through roads including Alaska Highway	- 300 feet
Secondary, or feeder, roads	- 200 feet
Local roads	- 100 feet

It seems to us significant that these are the widths also recommended by the Government's major road building agency, the Bureau of Public Roads, through its Division Engineer.

The 300-200-100-foot widths recommended above are not intended to be taken as an indication of abandonment by this Service of the right-of-way standards we have heretofore advocated for the Alaska Highway or other roads, because the compromise is recommended only with the following condition, which is:

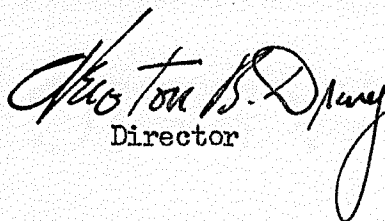
That there be concurrently established and enforced by the Department for the benefit of the Territory and the public, a policy of reasonable, selective control over an additional width or zone of 150 feet on each side of all through roads, including the Alaska Highway, now or hereafter established with a

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right-of-way width of 300 feet. Control over the additional 300-foot "zone" would be accomplished by covenants or reservations in future deeds or patents which convey the lands. Such a method of control is not intended to restrict agricultural uses or unobjectionable commercial or other enterprises that would fall within the limits of reasonable criteria to be established. Some of the kinds of things that would not be permitted in the two 150-foot zones bordering the right-of-way are billboards; junk yards; stockyards and slaughter houses; automobile graveyards; obnoxious, unsafe or unsightly industrial plants; materials storage yards; road maintenance camps, etc.

We should be glad to assist in developing use criteria for this method which we believe might be less cumbersome to administer than the lease or permit system.

The apparent difficulties with respect to the easement versus withdrawal methods of establishing rights-of-way would seem to stem, at least in part, from outdated methods and from casual road building practices; also, the pros and cons listed in Mr. Kadow's letter of October 24 seem to us to show the withdrawal method to be the least cumbersome. We have no particular preference, so long as the method adopted accomplishes, without loopholes, the preservation and control of the rights-of-way for the public benefit and convenience.


Director

In duplicate

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IN REPLY REFER TO:

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

NOTED:
[Handwritten signature]

Memorandum

To: Assistant Secretary Doty
From: Assistant Commissioner Utz
Subject: Width of Right of Way of Alaska Roads

DEC 26 1950

INTERIOR DEPARTMENT
RECEIVED
JAN 3 1951
OFFICE OF
LAND UTILIZATION

Please refer to your memorandum of November 17, 1950, asking for comments on the Alaska Field Committee's recommendation on the above subject.

The Bureau of Indian Affairs has no designated Indian Service Roads in Alaska. There is at present no authority for Indian Service to engage in building roads in Alaska, but a bill to provide such authority has been introduced several times and failed to pass both houses of Congress. Such a bill, H. R. 3196, was introduced in the 81st Congress and passed the House on May 16, 1949, and has been introduced in the Senate. It does not seem likely to be taken up by the Senate.

A meeting was held on March 7 in Assistant Secretary Warne's office and a meeting was held on March 8, 1949, with Mr. R. C. Price, Chairman, on the subject of Alaska Road rights of way. At that time the concern of the Bureau of Indian Affairs was to protect the rights of the Indians where highways cross Indian reserves or reservations. Representing the Bureau of Indian Affairs were J. E. Dwight, Theodore Haas, T. W. Wheat, and J. M. Brown. At this meeting the question of the width of the rights of way was not questioned. The Alaska Highway cuts through the northern part of the Tetlin Indian Reservation. Another Alaska Highway generally parallels the northwestern boundary of this reservation, called the Tok-Slana Highway.

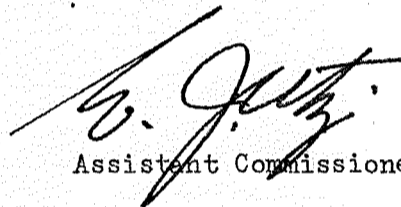
It was proposed in a memorandum from Assistant Secretary Warne to the Heads of the Bureaus concerned to adopt the recommendations of the meeting on March 8 with reference to changing the boundaries of the Tetlin Reservation so as to make the Alaskan Highway and the Tok-Slana Highway right of way lines the boundaries of the Tetlin Reservation, but that the Indians should be compensated for the lands thus removed from the Reservation by extending the boundaries east and south to encompass lands of equal acreage or equal value. This proposal was to have been submitted to the Tetlin Indians for their consideration. No acceptance of this proposal by the Indians is on record in this Office.

