

**CENTRAL REGION
RIGHT OF WAY BRANCH**

PUBLIC LAND ORDERS

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**CENTRAL REGION
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APPLICATION AND USE TO ESTABLISH EXISTING RIGHT OF WAY

'47 ACT

1. No road necessary
2. ONE TAKE.
3. Before PLO: Take could be as reasonably wide and necessary for construction purposes (66'+/-) 100' right of way, RS 2477. Section line width possibility for lack of any other known width requirement.
4. After PLO and Entry - subject to '47 Act with no road up to 1971. Entry subject to new construction right of way and classification of road and right of way being constructed.
5. Before PLO and Entry - subject to '47 Act with an existing road of undetermined right of way width. The Entry is subject to the existing road and if no construction occurs until after effective date of PLO, Entry is subject to ONE TAKE - logically to the right of way and classification of the proposed road construction.

PUBLIC LAND ORDERS

1. Needs existing road.
2. '47 Act could establish width of road right of way for construction purposes any time before or after PLO until 1966.
3. If right of way and road existed before PLO and Patent was issued and subject to '47 Act, new construction for the road could exercise the one-time taking right of way, logically, to the classification width of the road at the time of construction.
4. Entry and Patent subject to the road classification right of way is simply the designated PLO right of way at the time of Entry and involves an existing road.

SECTION LINE EASEMENTS

The first right-of-way law was enacted by Congress in 1866, granting right-of-way for construction of highways over unreserved public lands. In 1923, the Alaska Territorial Legislature established section line easements of 33 feet on either side of the line "dedicated for use as public highways".

This section line act was not in effect from

January 18, 1949 through March 26, 1951, but then reinstated and expanded to 100 feet. In the act was amended to establish 100 foot easements on sections owned by the Territory and on all other surveyed lands. In 1969 the Attorney General upheld the existence of the right-of-way for construction of highways along section lines in the state.

PRIVATE ACCESS ROADS

A memo of 1965 from the Bureau of Land Management (BLM) to the Anchorage District Land Office states their position on this:

"Roads may be considered as of two classes, (1) private access roads, and (2) public roads.

"Private access roads: There is no Federal law providing for rights-of-way for private roads as a means of ingress or egress from one's property. Such roads, which are considered roads of necessity, are usually constructed over vacant unreserved public lands without any action on the part of the Government.

"Such private roads may be constructed along section lines or otherwise, if the land affected is vacant, unappropriated and unreserved. If reserved, permission should be obtained before construction from the Federal agency having jurisdiction and control over the

land. In the absence of any specific Federal it is impossible to say what width one may claim for the right-of-way for private roads, but would probably be held to be of such width reasonably necessary for the construction and maintenance of the road. Moreover, the right of a person in and to roads so constructed is questioned by a subsequent entryman, must be settled between the parties in controversy by amicable agreement or by the local courts. Such roads under the common law are considered "easements by necessity."

Many of the local roads interconnecting homesteads in the Matanuska and Susitna Valleys were built by the Bureau of Public Roads (BPR) under the Local Farm Road Program, before Statehood. These roads were usually petitioned for by the homesteaders, who dedicated 100 feet right-of-way for the road. Portions of the old roads built by homesteaders themselves still only carry 100 foot or "ditch to ditch" easements.

PUBLIC ROADS: ACQUISITION OF RIGHT-OF-WAY

The various Statutes, Public Land Orders and Department Orders effecting the acquisition of rights-of-way in Alaska are as follows:

R S 2477 (43 U.S.C. 932) 1923 - U.S. Congress - *Sec. 1866 Act Accepted by AK*
1932 Act (43 Stat. 446) June 30, 1932 - U.S. Congress
1947 Act (61 Stat. 418) July 24, 1947 - U.S. Congress
Public Land Order 601 August 10, 1949 - Dept. of

Interior
Public Land Order 757 October 16, 1951 - Dept. of

Interior
2665 Amendment 1 July 17, 1952 - Dept. of Interior
2665 Amendment 2 September 15, 1956 - Dept. of

Interior
Public Land Order 1613 April 7, 1958 - Dept. of

Interior
Public Law 86-70 (Omnibus Act) June 25, 1959 - U.S. Congress

The most important of these was the "1947 Act", which provided that right-of-way of any width could be acquired merely by a Notice of Utilization, but crops and improvements thereon must be purchased. This Act affected not only new roads but subsequent settlements on existing roads, but only one "take" was allowed. This was true until the 1947 Act was repealed by the Omnibus Act of 1959, after which no new properties became subject. But those who had been subject between 1947 and 1959 continued to be so until the Federal Highway Act of 1970 was passed.

The subsequent Public Land Orders with right-of-way on specific roads in the state, classified Through Roads, Feeder Roads and Local Roads, and set specific widths for each. They set right-of-way for Through Roads at 300 feet, Feeder Roads at 200 feet and Local Roads at 100 feet. PLO 1613 of 1958, here are the updated Through Roads designated by the various PLO's:

Alaska Highway - 300'; Richardson Highway - 300'; Seward Highway - 300'; Haines Highway - 300'; Seward Highway - 300'; Denali Highway - 300'; Sterling Highway - 300'; Spur Road - 300'; Copper River Highway - 300'; Highway - 300'; Palmer-Wasilla-Willow Road - 300'.

Some of the Feeder Roads established in the Matanuska-Susitna Valley are:

Palmer to Finger Lake to Wasilla Road - 200'; Highway to Fishhook to Knik Road - 200'.

The Parks Highway was not covered by various Land Orders, but since the majority of it is in public lands, the 300 foot wide right-of-way was granted to Alaska from the Bureau of Land Management. The few parcels which were privately owned were largely granted to the State for \$1.00 Quit Claim Deed from the owners, who generally favored the new highway.

"(5) disruption of desirable community and regional growth. Such guidelines shall apply to all proposed projects with respect to such plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards.

(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended."

(c) Subsection (b) of section 307 of title 23, United States Code, amended by adding the following sentence: "The highway research program herein authorized shall also include studies to identify and measure, quantitatively and qualitatively, those factors which relate to economic, social, environmental, and other impacts of highway projects."

INTEREST PAYMENTS FOR REPLACEMENT HOUSING

SEC. 137. Section 506 of title 23, United States Code is amended by designating subsection (b) as subsection (c) and inserting a new subsection (b) as follows:

"(b) (1) In addition to the amounts otherwise authorized by this title, the State agency shall make an interest payment to compensate the owner for any increased rate of interest which such owner is required to pay for financing such replacement dwelling.

"(2) This interest payment shall be computed and allowed only where there was an existing mortgage against the dwelling transferred to the State and such mortgage was a valid lien on said premises for at least one year prior to the institution of negotiations for the acquisition of such property, and if the mortgage for the replacement dwelling carries a higher rate of interest than the interest rate on the mortgage on the transferred dwelling; but, in no event shall such interest on the replacement dwelling be greater than the maximum interest allowable under State law.

"(3) The value of the interest payment shall be the difference in the interest rate existing on the balance of any mortgage on a transferred dwelling and the interest rate on the mortgage of the replacement dwelling for the remainder of the term of any such mortgage on such transferred dwelling reduced to discounted present value.

"(4) The discount rate as above provided shall be the maximum rate of interest permitted to be paid on savings deposits by any savings institution within the State pursuant to the rules and regulations of the State Deposit Insurance Corporation."

ALASKAN ASSISTANCE

Subsection (b) of section 7 of the Federal Aid Highway Act, as amended to read as follows:

"The amount authorized to be appropriated for construction of highways in the State of Alaska out of the Highway Trust Fund and in addition to funds otherwise made available to the State of Alaska under title 23, United States Code, \$20,000,000 for each of the fiscal years ending June 30, 1972 and June 30, 1973."

way Trust Fund and in addition to funds otherwise made available to the State of Alaska under title 23, United States Code, \$20,000,000 for each of the fiscal years ending June 30, 1972 and June 30, 1973."

23 USC 101.

(b) Any right-of-way for roads, roadways, highways, tramways, trails, bridges, and appurtenant structures reserved by section 321 (d) of title 48, United States Code (61 Stat. 418, 1947), not utilized by the United States or by the State or territory of Alaska prior to the date of enactment hereof, shall be and hereby is vacated and relinquished by the United States to the end and intent that such reservation shall merge with the fee and be forever extinguished.

73 Stat. 146

FERRY BOATS

SEC. 139. Section 129 of title 23, United States Code, is amended by adding at the end thereof the following:

72 Stat. 902
Ante, p. 173

"(f) Notwithstanding section 301 of this title, the Secretary may permit Federal participation under this title in the construction of ferry boats, whether toll or free, subject to the following conditions:

72 Stat. 912
23 USC 301.

"(1) It is not feasible to build a bridge, tunnel, combination of the two, or other normal highway structure in lieu of the use of such ferry boats."

"(2) The operation of the ferry shall be on a route which has been approved under section 103 (b) or (c) of this title as a part of one of the Federal-aid systems within the State and has not been designated as a route on the Interstate System.

72 Stat. 887

"(3) Such ferry shall be publicly owned and operated.

"(4) The operating authority and the amount of fares charged for passage on such ferry shall be under the control of the State, and all revenues derived therefrom shall be applied to actual and necessary costs of operation, maintenance, and repair.

"(5) Such ferry shall be operated only within the State or between adjoining States, and no part of its operation shall be in any foreign or international waters.

International waters, prohibition, disposal.

"(6) No such ferry shall be sold, leased, or otherwise disposed of without the approval of the Secretary. The Federal share of any proceeds from such a disposition shall be credited to the unprogrammed balance of Federal-aid highway funds of the same class last apportioned to such State. Any amount so credited shall be in addition to all other funds then apportioned to such State and available for expenditure in accordance with the provisions of this title."

FUTURE ADDITIONS TO INTERSTATE SYSTEM

SEC. 140. The existing language of section 139 of title 23, United States Code, shall be designated as subsection (a) and a new subsection (b) added as follows:

82 Stat. 82

"(b) Whenever the Secretary determines that a highway on the Federal-aid primary system would be a logical addition or connection to the Interstate System and would qualify for designation as a route on that system in the same manner as set forth in paragraph 1 of subsection (d) of section 103 of this title, he may upon the affirmative recommendation of the State or States involved designate such highway as a future part of the Interstate System. Such designation shall be made only upon the written agreement of the State or States involved that such highway will be constructed to meet all the standards of a highway on the Interstate System within twelve years of the date of the agreement between the Secretary and the State or States involved. The highway designated as a future part of the Interstate System shall be constructed to meet all the standards of a highway on the Interstate System within twelve years of the date of the agreement between the Secretary and the State or States involved."

Ante, p. 11

INTERNATIONAL WATERS, PROHIBITION, DISPOSAL. SERVICE, P. 1352.

ACQUISITION OF RIGHTS-OF-WAY WIDTHS

The various Statutes, Public Land Orders and Department Orders effecting the acquisition of rights-of-way in Alaska are as follows:*

R.S. 2477 (43 U.S.C. 932)
43 Stat. 446 (48 U.S.C. 321a) June 30, 1932
61 Stat. 413 (48 U.S.C. 321d) July 24, 1947
Public Land Order 601 August 10, 1949
Public Land Order 757 October 16, 1951
2665 Amendment 1 July 17, 1952
2665 Amendment 2 September 15, 1956
Public Land Order 1613 April 7, 1958
Public Law 86-70 (Omnibus Act) June 25, 1959

PLO = 9145 - Glena Hwy 200' R/W 1942 - Palmer to Glena North of

1. R.S. 2477, grants rights-of-way for the construction of highways over public lands not reserved for public uses. The grant becomes effective upon the establishment of the highway in accordance with State or other applicable laws. The statute does not specify any width for rights-of-way so established and unless maps or definite locations showing the widths of the right-of-way appropriated are filed and recorded in the proper recording district or Bureau of Land Management land office, the width would be limited, as against subsequent valid claims, to that recognized by the Courts, which is 66 feet or 33 feet on each side of the center line in the Territory of Alaska. Presumably, this is based on common usage or sufficient width, the only actual authority for such widths existing in the Alaska statutes, for section line rights-of-way.

In connection with this authority, then, the mere filing of a plat as prescribed above, would be an appropriation of the right-of-way indicated thereon, without any further action on the part of the State. Posting of notice of right-of-way width when survey stakes are set would have same effect.

2. The Act of June 30, 1932, authorizes the construction of roads and highways over the vacant and unappropriated public lands under the jurisdiction of the Department of the Interior. This statute like R.S. 2477, does not specify the width of the right-of-way which may be established thereunder. Therefore, unless maps were filed in the proper land offices, as contemplated by the 1932 Act, showing the width of the right-of-way appropriated, the right-of-way would also be limited to 66 feet or 33 feet on each side of the center line of the road or highway, as against valid claims or entry initiated subsequent to this Act but prior to Public Land Order No. 601 of August 10, 1949.

The Act of July 24, 1947 (61 Stat. 413, 48 U.S.C. 321d), amended the Act of June 30, 1932, by adding the reservation for rights-of-way over "lands taken up, entered or located" after July 24, 1947. Since this Act did not specify widths, it remained, in that respect, similar to R.S. 2477. However, a right-of-way of any width could be acquired over such lands by merely setting it by some sort of notice, either constructive or actual insofar as new roads are concerned, and since it did not limit the reservation to new roads only, there

* Pertinent to this Memorandum Brief

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could be no doubt that it effects subsequent settlements on existing roads. Until the promulgation of the first Public Land Order setting right-of-way widths for the existing roads, compensation was required for all crops and improvements located within new takings.

3. On August 10, 1949, the Secretary promulgated the first of several Public Land Orders, No. 601, providing for the withdrawal from all forms of settlement, the following strips of land in Alaska:

- 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 (named herein);
- 100 feet on each side of the center line of all feeder roads (named herein);
- 50 feet on each side of the center line of all local roads.

This Order does not, by its language, purport to establish highway rights-of-way as such, but is a mere withdrawal of lands along the enumerated existing highways and classes of highway. There does not appear to be any intent to establish any future rights-of-way in this order.

Since this Order was promulgated subsequent to the Act of 1947, there is some question as to its effect on lands previously settled but subject to the Act. There can be no doubt that lands settled prior to the Act could not be affected by the Order since it also states, "Subject to valid existing rights and to existing surveys. . ."

The Cases all hold that once a claim is made for public lands under the law, the claim acts as a segregation of that land from the public domain for the benefit of the claimant (entryman) and there can be made no order subsequent to that claim, effecting any rights the entryman may have. Therefore, a withdrawal order promulgated subsequent to an entry, is invalid as against that entry. In connection with this point what then is the effect of this Order and subsequent orders on lands settled after the Act of 1947 but prior to the Order?

