

FOREST SERVICE

JUNEAU, ALASKA

November 25, 1946

Division Supervisors, All Divisions

B. Frank Heintzleman, Regional Forester. By: Chas. G. Burdick, Acting

U-PLANS, General

E-ROADS & TRAIL, Right-of-Way

The PRA has requested that all future rights-of-way for forest highways, or for FRD roads which may later become forest highways, be reserved to a width of 100 feet instead of the 66 feet as at present.

They have experienced difficulty on many reconstruction jobs due to being restricted by the narrow road, and in many cases have had difficulty in obtaining easements from property owners.

In all future land use plans, or in the survey of any new tracts along constructed highways covered by present plans, please retain right-of-way strip 50 feet on each side of the center line of the road. This should not be construed to mean that it is necessary to retain the wide right-of-way for one or two lots between previous surveys which provide only the narrow right-of-way as such would be of no value. Good judgment in long range planning should be used for surveys along the routes already covered by land use plans. Preliminary plans for new groups should be sent for review by this office and the PRA.

W
JEG

CHF:ME

CHF

1000

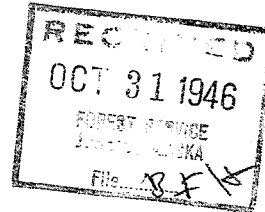
FEDERAL WORKS AGENCY
PUBLIC ROADS ADMINISTRATION
~~XXXXXXXXXXXX~~
DIVISION EIGHT
ALASKA DISTRICT

FEDERAL AND TERRITORIAL BUILDING
JUNEAU, ALASKA

ALASKA

October 31, 1946

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



Walt

Dear Sir:

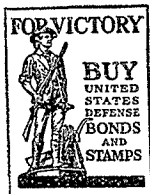
Reference is made to prior discussions concerning the width of right-of-way for Forest highways to be used in this District.

This subject has been discussed with our Division Office in Portland, which office has approved our suggestion that the standard right-of-way in the future be designated as 50 ft. on either side of the center line. With the present higher standards which are being used on the Forest Highway system in Alaska, the present width of 66 ft. right-of-way is inadequate and it is therefore strongly recommended that you approve the width of 100 ft. as the standard over-all width. Any additional width required, because of the nature of the terrain, will be subject to special request.

We would appreciate a letter giving your reaction to the subject as soon as possible.

Very truly yours,

Chr. F. Wyller
CHR. F. WYLLER
Acting District Engineer



Permanent

G O P T

For information of Regional Forester

R-10

WAC

FOREST SERVICE

WASHINGTON 25, D. C.

B

RECEIVED
MAY 1 6 30 AM '45
U. S. FOREST SERVICE
WASHINGTON, D. C.

ATTN

2

B+H

Regional Forester, Denver, Colorado

L. F. Kneipp, Assistant Chief

U-SUPERVISION, Policy, Roadside Zones; R-ROADS & TRAILS, Rights-of-way

Reference is made to your memorandum of January 29 and to Circular U-98.

The new roadside zone policy stated by Circular U-98 was, to some extent, a compromise between the request of the Commissioner of Public Roads that all national forest lands within 200 feet of the center line of Class 1 and Class 2 highways or 100 feet from the center line of Class 3 highways hereafter be totally withdrawn from any structural occupancy and the former policy of this Service allowing no occupancy within roadside zones except that approved by the Regional Forester. This office, however, realized that there would be instances where occupancy or use of national forest lands within the set-back lines might be essential to proper management of the national forest resources. Thus, while agreeing in principle with the request of PRA, it was deemed desirable to provide for such exceptions as the Chief might consider necessary in the furtherance of national forest administration.

The policy stated in the Recreation Manual has been revised and sent to the printer. In essence, it provides for prior approval of the Chief to any occupancy or use of national forest lands within 200 feet of the center line of Class 1, 2, and 3 forest highways designated as parts of the Interregional Highway System and similar action with respect to Federal aid, state and county roads, not forest highways but planned for inclusion in the System. "... before granting such approval, [the Chief] shall require full assurance that the proposed occupancy or use is necessary, is appropriately safeguarded, and will not result in a sacrifice of public values or services greater than the public values or services to be derived from such occupancy or use."

The same principles will govern occupancy and use of forest highways and Federal aid, state, county, or forest development roads not parts of the Interregional Highway System, except that the set-back line will be 100 feet from the center line of class 3 forest highways and the regional forester will make the decision in lieu of the Chief. For roadside zones not parts of the Interregional Highway System, exceptions similar to those formerly provided in the Recreation Manual will be permitted.

/s/ L. F. Kneipp

Handwritten notes on a yellow sticky note:
C
Kneipp
10-10

5862

UNITED STATES DEPARTMENT OF AGRICULTURE
FOREST SERVICE



WASHINGTON

ADDRESS REPLY TO
CHIEF, FOREST SERVICE
AND REFER TO

U
SUPERVISION
Policy
Roadside Zones

E
ROADS & TRAILS
Rights of Way

January 27 1945
RECEIVED
BEST SERVICE - R-10
JAN 27 1945

Permanent

Circular No. U-98

Filed

Act by	CIRCULATE	FILE
	FILE	
	Mr. American	<i>18</i>
	Mr. [unclear]	<i>18</i>
	Mr. [unclear]	<i>18</i>
	Mr. [unclear]	<i>18</i>
	Mr. [unclear]	
	Mr. [unclear]	
	Mr. [unclear]	
	Mr. [unclear]	
	Mr. [unclear]	
	Mr. [unclear]	
	Mr. [unclear]	
	Mr. [unclear]	
	Mr. [unclear]	
	Mr. [unclear]	

Regional Forester
All Regions

Dear Sir:

By letter of May 29, 1944, the Commissioner, Public Roads Administration proposed to the Forest Service a new dedication of national forest lands marginal to units of the interregional highway system. This office replied to that letter under date of June 27, which is quoted on the reverse hereof. It was not sent you earlier because of the possibility that the Public Roads Administration might request further consideration. Since no such request has been received, the letter of June 27 can be regarded as a statement of present policy. Pursuant to that letter, all previous instructions on this subject are rescinded and in their place there is hereby established a rule as follows:

All national forest lands within 200 feet of the center line of Class 1 and Class 2 forest highways and 100 feet from the center line of Class 3 forest highways shall be given a designation as follows:

Set-back line for special treatment--not to be occupied or used except under authority of the Chief:

Very sincerely yours,
LYLE F. WATTS, Chief

By: *P. E. McArdle*

← This clause is now stamped on all sheets of RRA Road Plans for the Turniqon Air Road. Reg. For. is substituted for Chief.

6/28/49 wae

(over)

*Setback * policy*

5862

C O P Y

U
COOPERATION
Bureau of Public Roads

June 27, 1944

Commissioner
Public Roads Administration
Washington 25, D. C.

Dear Mr. MacDonald:

I am sorry that reply to your letter B-3 of May 29 has been delayed, partly by absence from Washington and partly by other urgent demands which made it difficult for me to give it the careful consideration it merits.

