

RS 2477 and Section Line Easements
A Tentative Chronological Bibliography
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Compiled by Charles L. Parr, SR/WA

Compiler's Note: I would like to emphasize that this is a DRAFT. The cases and citations have not been reviewed by me yet. The DRAFT is only being released at this time in the hope you will find it somewhat useful. Your comments and suggestions will be appreciated.

Section 8, 14 Stat 253 enacted by Congress July 26

"The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted."

Redesignated as Section 2477 of the Revised Statutes

Johnson v. Kirk, 98 US 453

Organic Act, 23 Stat. 24, enacted May 17

Wells v. Pennington County, 48 NW 305 (South Dakota)

Eugene McCarthy, 14 LD 105

Wason Toll Road, 22 Public Lands Decisions 145

1897 Walcott Township of Richland County v. Skauge, 71 NW 544
(North Dakota)

Douglas County, 24 Public Lands Decisions 446

Tholl v. Koles, 70 P 881 (Kansas)

1902 Pasadena and Mt. Wilson Toll Road Co., 31 Public Lands
Decisions 405

Wallowa County v. Wade, 72 P 793 (Oregon)

Alaska Road Commission created January 27

Wallbridge v. Russell County, 86 Pac. 473 (Kansas)

Alaska Native Allotment Act, 43 U.S.C. 270, enacted

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- Montgomery v. Somers, 90 P. 674 (Oregon)
- City of Butte v. Mikosowitz, 102 P. 593 (Montana)
- 1910 Lowe v. East Sioux Falls Quarry Co., 126 NW 609 (South
Dakota)
- Cypress Co. v. Del Paszo y Marcos, 236 U.S. 635
- Instructions, 44 L.D. 359
- Wenberg v. Gibbs Township, 153 NW 440 (North Dakota)
- Instructions, 44 L.D. 513, dated January 13
- 1917 Section 13, Chapter 36 SLA 1917, enacted: "The lawful width
of right of way of all roads or trails shall be sixty feet."
- 1917 Faxon v. Lallie Civil Twonship, 163 N.W. 531 (North
Dakota)
- 1921 Huffman v. Board of Supervisors of West Bay Township Benson
County, 182 N.W. 459 (North Dakota)
- Cox v. Hart, 260 U.S. 427, 43 S.Ct. 154
- 1922 Robbins v. U.S., 284 F. 39 (8th Circuit)
- 1923 Chapter 19 Session Laws of Alaska enacted, became effective
April 6. Provided for a "tract of four rods between each section" in
the Territory be "dedicated for use as public highways"
- 1925 Bishop v. Hawley, 238 P.2d 284 (Wyoming)
- 1925 Colorado v. Toll, 69 L.Ed. 927
- 1931 Central Pacific Railway Co. v. Alameda County, 284 US 463
- 1931 Gustafson v. Gem Township, et al, 235 N.W. 712 (South Dakota
43 U.S.C. 321a enacted June 30
- Clark v. Taylor, 9 Alaska 298 (Alaska)
- 1938 Berger v. Ohlson, 9 Alaska 389 (Alaska)
- 1939 Letter dated January 30 from Commissioner Johnson, Department
of Interior General Land Office to Director Gruening, Division of
Territories and Island Possessions
- 43 CFR 244.55

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- 1940 U.S. v. Northern Pacific Railway Co., 311 U.S. 317, 61 S.
Ct. 264
- U.S. v. Rogge, 10 Alaska 130 (Alaska)
- Kirk v. Schultz, 119 P.2d 266 (Idaho)
- Ball v. Stephens, 158 P.2d 207 (California Appeals)
- 1947 State v. Board of Commissioners of Walla Walla County, 184
P.2d 577 (Washington)
- 1947 48 U.S.C. 321d enacted July 24
- Costain V. Turner County, 36 N.W. (2d) 382
- 1949 Compiled SLA--repeal of Chapter 19 SLA 1923 by implication
effective January 19
- Public Land Order 601 became effective August 10
- 1951 Chapter 123 SLA 1951--100' on Territorial lands effective
March 26
- Public Land Order 757, dated October 16
- Secretarial Order 2665, dated October 16
- 1953 Chapter 35 SLA 1953 enacted to include 66 on Federal lands
effective March 21 (now AS 19.10.010)
- 1954 Memorandum dated May 25 from Area Adjudicator Chester W.
McNalley to Manager, Anchorage Land Office, Bureau of Land Management
- 1955 Limitation of Access to Through-Highways Crossing Public
Lands, 62 T.D. 158
- 1956 Letter dated August 20 from Territorial Assistant Attorney
General Edward A. Merdes to Roger R. Robinson, Operations Supervisor,
Bureau of Land Management Anchorage
- 1956 Memorandum dated August 31, from Department of Interior
Juneau Region Field Solicitor Eugene F. Wiles to Operations Supervisor,
Bureau of Land Management
- 1956 Letter dated September 25 from Territorial Assistant Attorney
General Edward A. Merdes to Roger R. Robinson, Operations Supervisor,
Bureau of Land Management Anchorage
- Prillman v. Commonwealth, 100 S.E.2d 4 (Virginia)
- Public Land Order 1613, dated April 7

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1958 Memorandum dated September 30 from Territorial Right of Way Agent Robert M. Redding to Right of Way Section