The Act of 1947 does not set out any procedure by which a specific amount of land may be acquired for the purposes set forth in the Act. There is no requirement for giving notice to the interested party of the amount being taken nor is there set out any other requirement. Since, then, there is no form of notice, the entryman had no way of determining which land on an existing road he could utilize for his own purposes prior to this Order. Many built improvements or planted crops within a few feet of the highway shoulders. Apparently, the greater majority of these remained outside the 33 foot line, but inside the areas described in Public Land Order 601.

It is this writer's opinion that the public land orders do not effect lands subject to the Act of 1947, and settled prior to the orders on the grounds that it would be unconstitutional as being "ex post facto" in nature. Now, then, the only situations with which we should be concerned are those where the lands along existing roads (at time of the orders) are settled subsequent to their promulgatory dates.

Now we are left with one more important phase of this general situation: What effect would the orders have on the rights of a party who constructs improvements or plants crops within the designated right-of-way after the date of the order when his land is subject to the 1947 Act? All along I have been asserting that the orders were constructive notice to all interested parties that the lands encompassed by the orders, were being thereafter utilized for highway rights-of-way. However, Public Land Order 601, is expressly limited to withdrawal of public lands (unsettled, unreserved) abutting on the then existing center lines in the widths according to the classification denoted for each, no reference being made to the 1947 Act. It is therefore, not apparently intended to establish a right-of-way width for the entire length of each such highway, but merely for the public lands which abut such highway. It is then, my opinion that insofar as those lands entered prior to this Order are concerned, the entryman or homesteader has every right to compensation when damage results to his improvements or crops placed within the areas described in Public Land Order 601.

4. Public Land Order 757, October 16, 1951, was an amendment to Order 601, to the extent that it revised the list of routes along which 600 foot strips were withdrawn by adding other routes. Therefore, it did not change anything in Order 601.

5. Departmental Order No. 2665, dated October 16, 1951, was promulgated in contemplation of the two previous Public Land Orders (601 and 757); and 48 U.S.C. 321a.

The purpose of this order is stated as follows:

"(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* of such highways. Authority for these actions is contained in Section 2 of the Act of June 30, 1932 (47 Stat. 446, 48 U.S.C. 321a)."

The purpose stated under (a) (1) in the foregoing Sec. 1, above, is somewhat confusing. It expressly refers to public highways established or maintained under the jurisdiction of the Secretary of the Interior, in Alaska. However, does it mean that the uniform system will thereafter be maintained at the stated widths; or does it mean that the Secretary is utilizing the rights-of-way widths in the orders where subject to the 1947 Act?

In the face of the question of constitutionality I cannot justify the theory that this order would effect prior rights, even where those rights are subject to the 1947 Act. Therefore, my opinion is that it merely is a statement of policy and uniformity. Since (a) (2) under this Section also refers to "public lands", I feel that the intention is definitely to establish future rights-of-way across such lands.

* Emphasis supplied

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This is further evident in the language used in Section 3 of this Order:

(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, 1940, 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.*

Both (a) and (b), above, make particular note and use the expression "public lands." Those words, therefore, indicate that the intent was to restrict the withdrawal of rights-of-way lands to public or vacant lands. No one would be in a better position than the Secretary to know which lands could validly be effected by withdrawal orders (601 and 747). The law is well settled that there can be no withdrawal made on lands segregated from the public domain.

Amendment No. 1 to Order 2665 (July 17, 1952) and Amendment No. 2 thereto, (September 15, 1956), stated no new policy but merely reclassified all or parts of specific highways.

6. Public Land Order No. 1613 was issued on April 7, 1958. This Order (Sec. 1) was a revocation of No.'s 601 and 757 insofar as the through roads named in the two prior orders were concerned. The lands were reclassified from withdrawals (reservations) to easements, and easements for those roads were established at 300 feet widths. Sec. 5 of 1613 also uses the term "public lands"

Those lands embraced in Orders 601 and 747 which were on such through roads were to be offered for sale by the Secretary. To this writer's knowledge, this was never done.

7. Finally, Public Law 86-70 (Omnibus Act), of June 25, 1959, by Section 21(d)(7), repealed the Act of 1932 and the Act of 1947 (48 U.S.C. 321a-d), effective July 1, 1959. Therefore, as of July 1, 1959, it would appear that newly settled lands not abutting existing roads, could not be effected by any of the Orders. Where lands have been restored by Order 1613 new settlers on the existing highways effected by that Order, would acquire title to the lands over which the established easements traverse, but could not interfere with the right-of-way of those highways.

CONCLUSIONS

(A) For all lands settled prior to July 24, 1947, the entire portion to be acquired for the right-of-way in the case of new or relocated roads, must be acquired by purchase. Where these lands are located on existing roads and the right-of-way is to be widened or adjusted slightly so as to partially or entirely include such existing road, all acquisitions outside the 66 foot right-of-way must be purchased.

* Emphasis supplied

Accordingly, then, the right-of-way width for all roads existing prior to the 1947 Act as to lands abutting thereon and settled prior to the Act, is 66 feet unless the contrary can be shown.

As to all lands settled prior to the 1947 Act, the above Public Land Orders have no effect.

(B) For all lands subject to the 1947 Act, but settled prior to August 10, 1949, (P.L.O. 601), the right-of-way may be obtained by Notice of Utilization for those portions outside the 66 foot width, but crops and improvements thereon must be purchased.

Since no withdrawals were made prior to the Public Land Orders, the entryman whose rights predated the Order would be subject to a 66 foot right-of-way when abutting a road. All others are subject to the withdrawal Order, so that right-of-way widths will be 600 feet, 300 feet, 200 feet and 100 feet depending upon the road or centerline which existed or was surveyed prior to August 10, 1949.

Public Land Order 747, October 16, 1951, merely changed some right-of-way widths and instituted no new changes.

(C) Since departmental Order 2665, October 16, 1951, did not effect prior existing rights, it too, left the right-of-way widths at 66 feet where settled prior to Public Land Order 601. For all lands settled subsequent to 2665, the rights-of-way are those stated in that Order.

Amendment No. 2 to Order 2665, September 15, 1956, increased the right-of-way of several roads or portions of roads by redesignating them as "through roads". It also deleted certain roads from that list.

(D) Public Land Order 1613 revoked the withdrawals on through roads as established by No.'s 601 and 757. It established a 300 foot easement on those roads for highway purposes. There is, therefore, a 300 foot easement on all through roads in Alaska where such through roads have been designated by the various orders.

(E) The repeal of the Act of 1947 by the Omnibus Act (Sec. 21(d)(7)) on July 1, 1959, has once again restored the public lands to the status enjoyed in the other states. The withdrawals and easements for rights-of-way, however, remain in effect but do not have any effect where entirely new roads are concerned.

Chapter 1 - Bureau of Land Management, Department of Interior

Appendix - Public Land Orders
(Public Land Order 601)

Alaska

Reserving Public Lands for Highway Purposes

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Executive Order No. 9145 of April 23, 1943, reserving public lands for the use of the Alaska Road Commission in connection with the construction, operation and maintenance of the Palmer-Richardson Highway (now known as the Glenn Highway), is hereby revoked.

Public Land Order No. 386 of July 31, 1947, is hereby revoked so far as it relates to the withdrawal, for highway purposes, of the following-described lands:

(a) A strip of land 600 feet wide, 300 feet on each side of the centerline of the Alaska Highway (formerly the Canadian Alaskan Military Highway) as constructed from the Alaska-Yukon Territory boundary to its junction with the Richardson Highway near Big Delta, Alaska.

(b) A strip of land 600 feet wide, 300 feet on each side of the centerline of the Gulkana-Slana-Tok Road as constructed from Tok Junction at about Mile 1319 on the Alaska Highway to the junction with the Richardson Highway near Gulkana, Alaska.

Subject to valid existing rights and to existing surveys and withdrawals for other than highway purposes, the public lands in Alaska lying within 300 feet on each side of the centerline of the Alaska Highway, 150 feet on each side of the centerline of all other through roads, 100 feet on each side of the centerline of all feeder roads, and 50 feet on each side of the centerline of all local roads, in accordance with the following classifications, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws, and reserved for highway purposes:

THROUGH ROADS

Alaska Highway, Richardson Highway, Glenn Highway, Haines Highway, Tok Cut-off.

FEEDER ROADS

Steese Highway, Elliot Highway, McKinley Park Road, Anchorage-Potter Indian Road, Edgerton Cut-off, Tok Eagle Road, Ruby-Long-Poorman Road, Nones-Solomon Road, Kenai Lake-Homer Road, Fairbanks-College Road, Anchorage-Lake Spenard Road, Circle-Hot Springs Road.

LOCAL ROADS

All roads not classified above as Through Roads or Feeder Roads established or maintained under the jurisdiction of the Secretary of the Interior.

With respect to the lands released by the revocations made by this order and not rewithdrawn by it, this order shall become effective at 10:00 a.m. on the 35th. day after the date hereof. At that time, such released lands, all of which are unsurveyed, shall, subject to valid existing rights, be opened to settlement under the homestead laws and the homesite act of May 26, 1934, 48 Stat. 809 (48 U.S.C. 461), only, and to that form of appropriation only by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747, as amended (43 U.S.C. 279-284). Commencing at 10:00 a.m. on the 126th. day after the date of this order, any such lands not settled upon by veterans shall become subject to settlement by the public generally in accordance with the appropriate laws and regulations.

/s/ Oscar L. Chapman
Under Secretary of the Interior

August 10, 1949

PUBLIC LAND ORDER No. 96

ALASKA

WITHDRAWING PUBLIC LANDS FOR THE USE OF THE WAR DEPARTMENT FOR MILITARY PURPOSES

By virtue of the authority invested in the President by section 1 of the act of June 4, 1897, 30 STAT. 11, 36 (U.S.C. Title 16, sec. 473), and otherwise, and pursuant to Executive Order No. 9147 of April 24, 1943; it is ordered as follows:

Subject to valid existing rights, the public lands in the following-described area are hereby withdrawn from all forms of appropriation under the public-land laws, and reserved for use of the war Department for military purposes:

Beginning at a point on the left bank of Eyak River at the line of mean high tide, Gulf of Alaska, approximately latitude 60 degrees 28 minutes North, longitude 145 degrees 41 minutes West.

Northeasterly approximately 5½ miles upstream along the left bank of the Eyak River to the right-of-way of the Copper River and Northwestern Railroad;

Northerly, approximately 3 miles to the top of the unnamed mountain about 3 miles east of Eyak Lake;

Easterly, approximately 8 miles to the top of the southernmost peak on the right bank of Sheridan Glacier;

South, approximately 3½ miles across Sheridan Glacier to a point on the Southwest face of the Glacier;

Southwesterly, approximately 8½ miles to the line of mean high tide, Gulf of Alaska;

Northwesterly, approximately 8 miles along the line of mean high tide, Gulf of Alaska to the place of beginning.

The area described aggregates 42,160 acres.

This order shall have precedence over, but shall not rescind or revoke, the Proclamation of July 23, 1907, reserving lands for the Chugach National Forest, so far as such order affects the above described lands.

No use shall be made of the lands hereby reserved which will change the physical characteristics of the streams and make them unsuitable for the spawning of salmon, or which will result in the unnecessary destruction of the wildlife in the area described.

Jurisdiction over the above-described lands shall revert to the Department of the Interior and the Department of Agriculture, according to their respective interests, upon expiration of the six months following the termination of the unlimited national emergency declared by Proclamation No. 2487 of May 27, 1941 (55 Stat. 1647). The lands described, however, shall remain withdrawn from all forms of appropriation under the public land laws until otherwise ordered, pending classification and a determination as to whether the lands, or portions thereof, are needed for public purposes.

EXECUTIVE ORDER 9145

Reserving Public Lands for the Use of the Alaska Road Commission in Connection with the Construction, Operation and Maintenance of the Palmer-Richardson Highway.

Alaska

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. Executive Orders No. 2319 of February 16, 1916, No. 5532 of March 15, 1931, No. 9035 of January 21, 1942, No. 9055 of March 4, 1942, withdrawing certain lands for townsite purpose, examination and classification, supply base and repair shop site, administrative and fire patrol station site, and other purposes, are hereby modified to the extent necessary to permit the reservation described in Section 2 of this order.

SECTION 2. Subject to all valid existing rights, there is hereby reserved for the use of the Alaska Road Commission, in connection with the construction, operation and maintenance of the Palmer-Richardson Highway, a right-of-way 200 feet wide, 100 feet on each side of the center line, beginning from terminal point Station 1369-42.8, in the NE¹ Section 36, T. 20 N., R. 5 E., Seward Meridian, and extending easterly and northeasterly over surveyed and unsurveyed lands to its point of connection with the Richardson Highway in the SE¹ Section 19, T. 4 N., R. 1 W., Copper River Meridian, Alaska, a distance of approximately 14.5 miles, as shown on the map, dated March 14, 1942, No. 1877260, on file in the General Land Office.

FRANKLIN D. ROOSEVELT

**THE WHITE HOUSE,
April 23, 1942.**

(F. R. Doc. 42-3657; Filed April 24, 1942; 2:59 p.m.)

UNITED STATES
DEPARTMENT OF THE INTERIOR
CODE OF FEDERAL REGULATIONS
TITLE 43--PUBLIC LANDS: INTERIOR

Chapter I--Bureau of Land Management
Appendix--Public Land Orders

Public Land Order 601

Aug. 10, 1949

ALASKA

RESERVING PUBLIC LANDS FOR HIGHWAY PURPOSES

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Executive Order No. 9145 of April 23, 1942, reserving public lands for the use of the Alaska Road Commission in connection with the construction, operation and maintenance of the Palmer-Richardson Highway (now known as the Glenn Highway), is hereby revoked.

Public Land Order No. 386 of July 31, 1947, is hereby revoked so far as it affects the withdrawal, for highway purposes, of the following described lands:

(a) A strip of land 600 feet wide, 300 feet on each side of the center line of the Alaska Highway (formerly the Canadian Alaskan Military Highway) as constructed from the Alaska-Yukon Territory boundary to its junction with the Richardson Highway near Big Delta, Alaska.

(b) A strip of land 600 feet wide, 300 feet on each side of the center line of the Gulkana-Slana-Tok Road as constructed from Tok Junction at about Mile 1319 on the Alaska Highway to the junction with the Richardson Highway near Gulkana, Alaska.

