

12/08/10 (1)

RG 95 RECORDS OF THE FOREST SERVICE

**DEPARTMENT OF AGRICULTURE.
FOREST SERVICE. REGION 10
(ALASKA REGION). JUNEAU, AK.**

Subject Correspondence, 1908 - 1976

ARC#: 1137914

BOX 57 OF 109

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Recreation and Lands, R-10

DATE: December 28, 1951

FROM : B. Frank Heintzleman, Regional Forester

SUBJECT: U - ~~USES~~, Chugach (K), Policy, Roadside Set-back Distances

Supervision →

Reference is made to U - PLANS, Chugach (K), Recreation, Summer Home Groups, Memo from Chief of December 18, 1951. The following policy should be taken into consideration in our future basic land planning.

1. Layout plans for summer home and residence groups will continue to be submitted to the Chief for approval and lot lines should not be within the 200 foot set-back distance unless clearly justified and explained.
2. Layout plans for homesite groups and business sites will be approved by me. It will be the general policy to observe the 100 foot set-back distances for uses of this nature. This will apply to the sections of the Seward-Anchorage Highway within established homesite districts, the most important of which are:
 - a. Lot K, USS 2532, to HES 32 (Lake View Group).
 - b. USS 2238, to Lot K, USS 2519, (Lawing Group and Fall Creek Group).
 - c. South Boundary, USS 2528, to West Boundary, Lot H, USS 2529, (Trail Lake and Moose Pass Groups). Kenai River Highway:
 - d. East Boundary, Lot 13, USS 2934, to East Boundary of Hubbard Mining Claims (Hope Road).
 - e. Mile 73 to Hope Elimination.

*File
cc: sent (K)*

original was spoiled & rewritten was

U. Supervision, Policy, Set Back distance, Highway, Roads

U
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D
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I

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

R24
WUC

ORDER NO. 2665

October 16, 1951

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. 146, 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 McKinley Park Road, Sterling Landing to Ophir Road, Iditarod to Flat Road, Dillingham to Wood River Road, Ruby to Long to Peckman 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.

(over)

U. Supervision, Policy, Set back distance, Row,

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. 757 of October 16, 1951. That order operated 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 Offices. 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.

/s/ Oscar L. Chapman

Secretary of the Interior

Note by Regional Administrator:

This order does not, of course, automatically extend widths of the designated highways to the number of feet indicated. Prior rights must be considered and adjudicated. It did and does automatically apply where unclaimed public domain is involved.

Lowell M. Rickett

7 copy for U-Super. Rights of Way

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

RECEIVED
SEP 28 1951
FOREST SERVICE
JUNEAU, ALASKA
September 28

1000
52
B
J.M.
J.C.

U
ADJUSTMENTS, R-10, Tongass (S)
Alcoa Mining Co.
Anchorage 011747

OPINION FOR C. C. CARLSON
Regional Attorney, Portland, Oregon

Dear Mr. Carlson:

This relates to the question raised by your letter of July 17, 1951, and enclosures, with respect to a forest development road which extends from tidewater to the interior of Kiscimus Island, Alaska. (U-ADJUSTMENTS, Tongass, (S), Alcoa Mining Co., Mineral Serial No. 011747.)

The road was built some nine years ago by the Forest Service on Government land in the Tongass National Forest, for use in connection with the Alaska Spruce Log Program. In 1944 it was incorporated in the forest development road system, and has been maintained and used as part of that system ever since. At present the road is an important factor in plans for the management of national forest timber which is valued at \$500,000.

After the road had been taken into the forest development road system, part of the tidewater end was included within the boundaries of mining claims. Those claims were located in 1945 and patented in 1950, without an express exception of the roadway or of any rights therein.

The regional forester reports that preparations are being made for a sale of timber which will have to be saved down the road to tidewater. He wishes to know whether the Forest Service can lawfully authorize such use of the road within Alcoa's holdings, or whether jurisdiction over that stretch was extinguished by the issuance of the patent of 1950.

We believe that the patent did not affect the status of that segment of road, or terminate the jurisdiction of the Forest Service with respect to it. Our theory is that when the road was built in aid of the war effort, the roadway was severed from adjacent lands in the forest reservation and appropriated to a governmental use. After the original use had terminated, the roadway was again appropriated to a particular governmental use when it was added to the forest development road system by action taken under authority derived from an act of Congress and from administrative regulations and instructions supplementary thereto (Federal Highway Act of 1921, as amended (23 U.S.C.A., Supp., § 23); U.S.C.A. Regulations for Administering the Forest Development

cc sent Luskern

Opinion
Solicitor

Mr. C. Carlson

Roads and Trails (35 (78, 1915) ed., Part 212); Forest Service Manual, 7, 3, pp. 27 et seq.). It follows that any rights which may have been acquired by virtue of the mining locations were subordinate to the use for which the roadway had been set apart and appropriated. Also, it follows that the roadway is accepted from the operation of the patent, at least while the Government needs or uses it, because the Department of the Interior was without authority to interfere with the possession of lands appropriated and used by the Government for particular purposes authorized by law. The authorities on which we rely are cited in a subsequent paragraph of this letter.

Under the Federal Highway Act the Secretary of Agriculture has broad discretionary powers with respect to "the survey, construction, and maintenance of roads and trails of primary importance for the protection, administration, and utilization of the national forests," and for the appropriation of lands appropriated for forest roads and trails. These powers have been delegated to the Chief of the Forest Service by departmental regulations cited above, and have been subdelegated to subordinate officers subject to limitations and conditions set forth in the Forest Service Manual.

Since the passage of the Federal Highway Act, Congress has made annual appropriations to this Department for carrying out the provisions with respect to forest roads and trails. Such appropriations, for the years of interest in the present case (1914 through 1916), are found in 37 Stat. 441, 38 Stat. 445, and 39 Stat. 452.

The annual reports of the Forest Service give the aggregate amounts expended for construction and maintenance of forest development roads from appropriated funds and from forest receipt moneys which have been available for that purpose under the act of March 3, 1913 (37 Stat. 445; 16 U. S. 511). The reports show that the Government has a substantial investment, as a result of these expenditures, in an extensive road system of great public value in the administration of the national forests.

