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THE SECRETARY OF THE  
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9-9 OFFICE OF THE TERRITORIES  
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RG 48, Sec. Interior  
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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SECRETARY  
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1954-1958

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Part 1 - Jan. 4, 1954 to Dec. 29, 1954

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF THE SOLICITOR

WASHINGTON 25, D. C.

Asst. Sol. O.T.

FILE COPY  
Surname:

*Schwilck*  
*Vou Chue '129*


Hon. Herbert Brownell, Jr.  
The Attorney General  
Department of Justice  
Washington 25, D. C.

DEC 6 1954

FROM SOLICITOR  
DEC 6 1954  
FOR SIGNATURE

My dear Mr. Attorney General:

On October 27, 1954, the Department of the Interior submitted to you an executed Declaration of Taking, with certain attachments and other documents, relating to the condemnation proceedings in the United States District Court for the Third Judicial Division of Alaska covering perpetual easements across three tracts of land near Sakona, Alaska, for the elimination of a dangerous curve in the Glenn Highway. The Department has received an additional copy of Exhibit A, which is a plat showing the land involved in the condemnation proceedings. Pursuant to a telephone request from your Department, this exhibit is submitted for your files.

*Alaska*

Sincerely yours,

*Reuel Armstrong*

ACTING Solicitor

Enclosure

Schwilck/jb  
11-29-54

LISTED

NOV 30 1954

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
ALASKA ROAD COMMISSION  
JUNEAU, ALASKA  
P. O. Box 1961

INTERIOR DEPT.

NOV 26 1954

SOLICITOR

*K-54-2075-18*

November 23, 1954

Office of the Solicitor  
United States  
Department of the Interior  
Washington 25, D. C.

Attention: A. M. Edwards  
Associate Solicitor  
Territories, Parks, and  
Wildlife

My dear Mr. Edwards:

Reference your letter of November 16, 1954, requesting an additional copy of Exhibit A in the condemnation proceedings against John and Herra Moore of Gukona, Alaska.

Two copies of the subject exhibit are enclosed herewith.

Should the need arise for any additional copies of supporting documents, your request will receive our immediate attention.

Sincerely yours,

A. F. Ghiglione  
Commissioner of Roads  
for Alaska

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

FILE COPY  
Surname: *X*

OCT 27 1954

Asst. Sol. OT

*Leit*

<i>Johns</i>
<i>10/20</i>
<i>Elevans 10/21</i>
<i>[Signature]</i>
<i>[Signature]</i>

Hon. Herbert Brownell, Jr.  
The Attorney General  
Department of Justice  
Washington 25, D. C.

*9-Terr  
- Alaska  
- Tpu*

INTERIOR DEPTy dear Mr. Attorney General:

OCT 25 1954

SOLICITOR

Attached hereto are an original and copy of an executed Declaration of Taking; Plat showing certain land involved in condemnation proceedings designated as Exhibit "A", Profile of the said land designated as Exhibit "B", copy of Complaint in condemnation proceedings and Check of the United States of America made payable to the Clerk of the Court for the Third Judicial Division of Alaska, all relating to the condemnation of perpetual easements across three tracts of land near Gakona, Alaska, containing in the aggregate approximately 149.84 acres, for the elimination of a dangerous curve in the Glenn Highway.

The condemnation proceedings were commenced on June 11, 1954. The property has been appraised by disinterested persons and the United States Attorney at Anchorage, Alaska, has prepared a Declaration of Taking which has been executed on behalf of the Secretary of the Interior. When this Declaration is filed and the check in the amount of the appraised value of the property is deposited with the Clerk of the Court in which the condemnation suit is pending, the United States, acting through the Alaska Road Commission, will be entitled to immediate possession and use of the property.

If this is agreeable to you, please forward the executed Declaration to Mr. Seaborn J. Buckalew, United States Attorney, Third Division, District of Alaska, Anchorage, Alaska.