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As the subject has been reopened and referred to the Alaska Field Committee whose recommendations are attached to Assistant Secretary Doty's memorandum, the Bureau of Indian Affairs would like to have the subject of the boundaries of the Tetlin Indian Reservation again considered. Property abutting a through highway becomes more valuable as travel increases.

The report of the Alaska Field Committee states that the present location of highways in Alaska is not fixed and that improvement changes are made from time to time. Such being the case the value of a highway right of way line as a permanent reservation boundary would be much less than was assumed at the meeting in the Interior Department of March 8 above referred to. It would now appear that the interests of the Indians would not be fully protected by using a line that was subject to change as a boundary. By using a right of way line as a boundary the roadside property of the Indians would be materially reduced. The Bureau of Indian Affairs does not favor the change of the boundaries of the Tetlin Reservation at this time.

The Bureau of Indian Affairs agrees with the majority opinion of the Alaska Field Committee that the maximum width desirable should be 200' instead of 600' and that all rights of way should be obtained as easements and placed under the administration of the Alaska Road Commission.


Assistant Commissioner

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

FILE COPY
Surname
DLU
Boyle
Punch
Horn
Ewert
Ludwick
Mullins
Hoffman

Memorandum

To: The Secretary
From: Assistant Secretary Doty
Subject: Rights-of-way for highways in Alaska

9-1-10
General

28)
INTERIOR DEPT.
SECRETARY'S
MAIL CENTER

MAR 26 1951

TO SOLICITOR

Public Land Order of August 10, 1949, created rights-of-way for the highways in Alaska by withdrawing from all form of entry and reserving for highway purposes the public lands as follows:

INTERIOR DEPT

MAR 26 1951

SOLICITOR

Alaska Highway, 300 feet on each side of the center line
Other through roads, 150 feet on each side of the center line
Feeder roads, 100 feet on each side of the center line
Local roads, 50 feet on each side of the center line.

FROM SOLICITOR

MAR 28 1951

BY SIGNATURE

Prior to the issuance of the Order, very few of the highways in Alaska were protected by rights-of-way, a situation considered as inimical to the proper development and protection of the highways.

SECRETARY'S
MAIL CENTER

MAR 28 1951

INTERIOR DEPT

DLU

INTERIOR DEPARTMENT

RECEIVED 11:00

MAR 28 1951

DIVISION OF
LAND UTILIZATION

Although there was general acceptance of and agreement with the establishment of rights-of-way, there was much criticism of what was considered by some to be the excessive widths established and considerable, though less, criticism of the method used in creating the rights-of-way by withdrawal. In view of this criticism, the Alaska Field Committee requested, and was granted, permission to further review the whole right-of-way question. This was done and a report was submitted covering all phases of the right-of-way situation, and embracing certain recommendations.

Subsequently, each of the several agencies having an interest in Alaska reviewed the Field Committee's report and commented thereon. These comments have now been carefully reviewed.

It can be safely assumed, in view of the foregoing, that the subject has been most intensively and thoroughly explored, that all interested persons and agencies have had adequate opportunity to express their opinions, and that the Department has had the benefit of all points of view.

There continues to be some difference of opinion, both as to the width of the rights-of-way and as to the withdrawal feature. Those who are primarily concerned with development and closer settlement, and those who are responsible for surveys or have other administrative

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MAR 30 1951
7 SECRETARY

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responsibilities of like nature, generally favor narrower rights-of-way for the through roads; that is, the roads having a 300 foot right-of-way. This group, which constitutes a majority, also favors substitution of easements for withdrawals for all the roads. The other group is primarily concerned with the scenic and recreational features of the highways, with preventing undesirable encroachments by objectionable commercial or other enterprises. This group favors retention of the present width of rights-of-way and continuance of the withdrawals.