Obviously all agencies of the federal government should cooperate in the fruition of the program of Interregional Highways transmitted to the Congress by the message from the President, January 12, 1944. The fact that about 530 miles of the proposed system will consist of routes selected along the lines of existing forest highways makes the program one of especial interest to the Forest Service.

To the degree that the national forests are traversed by the highways they should contribute in full measure to the utility and beauty of those highways; but it seems to me unwise to adopt any principle or rule that all national forest lands within 200 feet of the center line of Class 1 and Class 2 highways or 100 feet from the center line of Class 3 highways hereafter would be totally withdrawn from any structural occupancy.

In the main such a principle or rule is highly desirable but it seems to me there are certain to be occasional cases where so rigid a limitation would minimize the public service and value of the national forest and the highway itself. In my opinion the situation can best be met as to the Interregional Highway by giving to national forest lands within 200 feet of the center line of Class 1 and Class 2 forest highways and 100 feet from the center line of Class 3 forest highways a designation as follows:

Set-back line for special treatment -- not to be occupied or used except under authority of the Chief of the Forest Service.

Instructions to this end will be issued. I feel that it will fully meet the necessities of the system and am confident you will agree.

Sincerely,

/s/ Lyle F. Watts

LYLE F. WATTS, Chief

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SOLICITOR

FOREST SERVICE BRANCH
DISTRICT No. 6

Pow's

b-2
F.S.
RECEIVED
JAN 9 - 1929
PLEASE INITIAL
G.M.F. _____
H.L.R. _____
M.L.M. *m* _____
W.H. *W.H.* _____
J.P.W. _____

Portland, Oregon
January 3, 1929

DL(L)
Supervision

Forest Supervisor,
Juneau, Alaska.

Dear Mr. Flory:

Mr. Merritt's letter of December 17 is received.

There is no specific federal law under which a right of way may be condemned for the removal of timber, although it has been held that a right of way of necessity may be acquired to secure access to government land. It would be preferable, however, to have a territorial law which would provide for the condemnation of a right of way over private land where necessary to secure access to and removal of timber or other natural products from lands in the United States. I therefore think it would be advisable to attempt to secure such legislation.

Very sincerely yours,

W. F. Staley
Assistant to the Solicitor.

L
Supervision

December 17, 1928

Mr. W. F. Staley,
Office of the Solicitor,
Portland, Oregon.

Dear Mr. Staley:

This summer we surveyed out a number of rights-of-way at strategic points for future use principally in connection with the removal of timber.

The question has arisen as to whether there is any law applicable to Alaska that we might invoke to secure a right-of-way across lands that have already gone to patent in order to provide an outlet for National Forest timber. We have no concrete case as yet but the question is bound to come up sooner or later.

If there is no law under which a right-of-way could be forced, would it be advisable to take steps now to secure legislation with this end in view?

Very sincerely yours,

M. L. MERRITT,
Assistant District Forester

071 / 1

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : Regional Forester

DATE: April 6, 1950

FROM : A. W. Blackerby, Division Supervisor, by R. L. Davlin

SUBJECT: U
SUPERVISION, Tongass (A)
Land Without National Forest Status

R. L. Davlin

RECEIVED
APR 5 - 1950

Attached is a list of land without National Forest Status, as requested in W. A. Chipperfield's memorandum of April 4, 1950.

LAND UNDER THE CUSTODY OF THE FOREST SERVICE
WITHOUT NATIONAL FOREST STATUS

TRACT	DIV.	AREA	CUSTODY ACQUIRED	DATE
Juneau R.S.	A	6.45	Ex. O. 2412	6-30-16
Sitka Dock	A	2.50	Ex. O. 3333	10-3-20
Juneau Dock	A	.50	Trans. & Purchase	1930 & 1935
Juneau R.S. No. 2	A	15.29	P.L.O. 567	1949
Herbert River	A	6.18	Purchase	1935

LAND UNDER THE CUSTODY OF THE FOREST SERVICE
WITHOUT NATIONAL FOREST STATUS

TRACT	DIV.	AREA	CUSTODY ACQUIRED	DATE
Seward Adm. Site (lots 12+13, Block R 15) Each lot 30x100 ft.	K		Purchase	1936 1953

RECEIVED
APR 3 - 1950
U.S. FOREST SERVICE
ANCHORAGE, ALASKA

Return to RO
MUR

Anai

RECEIVED
APR 3 - 1950
U.S. FOREST SERVICE
ANCHORAGE, ALASKA

780

LAND UNDER THE CUSTODY OF THE FOREST SERVICE
WITHOUT NATIONAL FOREST STATUS

TRACT	DIV.	AREA	CUSTODY ACQUIRED	DATE
Petersburg Wharf	P	1.03	Ex.O. 6189	7/3/33
" Office	P	0.11	Purchase	-
" R.S.	P	1.6	Ex.O. 1672	3/25/26
Wrangell Adm.	P	0.01	Purchase	1949
Anan Creek	P	0.69	Donation	1942

RECORDED
APR 3 - 1950

STANDARD FORM NO. 64

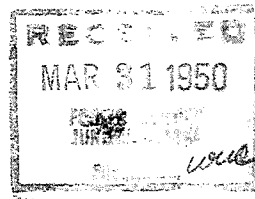
Office Memorandum • UNITED STATES GOVERNMENT

TO : Regional Forester

DATE: March 30, 1950

FROM : A. W. Blackerby, Division Supervisor

SUBJECT: U
SUPERVISION, Tongass (A)
Land Without National Forest Status



Reference is made to Mr. Chipperfield's memorandum dated March 23, 1950.

Admiralty Division is not aware of any additional land under the custody of the Forest Service without National Forest Status.

AB

STANDARD FORM NO. 64

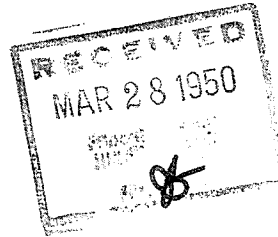
FOREST SERVICE.

KETCHIKAN, ALASKA.

Office Memorandum • UNITED STATES GOVERNMENT

TO : Regional Forester, Juneau, Alaska.
FROM : C. M. Archbold, Division Supervisor.
SUBJECT: U
SUPERVISION, R-10
Land Without National Forest Status.

DATE: March 24, 1950



Reference is made to Mr. Chipperfield's memo of March 23, 1950
We have added the Ketchikan Ranger Station and the New Marine
Station Site to the list which is returned herewith.

C. M. A.

Attachment.

Southern Div.-Tongass N.F.