Sincerely yours,

Schwilek/jb  
10-19-54

*[Signature]*  
Acting Solicitor

OCT 26 1954

Enclosures

LISTED

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF TERRITORIES

Memorandum

SEP 20 1954

To: Secretary of the Interior

From: Director

Subject: Condemnation of certain lands in Alaska for the Glenn Highway near Gakona, Alaska

Attached to this memorandum is a Declaration of Taking prepared by the United States Attorney in Anchorage, Alaska, on behalf of the Alaska Road Commission. A complaint in a condemnation action instituted in the Federal District Court for the Territory of Alaska has been filed and in due course of time a jury will hear the evidence and determine the amount of compensation to which the owners are entitled for a right of way to be used for highway purposes across three small parcels of their land. Meanwhile, by filing the Declaration of Taking and depositing with the Clerk of the Court the fair value of the property as determined by an appraisal board composed of three disinterested citizens of Gakona, the United States will be entitled to possession and use of the property while the condemnation suit is pending. The attached exhibits show the description and location of the three tracts of land and the plans for the new section of road to be built parallel to the airstrip.

These lands are needed to eliminate a dangerous curve in the Glenn Highway at the Town of Gakona. The Alaska Road Commission attempted for over two years to reach an agreement with the owners of these lands before resorting to condemnation. It thus appears that condemnation is both necessary and desirable.

If it is agreeable to you, please sign the Declaration of Taking and return to this office for transmission to Alaska.

William C. Strand  
Director

Attachments 4

Approved: OCT - 6 1954.

Acting Secretary of the Interior

IN THE DISTRICT COURT OF THE UNITED STATES, IN AND FOR THE  
DISTRICT OF ALASKA

UNITED STATES OF AMERICA )  
Petitioner for Condemnation )

vs. )

149.84 Acres of Land in the )  
Chitina Recording Precinct, and )  
JACK MOORE, HENRA MOORE and )  
Unknown Owners, )

Defendants. )

DECLARATION  
OF  
TAKING

I, Douglas McKay, Secretary of the Department of the Interior of the United States of America, do hereby declare that:

1. (a) The perpetual easements in the land described in Exhibit A hereto attached are hereby taken for the use of the United States under the authority of the Act of Congress of August 4, 1888, (25 Stat. 357) and the Act of June 30, 1932 (47 Stat. 446).

2. A description of the perpetual easement in said land sufficient for the identification thereof is set forth in Exhibit A annexed hereto and made a part hereof by reference.

3. The estate or interests taken for said public use in the lands is a perpetual easement and right of way as set forth in the said Exhibit A.


4. A plan showing the said lands is annexed hereto as Exhibit B and made a part hereof by reference.

5. The sum of money estimated by me to be just compensation for the perpetual easements in said land, including all buildings and improvements thereon, all appurtenances to the said perpetual easement, is set forth in Exhibit A annexed hereto which sum I herewith deposit in the registry of this Court to the use of the persons entitled thereto.

I am of the opinion that the ultimate award of compensation for the taking of said land or perpetual easement therein will be within any limits prescribed by law to be paid as the price therefor.

IN WITNESS WHEREOF, I, Douglas McKay, Secretary of the Department of the Interior of the United States of America, thereunto duly authorized have signed this Declaration of Taking, as Secretary of the Department of the Interior of the United States of America, this 12<sup>th</sup> day of October, 1954, at Washington, D. C.

UNITED STATES OF AMERICA



Acting Secretary of the  
Department of the Interior  
of the United States of  
America

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UNITED STATES  
DEPARTMENT OF THE INTERIOR  
OFFICE OF TERRITORIES

FILE COPY  
Surname:

Memorandum

SEP 20 1954

*Strand*  
*Walden 9/16*  
*Glenn 9/16*  
*Payler*  
*Strand*

To: Secretary of the Interior

From: Director

Subject: Condemnation of certain lands in Alaska for the Glenn Highway near Gakona, Alaska