Subject to valid existing rights and to existing surveys and withdrawals for other than highway purposes, the public lands in Alaska 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

and 50 feet on each side of the center line of all local roads, in accordance with the following classifications, are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral-leasing laws, and reserved for highway purposes:

THROUGH ROADS

Alaska Highway
Richardson Highway
Glenn Highway
Haines Highway
Tok Cut-off

FEEDER ROADS

Steese Highway
Elliott Highway
McKinley Park Road
Anchorage-Potter-Indian Road
Edgerton Cut-off
Tok Eagle Road
Ruby-Long-Poorman Road
Nome-Solomon Road
Kenai Lake-Homer Road
Fairbanks-College Road
Anchorage-Lake Spenard Road
Circle Hot Springs Road

LOCAL ROADS

All roads not classified above as Through Roads or Feeder Roads, established or maintained under the jurisdiction of the Secretary of the Interior.

With respect to the lands released by the revocations made by this order and not rewithdrawn by it this order shall become effective at 10:00 a.m. on the 35th day after the date hereof. At that time, such released lands, all of which are unsurveyed, shall, subject to valid existing rights, be opened to settlement under the homestead laws and the homesite act of May 26, 1934, 48 Stat. 809 (48 USC 461) only, and to that form of appropriation only by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944

58 Stat. 747, as amended (43 U.S.C. 279-284). Commencing at 10:00 a.m. on the 126th day after the date of this order, any of such lands not settled upon by veterans shall become subject to settlement and other forms of appropriation by the public generally in accordance with the appropriate laws and regulation.

/s/ Oscar L. Chapman
Secretary of the Interior

[CHAPTER 313]

AN ACT

July 24, 1947
[H. R. 1554]
[Public Law 229]

To amend the Act entitled "An Act providing for the transfer of the duties authorized and authority conferred by law upon the board of road commissioners in the Territory of Alaska to the Department of the Interior, and for other purposes", approved June 30, 1932.

Alaska.

48 U. S. C. §§ 321a-327.

Reservation of right-of-way for roads, etc.



Payment for value of crops, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the act entitled "An Act providing for the transfer of the duties authorized and authority conferred by law upon the board of road commissioners in the Territory of Alaska to the Department of the Interior, and for other purposes", approved June 30, 1932 (47 Stat. 446), is hereby amended by adding at the end thereof the following new section:

"SEC. 5. In all patents for lands hereafter taken up, entered, or located in the Territory of Alaska, and in all deeds by the United States hereafter conveying any lands to which it may have reacquired title in said Territory not included within the limits of any organized municipality, there shall be expressed that there is reserved, from the lands described in said patent or deed, a right-of-way thereon 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. When a right-of-way reserved under the provisions of this Act is utilized by the United States or under its authority, the head of the agency in charge of such utilization is authorized to determine and make payment for the value of the crops thereon if not harvested by the owner, and for the value of any improvements, or for the cost of removing them to another site, if less than their value."

Approved July 24, 1947.

[CHAPTER 314]

AN ACT

July 24, 1947
[H. R. 2097]
[Public Law 230]

To declare the ownership of the timber on the allotments on the Northern Cheyenne Indian Reservation, and to authorize the sale thereof.

Northern Cheyenne
Indian Reservation.
Sale of timber, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, notwithstanding the provisions of the Act of June 3, 1926 (44 Stat. 690), the timber on the allotments on the Northern Cheyenne Indian Reservation, whether or not the lands were hitherto classified as chiefly valuable for timber, are hereby declared to be the property of the allottees and may hereafter be sold pursuant to the provisions of section 8 of the Act of June 25, 1910 (36 Stat. 857; 25 U. S. C., sec. 406). Nothing contained in this Act shall be construed to require the payment to the allottees of the proceeds of sales made prior to the passage of this Act.

Approved July 24, 1947.

[CHAPTER 315]

AN ACT

July 24, 1947
[H. R. 2825]
[Public Law 231]

To provide additional funds for cooperation with public-school districts (organized and unorganized) in Mahanomen, Itasca, Pine, Becker, and Cass Counties, Minnesota, in the construction, improvement, and extension of school facilities to be available to both Indian and white children.

Minnesota.
Appropriation authorized for school facilities.
64 Stat. 1020.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, in addition to the amount authorized to be appropriated by the Act of October 8, 1940 (Public, Numbered 804, Seventy-sixth Congress), there is hereby authorized to be appropriated, out of any funds in the Treasury not

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

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 of such highways. Authority for these actions is contained in Section 2 of the Act of June 30, 1932 (47 Stat. 446, 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:

Abbott 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 Poorman Road, Nome to Council Road and Nome to Bessie Road shall each extend 100 feet on each side of the center line thereof.

(3) For local roads:

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

(over)

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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, 1940, 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 Office. Maps of all public roads in Alaska heretofore or hereafter constructed showing the location of the roads, together with appropriate plans and specifications, will be filed by the Alaska Road Commission in the proper Land Office at the earliest possible date for the information of the public.

/s/ Oscar L. Chapman
Secretary of the Interior

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UNITED STATES
DEPARTMENT OF THE INTERIOR
Washington 25, D. C.

ORDER NO. 2665 (October 16, 1951) Amendment No. 1

SUBJECT: Rights-of-way for Highways in Alaska

The right-of-way or easement for highway purposes covering the lands embraced in local roads established over the public lands in Alaska by section 2 (a) (3) and section 3 (b) of Order No. 2665 of October 16, 1951 (16 F.R. 10752), is hereby reduced, so far as it affects the Otis Lake Road, to 30 feet on each side of the center line thereof over the following-described lands only:

Seward Meridian

T. 13 N., R. 3 W.,
Sec. 21, N $\frac{1}{2}$ SW $\frac{1}{4}$ and SW $\frac{1}{4}$ SW $\frac{1}{4}$

/s/ Oscar L. Chapman
Secretary of the Interior

July 17, 1952

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

ORDER NO. 2665 (October 16, 1951), Amendment No. 2

Sept. 15, 1951

SUBJECT: Rights-of-Way for Highways in Alaska

1. Section 2 (a) (1) is amended by adding to the list of public highways designated as through roads, the Fairbanks-International Airport Road, the Anchorage-Fourth Avenue-Post Road, the Anchorage International Airport Road, the Copper River Highway, the Fairbanks-Nenana Highway, the Denali Highway, the Sterling Highway, the Kenai Spur from Mile 0 to Mile 14, the Palmer-Wasilla-Willow Road, and the Steese Highway from Mile 0 to Fox Junction; by re-designating the Anchorage-Lake Spenard Highway as the Anchorage-Spenard Highway, and by deleting the Fairbanks-College Highway.

2. Section 2(a) (2) is amended by deleting from the list of feeder roads the Sterling Highway, the University to Ester Road, the Kenai Junction to Kenai Road, the Palmer to Finger Lake to Wasilla Road, the Paxson to McKinley Park Road, and the Steese Highway, from Mile 0 to Fox Junction, and by adding the Kenai Spur from Mile 14 to Mile 31, the Nome-Kougarok Road, and the Nome-Teller Road.

/s/ Fred A. Seaton
Secretary of the Interior

Public Land Order No. 354

ALASKA

WITHDRAWING OF PUBLIC LANDS

Revoking Executive Order No. 2537 withdrawing public lands for use of the Navy Department as a distant control receiving station; revoking Public Land Order No. 154 and partially revoking Public Land Order No. 96 withdrawing public lands for the use of the War Department for military purposes; withdrawing public lands for the use of the Department of Agriculture for highway purposes.

By virtue of the authority invested in the President by section 1 of the act of June 4, 1897 33 Stat. 11, 37 (U.S.C., Title 16, sec. 473), and otherwise, and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

SECTION 1. Executive Order No. 2537 of February 21, 1917, Public Land Order No. 154 of July 29, 1943, and Public Land Order No. 154 of July 29, 1943, and Public Land Order No. 96 of March 16, 1943, so far as the last-named order affects any of the lands described in section 2 of this order, are hereby revoked.

SECTION 2. Subject to valid existing rights, the public lands within the following-described area are hereby withdrawn from all forms of appropriations under the public-land laws, including the mining and mineral-leasing laws, and reserved for the use of the Department of Agriculture highway purposes:

CORDOVA TO CORDOVA AIRFIELD

A strip of land 200 feet wide, 100 feet on each side of the center line of the former Copper River and Northwestern Railroad shown on maps designated "Directive Maps - December 15, 1943 - Office of the Chief Engineer, Cordova, Alaska" on file in the Bureau of Land Management, Washington, D.C., file No. 1505333, the terminal points being described as follows:

Beginning at a point on the south line of U. S. Survey No. 449, station 61+95, thence southeasterly and easterly as shown on said map to station 686 + 41.4 or Mile 13.

The withdrawal made by this order is subject to the Proclamation of July 23, 1907 (35 Stat. 2149), establishing the Chugach National Forest, as modified by the Proclamation of May 29, 1925 (44 Stat. 2577).

It is intended that the land outside of the Chugach National Forest shall be returned to the administration of the Department of the Interior when it is no longer needed for the purpose for which it is reserved.

/s/ Warner W. Gardner

Assistant Secretary of the Interior

December 19, 1946

COPPER RIVER AND NORTHWESTERN RAILWAY COMPANY hereby relinquishes to the United States any and all rights that may have been obtained in and to rights-of-way, terminal and station grounds, by reason of the approval by the Department of the Interior or the acceptance for filing by the General Land Office, of maps filed under the Act of May 14, 1898 (30 Stat. 400), for railroad purposes in Alaska, including the following:

1. Right-of-way; from Dock or station 11+83.8, on Orea Inlet, to Alaganik Slough station 868+35.7. Map approved October 29, 1907.
2. Right-of-way; amended location from station 868+35.7 = 1179+20.4 (Alaganik Slough), to station 2387+00, near upper crossing of Copper River or Child Glacier. Map approved April 30, 1914, Juneau 0283.
3. Right-of-way; amended location from station 2387+00 (Child Glacier), to station 3488+00 (Baird Glacier). Map approved February 21, 1914, Juneau 0447.
4. Right-of-way; amended location from station 3488+00 (Baird Glacier), to station 4076+15.3 (Tasuna River). Map approved February 21, 1914, Juneau 0477.
5. Right-of-way; amended location from station 4076+15.3 (Tasuna River), to station 4671+98.2 = 0+83.7, thence to station 530+61 (3½ miles north of Tiekol Creek). Map approved February 21, 1914, Juneau 01295.
6. Right-of-way; amended location from station 530+61 (north of Tiekol Creek), to station 1553+53.9 (Wood Canyon). Map approved February 21, 1914, Juneau 01354.
7. Right-of-way; amended location from station 1553+53.9 = 3685+18.7 (Wood Canyon), to station 3294+00 (Chitina). Map approved February 21, 1914, Juneau 01419.
8. Right-of-way; original definite location of Chitina River Branch line from station 3302+29 (at Chitina or mouth of Katsina River), to station 2131+00 (Divide between Kuchulana and Chokosana Rivers). Map approved February 21, 1914, Juneau 01360.

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9. Right-of-way; original definite location from station 2131+00, to station 1020+30 (Lakina River), Chitina branch line. Map approved February 21, 1914, Juneau 01361.

10. Right-of-way; original definite location from station 1020+30 (Lakina River), to station 493+33.3 (Swamp Creek). Map approved February 21, 1914, Juneau 01422.

11. Right-of-way; amended location from station 493+33.3 (Swamp Creek), to station 35+70 (Konnecott Glacier). Map approved March 21, 1914, Juneau 01420.

12. Right-of-way; loop line at or near Miles Glacier. Map approved March 21, 1914, Juneau 01491.

13. Right-of-way; loop line around Trout Lake (at Chitina). Map approved April 29, 1914, Juneau 01436.

14. Right-of-way; loop line at mouth of Tiekol River. Map approved April 29, 1914, Juneau 01492.

15. Right-of-way; tram line from Glacier Bay to Abercrombie Rapids. Permit approved March 17, 1908.

16. Station grounds; No. 1, Tracts A and B (on Odiak Bay). Map approved June 29, 1908.

17. Terminal grounds; No. 1, Tracts A and B (between Odiak Bay and Eyak Lake). Map approved June 29, 1908.

18. Station grounds; Mirror Slough. Map approved March 10, 1908.

19. Station grounds; Tracts A and B (near Strelna Creek), on Chitina branch line. Map approved April 29, 1914, Juneau 01535.

20. Station grounds; at junction of Copper River Railway and Copper River and Northwestern Railway, at Clear Creek. Map approved April 30, 1914; Juneau 0288.

21. Junction grounds; at junction of Copper River Railway and Copper River and Northwestern Railway, at Clear Creek. Map approved April 30, 1914, Juneau 0288

22. Station grounds; Tracts A and B, at Copper River crossing, near Miles Glacier. Map approved March 21, 1914, Juneau 0447.

23. Station grounds; Tracts A and B, (Sheridan). Map approved May 3, 1922, Juneau 04611.

- 27. Station grounds; Tracts A and B (Moose Lake). Map approved May 3, 1922, Juneau 04669.
- 28. Station grounds; Tracts A and B (Porphyry). Map approved May 3, 1922, Juneau 04670.
- 29. Station grounds; Tracts A and B (Bremner). Map approved May 3, 1922, Juneau 04671.
- 30. Station grounds; Tracts A and B (Cleave Creek). Map approved May 3, 1922, Juneau 04672.
- 31. Station grounds; Tracts A and B (unnamed, below Wood Canyon). Map approved May 3, 1922, Juneau 04673.
- 32. Station grounds; Tracts 1 and 2 (at Tiekel River). Map approved April 29, 1914, Juneau 01493.

The foregoing Relinquishment is made subject to:
 (a) any rights which the Town of Cordova may have acquired by virtue of any Act of Congress, and (b) the conveyances by Copper River and Northwestern Railway Company to the Town of Cordova, dated respectively December 5, 1938, and November 10, 1944, pursuant to the authority and provisions of the Act of Congress of May 25, 1920, Chapter 197, 41 Stat. 621. Copies of such conveyances are attached hereto and made a part hereof.

COPPER RIVER AND NORTHWESTERN RAILWAY COMPANY

By: E. T. Hayward
 President

Attest:

A. S. Cleary
 Secretary

Acknowledged before me this 29th day of March, 1945.

Ernest W. Schumann

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[PUBLIC LAW 176--77TH CONGRESS]

[CHAPTER 300--1ST SESSION]

[S. 1289]

AN ACT

Authorising the Copper River and Northwestern Railway Company to convey to the United States its railroad right-of-way and other railroad properties in Alaska, for use as a public highway, tramroad, or tramway, and for other purposes.