RECEIVED

PLEASE INITIAL

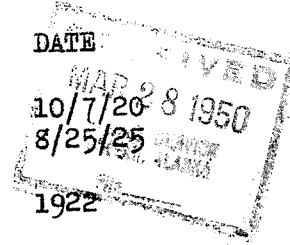
MAR 24 1950

**LAND UNDER THE CUSTODY OF THE FOREST SERVICE
WITHOUT NATIONAL FOREST STATUS**

<u>TRACT</u>	<u>DIV.</u>	<u>AREA</u>	<u>CUSTODY ACQUIRED</u>	<u>DATE</u>
Gravina M.S.	S	55.96	Ex.O. 3465	5/19/21
Gravina Water Source	S	20	Ex. O. 5036	1/24/29
Hyder Adm. Site	S	Approx 1.00	Res. by Trustee	1922
Dock 13	S	0.19	Ex.O. 2477	10/22/16
Rotary Beach	S	4.06	Donation	6/8/43
U.S.S. 813	S	247.04	Reconveyed by exchange	1934
" 814	S			
" 815	S			
Ex Survey 237	S			
Ketchikan Ranger Station		Lot 6-Block 2 Ketchikan Townsite	-- Ex.O. 2477	10/22/16
New Marine Station Site.		1.13 A. Part of U.S.S.1079	Public Land Order 546.	2/21/49

LAND UNDER THE CUSTODY OF THE FOREST SERVICE
WITHOUT NATIONAL FOREST STATUS

TRACT	DIV.	AREA	CUSTODY ACQUIRED
Cordova R.S.	PWS		Ex.O. 3335
Eyak Lake Boat Site	"	0.23	Ex.O. 4294
Odiak Slough Marine Site	"	0.12	Plot USS 1383



3/27/50 There are no known additions or corrections. *HEA*

*follow up status of fraction USS 900
x ref. L. Acquisition check PWS. 1449*

PWS

FOREST SERVICE JUNEAU, ALASKA

ALL DIVISIONS

March 23, 1950

W. A. Chipperfield, Forester

U

SUPERVISION, R-10
Land without National Forest Status

Reference is made to NF-H3 (7).

It is important that all Division Supervisors maintain a record of land under their custody and without National Forest status as the regulations governing the use and occupancy of these lands are sometimes different in many respects and more restricted than those governing the administration of Regular National Forest land.

We enclose a list in duplicate of tracts which do not have National Forest status. Please make any necessary additions or corrections on one copy and return it to the Regional office at your early convenience. When the returns are received from all divisions, the list will be compiled in the form of an R-10 supplement to NF-H3 (7).

WAC:edy

Enclosure

cc: Admiralty (2) ✓
Southern (2) ✓
Petersburg ✓
Kenai ✓
PWS ✓

LAND UNDER THE CUSTODY OF THE FOREST SERVICE
WITHOUT NATIONAL FOREST STATUS

TRACT	DIV.	AREA	CUSTODY ACQUIRED	DATE
Gravina M.S.	S	55.96	Ex.O. 3465	5/19/21
Gravina Water Source	S	20	Ex. O. 5036	1/24/29
Hyder Adm. Site	S	Approx 1.00	Res. by Trustee	1922
Dock 13	S	0.19	Ex.O. 2477	10/22/16
Rotary Beach	S	4.06	Donation	6/8/43
U.S.S. 813	S		Reconveyed	
" 814	S	247.04	by exchange	1934
" 815	S			
Ex Survey 237	S			

add. Ketchikan R.S. } as S' rept.
7000 Marine Site.

LAND UNDER THE CUSTODY OF THE FOREST SERVICE
WITHOUT NATIONAL FOREST STATUS

TRACT	DIV.	AREA	CUSTODY ACQUIRED	DATE
Juneau R.S.	A	6.45	Ex. O. 2412	6-30-16
Sitka Dock	A	2.50	Ex. O. 3333	10-3-20
Juneau Dock	A	.50	Trans. & Purchase	1930 & 1935
Juneau R.S. No. 2	A	15.29	P.L.O. 567	1949
Harriet R. P.S.	"	6.18	Purchase	1935

LAND UNDER THE CUSTODY OF THE FOREST SERVICE
WITHOUT NATIONAL FOREST STATUS

TRACT	DIV.	AREA	CUSTODY ACQUIRED	DATE
Petersburg Wharf	P	1.03	Ex.O. 6189	7/3/33
" Office	P	0.11	Purchase	-
" R.S.	P	1.6	Ex.O. 1672	3/25/26
Wrangell Adm.	P	0.01	Purchase	1949
Anan Creek	P	0.69	Donation	1942

LAND UNDER THE CUSTODY OF THE FOREST SERVICE
WITHOUT NATIONAL FOREST STATUS

TRACT	DIV.	AREA	CUSTODY ACQUIRED	DATE
Gordova R.S.	PWS		Ex.O. 3335	10/7/20
Eyak Lake Boat Site	"	0.23	Ex.O. 4294	8/25/25
Odiak Slough Marine Site	"	0.12	Plot USS 1383	1922
Seward Adm. Site	K		Purchase	1936

dup list sent
✓ adm
✓ Sess
✓ P
✓ PWS
✓ IS.

FOREST SERVICE JUNEAU, ALASKA

Division Supervisor, Juneau, Alaska

April 4, 1950

W. A. Chipperfield, Forester

U
SUPERVISION, R-10
Land Without National Forest Status

The duplicate copy of the list of tracts without National Forest status was not returned to the Regional office with your memorandum of March 30, 1950. Please send it and add Herbert River Public Service Site, 6.18 acres, acquired by purchase, 1935.

WAC:edy

FOREST SERVICE

JUNEAU, ALASKA

Division Supervisor - Petersburg, Alaska

August 23, 1950

W. A. Chipperfield, Forester - Juneau, Alaska

U

USES, Tongass (P)
Wrangell Highway

Reference is hereby made to your memo dated August 22, 1950 - U
SUPERVISION, R-10, Set-back Distances.

The set back distance from the center of the highway in Sections 1 and 2 of the Wrangell Highway Development Plan for lot lines is 33 feet which was the standard distance in effect at the time the lots were blocked out and surveyed. Beginning at Section 3 on this Highway, the set back distance was increased to 50 feet, which conforms to the revised standard for this highway. Lots in this section have been blocked out and final survey requested in accordance with this standard. It is unnecessary to make any change in the groups. There is one exception to the above: Lots 19 to 22 in Section 2 were blocked out in 1949 with a set back distance of 33 feet. This should be changed to 50 feet. Arrangements of this change in the field notes can be made at the time final survey is requested, at your convenience, the front corners should be set back to the 50' distance and the Regional Office notified when this is done. Additional bearing trees should not be established for these corners.

The standard set back distance for improvements is 100 feet from the center of the road. Exceptions for garages and cases of improvements placed within this distance prior to the time the 100' set back policy was adopted, should be made.

You will note by memo of August 7, 1950, that all the highways on the Petersburg Division have the same set back distance as FRD Roads.

Clause 21, Form U-530m-~~10~~ is a revision of Clauses 4 and 5 of the old form, U-530m-R-10. Actually, the 100 feet set back requirement for buildings has been in effect for several years and the revised policy does not change these requirements on your division.

We will be glad to clarify other points of the new policy when they are not understood by you.

WAO:fwf

cc: R.O. ✓
cc: R.F.

FOREST SERVICE

JUNEAU, ALASKA

Area

Division Supervisor - Petersburg, Alaska

August 23, 1950

K. A. Chipperfield, Forester - Juneau, Alaska

U

USNS, Tongass (P)
Wrangell Highway

Reference is hereby made to your memo dated August 22, 1950 - U
SUPERVISION, R-10, Set-back Distances.