Attached to this memorandum is a Declaration of Taking prepared by the United States Attorney in Anchorage, Alaska, on behalf of the Alaska Road Commission. A complaint in a condemnation action instituted in the Federal District Court for the Territory of Alaska has been filed and in due course of time a jury will hear the evidence and determine the amount of compensation to which the owners are entitled for a right of way to be used for highway purposes across three small parcels of their land. Meanwhile, by filing the Declaration of Taking and depositing with the Clerk of the Court the fair value of the property as determined by an appraisal board composed of three disinterested citizens of Gakona, the United States will be entitled to possession and use of the property while the condemnation suit is pending. The attached exhibits show the description and location of the three tracts of land and the plans for the new section of road to be built parallel to the airstrip.

*Strand*  
*9-16-54*  
*Happ 9/30*  
*Fly 19*  
*9-16-54*  
*- Alaska*  
*- TFM*

These lands are needed to eliminate a dangerous curve in the Glenn Highway at the Town of Gakona. The Alaska Road Commission attempted for over two years to reach an agreement with the owners of these lands before resorting to condemnation. It thus appears that condemnation is both necessary and desirable.

If it is agreeable to you, please sign the Declaration of Taking and return to this office for transmission to Alaska.

(Sgd.) William C. Strand

William C. Strand  
Director

Attachments 4

SECRETARY'S  
MAIL CENTER

Approved: OCT - 6 1954

OCT - 5 1954

*(Sgd.)*  
*W. C. Strand*  
*9/16/54*  
*A. Davis*

SECRETARY'S  
MAIL CENTER

INTERIOR DEPT.

OCT - 5 1954

*Mcl*  
*Acting*

Secretary of the Interior

INTERIOR DEPT.

INTERIOR DEPT.

OCT 7 - 1954

SOLICITOR

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

FILE COPY  
Surname:

<i>Info</i>

JUL 14 1954

Memorandum

To: Assistant Secretary Lewis  
From: Director, Technical Review Staff  
Subject: Modification of Highway Rights-of-Way in Alaska

The attached proposed order would revoke the existing order which withdrew a right-of-way 600 feet wide for the Alaska Highway and a right-of-way 300 feet wide for all other "through" roads, and would substitute therefor an easement 200 feet wide.

The order raises two main questions, (1) should easements be substituted for withdrawals, and (2) should the rights-of-ways for "through" roads be reduced to 200 feet. Both proposed actions create some practical problems.

Reducing the width of other rights-of-way will leave strips between the highways and patented lands or lands on which there are valid claims. Unless present owners or claimants could acquire these strips, they would no longer enjoy highway frontage. The Veterans Preference Act might prevent disposal to the adjoining owners. The change would also involve replatting and possibly resurveys.

The attached order recognizes the problems and provides that the "strips" will not be open to entry until further order of the Secretary. However, this simply defers a decision.

The 600 foot right-of-way for the Alaska Highway may well be treated as a special case. Only the two hundred mile stretch from the Yukon Boundary to Big Delta is involved. It has been the main target for criticism both from within and outside Alaska. There is no reason for it being wider than other main roads. Whether this modification should reduce the right-of-way to 200 feet or whether the withdrawal should be changed to an easement would depend on what is decided for the other "through" roads.

The 300 foot width for "through" roads no longer seems to be a major issue in Alaska. Because of the mileage involved

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and the close development that has taken place along some sections, what to do with the residual strips which would be left by any reduction would be quite a problem. It is the same problem as must be faced with the Alaska Highway, but more of it. The question seems to be whether demand or reason for reducing the present 300 foot rights-of-way is such as to justify a revision which will require a major readjustment of abutting ownerships.

As to substituting an easement for the present withdrawal for all main highways, originally rights-of-ways for all three classes of highways in Alaska were set up as withdrawals, 100 feet for "local" (farm) roads, 200 feet for "feeder" roads and 300 feet for "through" roads. Sometime ago, the rights-of-ways for the 100 foot and 200 foot roads were changed to easements. Primarily this was done so that it would not be necessary to make special surveys of lands adjoining the rights-of ways. Entries would be allowed for regular subdivisions lying on both sides of the easements. However, the easements provided no protection against encroachments. In the absence of zoning legislation by the Territory, it was felt that the protection afforded by withdrawals should be continued for the main highways.