BE IT ENACTED BY THE SENATE AND HOUSE OF REPRESENTATIVES OF THE UNITED STATES OF AMERICA IN CONGRESS ASSEMBLED. That the Copper River and Northwestern Railway Company, or any of its successors in interest or assigns, is hereby authorized to give and convey to the United States of America (1) all or any portion of its railroad right-of-way acquired under grants made by Congress or otherwise, including station and terminal grounds and lands used as sites for railroad structures or purposes of any kind, and (2) equipment, including telephone and telegraph poles and lines, ties, rails, rolling stock, bridges, buildings, and other properties in Alaska used in connection with the construction, maintenance and operation of the railroad.

Sec. 2. The Secretary of the Interior is hereby authorized and empowered to accept, on behalf of the United States and without cost to the United States, gifts and conveyances of said properties to be used, operated, and maintained, as far as may be practicable or necessary, as a public highway, tramroad, or tramway under the provisions of the Act of June 30, 1932 (47 Stat. 446), notwithstanding anything within any Act to the contrary.

Sec. 3. The provisions of the Act of March 8, 1922 (42 Stat. 414) shall not affect the right-of-way, or any portion thereof, or any other lands or properties donated, granted, or conveyed to the United States pursuant to the authorization contained in this Act.

Approved, July 15, 1941.

(Emphasis added)



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TITLE VI--CIVIL RIGHTS ACT OF 1964
Form of Assurance to Accompany Application

"The applicant agrees that, if this application is granted, he will comply with all the provisions of Title VI of the Civil Rights Act of 1964, and all requirements of regulations of the Department of the Interior issued pursuant to that title (43 CFR 17), and that he will not engage in any of the discriminatory actions specifically prohibited by § 17.3 of the regulations issued to implement that title (43 CFR Part 17) for the duration of the grant, to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the program for which the applicant is applying for Federal financial assistance.

"The applicant agrees that he will not be permitted to transfer the property or his interest in the property unless and until the transferee makes a similar assurance in writing to the authorized officer of the Bureau of Land Management.

"The applicant further agrees that the United States shall at all times have the right to seek judicial enforcement of this assurance."

STATE ASSURANCE WITH REGARD TO THE CIVIL RIGHTS ACT OF 1964


AND THE DEPARTMENT OF INTERIOR REGULATIONS, 17 C.F.R.

The State of Alaska, acting through the Department of Highways, agrees that it will comply with all the provisions of Title VI of the Civil Rights Act of 1964, and all requirements of regulations of the Department of the Interior issued pursuant to that title (43 CFR 17), and that it will not engage in any of the discriminatory actions specifically prohibited by § 17.3 of the regulations issued to implement that title (43 CFR Part 17), to the end that no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under the program for which the Department of Highways is applying for Federal financial assistance.

The Department of Highways agrees that it will not be permitted to transfer the property or its interest in the property unless and until the transferee makes a similar assurance in writing to the authorized officer of the Bureau of Land Management.

The Department of Highways further agrees that the United States shall at all times have the right to seek judicial enforcement of this assurance.

Dated this 10 day of May, 1965



D. A. McKinnon, P. E.
Commissioner of Highways

Federal Register Data

Published: 8/16/49
No. : 157

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Page: 5048 & 5049

PLO No. 601
Date Signed: 8/10/49
Filed Date: 8/15/49

[Public Land Order 601]

ALASKA

RESERVING PUBLIC LANDS FOR HIGHWAY PURPOSES

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Executive Order No. 9143 of April 23, 1942, reserving public lands for the use of the Alaska Road Commission in connection with the construction, operation, and maintenance of the Palmer-Richardson Highway (now known as the Glenn Highway), is hereby revoked.

Public Land Order No. 386 of July 31, 1947, is hereby revoked so far as it relates to the withdrawal, for highway purposes, of the following-described lands:

(a) A strip of land 600 feet wide, 300 feet on each side of the center line of the Alaska Highway (formerly the Canadian Alaskan Military Highway) as constructed from the Alaska-Yukon Territory boundary to its junction with the Richardson Highway near Big Delta, Alaska.

(b) A strip of land 600 feet wide, 300 feet on each side of the center line of the Gulkana-Slana-Tok Road as constructed from Tok Junction at about Mile 1319 on the Alaska Highway to the junction with the Richardson Highway near Gulkana, Alaska.

Subject to valid existing rights and to existing surveys and withdrawals for other than highway purposes, the public lands in Alaska 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, in accordance with the following classifications, are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for highway purposes:

THROUGH ROADS

Alaska Highway, Richardson Highway, Glenn Highway, Haines Highway, Tok Cut-Off.

FEEDER ROADS

Stesse Highway, Elliott Highway, McKinley Park Road, Anchorage-Potter-Indian Road, Gerton Cut-Off, Tok Eagle Road, Ruby-Long-Poorman Road, Nome-Solomon Road, Kasil Lake-Homer Road, Fairbanks-College Road, Anchorage-Lake Spenard Road, Circle Hot Springs Road.

LOCAL ROADS

All roads not classified above as Through Roads or Feeder Roads, established or maintained under the jurisdiction of the Secretary of the Interior.

With respect to the lands released by the revocations made by this order and not rewithdrawn by it, this order shall become effective at 10:00 a. m. on the 35th day after the date hereof. At that time, such released lands, all of which are unsurveyed, shall, subject to valid existing rights, be opened to settlement under the homestead laws and the homestead act of May 26, 1934, 48 Stat. 809 (48 U. S. C. 461), only, and to that form of appropriation only by qualified veterans of World War II and other qualified persons entitled to preference under the act of September 27, 1944, 58 Stat. 747, as amended (43 U. S. C. 279-284). Commencing at 10:00 a. m. on the 126th day after the date of this order, any of such lands not settled upon by veterans shall become subject to settlement and other forms of appropriation by the public generally in accordance with the appropriate laws and regulations.

OSCAR L. CHAPMAN,

Under Secretary of the Interior.

AUGUST 10, 1949.

[F. R. Doc. 49-6642; Filed, Aug. 15, 1949;
8:46 a. m.]

ALASKA

NOTICE FOR FILING OBJECTIONS TO ORDER RESERVING PUBLIC LANDS FOR HIGHWAY PURPOSES¹

For a period of 60 days from the date of publication of the above entitled order, persons having cause to object to the terms thereof may present their objections to the Secretary of the Interior. Such objections should be in writing, should be addressed to the Secretary of the Interior, and should be filed in duplicate in the Department of the Interior, Washington 25, D. C. In case any objection is filed and the nature of the opposition is such as to warrant it, a public hearing will be held at a convenient time and place, which will be announced, where opponents to the order may state their views and where the proponents of the order can explain its purpose, intent, and extent. Should any objection be filed, whether or not a hearing is held, notice of the determination by the Secretary as to whether the order should be rescinded, modified or let stand will be given to all interested parties of record and the general public.

OSCAR L. CHAPMAN,

Under Secretary of the Interior.

AUGUST 10, 1949.

[F. R. Doc. 49-6641; Filed, Aug. 15, 1949;
8:46 a. m.]

Published 8/16/49
Vol. 14 No. 157
5069

MEADLEY



STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL BOX 2170 - JUNEAU

December 16, 1963

MEMORANDUM

TO: Bruce Campbell
Pre-Construction Engineer
Department of Highways

FROM: David B. Ruskin
Assistant Attorney General

RE: Outdoor Advertising, AS 19.25.080-130.

One type of encroachment was not discussed in my letter of December 13, 1963. Your attention is directed to AS 19.25.080-130. These statutes prohibit the unauthorized use of outdoor advertising. This act directs the Department of Highways to design and erect appropriate business identification signs along the highway right-of-way.

By this act the legislature has conferred a right on highway business owners. This matter should be taken up with the Bureau of Public Roads. If these signs are incompatible with Federal law, a statement to that effect should be obtained from the Bureau.

GEORGE N. HAYES
ATTORNEY GENERAL

By *D. David B. Ruskin*
David B. Ruskin
Assistant Attorney General

DBR/bt

Rec	A	Int.
1	A. BACA	
2	Asst.	
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RULES AND REGULATIONS

is amended by adding the following sections:

§ 212.1 Definitions.

For the purpose of this part the following terms, respectively, shall mean:

(a) Chief. The Chief, Forest Service, Department of Agriculture.

(b) Regional forester. A regional forester of the Forest Service.

(c) Forest development transportation plan. The plan for the system of access roads, trails, and airfields needed for the protection, administration, and utilization of the National Forests and other lands administered by the Forest Service, or the development and use of resources upon which communities within or adjacent to the National Forests are dependent.

(d) Forest development transportation facility. An access road, trail, or airfield wholly or partly within or adjacent to and serving a National Forest and other lands administered by the Forest Service which has been included in the forest development transportation plan.

(e) Forest development road and trail funds. Funds authorized or appropriated for the purpose of carrying out the provisions of section 205 of the Act of August 27, 1958 (72 Stat. 907), as amended; 23 U.S.C. 205.

(f) Road and trail 10 percent funds. Funds available from the permanent appropriation "Roads and Trails for States" under the Act of March 4, 1913 (37 Stat. 843), as amended; 16 U.S.C. 501.

(g) Federal airport funds. Discretionary funds available for airfields in National Forests under section 6(b) (3) of the Act of May 13, 1946 (60 Stat. 173), as amended; 49 U.S.C. 1105(b) (3).

(h) Construction. The supervising, inspecting, actual building, and all expense incidental to the construction or reconstruction of a forest development transportation facility, including locating, surveying, and mapping (including the establishment of temporary and permanent geodetic markers in accordance with the specifications of the Coast and Geodetic Survey in the Department of Commerce), costs of rights-of-way, and elimination of hazards.

(i) Maintenance. The upkeep of the entire forest development transportation facility including surface and shoulders, parking and side areas, structures, and such traffic-control devices as are necessary for its safe and efficient utilization.

(j) Preconstruction engineering. All work and expense of preparing for construction or reconstruction of a forest development transportation facility including (1) engineering and economic investigations, studies, and reports; (2) reconnaissance surveys; (3) preliminary surveys; (4) preliminary location surveys; (5) soils, foundations, and materials investigations, surveys, and tests; (6) preliminary and final designs; (7) preliminary and final plans, drawings, specifications, and estimates of quantities and cost; (8) final location surveys staked on the ground; and (9) rights-of-way surveys, plans, and descriptions.

(k) Construction engineering. All work and expense of setting out, controlling, inspecting, and measuring the construction or reconstruction of forest development transportation facility including (1) construction surveys to establish line and grade for the work to control the work, and to measure quantities; (2) redesigning, adjusting, and changing the plans, specifications, and materials to meet conditions; (3) inspecting, directing, and controlling operations for compliance with plans and specifications; (4) inspecting, testing, and accepting materials and equipment to be installed in the work; and (5) inspecting, measuring, and accepting completed work.

§ 212.2 Allocation.

Funds for forest development transportation facilities shall be allocated according to relative needs in the various National Forests and other lands administered by the Forest Service, taking into consideration the existing transportation facilities, value of timber or other resources served, relative fire danger, and comparative difficulties of construction.

§ 212.3 Forest development transportation plan.

A plan shall be made for each National Forest, experimental, and other areas under Forest Service administration. It shall be prepared, maintained, revised, and reported on in accordance with procedures prescribed by the Chief.

§ 212.7 Road system management.

(a) Traffic rules.—(1) General. Traffic on roads under the jurisdiction of the Forest Service other than "Special Service Roads" shall be subject to State traffic laws where applicable: Provided, That use of such roads shall be subject to rules prescribed by the Chief, notice of which has been given by publication in a newspaper having general circulation in the locality and posting at the entrances to the roads, covering uses of or operations on the road as to which the State laws and rules are not applicable or are not deemed adequate for the safety and protection of users of the roads and protection of the National Forests and other lands administered by the Forest Service.

(2) Special service roads. The Chief shall issue traffic rules governing the use of "Special Service Roads" or adopt in lieu thereof traffic rules promulgated for comparable roads of the State in which the road or segment of road is located: Provided, That where local traffic rules are adopted they shall be supplemented by him to the extent necessary to adequately govern special traffic uses and conditions, including but not limited to load weights and widths, size of vehicles, speed limits and provisions for the safety and protection of users of the roads and protection of the National Forests and other lands administered by the Forest Service. Notice of such rules shall be given in the manner prescribed in subparagraph (1) of this paragraph.

(b) Special service roads. The Chief may designate a forest development road or a segment thereof a "Special Service Road" and control or regulate the use of the road as necessary in the public interest and safety: Provided, That the road

Alaska Department of Highways: Enclosed for your information is a copy of the revised access regulations applicable to the National Forests. These regulations implement the Act of October 13, 1964 which authorized the Secretary of Agriculture to issue easements for rights-of-way. They do not affect the present appropriation and transfer procedure under the Federal Highway Act. See 212.10(d) (3).

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Right of Way Section

Title 36—PARKS, FORESTS, AND MEMORIALS

Chapter II—Forest Service, Department of Agriculture

PART 212—ADMINISTRATION OF THE FOREST DEVELOPMENT TRANSPORTATION SYSTEM

Miscellaneous Amendments

Sections 212.1, 212.2, 212.3, and §§ 212.7 through 212.11 are revoked and Part 212

is not a part of the highway system of a State, county, or other public road authority: *Provided further*, That the United States controls the right-of-way.

(c) *Cost recovery on special service roads.* Where the Chief determines that a share of the cost of acquisition, construction, reconstruction, improvement, or maintenance of a "Special Service Road," or a segment thereof, used or to be used for commercial hauling of non-Federal forest products and other non-Federal products, commodities and materials should be borne by the owners or haulers thereof and where such owners or haulers have not shared in the cost of acquisition, construction, reconstruction, or improvement and have not made contributions to pay their proportionate cost shares, the Chief may condition the permission to use the particular "Special Service Road" or segment thereof upon payment to the United States of the proportionate share of such cost and bearing proportionate maintenance as has been determined by him to be attributable to such owner's or hauler's use in accordance with § 212.11.

(d) *Maintenance and reconstruction by users of Forest Service roads.* The Chief may require but not in conflict with an existing permit, easement, contract, or other agreement, the user or users of a road under the control of the Forest Service, including purchasers of Government timber and other products, to maintain such roads in a satisfactory condition commensurate with the particular use requirements of each. Such maintenance to be borne by each user shall be proportionate to total use and no individual user shall be required to perform or bear the costs of maintenance other than that occasioned by its use. The Chief may also require such user or users of such a road to reconstruct the same when at the time the use is requested such reconstruction is determined to be necessary to accommodate such use. If such maintenance or reconstruction cannot be so provided or if the Chief determines that maintenance or reconstruction by a user would not be practical, then the Chief may require that sufficient funds be deposited by the user to provide his portion of such total maintenance or reconstruction. Deposits made to cover maintenance or reconstruction of roads shall be used for the purposes deposited: *Provided*, That deposits received for work on adjacent and overlapping areas may be combined when it is the most practicable and efficient manner of performing the work, and cost thereof may be determined by estimates: *Provided further*, That unexpended balances upon accomplishment of the purposes for which deposited shall be transferred to miscellaneous receipts or refunded.