It is obvious that if control of these roadways could be obtained by location and patent under the mining laws, private individuals could appropriate essential parts of a system which has been constructed and maintained for governmental purposes at great public expense. In the Supreme Court case of an analogous situation in the Illinois case, infra, the principle leading to such startling consequences cannot, in our opinion, be a sound one."

3-2. C. Carlson

The leading case on the appropriation of lands by the executive branch of the Government is Wilson v. McOmmer, 13 Fed. (U.S.) 496 (1899). It was an action of ejectment brought against the officers in command of the army post at Fort Dearborn, Illinois, by a pro-claimant claimant who occupied certain land within the boundaries of the post. The principal issue was whether the land was subject to entry or whether it had been severed from the mass of the public domain, either by appropriation to a use authorized by law or by reservation from sale under authority of law.

The military post had been established in 1804, pursuant to orders of the War Department, on public lands of the United States. No formal action was taken to withdraw the site from entry or sale until the post had been in existence for 20 years. During that period it was occupied, with occasional interruptions, by troops of the United States and by Indian agents who then were under the War Department. Thereafter the site was reserved from sale by the Commissioner of the General Land Office, upon the request of the Secretary of War.

The Court said that land within the post had been except from pre-emption from the time it was occupied for military purposes in 1804, because such occupancy constituted an appropriation under authority of law also, that it was except for the additional reason that it had been lawfully reserved from sale 20 years after the original occupancy, by action of the land office. In the issue of appropriation the court stated:

"Now, that the land . . . has been appropriated, in point of fact, there can be no doubt, for . . . it has been used from the year 1804, until and after the institution of this suit, as well for the purpose of a military post, as for that of an Indian agency. . . . That, also is appropriation, for that is nothing more nor less than setting apart the land for some particular use." (I.e. ill-ill; emphasis added.)

The Court determined that the appropriation was authorized by law, because Congress had authorized the President to establish military posts and Indian trading stations, and had appropriated funds for such purposes. In that connection the Court stated:

1-10-01, continued

It would not be difficult to suppose, by any process that is conceivable and the military part especially to be established by laws, that this would have been by the authority of law. But instead of establishing the power themselves, they left it to the discretion of the President, which is precisely the same thing in effect. From them is not appropriately not only for me but for the property of the new place, by authority of law."

The Wilson case has been cited many times, as authority for the principle of law which is stated in the decision as follows:

"... However a tract of land which was then more largely appropriated to any purpose, even that namely, the land was appropriated to some general use for the use of public lands, and ... no subsequent law [of general applicability, or preliminary or final, would be confined to operate upon it, although no reservation was made of it." (U.S. 222.)

The sale of the Wilson case was mentioned in Smith v. Carter, 296 U.S. 170 (1935), where it was held that the establishment of a military post under orders of the War Department, amounts to an appropriation of the land for military purposes and excepts it from the operation of the reservation law. It was stated in the opinion that the decision could be based on the principle that an order of the War Department is presumed to be the order of the President, as Commander-in-Chief of the Army, but that:

"It were unnecessary to say that the reason is to be found in the fact that whenever a statute is passed containing a general provision for the disposal of public lands, it is, unless an intent to the contrary be clearly manifested from the terms, to be held applicable to lands which for some special purpose have been in accordance with law taken full possession of by and are in possession of the Government. Where particular lands have been taken possession of by individuals or by an executive department, to be used for some public purpose, Congress is authorized to sell or otherwise dispose of the land, and the Government is not bound to preserve the land in its original state. It is not necessary to say that the sale of lands of the Government is always irrevocable." (U.S. 193) emphasis added.

Mr. C. C. Curleam

In Hastings, etc., B. Co. v. Whitney, 132 U.S. 397 (1890), the Court held that a reserved entry is an appropriation which segregates land from the public domain, and operates to exclude it from a subsequent railroad grant, although no exception of the land has been made in the granting act. The Court relied on the rule of the Wilson case with respect to the effect of an appropriation, stating that it has been reaffirmed and applied by this Court in such a great number and variety of cases that it may now be regarded as one of the fundamental principles underlying the land system of this country."

In Stearns v. United States, 152 Fed. 300 (1907), it was held that:

"lands of the United States which are used as post office sites, military reservations, and the like, are not within the operation of the public land laws, and no attempt to make entries of them in the land offices can be effective for any purpose, because the land officers have no authority to dispose of them."

It has been held that national forest lands are devoted to a public use when Forest Service telephone lines are constructed thereon, under the authority of acts making appropriations for the construction and maintenance of such lines as the Secretary of Agriculture may deem necessary for the administration of the forests. In L.S. 359 (1915). In that connection it was stated:

"The lands herein have been devoted to a public purpose, pursuant to a law of Congress, subsequent disposition thereof will not, in the absence of an express covenant by the United States, operate to pass title to the patented telephone lines or the right of the United States to operate and maintain the same."

It was later held that the same reasoning applies to national forest lands where roads, trails, bridges or other improvements have been constructed by the Forest Service at public expense under the authority of appropriation acts. In L.S. 513 (1915).

The two Interior rulings cited above are incorporated in instructions with respect to the issuance of patents covering lands within national forests which were listed for homestead entry after improvements had been constructed thereon for public purposes. In each instance the Commissioner of the General Land Office was advised that where improvements have actually been constructed on national forest lands, and are being maintained and operated by the United States, and the Commissioner's

W. C. Carlisle

Notice is furnished with appropriate maps or field notes, retention should be made on the tract basis, and if the land is thereafter disposed of under any public-land law, the patent should expressly except the improvements and the right of the United States to maintain the same so long as needed or used for or by the United States.

Although the instructions call for an exception of the type stated, it is clear that Interior did not consider it necessary to incorporate an express exception in a patent for the purpose of retaining title to the improvements, together with the right to maintain and use the same. The exception is made by operation of law, under the rule of the highest case, whenever lands are appropriated to a public use under authority of law; and Interior has twice ruled that national forest lands are so appropriated when used for facilities which the Forest Service is authorized to construct and maintain.

If you have any questions with respect to the views expressed in this letter, please feel free to raise them.

The enclosures transmitted with your letter are returned herewith.