The set back distance from the center of the highway in Sections 1 and 2 of the Wrangell Highway Development Plan for lot lines is 33 feet which was the standard distance in effect at the time the lots were blocked out and surveyed. Beginning at Section 3 on this Highway, the set back distance was increased to 50 feet, which conforms to the revised standard for this highway. Lots in this section have been blocked out and final survey requested in accordance with this standard. It is unnecessary to make any change in the groups. There is one exception to the above: Lots 19 to 22 in Section 2 were blocked out in 1949 with a set back distance of 33 feet. This should be changed to 50 feet. Arrangements of this change in the field notes can be made at the time final survey is requested. At your convenience, the front corners should be set back to the 50' distance and the Regional Office notified when this is done. Additional bearing trees should not be established for these corners.

The standard set back distance for improvements is 100 feet from the center of the road. Exceptions for garages and cases of improvements placed within this distance prior to the time the 100' set back policy was adopted, should be made.

You will note by memo of August 7, 1950, that all the highways on the Petersburg Division have the same set back distance as F&R Roads.

Clause 21, Form U-530a-§10 is a revision of Clauses 4 and 5 of the old form, U-530a-R-10. Actually, the 100 feet set back requirement for buildings has been in effect for several years and the revised policy does not change these requirements on your division.

We will be glad to clarify other points of the new policy when they are not understood by you.

EAG:fwf

cc: S.C.
cc: R.F.*Chipperfield*

STANDARD FORM NO. 64

Forest Service, Petersburg, Alaska

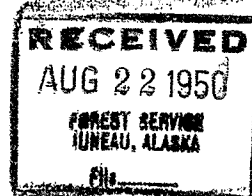
Office Memorandum • UNITED STATES GOVERNMENT

TO : Regional Forester, Juneau

FROM : *C. M. Armstrong* Division Supervisor
C. M. ARMSTRONG

DATE: August 22, 1950

SUBJECT: U
SUPERVISION, R-10 Set-back distances
E
R&T, Right of Way.



Reference is made to your letter of August 7 and to the recent manual amendment covering the same subject.

Most of our group surveys, along the Wrangell and Mitkof Highways, are covered by a U.S. Survey. I understand that these can't be changed and assume that we are to achieve compliance with the new set-back requirements, by inserting a clause in future permits regarding building locations, and explaining the matter to future permittees.

I assume that the same procedure will apply to areas not covered by U. S. Surveys, which are at present partly taken up, and which would present an irregular property line if resurveyed. We, however, have at least one group on the Wrangell Highway, which has been recently surveyed and approved and in which there are no permittees. Is it your plan that we should resurvey groups such as this or should we wait for a U. S. Survey and enforce the new set-back requirements through a special clause in the permit.

I would appreciate your answer to the last question above. Also, if I am wrong in any of the above suppositions, please let me know.

C.M.A.

FOREST SERVICE

JUNEAU, ALASKA

*Memo of Agreement
only in U-Coops*

August 22, 1950

All Divisions

B. Frank Hainselman, Regional Forester

By:

Olav G. Burdick

U U

SUPERVISION

Policy

HOW

U

USFS

Permits on Road HOW

Enclosed is a supply of memoranda agreements of understanding between Division Engineer U. S. Bureau of Public Roads, Juneau, Alaska, and the Regional Forester, U. S. Forest Service, Juneau, Alaska, outlining the new policy that will be followed in Region 10 in connection with issuance of special use permits for improvements requiring rights-of-way within forest roads and highway rights-of-way. This policy supersedes the policy outlined in the old Region 10 Land Hand Book, Pages 20, 21 and 22. The Region 10 supplement sheets outlining the new policy will be forwarded to you in a few days.

WAG:fwf

2cc: Southern (4)
2cc: Petersburg (2)
✓ 2cc: R.O.
2cc: Kennel (2)
2cc: PWS (2)
2cc: ROM (4)

Handwritten mark or signature in the top right corner.

1. The Forest Service will issue special use permits for pipelines, power lines, telephone and transmission lines, and similar improvements which cross or traverse a right-of-way on national forest land. The permits will stipulate that construction or installation shall be done in accordance with specifications and standards established by the Bureau of Public Roads whenever the improvements will affect the construction, betterment or maintenance of the highway.

2. Rights-of-way across national forest land:

2. The Bureau of Public Roads will be responsible for protecting the highway from damage which might be caused by the installation of improvements for highway purposes but may authorize and supervise the construction of improvements in this category which will conform to their standards and specifications.

1. The Forest Service has no authority to authorize the use of rights-of-way or easement areas on private land for other than highway purposes and however the issuance of special use permits by the Forest Service for use of rights-of-way or easement areas across private land will be discontinued.

3. Rights-of-way across privately owned land:

Continuing the action made recently by the Forest Service and the Bureau of Public Roads, it is hereby understood and agreed to by each agency that the procedure listed in this memorandum pertaining to the issuance of special use permits or granting authority for making improvements within the boundaries of rights-of-way or easement areas for forest highways in the Tongass and Sitka National Forests, Alaska, which will affect the construction, betterment or maintenance of the highway, shall be effective immediately.

MEMORANDUM FOR THE DIRECTOR, BUREAU OF PUBLIC ROADS, ALASKA
AND MEMORANDUM FOR THE DIRECTOR, FOREST SERVICE, ALASKA

2. The Bureau of Public Roads will establish standards and authorize construction and maintenance of driveways and trail approaches, parking areas and similar improvements on Forest highway rights-of-way.
3. The construction of improvements within the rights-of-way on national forest land which will be of an unusual or uncommon nature such as transmission and telephone lines and buildings will be mutually agreed upon by each party of this agreement before construction is authorized.
4. The Forest Service will administer all use of national forest land between the highway right-of-way and "set-back" lines.

Juneau, Alaska

FOR THE BUREAU OF PUBLIC ROADS

(Date)

R. S. STODOLSKY
Division Engineer

Juneau, Alaska

FOR THE FOREST SERVICE

(Date)

S. FRANK HEINTZELMAN
Regional Forester

FOREST SERVICE

ALASKA

All Divisions

August 7, 1960

By: Frank Holstensen, Regional Forester By: Chas. C. Burdick

W-10, H-10, Set-back Distances
 Right-of-way

SET-BACK DISTANCES

H-10 STANDARDS

Forest Highways:

Set-back distance - 100 feet from the center line of highway not to be occupied without approval of Regional Forester and after consultation with RFR.

Exceptions: Tongass - Standard on Sections 1 to 6:

Set-back distance for lot lines - 50 feet from center line of highway

Set-back distance for buildings not including garages - 100 feet from center line of highway

1. Glacier Highway - from S.F. Boundary to East Boundary Lot 3 and U.S. VVO Triangle Group.
2. E. Tongass Highway - from S.F. Boundary to Junction Hunter Love Spur Road.
3. S. Tongass Highway -
4. Trangle Highway -
5. Kitch Highway -
6. Delta Highway - Merrill Cr. Sect., Millard Pt. Sect.

Chugach; Standard Section 7 & 8

7. Gardner Highway - York Section, 3 mile Bay Section.
8. Copper River Highway from S.F. Boundary to East Boundary of CAA tract near mile 18.

RD Roads:

Set-back distance - 50 feet on each side of center line Building location to conform to Clause 21 Form U-5505, H-10 Revised 6/8/50. "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 less than 100 feet from the center of the adjoining road right-of-way only after prior approval of the Regional Forester."