(e) *Deposits for making delayed payments to cooperator.* Any fees or other collections received by the Chief under the terms of an agreement or other document providing for delayed payments to the Government's cooperator for use of a road shall be placed in a fund available for making such payments.

§ 212.8 Ingress and egress.

(a) *Policy in acquiring and granting access.* To assure effective protection, management, and utilization of lands administered by the Forest Service and intermingled and adjacent private and public lands, and for the use and development of the resources upon which communities within or adjacent to the National Forests are dependent, the Chief shall as promptly as is feasible obtain needed access thereto and shall grant appropriate access across National Forest and other lands and easements administered by the Forest Service to intermingled or adjacent landowners.

(b) *Actual settlers and other persons residing within the National Forests and other areas administered by the Forest Service.* Actual settlers and other persons residing within the National Forests and other areas administered by the Forest Service shall be permitted ingress and egress over the same and use of existing roads and trails in order to reach their homes and to utilize their property: *Provided*, Such ingress and egress or use shall conform to rules and regulations governing the protection and administration of the lands and the roads or trails to be used.

(c) *Others.* Entering upon the National Forests and other lands administered by the Forest Service and use of existing roads and trails shall be permitted for all proper and lawful purposes, subject to compliance with rules and regulations governing the lands and the roads or trails to be used.

§ 212.9 Access procurement by the United States.

(a) *Existing or proposed forest development roads which are or will be parts of a system of a State, county, or other local subdivision.* Forest development roads which are or will be parts of a road system of a State, county, or other local subdivision and are on rights-of-way held in the name of the State, county, or other local subdivision may be constructed, reconstructed, improved or maintained by the Forest Service when there is an appropriate agreement with the State, county, or other local subdivision under authority of 23 U.S.C. 205: *Provided*, Such construction, reconstruction, improvement, or maintenance is essential to provide safe and economical access to the National Forests and other lands administered by the Forest Service.

(b) *Acquisition of easements and rights of use.* Except as otherwise provided in the regulations of this part, easements for road and trail construction across non-Federal lands and easements or rights of use over non-Federal roads and trails will be acquired in the name of the United States of America and its assigns. The easements or rights of use may be acquired by purchase, condemnation, donation, or as a reciprocal for permits or easements for roads or trails to be constructed or for easements over or permits to use existing roads or trails.

(c) *Methods of compensation for easements and rights of use acquired by the United States.* Compensation in negotiated acquisitions may be: (1) By pay-

ment from appropriate funds; (2) pursuant to reservation in the grant of easement to the United States whereby the grantor reserves the right to require haulers of Federal timber or other Federal products over the road conveyed or thereafter constructed by the grantor to make payments to the grantor in accordance with the terms of the reservation; (3) by granting reciprocal rights; or (4) by a combination of these methods. Compensation will be limited to the fair market value of the easement or right of use.

(d) *Cooperative construction and use agreements.* Where areas, partly lands administered by the Forest Service and partly private or other ownership are undeveloped or inadequately developed by roads, the Chief will, to the extent feasible and advantageous to the United States, join in planning, constructing, reconstructing, improving, maintaining, and using an adequate road system on the basis of each party bearing the proportion of the cost attributable to the anticipated benefits as set forth in § 212.11.

(e) *Condemnation.* Where access across non-Federal land or over a non-Federal road or trail cannot be obtained through negotiations with reasonable promptness, condemnation will be undertaken.

(f) *Access over non-Federal land and use of non-Federal roads or trails on a temporary basis.* The Chief may negotiate a temporary agreement for access over non-Federal land and for use of an existing non-Federal road or trail where there is immediate need for temporary access for limited purposes that can be economically met by such procedure, or where the foreseeable need does not justify the expenditures necessary to provide a permanent road or trail.

(g) *Use and control of interests in roads, trails, and easements acquired by the United States.* Interests in roads, trails, and easements acquired by the United States shall be under the control of the United States, subject to approved reservations, limitations and other provisions set forth in the easement, permit, or other indenture. This control by the United States may include restricting or conditioning the use of the interest owned by the United States in the road, trail, or easement where necessary.

§ 212.10 Permission to cross lands and easements owned by the United States and administered by the Forest Service.

(a) *Permission to construct or use roads across lands and assignable easements owned by the United States and administered by the Forest Service.* If a reciprocal benefit is needed by the United States, permission to construct or use a road across lands and across assignable easements owned by the United States and administered by the Forest Service will be conditioned, except as provided in this section, for any applicant who seeks a permit to construct or use a road across the same, upon the grant to the United States of a reciprocal benefit. Such benefit shall bear: (1) A reasonable relation to the

*Correction to "appropriated" will be made in subsequent issues of Federal Register.

management of lands administered by the Forest Service; and (2) a value substantially similar to the value of the estate or interest in lands or easements applied for. In those instances where the value of the interests needed by the United States exceed those applied for by the applicant, the additional interests required by the United States will be acquired as provided in § 212.9 (b) and (c). Where values needed by the applicant exceed those needed by the United States, the difference in values will be determined under principles set forth below and in §§ 212.7(c) and 212.11. If a reciprocal benefit is not needed by the United States, or the applicant shows good cause why the reciprocal benefit needed by the United States cannot or should not be granted by him, or the applicant declines to grant the reciprocal benefit requested by the United States or if a bona fide emergency exists, permission to construct or use a road across lands owned by the United States may be conditioned for any applicant upon reasonable charges and all other terms and conditions required by the Chief to protect the interests of the United States. Permits for such road construction or use will be non-exclusive and will be conditioned upon compliance with their terms and conditions and with the rules and regulations governing the protection and administration of the lands and those applicable to such roads.

(b) *Permits for commercial hauling on special service roads.* Except for minor or occasional use, permits will be required for commercial hauling on "Special Service Roads" of non-Federal forest products, and other non-Federal products, commodities, and materials when the Chief determines that such owners or haulers should provide: (1) Proportionate maintenance; (2) an equitable and reasonable needed reciprocal benefit to the United States; (3) a share of the cost of construction, reconstruction, or improvement of such road or segment thereof; or (4) any combination of these. When such owners or haulers have not provided to the United States the needed reciprocal benefit, or borne their share of the cost, permission to use a road will be conditioned for any applicant upon the terms and requirements and subject to the like conditions and charges as prescribed in § 212.7 (c) and (d), paragraph (a) of this section, and § 212.11(d) for permission to construct or use such roads.

(c) *Replacement of prior grants.* (1) Upon application to the Chief, an easement under the Act of March 3, 1889 (30 Stat. 1233, 16 U.S.C. 525), shall be replaced by an easement under paragraph (d) of this section.

(2) Upon application to the Chief, an easement shall be granted under paragraph (d) of this section as a replacement for any stipulations for ingress and egress issued under the Act of June 4, 1877 or permit or other document evidencing the applicant's right to use a road: *Provided*, The applicant has met the requirements for obtaining such easement as set forth in paragraph (d) of this section.

(d) *Easements for roads crossing lands or easements administered by the*

Forest Service. (1) Applications for permanent or temporary easements for specified periods or otherwise to be granted under the Act of October 13, 1964 (78 Stat. 1089, 16 U.S.C. 533), over lands or easements administered by the Forest Service, or over roads thereon will be approved by the Chief for those applicants who have conveyed or provided appropriate easements over roads, assignable easements and lands owned or controlled by them to the United States of America and its assigns and who have already constructed, or will, as scheduled by agreement, construct their proportionate share of the road or road system of which the segments described in the application are parts. The Chief, after approval of the application and the grant of the easement, will cause the same to be entered in the records of the Forest Service, and delivered to the applicant.

(2) Notwithstanding subparagraph (1) of this paragraph, the Chief may grant to the applicant a permanent or temporary easement for specified periods or otherwise upon such exchange of easements or share-cost arrangement or other reasonable consideration as he may deem appropriate.

(3) The Chief may grant to a State or local subdivision thereof, easements for roads over lands or easements administered by the Forest Service and over roads thereon, when the roads thereon or roads to be constructed thereon will serve said lands and are, or will become a part of the road system maintained by such State or local subdivision for general public use: *Provided*, That easements shall not be granted under authority of this act. (78 Stat. 1089), 16 U.S.C. 533 which may be granted under the Highway Act (72 Stat. 916, 23 U.S.C. 317), as amended. The easements shall contain such provisions, terms, and conditions as the Chief may determine are necessary to retain and protect the interests needed by the United States.

(4) All instruments affecting permanent interests in land executed pursuant to this paragraph (d) shall be recorded in each county where the lands are located. Copies of all instruments affecting interests in lands reserved from public domain shall be furnished by the Chief to the Secretary of the Interior.

(5) The Chief may terminate any easement granted under the provisions of the Act of October 13, 1964 (78 Stat. 1089, 16 U.S.C. 534). (i) by consent of the owner of the easement, (ii) by condemnation, or (iii) upon abandonment after nonuse by the owner of the easement for a period of 5 years. Before any easement is terminated for nonuse or abandonment, the owner of the easement must be given notice and, upon his request made within 60 days after receipt of the notice, a hearing in accordance with the provisions of 36 CFR 211.2.

§ 212.11 Principles for sharing use of roads.

The use of roads under arrangements for sharing costs or performance shall be in accordance with the following:

(a) *Road improvement.* Use of a road for commercial hauling, except occasional or minor amounts, will be condi-

tioned upon improvement or supplemental construction of the road to safely and economically serve the contemplated use, unless the Chief determines that the safety and economy of the established and foreseeable use by the United States, its users and cooperators will not be impaired by the use for which application is being made. With the consent of the Chief the applicant may deposit funds in the estimated amount required for the improvements or supplemental construction in lieu of performance. Such funds will be used by the Forest Service to do the planned work. The cost of the improvements or supplemental construction will be taken into account in determining any otherwise required contribution to cover the proportionate share of the cost of road acquisition, construction, reconstruction, or improvement attributable to the use.

(b) *Corresponding benefits.* Corresponding benefits which may be accepted by the Chief for sharing road use will be those which bear a reasonable relation to the management of lands administered by the Forest Service. They may be in the form of: (1) Deposit of funds with the Forest Service for use in paying the cost of road construction, reconstruction, or improvement to be borne by the user; (2) the grant of a reciprocal right of substantially similar value to the road use sought; (3) construction, reconstruction, or improvement by applicant of a road needed for access to and use of lands administered by the Forest Service; or (4) any combination of these.

(c) *Cost determinations for roads cooperatively constructed under agreements.* When roads are constructed under cooperative agreements to meet mutual needs of the United States and others for access, determinations of the shares of costs to be borne by the United States and the cooperating parties will include consideration of: (1) The standard of road required for the planned hauling; (2) the share of planned use; (3) the location and volume of tributary timber owned by each party and expected to be hauled over the road or roads; (4) the tributary areas owned or controlled by each party; (5) expected use by the public; and (6) other appropriate considerations.

(d) *Cost recovery by the United States from others on special service roads.* When roads designated as "Special Service Roads" are used under permit for commercial hauling instead of under cooperative agreement any cost to be recovered by the United States will be calculated in proportion to the planned use of the road. The road cost used in such calculation will be the amount or estimated amount expended in the acquisition, construction, reconstruction, and improvement of that capacity of the road required to serve the use needs of all parties that are or reasonably can be expected to use the road. Such road share-cost payments will be through deposits in advance of use unless the user provides a payment bond satisfactory to the Chief guaranteeing that payments will be made promptly upon billing by the Forest Service.

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(e) *Cost sharing with a cooperator.* The costs to achieve the agreed upon road or road system may be met by: (1) Use of appropriated funds; (2) construction, reconstruction, or improvement of roads or segments of roads by purchasers of products from lands administered by the Forest Service or other users; (3) use of deposits made by cooperator with the Forest Service to cover cooperator's agreed share; (4) agreement with cooperator pursuant to which cooperator does more than his agreed share of constructing, reconstructing, or improving a road and recovers costs incurred in excess of his agreed share by charging purchasers of products from lands administered by the Forest Service an equitable amount within the limits and to the total amount specified in the agreement; or (5) a combination of the aforementioned methods.

(f) *Road maintenance and resurfacing.* Cooperators using "Special Service Roads" will share the road maintenance and resurfacing costs under suitable agreements to perform, arrange for performance by others, or by making deposits with the Forest Service which will be used to pay the cost of work necessary to keep such roads in satisfactory condition commensurate with use requirements of each cooperator. No cooperator shall be required to perform or bear such costs other than those occasioned by its individual use. Other users will bear costs in accordance with § 212.7(d).

(g) *Interests to be acquired by the United States in roads or easements therefor.* Where the United States is to bear or share the cost of constructing, or improving, or acquiring a road system, a road, or a segment thereof, or acquires an easement therefor, the interest acquired will: (1) Be for perpetual use unless the road use falls within the limited classes where temporary roads or roads for limited periods are acceptable; (2) provide adequately for foreseeable management, protection, and utilization needs of lands administered by the Forest Service and intermingled and adjacent private and public lands and for the use and development of the resources upon which communities within or adjacent to the National Forests are dependent; and (3) not be subject to conditions, reservations, or covenants unrelated to the road use, or which seek or might tend to direct or limit policies and procedures for management of lands administered by the Forest Service.

§ 212.12 Maximum economy forest development roads.

The Chief may acquire, construct, reconstruct, improve, and maintain forest development roads within and near the National Forests and other lands administered by the Forest Service in locations and according to specifications which will permit maximum economy in harvesting timber from such lands tributary to such roads and at the same time meet the requirements for protection, development, and management thereof, and for utilization of the other resources thereof. Financing of such roads may be accomplished (1) by the Chief utilizing appropriated funds, (2) by requirements on purchasers of National Forest

timber and other products, including provisions for amortization of road costs in contracts, (3) by cooperative financing with other public agencies and with private agencies or persons, or (4) by a combination of these methods: *Provided,* That where roads of a higher standard than that needed in the harvesting and removal of the timber and other products covered by the particular sale are to be constructed, the purchaser of the National Forest timber and other products shall not be required to bear that part of the costs necessary to meet such higher standard, and the Chief may make such arrangements to this end as may be appropriate, including arrangements for performance of purchaser's road development work under the Act of March 3, 1925, as amended by section 5 of the Act of April 24, 1950 (16 U.S.C. 572).