Sincerely yours,

W. Carroll Hayden

Director

Enclosures

cc: Forest Service - 3
Virginia Mason
Fred Horner
Miss Sigel

WCH:glow:WH
9-11-51
18396

Office Memorandum • UNITED STATES GOVERNMENT

TO : B. Frank Heintzleman, Regional Forester R-10
% Chief Forest Service, Washington, D. C.

FROM : Recreation and Lands, W. A. Chipperfield

SUBJECT: U-SUPERVISION- Copper River Highway, Set-back line

DATE: May 11, 1951

B 714

Reference is made to your memorandum of May 8.

Copper River Highway - set-back 50' from center line Cordova City limit to Mile 13. (intended to be the CAA station and airport).

From Mile 13 to Mile 39 should be minimum 100' set-back from center line (same standard as used on Kenai Highway).

Occupied lots on the Kenai prior to establishment of revised set-back standards were first located 33' from center of highway, later 50', now 100'. Location of buildings were not allowed closer than 100'.



STANDARD FORM NO. 64

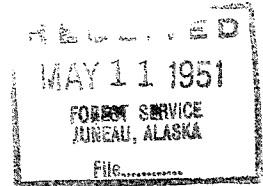
Office Memorandum • UNITED STATES GOVERNMENT

TO : Region 10

DATE: May 8, 1951

FROM : B. Frank Heintzleman (in Washington, D. C.)

SUBJECT: U-SUPERVISION-Copper River Highway, Set back line



Referring further to Chipperfield's memo of May 4, 1951.

What is the width of the ROW or the set-back line of the Copper River Highway over various portions of its length from Cordova city limits to say Mile 7, and to the airfield? Also what should it be along the proposed extension from the airfield to the Forest boundary at approximately Mile 39?

I suppose that along most of its length inside the Forest, perhaps beyond Mile 7 or even possibly Eyak River, the ROW should be the same as for our main Forest Highways on the Kenai Peninsula, - - 100 feet on each side of the center line, is it not? In any event the section from the airfield to the Forest boundary should have a ROW of not less than 100 feet on each side of the center line. Is there also a set-back distance on the Kenai Highway beyond the limits of the ROW?

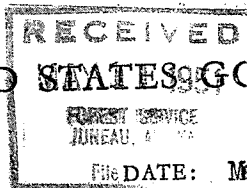
Copper River Hwy. Set Back 50' from & Cordova City Limit to Mi. 13. (intended to be the C.R.R. Station and air port)

From Mi. 13 to Mi. 39 should be min. 100' setback from & (same standard as used on Kenai Hwy)

Occupied lots on the Kenai prior to establishment of revised Set Back Standards were located 33' from & Hwy. 1.7 to 50', - now 100'. Location of buildings were not allowed closer than 100'

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT



TO : Region 10

FROM : B. Frank Heintzleman (in Washington, D. C.)

 SUBJECT: U-SUPERVISION, R-10, Set-back distances Copper River Highway
 U-USES, Chugach (PWS), Summer Home, Burns, Frank & Margaret, 3/5/51

BFH

Referring to Chipperfield's memorandum of May 4.

I am willing to waive that the main structure must be 100 feet from the center line of the ROW in the case of Mr. and Mrs. Frank Burns on Lot H, Murcheson Creek, Group 1, Copper River Highway, to cover the location of a cabin which has recently been found to be 75 feet from the center line instead of 100 feet as we had thought. Any other main structures on this lot should be kept back of the standard set-back line which is 100 feet from the center line in this locality.

cc: [unclear] (1)

STANDARD FORM NO. 64

FOREST SERVICE

JUNEAU, ALASKA

Office Memorandum • UNITED STATES GOVERNMENT

TO : B. Frank Heintzleman, Regional Forester -R-10 DATE: May 4, 1951
 % Chief, Forest Service, Washington D. C.

FROM : Recreation and Lands, W. A. Chipperfield

SUBJECT: U-SUPERVISION, R-10, Set-back distances Copper River Highway
 U-USES, Chugach (PWS), Summer Home, Burns, Frank & Margaret, 3/5/51

Enclosed is a memorandum from Prince William Sound and Form
 U-530-R-10, Special reference to Clause 21 of this form.



No one here has authority to waive the set-back distance.

Our standards for the Copper River Highway are 100' ROW
 (50' from center line. Lot line can come to edge of ROW).
 Set-back for building 100' from center line of highway.

What action will you take on this case? I am not familiar
 with the case and about all I can say is that if we waiver the
 building set-back distance it would not be the first time that
 a permittee's building was located within the 100' building
 set-back distance. I will admit that it is not desirable, but
 as I consider this case it is not going to be undesirable either.

Please return the memorandum with your decision.

Enclosure

FOREST SERVICE

CORDOVA, ALASKA

Office Memorandum • UNITED STATES GOVERNMENT

TO : Regional Forester, Juneau

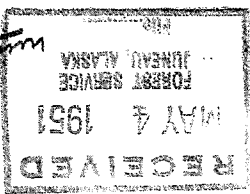
DATE: May 2, 1951

FROM : Supervisor, PWS; James H. Clough, Acting

SUBJECT: U

SUPERVISION, R-10
Set-back Distances
Copper River Highway

U
USES, Chugach (PWS)
Summer Home
Burns, Frank & Margaret
3-5-51



Mr. and Mrs. Frank Burns are beginning to complete construction of a 20' x 24' cabin located on Lot A of the Murhesson Creek Group 1, Copper River Highway. The site was relinquished in their favor on March 5, 1951, by Mr. Stanley W. Chapman. Mr. Chapman had been doing miscellaneous stump grubbing and clearing since the summer of 1949. Up to the present date it has been assumed that the structure was located 100 feet from the center line of the now existing highway. Yesterday I had occasion to measure the set-back distance and found that the nearest corner of the cabin is located approximately 75 feet from the present road center line.

Mr. and Mrs. Burns have plans for extensive improvements of the now existing frame. Please advise if the building will be vulnerable due to its location and if there is any way they can be sure of its security.

If the cabin is completed it will definitely be an asset to the P.W.S. special use structures. The cabin located on the adjoining lot, which was constructed prior to 1946, is located approximately 85 feet from the center line of the road. This structure is the tidest appearing cabin on Ryak Lake.