The action proposed in the attached order may be the proper one to take. However, it does raise questions and present some problems that should be entirely resolved before making the changes since it would be unfortunate to create a situation worse than the one which now exists. I suggest, therefore, that (1) the order be amended to cover only the Alaska Highway, reducing the current withdrawal from 600 feet to 300 feet and retaining the language that makes the eliminated "strips" unavailable for entry until further order of the Secretary, and (2) start work at once on a review of current thinking on the need for 300 foot rights-of-ways for "through" roads, what would be involved in reducing this width to 200 feet and substituting easements for withdrawals, and what will be needed in the way of resurveys, replatting, adjudication and legislation should the change be made.

(sgd) John G. Marr

John G. Marr

Robert K Coote:imn

7/12/54

Attachment

Copy to: Secretary's Office  
Mr. Coote  
TRS Circulating Chron. THE SECRETARY  
TRS Chron. DEPARTMENT OF THE INTERIOR  
UNITED STATES




2111356:  
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ROBERT L. McCARTY  
C. EMERSON DUNCAN, II  
CHARLES F. WHEATLEY, JR.

LAW OFFICES OF  
**NORTHCUTT ELY**  
TOWER BUILDING  
WASHINGTON 5, D. C.

TELEPHONE  
METROPOLITAN 8-6474

TELETYPE  
WA 245

May 11, 1954

*9-TER-  
Alaska  
TPN*

*of*

Honorable Orme Lewis  
Assistant Secretary of the Interior  
Washington 25, D. C.

Dear Mr. Lewis:

Re Road Right-of-way - Fairbanks Serial 08832

Enclosed for your information is a copy  
of a letter submitted this date to Solicitor Davis on  
the above entitled matter.

We would be happy to have you attend  
any conference which may result.

Respectfully,

*Northcutt Ely*

E:RLM:DG  
Enclosure

INTERIOR DEPT.  
MAY 12 1954  
RECORDED 7

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ROBERT L. McCARTY  
C. EMERSON DUNCAN, II  
CHARLES F. WHEATLEY, JR.

LAW OFFICES OF  
**NORTHCUTT ELY**  
TOWER BUILDING  
WASHINGTON 5, D. C.

TELEPHONE  
METROPOLITAN 8-6474  
—  
TELETYPE  
WA 245

May 11, 1954

The Solicitor  
Department of the Interior  
Washington 25, D. C.

Dear Mr. Solicitor:

Re Road Right-of-Way - Fairbanks Serial 08832

Reference is made to my letter of October 6, 1953, in connection with the above matter.

As you know the location of a right-of-way so as to cause a minimum of interference with the Usibelli operations has been our chief concern. Obviously, the location of the right-of-way on the south bank of the river, especially in the proximity of the Usibelli camp area, would most nearly achieve this goal. Toward this end our people have carefully considered the possibilities of constructing a road on the south bank and making it available to Mr. Shallit as a right-of-way, upon his agreement to share in the maintenance. Several factors now appear to make this south bank route unfeasible for the present, not the least of which is the fact that tonnage requirements have been so sharply reduced this year by the Air Force that Usibelli will have difficulty enough in funding the construction of the washing plant and the initial development of an underground mine, commitments for which have now been irretrievably made.

In view of the fact that the proposed south bank solution will not be available in the immediate future as we had hoped, and realizing that this road right-of-way problem must be settled, we would like to make the following proposal, the essentials of which were made in my letter of October 6th, above referred to, and agreed to in most essentials by Mr. Barash, counsel for Mr. Shallit, by his letter to you dated October 23, 1953:

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NORTHCUTT ELY

The Solicitor  
May 11, 1954  
Page Two

1. The Shallit road in the location in which it is now in use across the Usibelli leasehold, and which is presumably the right-of-way applied for and approved by ELM decision of September 10, 1952, is agreeable as a permanent tram-road right-of-way, subject to the conditions hereinafter stated.