Each of these points of view has much to recommend it. Certainly it would be improper to permit a recurrence in Alaska of the undesirable features which have characterized development along many of the highways in the States. It would also be a short-sighted policy to fail to provide an adequate width of rights-of-way for future development.

However, to those whose primary concern is the development and closer settlement of the Territory, any undue restrictions on such settlement are viewed with understandable misgiving. For those faced with the making of surveys and the administration of the public land laws there are problems created by the withdrawals which could be eliminated in great part by substituting easements for the withdrawals.

Upon consideration of all the factors it appears that a practicable solution to the problem is possible by minor modification of P.L.O. 601. This solution involves only a change of the method by which the rights-of-ways for feeder (200 ft. right-of-way width) and local (100 ft. right-of-way width) roads are established; that is, revoke the withdrawals, and, in lieu thereof, establish easements. It does not involve modifying the widths of rights-of-way. The present width of rights-of-ways as established by Public Land Order 601 would be retained. The Alaska highway and all other through roads would still have their rights-of-ways withdrawn from all forms of appropriation. The only difference would be the substitution of easements for withdrawals for feeder and local roads.

It is recommended as follows:

Widths of Rights-of-way as established by P.L.O. 601 be retained.

There has been general acceptance of, and agreement on, the widths of rights-of-way established for feeder and local roads; therefore, no modification of the existing widths is recommended.

There has been considerable criticism of the width of rights-of-way established for through roads and for the Alaska highway. However, after full consideration of all the arguments for reducing the widths no modification is recommended. As to the Alaska highway, it is particularly important that this main access to the Territory by road, be given all reasonable protection. The present right-of-way has existed for some time and there is little current criticism directed to it. Surveys, land entries, and claims have been accommodated to it. Any general change now would raise

new and more complex problems of administration. It will be possible at some future date to reduce the width along selected portions if further study indicates such modification to be desirable.

As to the through roads which are provided with a 300 foot right-of-way, there have been numerous suggestions and recommendations that the width be reduced to 200 feet. However, the arguments for the 300 foot width are considered to outweigh those for the lesser width. In addition to the need for an adequate right-of-way for present and future road purposes, the protection of scenic and recreation values along the main highways is of prime importance. The additional 50 feet on each side would do much toward maintaining those values. At the same time the present width has had little or no adverse effect on development. In large part the surveys, land entries, and claims have been adjusted to the present width. A change now would create new problems without resulting in commensurate benefits.

Right-of-way withdrawals be retained for the Alaska Highway and other through roads. The Alaska highway and the other through roads provide access from the Canadian boundary to the main centers of population in south-central Alaska and to the main scenic and recreational features of that area, particularly to McKinley National Park. It is along these through roads that the prevention of undesirable encroachment and the preservation of scenic and recreational features is particularly important. While an easement reserves a right-of-way against the time when it is required for highway purposes, it does not prevent, during the intervening period, other use of those portions of the right-of-way not used for highway purposes. Withdrawals are therefore considered to be reasonably necessary to insure adequate protection for the main highways. The administrative problems created by these withdrawals have been largely solved. Where the main roads run through surveyed lands, the surveys have been closed against the right-of-way. For the most part the through roads traverse territory that is not particularly desirable for closer settlement or intensive development; accordingly, it is not anticipated that the withdrawals will cause undue survey or other administrative difficulties in the future.

Right-of-way easements be substituted for withdrawals for feeder and local roads. The situation with respect to feeder roads and local roads is somewhat different than that with respect to the Alaska highway and other through roads. The nature of adjoining development is still a concern; however, it is not as important a factor as is the case with the main roads. Moreover, it should be expected that lands along the feeder roads will develop for agriculture, industry, and commerce; in fact, the purpose of feeder roads is mainly to make possible such development. While an adequate right-of-way should be reserved against the time when it may be required for highway use, an easement will achieve this purpose. Substitution of an easement for withdrawal for rights-of-way for the feeder roads will also eliminate most of the administrative difficulties now being encountered.