Regulation U-14 (36 CFR 251.5) is superseded insofar as it conflicts with the above.

(26 Stat. 1103, 16 U.S.C. 471; 30 Stat. 35-36, 16 U.S.C. 478, 551; 30 Stat. 1233, 16 U.S.C. 525; 72 Stat. 885, as amended, 23 U.S.C. 101, 205; 78 Stat. 1089, 16 U.S.C. 532-536; 38 Stat. 430, 16 U.S.C. 496; 25 Stat. 357, 40 U.S.C. 267; 46 Stat. 1421, 40 U.S.C. 258a et seq.; 64 Stat. 82, 16 U.S.C. 572; 74 Stat. 215, 16 U.S.C. 528-531; 42 Atty. Gen. Op. No. 7; Comp. Gen. B-65972, May 19, 1947; 40 Comp. Gen. 372; 41 Comp. Gen. 1; 41 Comp. Gen. 576, and 42 Comp. Gen. 590)

Done at Washington, D.C., this 12th day of April 1965.

ORVILLE L. FREEMAN,
Secretary of Agriculture.

[P.R. Doc. 65-3960; Filed, Apr. 15, 1965; 8:47 a.m.]



**UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT
Fairbanks District and Land Office
P. O. Box 1150
Fairbanks, Alaska 99701**

IN REPLY REFER
Right-of-way 2234
S/N F033406
S/N F033516
S/N F033527
S/N F033545

APR 21 1965

Mr. D. A. McKinnon, P.E., Commissioner
Department of Highways
Box 1841
Juneau, Alaska 99801

Dear Mr. McKinnon:

The Fairbanks District and Land Office has inventoried and conducted an informal market study for timber located on the above referenced rights-of-way. Although there is commercial size timber on many of the rights-of-way there is at present a lack of interested purchasers. Therefore, due to the inactive timber market at this time condition number four concerning timber is deleted from the specific rights-of-way listed above that previously had been granted to the Alaska Department of Highways. However, the Bureau of Land Management retains the right to insert condition number four when it is deemed necessary in the future.

Closer cooperation between the Alaska Department of Highways and the Bureau of Land Management as specified in 43 CFR 2234.2-4 B 1(b) would allow the Bureau of Land Management an opportunity to conduct timber sales on rights-of-way and material sites before construction or clearing of materials is initiated.

Sincerely yours,

Donald Harding
Acting Manager
District and Land Office

COPY	DEPT. OF HIGHWAYS	RTG.	INT.
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	Asst. for Oper.		
	Admin. Director		
	Const. Engr.		
	Pre-Const. Engr.	3	<i>MD</i>
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Right of Way Section

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Keep files in your files.

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TITLE 43 PUBLIC LANDS: INTERIOR

CHAPTER I - Bureau of Land Management, Department of the Interior

Appendix - - Public Land Orders

PUBLIC LAND ORDER 757

ALASKA

AMENDMENT OF PUBLIC LAND ORDER No. 601 OF AUGUST 10, 1949, RESERVING PUBLIC LANDS FOR HIGHWAY PURPOSES.

By virtue of the authority vested in the President and pursuant to Executive Order 9337 of April 24, 1943, it is ordered as follows:

The sixth paragraph of Public Land Order No. 601 of August 10, 1949 reserving public lands for highway purposes, commencing with the words "Subject to valid existing rights" is hereby amended to read as follows:

Subject to valid existing rights and to existing surveys and withdrawals for other than highway purposes, the public lands in Alaska lying within 300 feet on each side of the center line of the Alaska Highway and within 150 feet on each side of the center line of the Richardson Highway, Glenn Highway, Haines Highway, the Seward-Anchorage Highway (exclusive of that part thereof within the boundaries of the Chugach National Forest) The Anchorage-Lake Spenard Highway and the Fairbanks College Highway are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral-leasing laws, and reserved for highway purposes.

Easements having been established on the lands released by this order such lands are not open to appropriation under the public-land laws except as a part of a legal subdivision, if surveyed, or an adjacent area, if unsurveyed and subject to the pertinent easement.

Oscar L. Chapman
Secretary of the Interior

October 16, 1951

(F.R. Doc. 51-12674: Filed Oct. 10, 1951, 9:02 a.m.)

TITLE 43 - PUBLIC LANDS
INTERIOR

Chapter 1 - Bureau of Land Management, Department of the Interior

Appendix - Public Land Orders
(Public Land Order (1613)
(22506)

ALASKA

REVOKING PUBLIC LAND ORDER NO. 601 ON AUGUST 10, 1949, WHICH
RESERVED PUBLIC LANDS FOR HIGHWAY PURPOSES, AND PARTIALLY
REVOKING PUBLIC LAND ORDER NO. 386 OF JULY 31, 1947.

By virtue of the authority vested in the President and pursuant to Executive Order No. 10335 of May 26, 1958, and the act of August 1, 1956 (70 Stat. 898) it is ordered as follows:

1. Public Land Order No. 601 of August 10, 1949, as modified by Public Land Order No. 757 of October 16, 1951, reserving for highway purposes the public lands in Alaska lying within 300 feet on each side of the center line of the Alaska Highway and within 150 feet on each side of the center line of the Richardson Highway, Glenn Highway, Haines Highway, the Seward-Anchorage Highway (exclusive of that part thereof, within the boundaries of the Chugach National Forest), the Anchorage-Lake Spenard Highway, and the Fairbanks-College Highway, is hereby revoked.

2. Public Land Order No. 386 of July 31, 1947, so far as it withdrew the following-described lands, identified as items (a) and (b) in said order, under the jurisdiction of the Secretary of War for right-of-way purposes for a telephone line and an oil pipeline with appurtenances, is hereby revoked:

(a) A strip of land 50 feet wide, 25 feet on each side of a telephone line as located and constructed generally parallel to the Alaska Highway from the Alaska-Yukon Territory boundary to the Junction of the Alaska Highway with the Richardson Highway near Big Delta, Alaska.

(b) A strip of land 20 feet wide, 10 feet on each side of a pipeline as located and constructed generally parallel to the Alaska Highway from the Alaska-Yukon Territory boundary to the junction of the Alaska Highway with the Richardson Highway near Big Delta, Alaska.

3. An easement for highway purposes, including appurtenant protective, scenic, and service areas, over and across the lands described in paragraph 1 of this order, extending 150 feet on each side of the center line of the highways therein, is hereby established.

4. An easement for telephone line purposes in, over, and across the lands described in paragraph 2 (a) of this order, extending 25 feet on each side of the telephone line referred to in that paragraph,

and an easement for pipeline purposes, in, under, over, and across the lands described in paragraph 2 (b) of this order, extending 10 feet on each side of the pipeline referred to in that paragraph, are hereby established, together with the right of ingress and egress to all sections of the above easements on and across the lands hereby released from withdrawal.

5. The easements established under paragraphs 3 and 4 of this order shall extend across both surveyed and unsurveyed public lands described in paragraphs 1 and 2 of this order for the specified distance on each side of the center line of the highways, telephone line and pipeline, as these center lines are definitely located as of the date of this order.

6. The lands within the easements established by paragraphs 3 and 4 of this order shall not be occupied or used for other than the highways, telegraph line and pipeline referred to in paragraphs 1 and 2 of this order except with the permission of the Secretary of the Interior or his delegate as provided by section 3 of the act of August 1, 1956 (70 Stat. 898), provided: that if the lands crossed by such easements are under the jurisdiction of a Federal department or agency, other than the Department of the Interior, or of a Territory, State, or other Government subdivision or agency, such permission may be granted only with the consent of such department, agency, or other governmental unit.

7. The lands released from withdrawal by paragraphs 1 and 2 of this order, which, at the date of this order, adjoin lands in private ownership, shall be offered for sale at not less than their appraised value, as determined by the authorized officer of the Bureau of Land Management, and pursuant to Section 2 of the act of August 1, 1956, supra. Owners of such private lands shall have a preference right to purchase at the appraised value so much of released lands adjoining their private property as the authorized officer of the Bureau of Land Management deems equitable, provided, that ordinarily, owners of private lands adjoining the lands described in paragraph 1 of this order will have a preference right to purchase released lands adjoining their property, only up to the center line of the highways located therein. Preference right claimants may make application for purchase of released lands at any time after the date of this order by giving notice to the appropriate land office of the Bureau of Land Management. Lands described in this paragraph not claimed by and sold to preference claimants may be sold at public auction at not less than their appraised value by an authorized officer of the Bureau of Land Management, provided that preference claimants are first given notice of their privilege to exercise their preference rights by a notice addressed to their last address of record in the office in the Territory in which their title to their private lands is recorded. Such notice shall give the preference claimant at least 60 days in which to make application to exercise his preference right; and if the application is not filed within the time specified the preference right will be lost. Preference right claimants will also lose their preference rights if they fail to pay for the lands within the time period specified by the authorized officer of the Bureau of Land Management, which time period shall not be less than 60 days.

8. The lands released from withdrawal by paragraphs 1 and 2 of this order, which at the date of this order, adjoin lands in valid unperfected entries, locations, or settlement claims, shall be subject to inclusion in such entries, locations and claims, notwithstanding any statutory limitations upon the area which may be included therein. For the purposes of this paragraph entries, locations, and claims include, but are not limited to, certificates of purchase under the Alaska Public Sale Act (63 Stat. 679; 48 U.S.C. 364a-e) and leases with option to purchase under the Small Tract Act (52 Stat. 609; 43 U.S.C. 682a) as amended. Holders of such entries, locations, and claims to the lands, if they have not gone to patent, shall have a preference right to amend them to include so much of the released lands adjoining their property as the authorized officer deems equitable, provided, that ordinarily such holders of property adjoining the lands described in paragraph 1 of this order will have the right to include released lands adjoining such property only up to the centerline of the highways located therein. Allowances of such amendments will be conditional upon the payment of such fees and commissions as may be provided for in the regulations governing such entries, locations, and claims together with the payment of any purchase price and cost of survey of the land which may be established by the law or regulations governing such entries, locations and claims, or which may be consistent with the terms of the sale under which the adjoining land is held. Preference right claimants may make application to amend their entries, locations, and claims at any time after the date of this order by giving notice to the appropriate land office of the Bureau of Land Management. Lands described in this paragraph, not claimed by and awarded to preference claimants, may be sold at public auction at not less than their appraised value, by the authorized officer of the Bureau of Land Management, provided that preference claimants are first given notice of their privilege to exercise their preference rights by a notice addressed to their last address of record in the appropriate land office, or if the land is patented, in the Territory in which title to their private land is recorded. Such notice shall give the claimant at least 60 days in which to make application to exercise his preference right, and if the application is not filed within the time specified the preference rights will be lost. Preference right claimants will also lose their preference rights if they fail to make any required payments within the time period specified by the authorized officer of the Bureau of Land Management, which time period shall not be less than 60 days.

9. (a) Any tract released by Paragraph 1 or 2 of this order from the withdrawals made by Public Land Orders Nos. 601, as modified, and 386, which remains unsold after being offered for sale under Paragraph 7 or 8 of this order, shall remain open to offers to purchase under Section 2 of the act of August 1, 1956, supra, at the appraised value, but it shall be within the discretion of the Secretary of the Interior or his delegate as to whether such an offer shall be accepted.

(b) Any tract released by Paragraph 1 or 2 of this order from the withdrawals made by Public Land Orders Nos. 601, as modified, and 386 which on the date hereof does not adjoin privately-owned land or land covered by an unpatented claim or entry, is hereby opened, subject to the provisions of Paragraph 6 hereof, if the tract is not otherwise withdrawn, to settlement claim, application, selection or location under any applicable public land law. Such a tract shall not be disposed of as a tract or unit separate and distinct from adjoining public lands outside of the area released by this order,

but for disposal purposes, and without losing its identity, if it is already surveyed, it shall be treated as having merged into the mass of adjoining public lands, subject, however, to the easement so far as it applies to such lands.

(c) Because the act of August 1, 1956 (70 Stat. 896; 48 U.S.C. 420-420c) is an act of special application, which authorizes the Secretary of the Interior to make disposals of lands included in revocations such as made by this order, under such laws as may be specified by him, the preference-right provisions of the Veterans Preference Act of 1944 (58 Stat. 747; 43 U.S.C. 279-284) as amended, and of the Alaska Mental Health Enabling Act of July 28, 1956 (70 Stat. 709; U.S.C. 46-35) will not apply to this order.

10. All disposals of lands included in the revocation made by this order which are under the jurisdiction of a Federal department or agency other than the Department of the Interior may be made only with the consent of such department or agency. All lands disposed of under the provisions of this order shall be subject to the easements established by this order.

11. The boundaries of all withdrawals and restorations which on the date of this order adjoin the highway easements created by this order are hereby extended to the center line of the highway easements which they adjoin. The withdrawal made by this paragraph shall include, but not be limited to the withdrawals made for Air Navigation Site No. 7 of July 13, 1954, and by Public Land Orders No. 386 of July 31, 1947, No. 622 of December 15, 1949, No. 808 of February 27, 1952, No. 975 of June 18, 1954, No. 1037 of December 16, 1954, No. 1059 of January 21, 1955, No. 1129 of April 25, 1955, No. 1179 of June 29, 1955, and No. 1181 of June 29, 1955.

Roger Ernst

Assistant Secy. of the Interior

April 7, 1958

(F.R. Doc. 58-2659: Filed April 10, 1958: 8:45 a.m.)

STATE OF ALASKA
DEPARTMENT OF HIGHWAYS
P. O. Box 1841
Juneau, Alaska

PRE-CONSTRUCTION MEMO NO. 62-11

SUBJECT: Right of Way by Determination

TO: Commissioner
Deputy Commissioner
Division Heads
District Highway Engineers
Section Heads, Pre-Construction Division

FROM: B. A. Campbell
Pre-Construction Engineer 

In a recent State Superior Court decision (State v. Stroecker) Fairbanks Judge Rabinowitz held that the State of Alaska is not entitled to a 66 foot right of way solely by the fact that a highway was established over the public domain; in such a case the State is only entitled to claim the amount of land actually used for highway purposes.

The following policy is adopted by the Department of Highways for guidance on all future projects where determination of existing right of way by usage is necessary. The Right of Way Section in each district will determine when right by usage applies. The Design Section in each district shall then, by the aid of cross-sections and field inspection, determine a reasonable line denoting the limit of usage across the front of each property involved. On small property frontages it will usually be sufficient to have one course denoting this limit. On larger property frontages it may be necessary to have two or three courses or perhaps even more to denote the approximate limit. This limit will generally be the limit of grading and/or channel control or other drainage control adjacent to the highway. It will not necessarily be the limit of clearing. After this determination has been made by the Design Section, the alignment map shall be corrected showing this limit. These maps shall then be transmitted to the Right of Way Section in the district and will become the basis for writing descriptions and computations of the areas of takes and remainders.