James H. Clough

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE
ALASKA REGION

U

USES, _____

SPECIAL USE PERMIT

Special Conditions Applicable to Homesite and Residence Permits

(18) This permit is issued subject to any valid existing rights of others to the land or to structures or other improvements now on the area.

(19) Not more than one residence building shall be constructed upon the permit area without prior written approval of the Forest Service.

(20) All buildings must present a neat appearance and be so constructed as not to interfere with the use and enjoyment of adjoining areas.

(21) For areas adjoining road rights-of-way. All buildings except garages must be constructed not closer than 100 feet from the center of the adjoining road right-of-way. Garages may be constructed within 100 feet of the center of the adjoining road right-of-way only after prior approval of the Regional Forester.

(22) The right is reserved to reduce the area granted by this permit if it is not being used by the permittee for the purposes authorized.

(23) The permittee shall clear and keep clear the premises of all inflammable brush, undergrowth and other debris, but during dry periods shall not burn debris without the consent of the Forest Officer in charge.

(24) Violation of the fish and game laws of the Territory while residing on the area covered by this permit will be sufficient grounds for revoking the permit.

(25) All open fires shall be extinguished before leaving the permitted area.

(26) Disorderly or otherwise objectionable conduct by the permittee, or those occupying the premises with the permission of the permittee, shall upon proof thereof satisfactory to the Regional Forester, be cause for the revocation of this permit.

(27) This permit does not authorize the use of any springs or streams which may be located upon or adjacent to the area.

(28) This permit is subject to termination on April 1 of any year if the required annual rental payment has not been received.

(29) This permit is subject to termination and the area made available to another qualified applicant if the permittee does not comply with the construction and use period as specified in Clause 2 above, and no refund will be allowed for the portion of the unused annual rental. Land clearing will not be considered as construction.

(over)

U-530m-R-10
(Revised 5/5/50)

(30) This area shall be occupied as a bona fide year-long residence of the permittee, to the exclusion of a home elsewhere. Actual residence must be established on the area within twelve months from date of permit.

(31) Written permission must be obtained from the Division Supervisor when it is necessary for the permittee to absent himself from the homesite area for any considerable period, usually 3 months or longer.

FOREST SERVICE

- JUNEAU, ALASKA

Regional Forester

December 21, 1949

Chas. G. Burdick, Ass't. Regional Forester

U
 SUPERVISION
 Policy
 Roadside Zones

well

Reference is made to Mr. Sicker's memo of December 6.

The storm of protest following the withdrawal of wide road rights-of-way in interior Alaska on the public domain should be thoroughly considered before applying those principles to the National Forest Highways. In a number of instances the Regional Director, Bureau of Land Management, is opposed to what is termed excessive widths. In certain locations the withdrawal includes much or all of the potentially rich plateau grounds of narrow valleys and is being strongly protested by the mining industry. A few withdrawals have been narrowed, leaving a strip of open public domain between the right-of-way and areas which have gone to patent and which at that time abutted on the R.O.W.

Considering Forest Highways and Development Roads by districts I would recommend as set back distance from road center line:

Kenai District

Forest Highway - Forest Boundary at Indian to the Boundary on the Kenai River - 200 foot set back distance.

Forest Highway - Seward to Moose Pass - 100 foot set back.

Moose Pass to junction with Anchorage-Homer road - 200 foot set back.

Development Roads - 50 feet as maximum if unusual circumstances require this width - 33 feet as standard.

Prince William Sound

Forest Highway

Copper River - 200 foot
 Others - 100 foot

Development Roads

100 foot set back

2-Regional Forester-12-21-49

Tongass N. F.

Forest Highway within 12 miles (roughly) of towns - 50 foot

Beyond 12 miles - 100 foot

Adequate scenic strips along beach where not urgently needed for urban development.

Development Roads - 33 foot

It is understood that in certain places where terrain and timber cover are such that improvements will be hidden from the road, or settlement use would require and justify it, that use on portions of these set back strips can be authorized.

CCB:gs

Office Memorandum • UNITED STATES GOVERNMENT

TO : Region 10

DATE: December 6, 1949

FROM : John Sieker, Chief, Division of Recreation and Lands

SUBJECT: U-SUPERVISION, Policy, Roadside Zones

RECEIVED
DEC 12 1949
Walt

B-7-A
B

AIR MAIL

Reference is made to the Federal Register of October 16, 1949, page 5048, Public Land Order 601.

This order by Secretary Chapman establishes roadside zones of 300, 150, 100, and 50 feet on each side of the center line of practically every highway and road in Alaska which crosses unreserved public lands, withdraws these zones from mineral entry, and reserves them for highway purposes.

In view of the discussion we had last summer concerning the use of highway zones in the national forests and the forthcoming discussion of our policy in Southeastern Alaska with Mr. Watts and Mr. Heintzleman, we would like to have your comments.

Has there been any expression of public opinion on P.L.O. 601? Should we be influenced by the protection given to highway and roadside zones across public lands by P.L.O. 601? Would a similar order be appropriate or desirable along Forest Highways in the Kenai?; in Southeastern Alaska? Should we consider increasing our highway zones to meet the widths specified in P.L.O. 601?

Set Back Dist. for Class 1 & Class 2 Forest Highways is 200' from E.

*P.L.O. 601 Row for Kenai Road is 100 feet E.
So our specifications would be for double the A.R.C. Row if we classed Kenai as Class 1 or 2.*

Since Kenai is Class 3 Hwy we have the same Row standards as the A.R.C.

The main advantage as far as it would be in the protection against mineral locations, for this purpose I'd get the limit wherever a nuisance claim was probable.

John Sieker

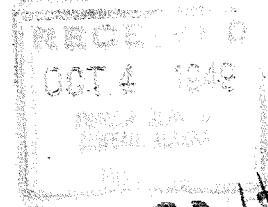
Walt



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Anchorage, Alaska

u
rights-of-way

October 3, 1949



B7/A
use
8

Mr. B. Frank Heintzleman
Regional Forester
U. S. Forest Service
Juneau, Alaska

Dear Mr. Heintzleman:

I have been out of town for a few days, and rather busy with visitors from Washington, so have not answered promptly your letter of inquiry of September 23 concerning rights-of-way.