Feeder and local roads are usually constructed to something less than ultimate standards. Ordinarily they are subject to realignment, changes of grade, and the like. This creates a major problem for those responsible for the survey of adjoining tracts, because the withdrawn right-of-way must be segregated from the tract survey. A right-of-way easement does not have to be so eliminated. Substitution of an easement for a withdrawal will allow the timely adjudication of land claims without the necessity of segregating the right-of-way, a procedure which requires special surveys and which has delayed the processing of claims.

Your approval of the foregoing recommendations is requested.

(sgd) Dale E. Doty

Assistant Secretary

APR 23 1951

Approved, and referred
to Bureau of Land Management
for necessary action.

(Sgd.) Oscar L. Chapman

Secretary of the Interior

RKCoote:lp
3/23/51



IN REPLY REFER TO:

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

Memorandum

FEB 7 - 1951

To: Assistant Secretary Doty
From: Director, Bureau of Land Management
Subject: Alaskan road right-of-way program

RECEIVED
FEB 7 1951
DIVISION OF
LAND UTILIZATION

Reference is made to your memorandum of November 17, 1950, in which you request that I review the Alaska Field Committee's conclusions and recommendations concerning road rights-of-way in Alaska, as presented to you in a memorandum dated October 24, 1950, and submit my views regarding them.

In the course of this review, I have requested various engineering, legal, land planning, and administrative staff members of the Bureau of Land Management, some of whom have had first-hand experience with the implementation and effects of Executive Order 601, to reconsider the road rights-of-way problems in Alaska from the standpoint of the advantages and disadvantages of both wide and narrow rights-of-way and the advantages and disadvantages of both withdrawals and easements in the creation of rights-of-way.

It is evident from this reexamination that, in part at least, the present Alaskan road rights-of-way program is unworkable; that, although the Bureau has no objection to the recommendations submitted by the Alaska Field Committee from the standpoint of its operations, as they would in fact greatly simplify them, they might be considered, if adopted in total, an unwarranted retreat from some of the planning ideals embraced by Executive Order 601; and that there is a reasonable middle way which incorporates the most desirable features of both the present program and the Alaska Field Committee recommendations.

The conclusions and recommendations arrived at in the Bureau of Land Management, which are summarized below, in the main represent a compromise of the road rights-of-way problems and, I believe, merit your consideration for a Departmental course of action:

Local Roads

Width: Conclusion: Retention of present 100-foot rights-of-way. ✓

No disagreement prevails as to suitability of present rights-of-way.

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Withdrawal or easement: Conclusion: Substitution of easements ✓
for withdrawals.

Legal sanctions and administrative procedures for employment of easements are presented in attachment.

Disadvantages of withdrawals:

1. With constant construction of new roads, realignment of existing roads, and extension of present roads, the public land survey - including the survey of the center line of the roads, platting of the lots along the roads to right-of-way lines, and the computing of acreages - can never be considered complete in an area as long as there is any remaining public land, and it is necessary to segregate road withdrawals. Experience has shown that surveys made during the summer surveying season, especially in the early part, often do not represent all conditions with respect to roads at the end of the season, thereby preventing the preparation of official returns (plats and field notes), and necessitating a return to the same area the next field season to segregate the added roads.
2. As a great many of the local roads are not permanently located, innumerable strips of "no-man's" land, the width of the rights-of-way, as a result of highway realignments, will be left to splinter adjacent holdings. Public land orders will be required to open such strips to entry with preference rights being accorded to veterans instead of contiguous owners or claimants.
3. It is estimated that to traverse the center line of a road through a range of sections in a township means an increase of more than one-third in the cost of the field survey of the land. The cost of office engineering work is certainly more than doubled by the additional time required in platting and computing the areas.
4. Survey complications and delays result in unwarranted delays in the land disposal proceedings of the Alaska Land Offices and widespread resentment against the Bureau of Land Management and the Department of the Interior.

5. The status of land tenure or land ownership is undergoing continual change in most of the agricultural areas of Alaska through relinquishments and the re-filings of subsequent applications under the various public land laws. Therefore, there is continual necessity for some redesignation of lot lines along the roads. The withdrawal becomes effective on whatever portion of valid claims or entries made prior to August 10, 1949, subsequently relinquished. Before the withdrawal, the right-of-way constituted only the actual impressment on the land of the road itself. Only the approximate position of road was shown on the survey plats. Where entries are relinquished and new filings are made subsequent to the withdrawal it becomes necessary to prepare supplemental plats showing the rights-of-way lines, the lots created by the withdrawal of the rights-of-way, and the computed acreages of the abutting lots. This involves a substantial and wasteful expenditure of money.