Handwritten notes:
 S-2
 A-2
 P-1
 P-1
 K-1

2-All divisions-August 7, 1960

lot lines located within the above described set-back distance standards will be adjusted to the standard distances when possible. However, adjustments will not be made where one or two previously surveyed lots are located between eliminated lots which are adjacent to the old right-of-way with one chain width.

2-1-60

Lot 4
Lot 4
Lot 2
Total 8
Lot 2

~~Handwritten signature~~

COPY

August 3, 1950

All Divisions

Chas. G. Burdick, Assistant Regional Forester

~~E-ROADS & TRAILS, General~~ Policy

(Filed under U-SUPERVISION, IN LANDS OFFICE)

In order to clarify and reduce to quickly understandable language, the following definitions pertaining to highways are furnished you :

Right of way is the area actually occupied or needed for the road surface, shoulders, ditches, and cut and fill slopes.

Set back line or distance encompasses the area from the center line of the road to the agreed upon distance, 50 or 100 feet, and on which no improvements will be allowed without the approval of the Chief or the Regional Forester. *After consultation with the Bureau of Public Roads =*

ROAD side zone includes the set back area but may be much wider. It may reserve a shore line, an entire creek basin or an adjacent slope in clear view of the road. To be established by the Regional Forester.

For more detailed information, see pages NF-G3-20,21,22.

/s/ CGB

X see U-ADJUSTMENTS, R-10- General

Office Memorandum • UNITED STATES GOVERNMENT

TO : Region 10

DATE: April 19, 1950

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

SUBJECT: U-ADJUSTMENTS, R-10, General

AIR MAIL

Reference is made to your memorandum of March 1.

Your questions are answered below in 1, 2, 3 order as set forth in your memorandum. The answers are general in nature and must be accepted on the basis that circumstances peculiar to a particular case might operate to bring about a different viewpoint. The questions have been discussed informally with the Office of the Solicitor.

1. No.
2. We do not believe that the Forest Service administrative policy with respect to use of set-back or roadside zones can operate to defeat the location of a valid mining claim.
3. Yes.
4. The mining claim may be used for mining purposes only. The mining claimant does not have the right to interfere with the highway since his claim is located subject to a previously located right-of-way. His use must not interfere with the use of the right-of-way for highway purposes. The highway proper could be widened within the limits of the right-of-way without the consent of the claimant and over his protest.

Mining operations outside of the highway proper but within the set-back or roadside zone as defined on pages NF-G3(20 and 21) of the Manual can be controlled and regulated in the same manner and to the same extent as elsewhere on national-forest land; the claimant's rights are not affected at all by the designation. However, the owner of an unperfected mining claim can be required to obtain a permit for any use of the land which is not in furtherance of the purposes contemplated by the law under which appropriated, and no such use should be authorized which would not be allowed in the set-back distance or roadside zone if the mining claim did not exist.

Please note the distinction between roadside zone, set-back line, and highway right-of-way. Roadside zones or set-back lines as defined and discussed on pages NF-G3(20 and 21) include the highway right-of-way. The highway right-of-way is the area actually occupied or needed for the road surface, shoulders, ditches, and cut and fill slopes. On surveyed roads the right-of-way is usually 66' but may vary considerably in width.

John Sieker

Office Memorandum • UNITED STATES GOVERNMENT

TO : Wm. A. Chipperfield, Forester - Juneau, Alaska DATE: March 30, 1950

FROM : CHAS. C. BURDICK, Assistant Regional Forester - Juneau, Alaska

SUBJECT: ~~E-2 ROADS AND TRAILS~~ - General
U-System Roads

I have recently discussed the problem of issuing permits to individuals for pipe line crossings and road approaches on the forest highways with Mr. Stoddard. They are agreeable to assuming full responsibility for such work without permit from the Forest Service. It would seem that this would be the better way of handling such improvements where the right-of-way crosses privately owned land and the government enjoys an easement only. Please consider whether we would want the BPR to issue permits where the right-of-way is national forest land. I question whether we would want one system on rights-of-way under easement and another system on national forest rights-of-way.

C.C.B.

Burdick:

Where only the road is involved in the proposed use, have the B.P.R. handle.

This would include parking areas, driveway approaches, etc. Pipelines would undoubtedly require a Special Use Permit as they will probably extend beyond the ROW. However, let the permittee get clearance through the BPR for any disturbance to the road. Telephone and Transmission lines would require a permit from us but here again they will deal directly with the BPR in event it is necessary to disturb the road.

I think that after this policy is in effect for awhile and all concerned knows how it is supposed to work, it will be much simpler and smoother and less work for the Forest Service than what we have had.

WAC

4/3/50
wac
ok
B.

uno

U
SUPERVISION, 8-10
Right-of-way & Easements, Policy

Juneau, Alaska
March 30, 1950

Mr. Hugh Stoddard
Bureau of Public Roads
Juneau, Alaska

Dear Sir:

Attached hereto are three copies of an opinion from our regional attorney relative to the use of lands covered by easements for road purposes. It was thought you might wish to supply one copy for Mr. Tyler and one for Mr. French.

This opinion has clarified to a considerable degree some of the problems existing in right-of-way administration.

Very truly yours,

CHAS. C. BURNICK
Assistant Regional Forester

ENCL. 3

CCS:fwf

UNITED STATES DEPARTMENT OF AGRICULTURE
OFFICE OF THE SOLICITOR
901 United States National Bank Building
Portland 4, Oregon

March 16, 1950

AIRMAIL

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

RECEIVED
MAR 20 1950

wuc
[Signature]
B
8

Dear Mr. Heintzleman:

Subject: U - SUPERVISION, R-10, Row and Easements, Policy

Please refer to your letter dated February 2, 1950, in which inquiry was made as to what authority the Forest Service has for regulating the use and occupancy of a highway right-of-way crossing private land for which the Government has obtained an easement. It was explained that in some of these rights-of-way across private lands other interests are also acquiring an easement. For example, the Ketchikan Public Utilities Company will locate a transmission and telephone line across private lands and within an area for which the Forest Service has obtained an easement of specified width for highway purposes but actually occupying only a portion of the area for highway use. There are other cases where individuals will use a portion of the right-of-way for domestic water and sewer systems.

There were enclosed with your letter two forms of right-of-way agreements now in use in Region 10. The first, Exhibit A, is the Forest Service form, and the second, Exhibit B, is the form of right-of-way deed used by the Bureau of Public Roads in Alaska.

We have not been confronted with a similar problem in this area, nor do we find any decisions on this matter. We have checked the Alaska Code and cases reported in Alaska and find no statutes or cases there which are applicable. It is our feeling that the decision on this matter is governed by the general law relative to easements.