LAWS OF ALASKA

1966

Source:

HB 415 am

Chapter No.:

92

AN ACT

Relating to the disposition of certain legal interests in land by the State of Alaska; and providing for an effective date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

* Section 1. PURPOSE. This Act is intended to alleviate the economic hardship and physical and mental distress occasioned by the taking of land, by the State of Alaska, for which no compensation is paid to the persons holding title to the land. This practice has resulted in financial difficulties and the deprivation of peace of mind regarding the security of one's possessions to many citizens of the State of Alaska, and which, if not curtailed by law, will continue to adversely affect citizens of this state. Those persons who hold title to land under a deed or patent which contains a reservation to the state by virtue of the Act of June 30, 1932, ch. 320, sec. 5, as added July 24, 1947, ch. 313, 61 Stat. 418, are subject to the hazard of having the State of Alaska take their property without compensation because all patents or deeds containing the reservation required by that federal Act reserve to the United States, or the state created out of the Territory of Alaska, a right-of-way for

roads, roadways, tramways, trails, bridges, and appurtenant structures either constructed or to be constructed. Except for this reservation the State of Alaska, under the Alaska constitution and the constitution of the United States, would be required to pay just compensation for any land taken for a right-of-way. It is declared to be the purpose of this Act to place persons with land so encumbered on a basis of equality with all other property holders in the State of Alaska, thereby preventing the taking of property without payment of just compensation as provided by law, and in the manner provided by law.

* Sec. 2. TAKING OF PROPERTY UNDER RESERVATION VOID. After the effective date of this Act, no agency of the state may take privately-owned property by the election or exercise of a reservation to the state acquired under the Act of June 30, 1932, ch. 320, sec. 5, as added July 24, 1947, ch. 313, 61 Stat. 418, and taking of property after the effective date of this Act by the election or exercise of a reservation to the state under that Federal Act is void.

* Sec. 3. PROSPECTIVE APPLICATION. This Act shall not be construed to divest the state of, or to require compensation by the state for, any right-of-way or other interest in real property which was taken by the state, before the effective date of this Act, by the election or exercise of its right to take property through a reservation acquired under the Act of June 30, 1932, ch. 320, sec. 5, as added July 24, 1947, ch. 313, 61 Stat. 418.

* Sec. 4. SHORT TITLE. This Act may be cited as the Right-of-Way Act of 1966.

* **Sec. 5. EFFECTIVE DATE.** This Act takes effect on the day after its passage and approval or on the day it becomes law without such approval.

-3-

Approved by Governor April 13, 1966
Actual effective date: April 14, 1966

Act of 1947

In all patents for lands hereafter taken up, entered, or located in the Territory of Alaska, and in all deeds by the United States hereafter conveying any lands to which it may have reacquired title in said Territory not included within the limits of any organized municipality, there shall be expressed that there is reserved, from the lands described in said patent or deed, a right-of-way thereon 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 under its authority, the head of the agency in charge of such utilization is authorized to determine and make payment for the value of the crops thereon if not harvested by the owner, and for the value of any improvements, or for the cost of removing them to another site, if less than their value.

June 30, 1932, c. 320, Section 5, as added July 24, 1947, c. 313, 61 Stat. 418.

STATE OF ALASKA
DEPARTMENT OF PUBLIC WORKS

INTRA-DEPARTMENTAL CORRESPONDENCE

SUBJECT: ACT OF 1947 – PROJECT NO. F-042-1(6)
From FAS 546 to just past FAS 555 (5th Ave. Ext)

DATE: May 23, 1962

TO: Walter O. Ingram, R/W Admin. Asst., Juneau
Frank E. Buske, District R/W Supervisor, Anchorage
V. H. Cothem, District R/W Supervisor, Fairbanks

FROM: Thomas E. Fenton, Right of Way Agent I
Juneau

This will supplement my telephone conversation with and TWX to Frank Buske of last week.

The facts are as follows:

1. "A" both entered the land and received patent between 1947 and 1959.
2. The land is subject to the Act of 1947.
3. "A" conveyed a part to "B" and a part to "C".
4. The State made a take on "B's" part in 1959.
5. The State now needs additional land from "B" and also needs some from "C".
6. "B" must be compensated in No. 5 because clearly there is a second take.

Query: Must we now compensate "C"? Is the take against "B" in 1959 to be regarded as a take against "C" also?

Answer: We must compensate "C". The take against "B" and "C" in 1962 is regarded as a second take even though the take in 1959 was only against "B" and even though the parts owned by "B" and "C" are two entirely different parts.

Reason: "A's" original patent contained the Act of 1947 reservation. The State is limited to one take against the entire land patented. When we utilized "B's" land, we precluded ourselves from using the reservation against any other part of the land originally patented. We are entitled to one take, and one take only, against a tract subject to the Act of 1947.

In view of the above, our title problems are made more difficult. When title is searched the title examiner must not only determine if the original tract was subject to the Act of 1947, but he must also determine whether the State had utilized, under the act, the original tract or any subdivided part thereof.

STATE OF ALASKA
DEPARTMENT OF PUBLIC WORKS

INTRA-DEPARTMENTAL CORRESPONDENCE

DATE: Ma. 21, 1962

ACT OF 1947

FILE REFERENCE: 2-23-00
D-Legal & Legislative

ATTENTION OF:

Walter O. Ingram, R/W Admin. Asst., Juneau
Van H. Cothorn, District R/W Supervisor, Fairbanks
Frank E. Buske, District R/W Supervisor, Anchorage

Thomas E. Fenton, Right of Way Agent
Juneau

We have just received a letter from the Department of Law concerning the Act of 1947.

Henceforth, in order for the State to utilize the reservation in the above act, both entry and patent must occur in the period of July 24, 1947 - July 1, 1959. In other words, we must compensate the property owner if his patent is issued July 1, 1959 or thereafter.

At your convenience, please prepare a list showing parcel and projects wherein the patent was issued July 1, 1959 or thereafter, and we had filed a Notice of Utilization.

TEF:cbb

INTRA-DEPARTMENTAL CORRESPONDENCE

SUBJECT: ACT OF 1947

DATE: May 29, 1962

FILE REFERENCE: 2-23-00
D-R/W GeneralTO: Walter O. Ingram, R/W Admin. Asst., Juneau
Frank E. Buske, District R/W Supervisor, Anchorage
Van H. Cochern, District R/W Supervisor, Fairbanks

ATTENTION OF:

FROM: Thomas E. Fenton, Right of way agent I-
Juneau

By this date you are all aware of the fact that the Attorney General has declared that we are unable to utilize the reservation in the Act of 1947 if patent was not issued prior to July 1, 1959.

Please submit revised appraisals on all parcels on current projects affected by this decision. By "current projects", I mean those projects or parts of projects which are still being negotiated, or which have not yet been authorized to be negotiated.

TEF:cbo

EO 9145

EXECUTIVE ORDER 9145

RESERVING PUBLIC LANDS FOR THE USE OF THE ALASKA ROAD COMMISSION IN CONNECTION WITH THE CONSTRUCTION, OPERATION AND MAINTENANCE OF THE PALMER-RICHARDSON HIGHWAY

ALASKA

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

SECTION 1. Executive Orders No. 2310²²⁷ of February 16, 1910, No. 5582 of March 18, 1931, No. 9035 of January 21, 1942,²⁰⁷ No. 9085 of March 4, 1942,⁴¹⁷ withdrawing certain lands for townsite purpose, examination and classification, supply base and repair shop site, administrative and fire patrol station site, and other purposes, are hereby modified to the extent necessary to permit the reservation described in Section 2 of this order.

SECTION 2. Subject to all valid existing rights, there is hereby reserved for the use of the Alaska Road Commission, in connection with the construction, operation and maintenance of the Palmer-Richardson Highway, a right-of-way 200 feet wide, 100 feet on each side of the center line, beginning from terminal point Station 1369-42.8, in the NE $\frac{1}{4}$ Section 36, T. 20 N., R. 5 E., Seward Meridian, and extending easterly and north-easterly over surveyed and unsurveyed lands to its point of connection with the Richardson Highway in the SE $\frac{1}{4}$ Section 19, T. 4 N., R. 1 W., Copper River Meridian, Alaska, a distance of approximately 145 miles, as shown on the map, dated March 14, 1942, No. 1877260, on file in the General Land Office.

FRANKLIN D ROOSEVELT

**THE WHITE HOUSE,
April 23, 1942.**

[F. R. Doc. 42-3687; Filed April 24, 1942;
2:59 p. m.]

1942 FA. p. 3067

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← CHICKALOON

STATE OF ALASKA
DEPARTMENT OF PUBLIC WORKS

P. O. BOX 1361

JUNEAU, ALASKA

MINERAL & LANDS COMMISSIONER

- ALASKA AIRWAYS
- DIVISION OF HIGHWAYS
- DIVISION OF BUILDINGS
- DIVISION OF COMMUNICATIONS
- DIVISION OF WATER & MARINE
- DIVISION OF PROPERTY & SUPPLY
- DIVISION OF EQUIPMENT OPERATION
- SOUTH ASIAN REGION

INTRA DEPARTMENTAL CORRESPONDENCE

February 1, 1961

MEMO TO: Frank E. Buske, District Right-of-Way Supervisor

FROM: R. Eugene King, Right-of-Way Agent II

FILE REF: 2-09-28 Project No. F-035-2(1)

SUBJECT: Houston-Hillow Highway Right-of-Way

According to Bureau of Land Management and Office Records, the Bureau of Public Roads filed a right-of-way alignment from the southwest of the southwest 1/4, Section 27, Township 19 North, Range 4 West, which is in the proximity of Lake Nancy, north to Talkeetna, November 17, 1958. This alignment is identified as BLM Serial No. Anch. C46557 and is shown as 250 feet in width, 150 feet west of the centerline and 100 feet east of the centerline.

Bureau personnel and I have been unable to locate an alignment for the segment of highway between Houston and the above named project, a distance of approximately five miles. I believe the alignment was misplaced or lost in the land office for this segment, if it ever was filed.

R. Eugene King
R. EUGENE KING

CRTunley:arc

RESERVATIONS APPLICABLE TO ALASKA

1. Patent to contain provisions, reservations, conditions, and limitations of Act of June 22, 1910 (36 Stat. 593; 30 U.S.C. secs. 83-85).

2. Patent to contain provisions, reservations, conditions, and limitations of Act of July 17, 1914 (38 Stat. 509; 30 U.S.C. secs. 121-123) as to (specify mineral) _____

3. Patent to contain provisions, reservations, conditions, and limitations of Act of July 17, 1914 (38 Stat. 509) as extended by the Act of March 4, 1933 (47 Stat. 1570; 30 U.S.C. sec. 124) as to (specify sodium or sulphur) _____

4. Patent to contain reservation of oil, gas, and all other mineral deposits under conditions and limitations as provided by Act of June 1, 1938 (52 Stat. 609; 43 U.S.C. sec. 682b) as amended.

5. Patent to contain reservation of coal and all other minerals under conditions and limitations as provided by Act of December 22, 1928 (45 Stat. 1069; 43 U.S.C. secs. 1068, 1068a, and 1068b) as amended.

RESERVATIONS OF RIGHTS-OF-WAY

6. Patent to contain reservation according to proviso of the Act of August 30, 1890 (26 Stat. 391; 43 U.S.C. sec. 945).

7. Patent to contain provisions, reservations, conditions, and limitations of section 24, Federal Power Act, June 10, 1920 (41 Stat. 1075) as amended by the Act of August 26, 1935 (49 Stat. 846; 16 U.S.C. sec. 818).

8. Patent to contain provisions, reservations, conditions, and limitations of section 24, Federal Power Act, June 10, 1920 (41 Stat. 1075) as amended by the Act of August 26, 1935 (49 Stat. 846; 16 U.S.C. sec. 818) as to that portion of the _____ said Section _____ lying within _____ feet of the center line of the transmission line right-of-way of the _____ Project No. _____

9. Patent to contain provisions, reservations, conditions, and limitations of section 24, Federal Power Act, June 10, 1920 (41 Stat. 1075) as amended by the Act of August 26, 1935 (49 Stat. 846; 16 U.S.C. sec. 818) as to that portion of the _____ said Section _____ lying within a strip _____ feet wide covered by the transmission line right-of-way of the _____

10. Right-of-way for a Federal Aid Highway under the Act of August 27, 1958 (72 Stat. 885; 23 U.S.C. secs. 107, 317).

11. Material site reserved under the Act of August 27, 1958 (72 Stat. 885; 23 U.S.C. secs. 107, 317).

RESERVATIONS APPLICABLE TO ALASKA

12. There is reserved to the United States a right-of-way for the construction of railroads, telegraph, and telephone lines under the Act of March 12, 1911 (38 Stat. 305; 48 U.S.C. secs. 301, 302, 303-308).

13. Patent to contain provisions, reservations, conditions, and limitations of the Act of March 8, 1922 (42 Stat. 415; 48 U.S.C. secs. 376-377) as amended (specify mineral) _____

OTHER RESERVATIONS

14. This entry is made under section 29 of the Act of February 25, 1920 (41 Stat. 449; 30 U.S.C. sec. 186) and the Act of March 4, 1933 (47 Stat. 1570; 30 U.S.C. sec. 124), and in subject to rights of prior permittees or lessees to use so much of the surface of said lands as is required for mining operations, without compensation to the patentee for damages resulting from proper mining operations.

15. Patent to be issued subject to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. sec. 372 et seq.) to sections 1 and 7 of Act of May 15, 1922 (42 Stat. 541; 43 U.S.C. secs. 511-512) and to section 3 of Act of August 9, 1912 (37 Stat. 266; 43 U.S.C. sec. 543).

16. Patent to be issued subject to the Act of June 17, 1902 (32 Stat. 388; 43 U.S.C. sec. 372 et seq.) and to all provisions of the Act of August 9, 1912 (37 Stat. 265; 43 U.S.C. secs. 541-546).

17. Patent to contain a reservation of a right-of-way for the Bureau of Public Roads, under a charge Serial Number 046557, of 150' east and 100' west of the centerline, constructed by the United States, its officers, agents, or employees to maintain, operate, repair or improve the same so long as needed or used by the United States in accordance with 44 LD 513.

not included within the limits of any organized municipality, there shall be expressed that there is reserved, from the lands described in said patent or deed, a right-of-way thereon 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. When a right-of-way reserved under the provisions of this Act is utilized by the United States or under its authority, the head of the agency in charge of such utilization is authorized to determine and make payment for the value of the crops thereon if not harvested by the owner, and for the value of any improvements, or for the cost of removing them to another site, if less than their value.