Feeder Roads

Width: Conclusion: Retention of present 200-foot rights-of-way. ✓

No disagreement prevails as to width of present rights-of-way.

Withdrawal or easement: Conclusions: Substitution of easements for withdrawals. ✓

Legal sanctions and administrative procedures for employment of easements are presented in attachment.

An evaluation of the advantages and disadvantages of both easements and withdrawals is more difficult in the case of feeder roads as they are less clearly definable. The same disadvantages that result from withdrawals of local roads apply to feeder roads, especially where relatively close settlement is occurring and can occur as on the Anchorage-Potter Road, Kenai Lake-Homer Road, Fairbanks-College Road, and Anchorage-Lake Spenard Road. Conversely, some of the protective advantages that result from withdrawals are significant in relation to feeder roads. Some of these roads, such as the Edgerton Cut-off and McKinley Park Road, will eventually comprise major tourist routes. Over most of these roads, however, close settlement is not expected

to occur. Some of these roads are considered to be permanently located but most are not. Only a small fraction of the total length of these highways is surveyed. Overall the evidence against is deemed far more weighty than that for withdrawals.

Disadvantages of withdrawals:

1. See section on local roads.
2. As a result of lack of knowledge as to the exact location of roads on the public domain in the Land Offices, through lack of understanding of the provisions of Executive Order 601, and through the non-contiguity resulting from road rights-of-way withdrawals very substantial hardships are being imposed on many settlers.
3. It is estimated that 74 entries could proceed to patent immediately in the Anchorage Land Office district alone if it were not necessary to segregate by survey the road withdrawals from the entered land.

Through Roads

Width: Conclusion: Retention of present 300-foot rights-of-way. ✓

Alaskans generally have not accepted present widths but land entries or claims with the notable exceptions of those in a few areas have been adjusted to it. Further vacillation would be injurious to the prestige of the Department. As settlement will always be comparatively sparse due to physical limitations along most of these routes, there will be proportionately less hardship imposed on settlement by present wide rights-of-way.

Withdrawal or easement: Conclusion: Substitution of easements for withdrawals. ✓

Legal sanctions and administrative procedures for employment of easements are presented in attachment.

The same disadvantages that result from withdrawal of local roads and feeder roads apply to through roads, especially where relatively close settlement is occurring and can occur as on the Richardson Highway between Big Delta and Fairbanks, and on the Glenn Highway between Anchorage and Palmer. Conversely, to some extent, the protective advantages that result from withdrawals are significant as these roads are major tourist routes. Over most of these

roads, however, due to physical limitations of the land, close settlement is not expected to occur. Moreover, most of the Glenn and Richardson Highways traverse such elevated country that there is little roadside timber worthy of protection as a scenic attribute. Major portions of the Tok Cut-off and Richardson Highways are not considered to be permanently located. Most of the surveying of the road rights-of-way is uncompleted, but the survey program necessitated by present settlement is well advanced and can be completed under favorable circumstances by the end of the summer. Over-all the evidence against is deemed more weighty than that for withdrawals.

Alaska Highway

Width: Conclusion: Retention of present 600-foot right-of-way. ✓

Alaskans generally have accepted present width. It represents a reduction from much wider withdrawals. Land entries or claims have been but for a few exceptions adjusted to it. Further vacillation would be injurious to prestige of the Department. As settlement will always be comparatively sparse owing to physical limitations along the route, there will be proportionately less hardship imposed on settlement by present wide right-of-way.

Withdrawal or easement: Conclusion: Retention of withdrawal of right-of-way. ✓

Road is permanently located throughout most of its course. Necessary survey program imposed by present right-of-way withdrawal is nearly completed. Roadside scenic attributes should be fully protected along this primary tourist route.