Before we discuss this general law, we should like to point out that there is a material difference in the two forms submitted as Exhibits A. and B. Exhibit A provides a perpetual right-of-way to have a width of a certain number of feet, "said right-of-way to be used by the grantee for the construction and maintenance of a Forest road together with the right to construct and maintain on the said right-of-way a telephone line". The purposes of this right-of-way are therefore limited. Exhibit B provides that "The said right-of-way hereby granted is for the maintenance and full, free, and quiet use

3 copies sent B.P.R.

copies sent
3/31/50
Adm (2)
Sare (2)
P
PWS
Kenn

3/16/50
SLICK

2 - Mr. B. Frank Heintzleman - March 16, 1950

and enjoyment by the United States of America or the Territory of Alaska for any and all purposes by it desired or deemed necessary or beneficial for and in connection with the control, administration, or use of the National Forests or the resources thereof, and, so far as may be with that enjoyment compatible, by the general public as a public highway of a certain road or way heretofore formed, being _____ feet (_____) in width, and traveling the above described premises according to the said plat hereto attached and made a part of this instrument". This easement is for all purposes in connection with the use of the national forest.

Certain general legal principles can be applied to the above two forms. First of all, the extent of an easement is determined by the grant, and no material change or enlargement of the right acquired can be made if thereby a greater burden is placed upon the servient estate. Big Cottonwood Tanner Ditch Co. v. Moyle, 159 P. 2d 596; Nielson v. Sandberg, 141 P. 2d 696; Fristoe v. Drapeau, 204 P. 2d 336. There is nothing in the language of either of the easements referred to above which makes them exclusive. Therefore the purposes of the easements are confined to the language of the grant. An unlimited conveyance of the easement is in law a grant of unlimited reasonable use. This means that the above easements have as an incident thereto anything that is requisite to their fair enjoyment, but notwithstanding this, there remains in the grantor the right of full dominion and use of his land, except in so far as the limitation thereof is essential to the reasonable enjoyment of the easement (17 Am. Jur. 994). The fact that the easement in Exhibit A has a specified width and location would not necessarily determine the extent of the burden imposed upon the servient land. City of Pasadena v. California-Michigan Land and W. Co., 110 P. 2d 983, 986, and cases cited therein.

There are two California cases which are particularly applicable to this situation, namely Colegrove Water Co. v. City of Hollywood, 90 Pac. 1053, and City of Pasadena v. California-Michigan Land and W. Co., supra. The first case involved the right to lay water pipes across a city street for which an easement had been granted. The court held that the pipes could be so laid and stated in the opinion:

"Where the city undertakes to occupy the space above or below the surface of the street for any purpose within the scope of the public uses to which highways may be put, the use by the owner of the fee must yield to the public use. Furthermore, the use by the owner of the fee is subject to reasonable regulation in the interest of the comfort and convenience of the community as a whole. 'But

3 - Mr. B. Frank Heintzleman - March 16, 1950

the owner of the land over which a highway is laid retains his right in the soil for all purposes which are consistent with the full enjoyment of the easement acquired by the public. This right of the owner may grow less and less as the public needs increase; but at all times he retains all that is not needed for public uses, subject, however, to municipal or police regulations. (Cases cited) And inasmuch as the right to use the soil below the surface is one that can rarely be practically enjoyed without first disturbing the surface temporarily in making the necessary excavations, it must be held that the owner of the soil has the right to make such excavations as will enable him to install the materials or do the work requisite for an enjoyment of his rights in his land. The occupation of the soil by a water pipe, so long as no public use is impeded, is a legitimate use by the owner, and carries with it the right to excavate the soil, subject to such restrictions by the municipality as will insure the least interruption to the public easement."

In the case of City of Pasadena v. California-Michigan Land and W. Co., the City had a right-of-way of a certain width for pipe lines. The owner of the servient estate granted the defendant another right-of-way to lay pipe lines within this same strip. The court held that that was permissible but that if the two uses ever conflicted, then the City would have a prior right.

Applying these principles to the right-of-way forms submitted, we believe that under Exhibit A the Forest Service has a right-of-way for a road and a telephone line. This does not preclude the use of the same strip of land for any other purposes, such as transmission lines or sewer pipes so long as these do not conflict with the Forest Service road and telephone line. The Forest Service would, of course, have full jurisdiction over its road and telephone line, can maintain them, and can regulate their use. However, the Forest Service would have no jurisdiction to regulate the use of any other facilities occupying the same land under another easement from the owner of the servient estate.

Under Exhibit B the United States has a right-of-way for all purposes being necessary or beneficial for the use of a national forest or the resources thereof. As already pointed out, this is considerably broader. Although there does not appear to be an exclusive use, there is a use which covers many purposes, and the Forest Service would have the right to object to the use of this same strip of land by any other party which might interfere with the use of that land for any purpose which the Forest Service might have in mind. Also, the Forest Service would have the jurisdiction to regulate the use of any road or other

4 - Mr. B. Frank Heintzleman - March 16, 1950

facility which it might place on that right-of-way. You might find in some instances that the Forest Service has not used the right-of-way to the full extent and that some other person has put a facility thereon which could in the future interfere with the Forest Service use. Although the Forest Service probably could not prevent such use by a third party unless the interference was immediate, the Forest Service would always have the prior right of use and in the event of a future conflict, the third parties' use would have to be forfeited or changed so as not to interfere with the Forest Service use. Therefore, there would be some jurisdiction for the Forest Service to require third parties to obtain its consent to use the right-of-way and also to meet such conditions as might be imposed by the Forest Service. This would be in the nature of a special use permit. As indicated, we do not believe this could be specifically required by the Forest Service if the owner of the land granted another right-of-way which did not immediately interfere with the Forest Service use. However, it would prevent future difficulties and conflicts of interest and would facilitate the administration of such rights-of-way.

Very truly yours,



C. C. Carlson
Attorney in Charge

FOREST SERVICE

FROM FORWARD FORESTRY JUNEAU ALASKA

TO HEINTZLEMAN FOREST SERVICE WASHINGTON D C

MARCH 15 1950

B
7/15

YTCL⁴ WIDTH EXISTING ROW BASEMENTS THROUGH PATENTED LANDS CHUGACH AND TONGASS HIGHWAYS
AND FRD ROADS SOME 60 AND SOME 66 FEET PERIOD BASEMENTS NEW FRD ROADS 66 FEET OR 100 *feet*
FEET IF CAN OBTAIN ^{*pd*} NEW HIGHWAY MINIMUM 80 FEET AND MORE IF REQUIRED BY SLOPES PERIOD
NATIONAL FOREST LANDS OLD HIGHWAYS AND FRD ROADS 66 FEET TURNAGAIN ARM 200 FEET PERIOD
SEE NOTEBOOK PAGE FOR RECOMMENDED SETBACK DISTANCE AND RIGHT OF WAY WIDTHS TO WHICH
ALL ROW WILL BE ADJUSTED IF POSSIBLE WHEN APPROVED.

CHAS. H. FORWARD
Assistant Regional Forester, Acting

U
SUPERVISION
ROW Set-Back Distances

WKA14

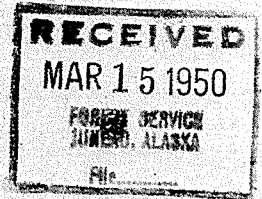
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FORESTRY

01788

JUNEAU ALASKA

WIRE ME TOTAL WIDTH RIGHT-OF-WAY EXISTING FOREST HIGHWAYS ON KENAI
 DIVISION INCLUDING QUARTZ CREEK CCC ROAD ALSO ON FH AND FRD ROADS IN
 SE ALASKA EXCLUSIVE OF NEW FRD ROADS WHICH HAVE ONE HUNDRED FOOT WIDTH

HEINTZLEMAN

14/2344Z MAR BEPC

FOREST SERVICE

JUNEAU, ALASKA

Chief, U.S. Forest Service, Washington, D. C.