The three classifications of rights-of-way widths promulgated by the Department of the Interior includes 600 feet for the Alaska Highway, and other through roads, 300 feet; feeder roads, 200 feet; and other local roads, 100 feet.

The above figures indicate the total width of the rights-of-way, not merely the distance from the center line.

Very truly yours,

Lowell M. Puckett
Regional Administrator

LMP/fp

U
USES
Rights-of-Way

see

Juneau, Alaska
September 23, 1949

Airmail

Mr. Lowell Puckett
Regional Director
Bureau of Land Management
Anchorage, Alaska

Dear Mr. Puckett:

Reference is made to the discussion by Mr. Sieker and myself with you relative to road rights-of-way.

As I recollect, you stated that the right-of-way for the Alaska Highway was 600 feet wide, other through roads 300 feet, feeder roads 100 feet and other local roads 50 feet. This is the total width of the rights-of-way, not merely the distance from center line.

Will you please advise me if I misunderstood your having a classification for 50-foot rights-of-way, that is, 25 feet on each side of the center line.

Sincerely yours,

B. FRANK HEINTZLEMAN
Regional Forester

By: Chas. G. Burdick, Acting

CGB:is

Roads Built and Maintained by the Alaska Road Commission

Alaska Highway	600' ROW
Richardson Highway	300' ROW
Glenn Highway	300' ROW
Haines Highway	300' ROW
Tok Out Off	300' ROW
Steesse Highway	200' ROW
Elliott Highway	200' ROW
McKinley Park Road	200' ROW
Anchorage-Potter Ind.	200' ROW
Edgerton Cut Off	200' ROW
Tok-Eagle Road	200' ROW
Ruby Long Poorman	200' ROW
Nome Solomon	200' ROW
Kenai Lake Homer	200' ROW
Fairbanks College	200' ROW
Anchorage Lake Spensard	200' ROW
Circle Hot Spring	200' ROW
All other roads not classified as through or feeder	100' ROW

Copy sent

Sou.
Pet.
Adm.
Kenai
PWS

For Information

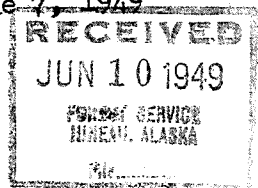
10.10.49

Office Memorandum • UNITED STATES GOVERNMENT

TO : B. Frank Heintzleman, Regional Forester, R-10 DATE: June 7, 1949

FROM : John Sieker, Chief, Division of Recreation and Lands, By

SUBJECT: U-ADJUSTMENTS, R-10, General
Supervisor, Policy, Roadside Zones



wal
 B7H
 B

When you were in Washington we discussed at some length the possibility of making reservations for road and other rights-of-way in connection with the classification of lands for homesite purposes. None of the methods seemed particularly satisfactory.

In reviewing the Federal Register for Tuesday, May 24, we came across an interesting item which you might also have picked up. Your attention is called to Item 9 of BLM Small Tract Classification No. 11, relating to lands in Alaska. We do not know upon what authority or justification provision is made for locating such rights-of-way after patent has issued since the act itself makes specific provision only for reservation of the mineral rights.

You may wish to discuss the matter further with Regional Administrator Puckett.

Enclosure

Lucile V. Batts

See

*U - Uses - Homesites - ROW for sewer systems
 memo for shells from WAC, 5/17/49*

OP-10

NOTICES

the Treasury Department governing assignments for transfer or exchange, and thereafter should be presented and surrendered with the subscription to a Federal Reserve Bank or Branch or to the Treasury Department, Division of Loans and Currency, Washington, D. C. The bonds must be delivered at the expense and risk of the holders.

VI. *General provisions.* 1. As fiscal agents of the United States, Federal Reserve Banks are authorized and requested to receive subscriptions, to make allotments on the basis and up to the amounts indicated by the Secretary of the Treasury to the Federal Reserve Banks of the respective Districts, to issue allotment notices, to receive payment for certificates allotted, to make delivery of certificates on full-paid subscriptions allotted, and they may issue interim receipts pending delivery of the definitive certificates.

2. The Secretary of the Treasury may at any time, or from time to time, prescribe supplemental or amendatory rules and regulations governing the offering, which will be communicated promptly to the Federal Reserve Banks.

[SEAL] JOHN W. SNYDER,
Secretary of the Treasury.

[F. R. Doc. 49-4083, Filed, May 23, 1949;
8:48 a. m.]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

ALASKA

SMALL TRACT CLASSIFICATION NO. 11

MAY 17, 1949.

Pursuant to the authority delegated to me by the Director, Bureau of Land Management by Order No. 319, dated July 19, 1948, (43 CFR 50.451 (b) (3), 13 F. R. 4278), I hereby classify, as hereinafter indicated, under the Small Tract Act of June 1, 1938 (52 Stat. 609, 43 U. S. C. sec. 682 (a)), as amended, the following described public lands in the Anchorage, Alaska land district, embracing approximately 995 acres:

FOR LEASING AND SALE

FOR HOME AND CABIN SITES

T. 13 N., R. 3 W., Seward Meridian:
Sec. 13: NE $\frac{1}{4}$ NW $\frac{1}{4}$, S $\frac{1}{2}$ NW $\frac{1}{4}$, E $\frac{1}{2}$ NW $\frac{1}{4}$
NW $\frac{1}{4}$, SW $\frac{1}{4}$ NW $\frac{1}{4}$ NW $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$
NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, W $\frac{1}{2}$ SE $\frac{1}{4}$
NE $\frac{1}{4}$ NE $\frac{1}{4}$.

Sec. 15: NW $\frac{1}{4}$ SW $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ NE $\frac{1}{4}$ SW $\frac{1}{4}$
NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$ S $\frac{1}{2}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$,
SW $\frac{1}{4}$ SE $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, SE $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$
NE $\frac{1}{4}$, E $\frac{1}{2}$ SW $\frac{1}{4}$ SW $\frac{1}{4}$ NW $\frac{1}{4}$ NE $\frac{1}{4}$, N $\frac{1}{2}$
NE $\frac{1}{4}$ NE $\frac{1}{4}$, SW $\frac{1}{4}$ NE $\frac{1}{4}$ NE $\frac{1}{4}$, NW $\frac{1}{4}$ SE $\frac{1}{4}$
NE $\frac{1}{4}$ NE $\frac{1}{4}$.