The Bureau of Land Management stands ready to help in any further considerations of the Alaska road rights-of-way problems. Inasmuch as Messrs. Kadow, Puckett, Robinson, Berlin, Weiler, and Jorgenson will be in Washington for the next ten days, I urge that a conference be arranged by you to bring about a solution to the problem.

Marion Clawson

Director

Attachment

5

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Box 3675, 9-1-10, AK, Roads-Gen'l

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

February 7, 1951

LEGAL SANCTIONS AND ADMINISTRATIVE PROCEDURES FOR EMPLOYMENT OF
EASEMENTS IN LIEU OF WITHDRAWAL FOR HIGHWAY RIGHTS-OF-WAY
IN ALASKA

Alaska Highways—Withdrawal—Rights-of-way—Easements

In the case of public highways in Alaska constructed or maintained under the jurisdiction of the Secretary of the Interior, the width of the highways may be fixed by that official.

Procedure outlined for the establishment of highways of prescribed widths.

Regardless of whether the Alaska highway withdrawal made by Public Land Order No. 601 is modified or revoked, it is desirable that the width of all public highways in the Territory should be fixed by or under the direction of the Secretary of the Interior.

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PB

Copy to: Regional Counsel, Regions 1, 2, 3, 4, 5, 7 — (15 each)
Solicitor's Office — (2)
Division of Adjudication — (25)
Region VI — (5)

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UNITED STATES
DEPARTMENT OF THE INTERIOR
Bureau of Land Management
Washington 25, D. C.

DL:CGF

February 7, 1951

Memorandum

To: Director

From: Chief Counsel

Subject: Legal sanctions and administrative procedures for employment of easements in lieu of withdrawal for highway rights-of-way in Alaska.

This memorandum is prepared to accompany a memorandum of even date making certain recommendations with reference to the employment of easements in lieu of withdrawal for highway rights-of-way in Alaska.

Prior to the issuance of Public Land Order No. 601 of August 10, 1949 (14 F.R. 5048), nearly all public roads in Alaska were protected only by easements. Right-of-way easements were acquired under section 2477 of the Revised Statutes (43 U.S.C. sec. 932) by the construction of the roads. This section granted a right-of-way for the construction of highways over public lands not reserved for public uses.

Section 2 of the Act of January 27, 1905 (33 Stat. 616), incorporated with amendments into 48 U.S.C. secs. 321-323, established a Board of Road Commissioners in the then Territory of Alaska to function under the jurisdiction of the Secretary of War. This section provided:

"Sec. 2. * * * The said board shall have the power, and it shall be their duty, upon their own motion or upon petition, to locate, lay out, construct, and maintain wagon roads and pack trails * * *. The said board shall prepare maps, plans, and specifications of every road or trail they may locate and lay out, * * *."

Section 3 of the Act of August 24, 1912 (37 Stat. 512, 48 U.S.C. secs. 23 and 24), under which Alaska was organized as a Territory, provided that the authority of the legislature of the Territory should not extend to certain statutes of the United States including the Act of January 27, 1905, supra, and the several acts amendatory thereof.

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Section 2 of the Act of June 30, 1932 (47 Stat. 446, 48 U.S.C. sec. 321a), provides:

"Sec. 2. The Secretary of the Interior shall execute or cause to be executed all laws pertaining to the construction, and maintenance of roads and trails and other works in Alaska heretofore administered by said board of road commissioners under the direction of the Secretary of War: * * *".

The authority of the Secretary of the Interior conferred by the above-cited acts to "locate, lay out, construct and maintain" public roads in Alaska clearly implies the right to fix the width of the roads. The width is not fixed by any statute.

Notwithstanding that section 2477 of the Revised Statutes (43 U.S.C. sec. 932) does not fix the width of the rights-of-way granted by it, the width when fixed by a positive act of the proper State or Territorial authorities has been held valid. Costain vs. Turner County, S.D. (1949) 36 N.W. 2d 382; Butte vs. Mikosowitz (1909) 102 P. 593. In both cases, the width fixed included an area in excess of the beaten path or track. The reasons which sustain the conclusion reached in those cases support the conclusion that in the case of public highways in Alaska constructed or maintained under the jurisdiction of the Secretary of the Interior, the width of the highways may be fixed by that official.