March 1, 1950

B. Frank Heintzleman, Regional Forester. By: Chas. G. Burdick, Acting

U

ADJUSTMENTS, R-10

Mining Claims & Set-Back Distance

Some uncertainty exists in Region 10 concerning standard set-back distances, road rights-of-way and mining claims. We will appreciate receiving more information regarding.

1. Is the Forest Service standard set-back distance for highways considered a part of the highway right-of-way?
2. Assuming no withdrawal has been made on National Forest land can a mining claim location include an area within the standard set-back distance?
3. Can a mining claim be located across a highway?
4. If the answer to question 3 is yes; What authority has the Forest Service to regulate the use of the land within the standard set-back distance?

WAG:edy

WAG

Office Memorandum • UNITED STATES GOVERNMENT

TO : Regional Forester, Juneau, Alaska

DATE: February 23, 1950

FROM : W. A. Chipperfield, Forester

SUBJECT: U
ADJUSTMENTS, R-10
Mining Claims & Set-Back Distance

It will be desirable to obtain the answer to this question:

Can a mining claim be located within the set-back distance of a highway where no withdrawal has been made?

PC 2, 1, 50

U
SUPERVISION, R-10
ROW and Easements
Policy

Juneau, Alaska
February 2, 1950

26

Mr. C. C. Carlson
Attorney in Charge
Office of the Solicitor
U.S. Department of Agriculture
901 U.S. National Bank Building
Portland 4, Oregon

Dear Mr. Carlson:

We will be pleased if you will consider the subject stated below and give us your comments.

What authority does the Forest Service have for regulating the use and occupancy of a highway right-of-way crossing private land for which the Government has obtained an easement? We have in mind a case where the Ketchikan Public Utilities Company will locate a transmission and telephone line across private land and within an area for which the Forest Service has obtained an easement of specified width for highway purposes but actually occupying only a portion of the area for highway use. We have other cases where individuals will use a portion of the right-of-way, for domestic water and sewer systems.

The enclosed Exhibit "A" is the form of right-of-way agreement now in use by the Forest Service in Region 10. Exhibit "B" is the form of right-of-way deed used by the Bureau of Public Roads in Alaska.

Very truly yours,

B. FRANK HEINTZLEMAN
Regional Forester

By: CHAS. G. BURDICK

Enclosures (2)

WAG:edy

"A"

FS Form 507m

"B"

PRR Form for Forest Road

WAG

RIGHT-OF-WAY AGREEMENT FOR FOREST ROAD

This agreement, made this _____ day of _____ in the year
of 19____, by and between _____ of the
Recording District of the _____ Judicial
Division, Territory of Alaska; a corporation organized and existing under
the laws of the _____ of _____ with a
place of business _____, hereinafter called
the grantor, and the United States of America, hereinafter called the grantee:

Witnesseth that the said grantor, for and in consideration of the benefits
to be derived from the hereinafter described road to be constructed by the
grantee, the benefits whereof are hereby acknowledged, hereby grants,
bargains, and conveys unto the grantee a perpetual right-of-way over and
across the following described lands of the grantor:

together with all the rights and privileges necessary for the accomplishment
of the purpose hereinafter set out; said right-of-way to have a width of
_____ feet, extending _____ feet on each side of the center line of
the road to be constructed thereon, and to be located and defined as follows:

said right-of-way to be used by the grantee for the construction and main-
tenance of a Forest road together with the right to construct and maintain
on the said right-of-way a telephone line.

The herein described right-of-way is granted and conveyed upon the condition that it shall not be assigned to any person or persons except the Territory of Alaska or the Territorial Board of Road Commissioners of Alaska and then for the purpose of constructing and maintaining a public road, and upon the further condition that should said right-of-way be abandoned by said grantee and not transferred to the Territory of Alaska or the Territorial Board of Road Commissioners of Alaska, or if so transferred, if it be abandoned by said transferee, then said right-of-way, together with all the rights and privileges appurtenant thereto, shall thereupon terminate and revert to the grantor, his heirs or assigns.

In testimony whereof, witness the following signature:

(Owner)

Witness:

_____)

ss

_____)

This is to certify that on this _____ day of _____, 19____, before me, _____, a Notary Public, duly commissioned and sworn, personally appeared _____ personally known to me, and personally known by me to be the individual who in my presence signed the within and foregoing instrument, and _____ acknowledged to me that _____ freely and voluntarily signed the same for the uses and purposes herein mentioned.

WITNESS my hand and official seal this _____ day of _____, 19____.

Notary Public
My Commission expires _____

X copy filed in TPOW folder
 FOREST SERVICE JUNEAU, ALASKA

Chief, U. S. Forest Service, Washington, D. C.

January 6, 1950

B. Frank Heintzleman, Regional Forester

U
 SUPERVISION
 Policy
 Roadside Zones

In reply to Mr. Sicker's memorandum of December 6, 1949.

A great storm of protest has followed the withdrawal of extra wide rights-of-way for roads over the public domain in interior Alaska. The storm rages particularly over widths greater than 100 feet on each side of the center line. Homesteaders have protested because of the length of side roads they are compelled to construct, maintain, and keep clear of snow, fear that other parties will be given leases on right-of-way lands between the homesteaders line and the developed road, distance from the developed road of gas stations, etc. which homesteaders have or might want to construct, possible unkempt condition and brush and forest fire hazard on this strip of "no-man's land" in front of the settlers home if the Federal Government doesn't get the funds to improve or police it.

The Alaska miners are also opposing the use of extra wide strips in the placer country as such withdrawals may include much placer ground of narrow valleys.

We are informed that if, as a result of heavy protests, some extra wide withdrawals are later reduced in width, it may be necessary to ask Congress for special legislation to permit adjoining owners of patented land who have already acquired their full acreage, to take up the additional lands in front of their homes and business establishments.

I recommend the following for the National Forests in Alaska; in all cases the widths mentioned are set back distances from the road center line:

KENAI DIVISION

The National Forest section of the Kenai Peninsula Highway between Anchorage and Homer, including the branch to Seward - 100 feet on each side of the center line (this is the right-of-way width used on the sections of this highway which cross open public lands to the north and west of the Forest Boundary).

Development roads - 50 feet

Revised & Recommended by Charles J. Dwyer

2 - Chief, U.S. Forest Service - January 6, 1950

PRINCE WILLIAM SOUND DIVISION

Copper River Highway - 100 feet

Other Forest Highways (community roads) - 50 feet

Development roads - 50 feet

TONGASH NATIONAL FOREST

Forest Highways within approximately 12 miles of towns - 50 feet

Beyond 12 miles - 100 feet

Development roads - 50 feet

I am confident that the above widths will fully meet our purposes if not adhered to, too rigidly. For example, where winding sections of roads indicate that major changes in road alignment are likely to be made in the future, the set-back width should be wider than the standard in use generally for that road. The width in such cases should be established after consultation with the Bureau of Public Roads. Again where terrain and timber cover will hide improvements from the road, or there is some special public use or settlement use to be served, occupancy which infringes somewhat on the set-back strip should be authorized.

