

TO: Theodore Smith, Director
Division of Forest, Land &
Water Management
Dept. of Natural Resources
Anchorage

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FILE NO:

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SUBJECT: Section line easements

By:

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Director's Office

I thought you would be interested in the recent decision from the Alaska Supreme Court concerning section-line easements, Anderson v. Edwards (No. 2274, Jan. 30, 1981). The defendant in that case, Wrangell Mountain Enterprises, requested a letter of non-objection from DOT to utilize a section line easement over private property. The Department of Transportation gave Wrangell Mountain Enterprises a letter of non-objection and advised it that the section line right-of-way was a hundred feet in width. The private property crossed by the section line was obtained through a conveyance from the State of Alaska. In the state contracts for sale of the private property, the state reserved for "itself, its successors and assigns a 100-foot right-of-way along the section line." Wrangell proceeded to construct a highway along the section line 25 feet in width. However, it cleared the section line, leveling the timber for almost a full 100-foot width. Wrangell was sued by the private property owners. The Supreme Court did not consider the issue whether as a matter of law Wrangell had the authority to construct the section line right-of-way because the private property owners failed to preserve this issue on appeal. However, the Court did find that Wrangell could only clear the amount of trees reasonably necessary to construct the roadway.

BJM:dr

Section Line
Clearing