The following procedure is suggested for the establishment of highway easements of prescribed widths in Alaska:

- (1) The issuance of an order by the Secretary of the Interior to be published in the Federal Register fixing the width for existing roads and the width for new construction, including changes in the location of existing roads, and extensions of such roads. In the case of new construction, the order can only be effective when the survey stakes have been set on the ground.
- (2) In the case of existing roads, the preparation of maps, plans or specifications where this has not already been done, showing the width of the roads as prescribed in the order of the Secretary.
- (3) In the case of new construction, the locating or laying out of the roads by the setting of survey stakes on the ground and the preparation of maps, plans, and specifications showing the definite location of the roads.

(4) The posting of notices at appropriate points along the route of all new construction, specifying the width of the road.

(5) The filing in the proper land office of copies of all road maps.

The act of July 24, 1947 (61 Stat. 418, 48 U.S.C. sec. 321d), which requires the insertion in all patents for lands thereafter taken up entered or located in the Territory of Alaska of a right-of-way for road-way purposes does not specify the width of the right-of-way. In order to remove uncertainty as to the width, it is desirable, regardless of whether Public Land Order No. 601 is modified or revoked, that the width of all public highways in the Territory should be fixed by or under the direction of the Secretary of the Interior.

Jacob N. Wasserman
Chief Counsel

Approved: February 7, 1951

Marion Clawson

Director



copy

UNITED STATES
DEPARTMENT OF THE INTERIOR
FISH AND WILDLIFE SERVICE
WASHINGTON 25, D. C.

IN REPLY REFER TO:

NOTED
[Signature]
DEC 22 1950

Memorandum

To: Mr. Dale E. Doty, Assistant Secretary
From: Acting Director, Fish and Wildlife Service
Subject: Width of Rights-of-Way of Alaska Roads

INTERIOR DEPARTMENT
RECEIVED
JAN 3 1951
OFFICE OF
LAND UTILIZATION

Reference is made to your memorandum of November 17, 1950, which was transmitted with correspondence from the Alaska Field Committee on the above subject.

Item 1. Widths of Road Rights-of-Way.

As to the widths of rights-of-way, the Fish and Wildlife Service is willing to go along with the recommendation of the Field Committee to the effect that width of rights-of-way for roads in Alaska should be 200 feet for all through roads, 200 feet for all feeder roads, and 100 feet for local roads.

Item 2. Easements versus Withdrawals for the Creation of Rights-of-Way.

The Fish and Wildlife Service would recommend that easements be granted for road rights-of-way instead of withdrawals for the reason that they are more flexible in the event of changes in location or if abandoned. If the Department were to go along with withdrawals for rights-of-way, we believe that such withdrawals should be subject to the withdrawals for wildlife so that there will be no loopholes in a refuge or sanctuary area.

Item 3. Administration of Road Rights-of-Way.

The Fish and Wildlife Service would recommend that all road rights-of-way in Alaska 300 feet or less in width should be administered by the Alaska Road Commission insofar as highway uses are concerned and that no special use permits should be granted on these rights-of-way. The Fish and Wildlife Service would recommend that on roads with rights-of-way in excess of 300 feet wide the area beyond 150 feet from each side of the center line should be administered by the Bureau of Land Management and special use permits be issued for such portion of the right-of-way excepting where such rights-of-way traverse wildlife refuge areas, in which event any special use permits should be granted by the Fish and Wildlife Service.

[Signature]
Acting Director

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Box 3675, 9-1-10, AK, Roads-Gen'l




UNITED STATES
DEPARTMENT OF THE INTERIOR
OFFICE OF TERRITORIES

JAN 12 1951

Memorandum

To: Assistant Secretary Doty
From: The Acting Director
Subject: Width of Rights-of-Way of Alaska Roads

In reply to your memorandum of November 17 on the subject of the width of rights-of-ways of Alaska roads, I attach a copy of a memorandum addressed to Director Davis by Mr. Flakne which has been approved by the Director as reflecting the views of this Office.


Dan H. Wheeler
Acting Director

Attachment

INTERIOR DEPARTMENT
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JAN 16 1951
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LAND ACQUISITION

RG 48, Sec. Interior
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