I hope we can discuss this further when I reach Washington in late January.

BR:edg

EGB

100 file copies in U.S. Bureau.

FOREST SERVICE

JUNEAU, ALASKA

Chief, U. S. Forest Service, Washington, D. C.

January 6, 1950

B. Frank Heintzleman, Regional Forester

U

SUPERVISION

Policy

Roadside Zones

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2 - Chief, U.S. Forest Service - January 6, 1950

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I hope we can discuss this further when I reach Washington in late January.

BPH:edg

U
USES
Right of way

[Handwritten signature]
B

KETCHIKAN DAILY NEWS KETCHIKAN

8/25/49

Alaska Road Right of Way Ruled Upon

An order signed by Under Secretary of the Interior Oscar L. Chapman reduced the land reserved from public entry on both sides of the highways, feeder roads, and local roads in Alaska, an order which has been under consideration for many months, says Delegate Bartlett's newsletter.

The order reserves public lands in the Territory lying within 300 feet on each side of the center line of the Alaska Highway, 150 feet on each side of the center line of all other through roads, 100 feet on each side of the center line of all feeder roads and 50 feet on each side of the center line of all local roads.

The through roads listed are the Alaska, Richardson, Glenn and Haines Highways and the Tok Cut-Off; the feeder roads are the Steese Highway, Elliott Highway, McKinley Park Road, Anchorage-Potter-Indian Road, Edgerton Cut-off, Tok Eagle Road, Ruby - Long - Footman Road, Kenai Lake-Homer Road, Fairbanks-College Road, Anchorage-Lake Spenard Road and the Circle Hot Springs Road; and the local roads are those not classified above as through or feeder roads, established or maintained under the jurisdiction of the Secretary of the Interior.

Up until the time the order was issued, lands 600 feet wide, 300 feet on each side of the center line of the Alaska Highway and the Gulkana-Slana-Tok Road were withdrawn from entry.

The lands released by the reduction will be open to settlement under the homestead and Homestead laws on September 14, subject to veterans preferences for a 90-day period.

8/30/49

NOTE.

Set-back line for new road, Indian to Mile 58, is 100 feet on each side of center line, with right to occupy outer 50 feet on approval of Regional Forester.

Suppose we should use same plan for remainder of road from Mile 58 to say Kenai Lake and on road from Mile 37 to Russian River outlet.

B.F.H.

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B
[Handwritten initials]
HEC

See Fed Register
Aug 16 1949

FOREST SERVICE

JUNEAU, ALASKA

STANDARD FORM NO. 64

Office Memorandum • UNITED STATES GOVERNMENT

TO : THE FILES

DATE: February 12, 1954

FROM : V. M. Blackwell, Regional Engineer

VMB

SUBJECT: E-ROADS AND TRAILS, Copper River Highway
~~U-USES~~, Chugach - Copper River & Northwestern Railroad
 U-ADJUSTMENT, Chugach - Copper River & Northwestern Railroad, Juneau 0288

Following is briefly the history of the Copper River & Northwestern Railroad right-of-way from Cordova to Mile 39, Chugach Forest boundary.

January 25, 1906 Company articles of incorporation filed with Department of Interior.

February 19, 1906 Company filed map of preliminary route.

March 14, 1906 Articles of incorporation accepted by Secretary of Interior under act of May 14, 1898. This act is known as the Alaska Right-of-Way law. I did not find the entire law; however, a few portions were picked up here and there as follows:

NB
 "SEC. 2. That the right of way through the lands of the United States in the District of Alaska is hereby granted to any railroad company, duly organized under the laws of any State or Territory or by the Congress of the United States, which may hereafter file for record with the Secretary of the Interior a copy of its articles of incorporation, and due proofs of its organization under the same, to the extent of one hundred feet on each side of the center line of said road; also the right to take from the lands of the United States adjacent to the line of said road, material, earth, stone, and timber necessary for the construction of said railroad;

"SEC. 4

Provided further, That any such company, by filing with the Secretary of the Interior a preliminary actual survey and plat of its proposed route, shall have the right at any time within one year thereafter, to file the map and profile of definite location provided for in this Act, and such preliminary survey and plat shall, during the said period of one year from the time of filing the same, have the effect to render all the lands on which said preliminary survey and plat shall pass subject to such right of way.

"SEC. 5. That any company desiring to secure the benefits of this Act shall, within twelve months after filing the preliminary map of location of its road as hereinbefore prescribed, whether upon surveyed or unsurveyed lands, file with the register of the land office for the district where such land is located a map and profile of at least a twenty-mile section of its road or a profile of its entire road if less than twenty miles, as definitely

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fixed; and shall thereafter each year definitely locate and file a map of such location as aforesaid of not less than twenty miles additional of its line of road until the entire road has been thus definitely located, and upon approval thereof by the Secretary of the Interior the same shall be noted upon the records of said office, and thereafter all such lands over which such right of way shall pass shall be disposed of subject to such right of way:

"SEC. 7. That this act shall not apply to any lands within the limits of any military, park, Indian, or other reservation unless such right of way shall be provided for by Act of Congress."

January 15, 1907 Map of final location filed by company for first 82.4 miles from Cordova.

July 23, 1907 Chugach National Forest established by presidential proclamation.

October 29, 1907 Map of final location approved by Secretary of the Interior.

February 18, 1910 Map of definite location and proof of construction filed with Secretary of the Interior.

1911-1916 Forest Service attempted to have railroad agree to certain stipulations which would in effect put the railroad in the position of a Special Use permittee, subject to regulations of the Forest Service. The railroad objected to the stipulations on the grounds that the rights of the company to the right of way dated back to the filing of the map of preliminary route, which date was prior to the establishment of the Chugach Forest.

Part of the correspondence on this controversy is missing from the files. However, it seems that the principal points at issue were: requiring the company to pay for timber destroyed upon the right of way, to permit the use of the Company's telephone poles for the stringing of wires for Forest Service use, and to permit free access to the right of way by Forest Officers on official business. On May 22, 1916 the Chief wrote the District Forester, "The loss of these privileges if they might be demanded by it is not worth the unpleasantness of a controversy between the Forest Service and the Secretary of the Interior."

May 31, 1916 Letter Secretary of Agriculture to Secretary of Interior approving final location and reading in part, "The right of way has been examined and it is found the National Forest interests involved do not require the execution of a stipulation for their protection."

1939 Railroad discontinued operation with consent of Interstate Commerce Commission.

March 29, 1945 Railroad relinquished to United States all right to right of way and station grounds between Cordova and Kennecott.

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June 5, 1945 Solicitor for Department of Interior ruled, ". . . upon acceptance of the relinquishment of the right of way easement by the Secretary of Interior, the right of way appropriation lapsed and such portion of the right of way as traversed public lands in the Chugach National Forest thereupon automatically acquired national forest status under the proclamation establishing the forest."

VMB:cd