Sec. 28: S $\frac{1}{2}$ SW $\frac{1}{4}$.

T. 12 N., R. 3 W., Seward Meridian:

Sec. 15: S $\frac{1}{2}$ S $\frac{1}{2}$.

Sec. 21: N $\frac{1}{2}$ N $\frac{1}{2}$.

Sec. 22: NE $\frac{1}{4}$, N $\frac{1}{2}$ NW $\frac{1}{4}$.

FOR HOME, CABIN AND BUSINESS SITES

T. 13 N., R. 3 W., Seward Meridian:

Sec. 22: SE $\frac{1}{4}$.

Sec. 26: SE $\frac{1}{4}$ NW $\frac{1}{4}$, NE $\frac{1}{4}$ SW $\frac{1}{4}$.

2. The lands are located from approximately four to seven miles from the City of Anchorage, and are served by good gravelled and secondary roads. None of the area is served by public utilities at

the present time. Adequate water supply for domestic use can be obtained from wells, and sewage disposal may be made by the use of cesspools or septic tanks. Churches, hospital, schools and market facilities are available in Anchorage. The climate is a favorable combination of the temperate coastal climate of southern Alaska. The winter is typically long and moderately cold, and the summer short and fairly warm.

3. Pursuant to § 257.9 of the Code of Federal Regulations (43 CFR, Part 257), a preference right to a lease is accorded to those applicants whose applications (a) were regularly filed, under the regulations issued pursuant to the act, prior to this classification, and (b) are of the type of site for which the lands subject thereunder have been classified. As to such applications, this order shall become effective upon the date which it is signed.

4. As to the lands not covered by the applications referred to in paragraph 3, this order shall not become effective to permit the leasing of such land under the Small Tract Act of June 1, 1938, cited above, until 10:00 a. m. on June 21, 1949. At that time such land shall, subject to valid existing rights and the provisions of existing withdrawals, become subject to application, petition, location, or selection, as follows:

(a) *Ninety-day period for other preference-right filings.* For a period of 90 days from 10:00 a. m. on June 21, 1949, to close of business on September 20, 1949, inclusive, to (1) application under the Small Tract Act of June 1, 1938, by qualified veterans of World War II, for whose service recognition is granted by the act of September 27, 1944 (58 Stat. 747, 43 U. S. C. secs. 279, 282) as amended, and by other qualified persons entitled to credit for service under the said act, subject to the requirements of applicable law, and (2) application under any applicable public law, based on prior existing valid settlement and preference rights conferred by existing laws or equitable claims subject to allowance and confirmation. Application by such veterans and by other persons entitled to credit for service shall be subject to claims of the classes described in subdivision (2).

(b) *Advance period for simultaneous preference-right filings.* All applications by such veterans and persons claiming preference rights superior to those of such veterans filed on May 17, 1949, or thereafter, up to and including 10:00 a. m. on June 21, 1949, shall be treated as simultaneously filed.

(c) *Date for non-preference-right filings authorized by the public land laws.* Commencing at 10:00 a. m. on September 21, 1949, any of the land remaining unappropriated shall become subject to application under the Small Tract Act by the public generally.

(d) *Advance period for simultaneous non-preference-right filings.* Applications under the Small Tract Act by the general public filed on September 1, 1949, or thereafter, up to and including 10:00 a. m. on September 21, 1949, shall be treated as simultaneously filed.

5. A veteran shall accompany his application with a complete photostatic, or other copy (both sides) of his certificate of honorable discharge or of an official

document of his branch of service which shows clearly his honorable discharge as defined in § 181.36 of Title 43 of the Code of Federal Regulations, or constitutes evidence of other facts upon which the claim for preference is based and which shows clearly the period of service. Other persons claiming credit for service of veterans must furnish like proof in support of their claim. Persons asserting preference rights, through settlement or otherwise, and those having equitable claim, shall accompany their applications by duly corroborated statements in support thereof, setting forth in detail all facts relevant to their claims.

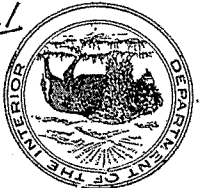
6. All applications referred to in paragraphs 3 and 4, which shall be filed in the District Land Office at Anchorage, Alaska, shall be acted upon in accordance with the regulations contained in § 295.8 of Title 43 of the Code of Federal Regulations to the extent that such regulations are applicable. Applications under the Small Tract Act of June 1, 1938 shall be governed by the regulations contained in Part 257 of Title 43 of the Code of Federal Regulations.

7. Lessees under the Small Tract Act of June 1, 1938, will be required, within a reasonable time after execution of the lease, to construct upon the leased land, to the satisfaction of the appropriate officer of the Bureau of Land Management authorized to sign the lease, improvements which, in the circumstances, are presentable, substantial and appropriate for the use for which the lease is issued. Leases will be for a period of not more than five years, at an annual rental of \$5.00 for home and cabin sites, payable in advance for the entire lease period. The rental for business sites will be in accordance with a schedule of graduated charges based on gross income, with a minimum charge of \$20.00 payable yearly in advance, the remainder, if any, to be paid within thirty days after each yearly anniversary of the lease. Leases will contain an option to purchase the tract at or after the expiration of one year from the date the lease is issued, provided the terms and conditions of the lease have been met.

8. All of the land will be leased in tracts of approximately five acres, in accordance with the classification maps on file in the District Land Office, Anchorage, Alaska. The tracts where possible are made to conform in description with the rectangular system of survey, being approximately 330 by 660 feet, in compact units.

9. The leases will be made subject to rights-of-way for road purposes and public utilities, of 33 feet in width, on each side of the tracts contiguous to the section and/or quarter section lines, as shown on the classification maps on file in the District Land Office, Anchorage, Alaska. Such rights-of-way may be utilized by the Federal Government, or the State or Territory, county or municipality, or by any agency thereof. The rights-of-way may, in the discretion of the authorized officer of the Bureau of Land Management, be definitely located prior to the issuance of the patent. If not so located, they may be subject to location after patent is issued.

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Anchorage, Alaska
Plans - Reg. or 10.