ESTABLISHMENT OF RESERVATIONS OR EASEMENTS FOR PUBLIC HIGHWAYS IN ALASKA

§ 74.28 *Reservation for through roads.* Public Land Order No. 757 of October 16, 1951, amended Public Land Order No. 601 of August 10, 1949, so as to eliminate provisions affecting feeder roads and local roads. The order which, as amended, applies only to designated through roads, provides:

Subject to valid existing rights and to existing surveys and withdrawals for other than highway purposes, the public lands in Alaska lying within 300 feet on each side of the center line of the Alaska Highway and within 150 feet on each side of the center line of the Richardson Highway, Glenn Highway, Haines Highway, the Seward-Anchorage Highway (exclusive of that part thereof within the boundaries of the Chugach National Forest), the Anchorage-Lake Spenard Highway, and the Fairbanks-College Highway are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for highway purposes.

§ 74.29 *Rights-of-way or easements for feeder roads and local roads.* (a) In addition to establishing the width of the through roads, reserved as set forth in § 74.28, Order No. 2665 of October 16, 1951 of the Secretary of the Interior also established rights-of-way or easements for highway purposes covering the lands embraced in feeder roads and local roads equal in extent to the width of such roads, as set forth in paragraphs (b) and (c) of this section.

(b) *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 Nebesna 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 Poorman Road, Nome to Council Road and Nome to Bessie Road shall each extend 100 feet on each side of the center line thereof.

(c) *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.

§ 74.30 *Appropriation of lands crossed by roads.* (a) The reservation for through roads made by public land order No. 601 of August 10, 1949, as amended (Appendix C of this title), operates as a complete segregation of the land from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws. Unless under the law or regulations such right or claim may embrace non-contiguous land, a right or claim to public land in the Territory initiated on or after August 10, 1949, and abutting on public land reserved for a through road, must be restricted to land on one side of the withdrawn area.

(b) Subject to paragraph (a) of this section public land on either side of the area reserved for through roads, both surveyed and unsurveyed, if otherwise available, may be included in claims extending up to but not including any part of the reserve. Where the land has been surveyed under the rectangular system and the surveys have not been closed on the reserved area, applications may be filed and entries allowed for portions of the legal subdivisions outside of the reserved area without awaiting additional surveys. Where the surveys have been closed on the reserved area, the land must be identified in the terms of such surveys. Settlements on unsurveyed public lands must conform to § 65.2. of this chapter so far as practicable.

(c) Public land crossed by a feeder road or a local road may be appropriated under any applicable public land law, subject to the roadway right-of-way or easement. No deduction in the area chargeable to the claim will be made on

Federal Register Data

Published: 10/20/51
No. : 205

Volume: 16
Page: 10749 & 10750

PLO No. 757
Date Signed: 10/16/51
Filed Date: 10/19/51

[Public Land Order 757]

ALASKA

**AMENDMENT OF PUBLIC LAND ORDER NO. 601
OF AUGUST 10, 1949, RESERVING PUBLIC
LANDS FOR HIGHWAY PURPOSES**

By virtue of the authority vested in the President and pursuant to Executive Order 9337 of April 24, 1943, it is ordered as follows:

The sixth paragraph of Public Land Order No. 601 of August 10, 1949, reserving public lands for highway purposes, commencing with the words "Subject to valid existing rights", is hereby amended to read as follows:

Subject to valid existing rights and to existing surveys and withdrawals for other than highway purposes, the public lands in Alaska lying within 300 feet on each side of the center line of the Alaska Highway and within 150 feet on each side of the center line of the Richardson Highway, Glenn Highway, Haines Highway, the Seward-Anchorage Highway (exclusive of that part thereof within the boundaries of the Chugach National Forest), the Anchorage-Lake Spenard Highway, and the Fairbanks-College Highway are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for highway purposes.

Easements having been established on the lands released by this order, such lands are not open to appropriation under the public-land laws except as a part of a legal subdivision, if surveyed, or an adjacent area, if unsurveyed, and subject to the pertinent easement.

OSCAR L. CHAPMAN,
Secretary of the Interior.

OCTOBER 16, 1951.

[F. R. Doc. 51-12674; Filed, Oct. 19, 1951;
9:02 a. m.]

Federal Register Data

Published: 10/20/51
No. : 205

Volume: 16
Page: 10752

SECRETARIAL ORDER No. 2665
Part Affected: Hwy Rights-of-Way
Date Signed: 10/16/51

Office of the Secretary

[Order 2665]

RIGHTS-OF-WAY FOR HIGHWAYS IN ALASKA

OCTOBER 16, 1951.

SECTION 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. 446, 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, Kenal Junction to Kenal 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 Poorman Road, Nome to Council Road and Nome to Bessie Road shall each extend 100 feet on each side of the center line thereof.

(3) For local roads: All public roads not classified as through roads or feeder roads shall extend 50 feet on each side of the center line thereof.

SEC. 3. Establishment of rights-of-way or easements. (a) A reservation for highway purposes covering the lands embraced in the through roads mentioned in section 2 of this order was made by Public Land Order No. 601 of August 10, 1949, as amended by Public Land Order No. 757 of October 16, 1951. That order operates as a complete segregation of the land from all forms of appropriation under the public-land laws, including the mining and the mineral leasing laws.

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

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

SEC. 4. Road maps to be filed in proper Land Office. Maps of all public roads in Alaska heretofore or hereafter constructed showing the location of the roads, together with appropriate plans and specifications, will be filed by the Alaska Road Commission in the proper Land Office at the earliest possible date for the information of the public.

OSCAR L. CHAPMAN,
Secretary of the Interior.

[P. R. Doc. 51-12588; Filed, Oct. 19, 1951;
8:46 a. m.]

1573
S.O. 2665
9/15/1956

#1139 10/16/51

Office of the Secretary

(Order 2665, Amdt.2)

Alaska

RIGHTS-OF-WAY FOR HIGHWAYS

September 15, 1956.

1. Section 2 (a) (1) is amended by adding to the list of public highways designated as through roads, the Fairbanks-International Airport Road, the Anchorage-Fourth Avenue-Post Road, the Anchorage International Airport Road, the Copper River Highway, the Fairbanks-Nenana Highway, the Denali Highway, the Sterling Highway, the Kenai Spur from Mile 0 to Mile 14, the Palmer-Wasilla-Willow Road, and the Steese Highway from Mile 0 to Fox Junction; by re-designating the Anchorage-Lake Spenard Highway as the Anchorage-Spenard Highway, and by deleting the Fairbanks-College Highway.

2. Section 2 (a) (2) is amended by deleting from the list of feeder roads the Sterling Highway, the University to Ester Road, the Kenai Junction to Kenai Road, the Palmer to Finger Lake to Wasilla Road, the Paxson to McKinley Park Road, and the Steese Highway, from Mile 0 to Fox Junction, and by adding the Kenai Spur from Mile 14 to Mile 31, the Nome-Kougarok Road, and the Nome-Teller Road.

Fred A. Seaton
Secretary of the Interior

(F.R. Doc. _____ Filed Sept. 20, 1956

10, 1975, the following changes should be made:

1. On page 52543, the third column, the first complete paragraph, the seventh line, the first word which presently reads "chartered" should read "charted".

2. In the same column, under the paragraph designated "3", the second line, the word "chartered" should read "charted".

3. On page 52547, the middle column, the third line from the bottom should be deleted.

4. On the same page, the third column, after the fifth line from the bottom, the following phrase should be added: "OPEC embargo but the August-November".

5. On page 52556, the first column, the paragraph designated "(g)", the first line which presently reads "(g) Water. (1) Evidence that the re-" should read "(g) Water. Evidence that the re-".

6. The paragraph immediately following which is presently designated "(2)" should be designated "(g-1)".

7. On page 52557, the middle column, the paragraph designated "(4)", the fourth line, the word "signal" should be inserted between the words "fog" and "apparatus".

8. On the same page, the third column, the paragraph designated "(H)", the third line, the word "throughout" should read "throughput".

9. On page 52574, the first column, the fourth line, the word "trailing" should read "training".

10. On page 52577, the third column, under § 150.425(a), the last line which presently reads "the safety and life and property." should read "the safety of life and property."

11. On page 52578, the middle column, the heading above the right column of the table, the phrase which presently reads "decibel Angstrom" should read "dBA".

Title 43—Public Lands: Interior
CHAPTER II—BUREAU OF LAND
MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS
[Public Land Order 5551; A-057854]

ALASKA

Revocation of Public Land Order No. 2789;
Partial Revocation of Public Land Order
No. 5353

By virtue of the authority vested in the Secretary of the Interior by section 4 of the Act of May 24, 1928, 45 Stat. 729; 49 U.S.C. 214, and sections 14(h) (3) and 22(h) (4) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 688 (hereinafter referred to as the Act), it is ordered as follows:

1. Public Land Order No. 2789 of October 15, 1962, which withdrew lands for use of the Federal Aviation Agency (now the Federal Aviation Administration) in the maintenance of an air navigation facility, is hereby revoked in its entirety. The lands are described as follows:

WOODY ISLAND, KODIAK AREA

Beginning at a point where line 1-2 of U.S. Survey 484 intersects mean high tide of St. Paul Harbor, thence:

S. 34°57' E., 2.50 chains to Corner No. 3, U.S. Survey 484; S. 54°54' W., 2.17 chains to Corner No. 3, U.S. Survey 484; S. 41°41' E., 5.34 chains to Corner No. 4, U.S. Survey 484; N. 88°10' E., 2.79 chains to Corner No. 5, U.S. Survey 484; S. 55°25' W., 4.77 chains to Corner No. 1, U.S. Survey 603; Tract B; S. 76°45' W., 2.21 chains to Corner No. 4, U.S. Survey 603, Tract B; S. 76°45' W., approximately 3.7 chains to mean high tide of St. Paul Harbor, thence northeasterly along the line of mean high tide approximately 15 chains to the point of beginning.

Containing about 6.75 acres.

2. By virtue of the authority vested in the Secretary of the Interior by section 22(h) (4) of the Act, the Secretary has determined that none of the lands described in paragraph 1 are subject to selection by the village of Ouzinkie, Woody Island, or Anton Larsen Bay, or any other Native village or regional corporation under any provisions of said Act because of their location within 2 miles of the boundary of the city limits of Kodiak, as set forth in section 22(1) of the Act, and any withdrawals of the lands for such selection are hereby terminated.

3. Public Land Order No. 5353 of July 17, 1973, which withdrew lands pursuant to Executive Order No. 10355, from all forms of appropriation under the public land laws pending determination of the eligibility of the village of Woody Island, is hereby revoked as to the lands described in paragraph 1.

4. All of the lands described in paragraph 1 are hereby made available for withdrawal by the Secretary of the Interior for possible selection by the Natives of Kodiak in accordance with section 14(h) of the Act and regulations 43 CFR 2650.6 and 2653.7.

5. The lands described in paragraph 1 are withdrawn by Public Land Order No. 5418 of March 25, 1974, for classification and protection of the public interest.

6. Prior to any conveyance of the lands described in paragraph 1, the lands shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act, as amended, 30 U.S.C. 181-287 (1970), shall be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

JACK O. HORTON,
Assistant Secretary of the Interior.

DECEMBER 10, 1975.

[FR Doc. 75-33717 Filed 12-12-75; 8:45 am]

[Public Land Order 5552; A-024227]

ALASKA

Partial Revocation of Public Land Orders
No. 1245 and No. 5353

By virtue of the authority vested in the President and pursuant to Executive Order No. 10355 of May 26, 1952 (17 F.R. 4831), it is ordered as follows:

1. Public Land Order No. 1245 of November 3, 1955, which withdrew lands

for use of the United States Coast Guard as a loran station is hereby revoked so far as it affects the following described lands:

KODIAK ISLAND

MILLER POINT, SPRUCE CAPE AREA

Beginning at Corner No. 5 U.S. Survey 3101, on line 1-5 U.S. Survey 1682, thence north a distance of 2,477.42 feet, approximately along the existing fence line, to Corner No. 1, M.C. of U.S. Survey 1682, thence south 46°47'00" E., approximate distance 2,072 feet to the mean high tide line thence meandering southwesterly along the mean high tide line to a point which is also Corner No. 6 M.C. of U.S. Survey 3101, thence north 89°49' W., approximate distance 863.28 feet to Corner No. 5, U.S. Survey No. 3101 along the existing fence line to the point of beginning, containing 51 acres more or less.

2. Public Land Order No. 5353 of July 17, 1973, which withdrew lands pursuant to Executive Order No. 10355, from all forms of appropriation under the public land laws pending determination of the eligibility of the village of Woody Island, is hereby revoked as to the lands described in paragraph 1.

3. All of the lands described in paragraph 1 are hereby made available for withdrawal by the Secretary of the Interior for possible selection by the Natives of Kodiak in accordance with section 14(h) of the Act and regulations 43 CFR 2650.6 and 2653.7.

4. The lands described in paragraph 1 are withdrawn by Public Land Order No. 5418 of March 25, 1974, for classification and protection of the public interest.

5. Prior to any conveyance of the lands described in paragraph 1, the lands shall be subject to administration by the Secretary of the Interior under the applicable laws and regulations, and his authority to make contracts and to grant leases, permits, rights-of-way, or easements shall not be impaired by this order. Applications for leases under the Mineral Leasing Act, as amended, 30 U.S.C. 181-287 (1970), will be rejected until this order is modified or the lands are appropriately classified to permit mineral leasing.

JACK O. HORTON,
Assistant Secretary of the Interior.

DECEMBER 10, 1975.

[FR Doc. 75-33718 Filed 12-12-75; 8:45 am]

[Public Land Order 5553; AA-5949, AA-8357]

ALASKA

Public Land Order No. 17 Revoked; Partial
Revocation of Public Land Order No. 5353

By virtue of the authority contained in section 4 of the Act of May 24, 1928, 45 Stat. 729; 49 U.S.C. 214, and by virtue of the authority vested in the Secretary of the Interior by sections 14(h) (3) and 22(h) (4) of the Alaska Native Claims Settlement Act of December 18, 1971, 85 Stat. 704, 714 (hereinafter referred to as the Act), it is ordered as follows:

1. Public Land Order No. 17 of July 21, 1942, which withdrew lands for the Civil Aeronautics Administration for air navigation facilities, known as Air Navi-