2. Such road is to be resurveyed with an engineer from both mines in attendance to assure that its location is so plotted so as to be unmistakably definite.

3. The right-of-way documents are to state that the development of the Usibelli lease is recognized as a dominant use so that the road right-of-way may be cut from time to time as may be necessary to Usibelli's operations, in order to provide access to water, insure drainage, etc.

4. In maintaining this roadway and in making any new construction, the Cripple Creek mine will consult with the Usibelli mine so as to permit the latter to make provision for the incorporation of culverts, cuts, etc., as may be necessary to current operations.

5. The Cripple Creek mine will agree to take no tailings, gravel or other material as borrow in the construction and maintenance of its road right-of-way, which has been accumulated by Usibelli, without express authorization from Usibelli.

6. The Cripple Creek mine will so construct, operate, and maintain the road in the well area opposite the Usibelli camp so as to constitute no interference with the water supply to said camp.

7. The elevation of the road at the point near the Usibelli camp where Usibelli is to construct a washer shall be definitely determined and remain constant, unless otherwise agreed to by Usibelli, so that operation of the flume from the washer, which must pass over the road, will not be obstructed.

In addition, we ask that any Departmental decision formalizing the foregoing include language to the effect that any implications

NORTHCUTT ELY

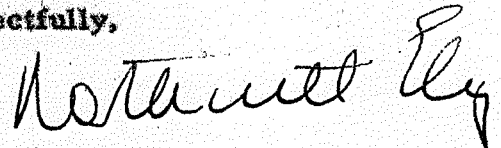
The Solicitor  
May 11, 1954  
Page Three

that Cripple Creek may use roads constructed by Usibelli upon his own leasehold, without express authorization from Usibelli, are withdrawn, and further that the request contained in Mr. Barash's letter of May 16, 1952, that the Department cancel the Usibelli lease for alleged interference with Mr. Shallit's road, be denied.

Mr. Waugaman, general manager for the Usibelli Coal Mine, Incorporated, is now in Washington. It is understood that Mr. Shallit is also in Washington at the present time. It is requested that a meeting be held by you with Mr. Shallit and his counsel, Mr. Barash, and Mr. Waugaman and ourselves in attendance in order to discuss the foregoing proposal. On the basis of the expressions made in Mr. Barash's letter above referred to, it is believed that the foregoing constitutes a basis for agreement toward the end that this matter which has been so long in controversy may be finally settled.

Two copies of this letter are being forwarded to Mr. Barash, per copy of letter attached.

Respectfully,



E:RLM:DG  
Enclosure

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

FILE COPY  
Surname: *X*

*Schwilck*  
*Baldwin*  
*Edwards*  
*J. L. Jones*  
*Miller*

FEB 15 1954

Territories

*9-TERR  
Alaska  
-Tpm*

TERRITORIES  
TO SECRETARY  
FEB 15 1954  
FOR SIGNATURE

The Honorable  
The Attorney General

Sir:

This is in further reference to the acquisition by condemnation of an easement for highway purposes over and across the property of Jack and Henna Moore of Gakona, in the Third Judicial District in Alaska, which was the subject of the Solicitor's letter of December 2, 1953. (your file RJI-VOK 33-2-142).

INTERIOR DEPT.  
SECRETARY'S  
MAIL CENTER  
FEB 15 1954

The Commissioner of Roads for Alaska has reported that all attempts to negotiate a settlement with the Moores have proved fruitless. Accordingly, I recommend that condemnation proceedings be instituted at this time.

TO SOLICITOR

Very truly yours,

*William A. Burke*  
Acting Solicitor

INTERIOR DEPT.  
FEB 15 1954  
SOLICITOR

Schwilck/jb  
2-10-54

LISTED

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