RECEIVED
APR 25 1949
REGIONAL ENGINEERING CENTER
ANCHORAGE, ALASKA

April 21, 1949

To: Leonard H. Berlin, Regional Cadastral Engineer, Regional Administrator
From: Lowell M. Puckett, Regional Administrator
Subject: Surveys and Rights-of-Way

A study of a number of plats prepared by you after surveying lands at the request of the Forest Service indicates that a strip of land on both sides of certain power lines has been surveyed out and has not been made a part of any of the lotting. It is not known whether or not this has been done at the special request of the Forest Service, or whether surveyors attached to your office have followed such a procedure on their own responsibility.

The matter has been discussed with the Regional Counsel, and he advises me that it would be perfectly proper, and it appears desirable, to extend the lot lines without regard to the location of the power line; assuming that proper authority had been obtained for erection of the power lines, those tracts affected by such rights-of-way would be subject to such rights-of-way therefor. If this procedure is followed, there will not be a strip of "no-man's land" if the power line should be relocated or abandoned.

Rights-of-way may be obtained under the Acts of 1901, 1911 or under the Federal Power Act. Under the first two acts named, acquisition of the land would be subject to the right-of-way and under the Federal Power Act it would not only be subject to the right-of-way but also to Section 24 of the Federal Power Act. Therefore it appears that there is no necessity for segregating by survey rights-of-way for power and telephone lines. I would appreciate your comment in this connection.

Reference is made to U. S. Survey 2475 for our next topic of discussion. As lots are eliminated from the forests, we dispose of them, as you know. However, we have run into the problem of what to do about many areas which are noted on your plats as rights-of-way. In the case of the right-of-way on Plat 2475, it appears that it would remain forest land indefinitely, unless the Forest Service made a special move to eliminate it. In such a case it would come under the Veterans Preference Act and

Also see survey station. As lots are eliminated from the forests, we dispose of them, as you know. However, we have run into the problem of what to do about many areas which are noted on your plats as rights-of-way. In the case of the right-of-way on Plat 2475, it appears that it would remain forest land indefinitely, unless the Forest Service made a special move to eliminate it. In such a case it would come under the Veterans Preference Act and

U.S. Survey 2475 will eventually become an available lot of M.F. land

would create a rather peculiar situation, as it certainly is not of a shape or form to be taken up as a homestead. The road actually does not follow this strip, and therefore it is not useful as an actual right-of-way.

We have noticed that on some plats you have made dotted lines across a space left for rights-of-way to connect corners of nearby lots. Is it considered by you, therefore, that you have surveyed the two lots but have not surveyed the right-of-way?

In view of the fact that the Forest Service is contemplating the possibility of eliminating simultaneously from the forest all of the lands included in a survey, might it not be considered advisable that you consider this type of right-of-way as being a part of the survey, so that the Forest Service will be eliminating these rights-of-way along with the adjoining lots? If the surveys do not include these rights-of-way, then the elimination which would describe the lands included in the survey would necessarily leave all of these rights-of-way still in the national forest. This would be an incongruous situation. In some instances we may find it advisable to eliminate these paper rights-of-way and make small tracts out of them through the preparation of supplemental plats or through some other procedure which may be advantageous.

I would appreciate your comments.

Lowell M. Fickett
LOWELL M. FUCKETT

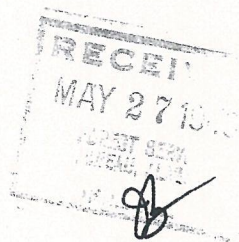
cc: Forest Service
Mr. Robinson
Mr. Jorgenson

*his above note
was supposed to
clear up areas not
Row's. He knows
where they are
and they are
not to be used.*

Permanent File



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Anchorage, Alaska



May 26, 1949

Plans
Region

MEMORANDUM

To: Leonard M. Berlin, Regional Cadastral Engineer
From: Lowell M. Fuckett, Regional Administrator
Subject: Survey of Right-of-Way for Power Lines

Reference is made to Mr. Ross' memorandum of May 11, 1949, dealing with "Power Line Right-of-Way"

With respect to the right-of-way for the power line shown on U. S. Survey No. 2404, it is stated by Mr. Ross that:

"The right-of-way shown on this plat between tracts U, V, T and 54 is a Federal Power Project withdrawal, No. 1138, dated Aug. 1, 1932, for the New England Fish Co., under Sec. 24, Federal Power Act of June, 1920 (41 Stat. 1063) and is withdrawn from all forms of entry."

"If it had been defined as an easement instead of a withdrawal, the lots could have been extended to include the right-of-way."

* The above statement would be true, were it not for the Federal Power Commission's general determination of April 17, 1922, which provides for the disposal of land withdrawn for power transmission lines, subject to Sec. 24 of the Federal Power Act. Thus, there was no need to segregate the right-of-way for the power line. The lots might well have been extended to include the right-of-way, and anyone acquiring such lots would take them subject to Sec. 24 of the Federal Power Act as to the land within the right-of-way project. Under the present survey we have a strip of land which, when eliminated from the forest, will be subject to settlement or other appropriation under any applicable public land laws, subject to Sec. 24 of the Federal Power Act.

Mr. Barber and I recently discussed with Mr. Chipperfield the problem presented by the segregation surveys of such rights-of-way, and he appeared to be favorably impressed with our views that they be eliminated, upon learning that the land or tracts affected may be disposed of, subject to the right-of-way. He stated that he would present the matter to Mr. Heintzleman, with the view to effecting some practicable policy to be followed in future cases, and to consider also the matter of extending the

Large orange 'X' stamp with handwritten text: "D. J. Barber and Chipperfield Subject to ROW"

lots so as to include the power line right-of-way, shown on U. S. Survey No. 2402, and that we would be further informed of their conclusions and wishes in the matter.

Lowell M. Puckett
LOWELL M. PUCKETT

cc: Mr. Chipperfield
Mr. Heintzleman

See 43 CFR 103.8

Office Memorandum • UNITED STATES GOVERNMENT

TO : Region - 10

DATE: March 21, 1949

FROM : F. W. Grover, Chief, Division of Land Acquisition

SUBJECT: ~~LP - BOUNDARIES - R-10 - Chugach - H. Martin Soper - Elimination~~
~~u - Supervisor Policy - ROW. & Set Back Distances~~

B7H
- none

RECEIVED
MAR 28 1949
FOREST SERVICE
ANCHORAGE, ALASKA

off
B

The enclosed copy of letter from the Director of the Bureau of Land Management is in reply to our letter of January 25 in the above designated elimination.

In view of the expressed opinion that a patent to the tract will contain a reservation for road right-of-way and that such reservation will cover a right-of-way for any new location of the existing road or for a new road, we assume that you wish the elimination proceedings to go forward and will submit the usual recommendation to the Secretary of the Interior

WJ
NB

F. W. Grover

Attachment

*Filed w/ ltr 7/26/49
py sent Kenai*

C O P Y

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

March 15, 1949

Chief, Forest Service
Department of Agriculture
Washington, D. C.

My dear Mr. Watts:

Reference is made to your letter dated January 25, 1949 relating to the reservation required by the act of July 24, 1947 (61 Stat. 418), to be inserted in patents for lands taken up, entered or located in Alaska subsequent to the approval of the act. The reservation which we insert in such patents expressly reserves a right-of-way for roads, roadways, highways, tramways, trails, bridges and appurtenant structures constructed or to be constructed by or under the authority of the United States or of any State created out of the Territory of Alaska in conformity with the terms of the Act.

It appears that you have received a request for the elimination from the Chugach National Forest, Alaska, of a tract containing 24.97 acres so that the applicant may enter it under the act of May 14, 1898 (30 Stat. 413). The tract is crossed by the existing Cooper Landing Road which connects Cooper Landing and Seward. The Regional Forester has reported to you that the Seward-Cooper Landing Road will become a link in the Turnagain Arm highway and that the new highway may be entirely relocated across the tract.

You request to be advised whether "the required reservation for road right-of-way in the patent to the tract will give the Government the right to relocate an existing road or construct a new one without having to obtain a right-of-way from the owner".

We are of the opinion that the effect of the reservation authorized by section 5 of the act of July 24, 1947 will be to reserve right-of-way for any new location of the existing road or for a new road and to preserve the right-of-way for the road as it now exists so long as it is not abandoned or otherwise terminated. In addition as a matter of law any claim initiated to the tract will be subject to all prior vested rights and hence could not adversely affect the right of way for the present road as long as the road is maintained.

Very truly yours,

/s/ Marion Clawson
Director

*Copy
sent
Kenai*



UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
DISTRICT LAND OFFICE
Anchorage, Alaska

Woo

December 20, 1948

MEMORANDUM

To: Leonard M. Berlin, Regional Cadastral Engineer, Juneau, Alaska.
From: Lowell M. Puckett, Regional Administrator, Anchorage, Alaska.
Subj: Road Right-of-Way.

Reference is made to your memorandum of December 15, concerning the reservation of rights-of-way for future road construction over land eliminated from National Forests, particular attention being called to the tract included in special use permit of Soper H. Martin, the elimination of which from the forest is now under consideration.

The act of July 24, 1947 (61 Stat. 418, 48 U.S.C. Sec. 321d), which added a fifth section to the act of June 30, 1932 (47 Stat. 446), provides for the reservation of rights-of-way for roads, etc., in all patents for land "hereafter taken up, entered, or located" in the Territory of Alaska. Except as provided by this act, there is no authority under which a reservation may be made in an entry or patent for rights-of-way for future road construction.

Whether the land or tract to be eliminated from the forest will be subject to a reservation under the 1947 act, will be governed by the status of the land at the date of the act, i. e., was the land considered as having been "taken up, entered or located" prior to the act by reason of its occupancy under a forest use permit. I am of the opinion that the term "taken up" as used in the act contemplates something more than mere use and occupancy under a use permit; that the land cannot be deemed to have been taken up until after its elimination from the forest and application and entry made under some applicable public land law. Should the tract be eliminated and permitted to proceed to entry and patent, a reservation as provided by the 1947 act will be made unless the Bureau or Department should rule otherwise. There would appear to be no other authority for the reservation, and I know of no provision which might be incorporated in the elimination which would effect such a reservation for future road construction, aside from excluding the land desired from the tract to be eliminated.

Lowell M. Puckett
LOWELL M. PUCKETT
Regional Administrator

EB:yls

I concur:

Abc Bauber

Regional Counsel

cc: Director, B.L.M.

STANDARD FORM NO. 64

FOREST SERVICE JUNEAU, ALASKA

Office Memorandum • UNITED STATES GOVERNMENT

TO : B. Frank Heintzleman, Regional Forester

DATE: December 15, 1948

FROM : W. A. Chipperfield, Forester

SUBJECT: ^U

PLANS, R-10

Policy

Widths and Setback distances of road ROW

What is the classification of the Turnagain Arm Highway project? If it is part of the national system of interstate highways, no occupancy within 200' of the center line is authorized except under authority of the Chief.

If it should be a class 1 or 2 Forest Highway, no occupancy within 200' of the center line is authorized except under authority of the Regional Forester.

On our class 3 Forest Highways (which I understand is the classification of all of R-10 Forest Highways except the Turnagain Arm Project) no occupancy is permitted within 100' of the center line except under authority of the Regional Forester.

The Region 10 policy is to not authorize construction of improvements except garages within 100' of the center line of class 3 highways. Yet we survey lots adjoining the right-of-way which is 50' from the center line (formerly 33'). The Regional Forester no doubt has knowledge of all such cases, yet there are probably some instances where his personal approval is not shown. The best procedure will be to state the policy in the written report of each land use plan. When all land use plans are brought up-to-date, this point will be covered.

Will the planned reconstruction of the route 3, 5 and 14 of the Kenai Peninsula Forest Highway change the classification of the highway? If it does, will it change our policy of setback distance for improvements? The minimum ROW of class 1 and 2 Forest Highways is 132' (66' from center line). Whenever a Forest Highway classification is raised resulting in an increase in the width of the right-of-way from 66' to 132', our land use plans should be modified or amended accordingly.

It would be desirable to have a restatement of the regional policy on this matter in order that all members who have to deal with the subject will be informed.

W. A. Chipperfield

Policy statement to be incorporated in New R-10 Handbook.

*R-10 Policy
and setbacks*