1959 Rights of Mining Claimants to Access Over Public Lands to Their Claims, 66 ID 361

1959 P.L. 86-70, 73 Stat. 141 (Omnibus Act) enacted

1960 Memorandum dated March 15 from Bureau of Land Management Associate Solicitor, Division of Lands, C.R. Bradshaw to Director, Bureau of Land Management

1960 Opinions of the Attorney General No. 29 (Alaska), dated November 4

Hammerly V. Denton, 359 P.2d 121 (Alaska)

43 C.F.R. 244.53

Opinions of the Attorney General No.11 (Alaska dated July 26

1962 Memorandum dated August 23 from Alaska Assistant Attorney General Frank A. Olson to Attorney General George N. Hayes

1962 State of Alaska v. Fowler, 1 Alaska Law Journal No. 4, Civil Action 61-320 (4th District, Alaska Superior Court)

1963 Chapter 35 SLA 1963 (AS 19.10.015) enacted--all existing and proposed highways to be 100' wide

1963 Karl v. City of Bellingham, 377 P.2d 984 (Washington)

1963 Pinkerton and Pinkerton v. Yates, Civil Action 62-237 (4th District, Alaska Superior Court)

1963 Brown v. Jolley, 387 P.2d 278 (Colorado)

1963 U.S. v. Clark County, State of Nevada, 220 F. Supp. 328 (Nevada)

1964 Smith v. Ricker, 37 California Reporter 769 (California Appeals)

1964 People v. Miller, 41 California Reporter 645 (California Appeals)

1964 Memorandum dated June 30 from Regional Solicitor William W Redmond to State Director, Bureau of Land Management

Mercer v. Yutan Construction Co., 420 P.2d 323 Alaska)

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- 1966 Letter dated March 21 from Theodore M. Pease, Jr., to Chris Evans, Planning Director, Greater Anchorage Area Borough
- 1966 Letter dated October 5 from Alaska Assistant Attorney General Ralph G. Crews to Roscoe E. Bell, Director, Division of Lands
- Bennett County v. U.S., 394 F.2d 8 (8th Circuit)
- 1969 Public Land Order 4582, the "Land Freeze", promulgated January 17
- 1969 Opinions of the Attorney General No. 7 (Alaska), dated December 18
- 1969 Letter dated February 20 from Eugene F. Wiles to Karl L. Walter, Jr., City Attorney, City of Anchorage
- 1969 Southern Idaho Conference of Seventh Day Adventists v. U.S., 418 F.2d 411 (9th Circuit)
- 43 C.F.R. 2234.2-5(b)
- Connell v. Baker, 458 S.W. 2d 573 (Missouri Appeals)
- 1970 Memorandum dated June 19 from Alaska Assistant Attorney General Richard P. Kerns to Commissioner of Highways Robert L. Beardsley
- 1971 Alaska Native Claims Settlement Act "ANCSA", P.L. 92-203 (85 Stat. 688), enacted December 18
- 1971 Alaska Native Allotment Act of 1906 repealed--43 U.S.C. 1617
- Alfred E. Koenig, 4 IBLA 19
- 1972 Wernberg V. Matanuska Electric Association, 494 P.2d 790 (Alaska)
- 1973 Wilderness Society v. Morton, 479 F.2d 842 (D.C. Cir. (en banc), cert. denied 411 U.S. 917
- 1973 "Access to Intermingled Mineral Deposits, Mining Claims and Private Lands Across Surrounding Public Domain and National Forest Lands," John B. Lonergan, University of Wyoming College of Law, Land and Water Law Review, Volume VIII Number 1
- 1973 Memorandum dated April 24 from Bureau of Land Management State Director Curtis McVee to "DM-A"
- 1974 State of Alaska Department of Highways submits the "Existing Trail System for the State of Alaska" to the State and Federal Land Use Planning Commission and Bureau of Land Management

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43 C.F.R. 2822.2-1

Public Land Order 5418 promulgated March 25

Girves v. Kenai Penninsula Borough, 536 P.2d 1221 (Alaska)

1975 Minot Sand & Gravel Co. v. Hjelle, 231 N.W.2.d 716 (North
Dakota)

Bird Bear v. McLean County, 513 F.2d 190 (8th Circuit)

1976 Letter dated January 21 from Alaska Assistant Attorney
General Richard P. Kerns to Charles L. Parr, Right of Way Agent,
Golden Valley Electric Association

1976 Letter dated August 23 from J.W. Sedwick to Wesley M. Howe,
Borough Manager, Matanuska-Susitna Borough

1976 Federal Land Policy and Management Act "FLPMA" enacted
October 21, 43 U.S.C. A. 1761 et seq--repeals RS 2477

1976 Kleppe v. New Mexico, 426 U.S. 529

1976 Homer Meeds, 26 IBLA 281

1976 Hahn v. Alaska Title Guaranty Company, Alaska Supreme
Court Opinion No. 1342, dated December 6

1977 "Report on 44 LD 513, RS 2477 and Section Line Easements in
Alaska", authored by Patrick C. Beckley, Chief, Branch of
Land and Minerals, Bureau of Land Management, dated October, 1977

1977 Letter dated September 19 from Alaska Assistant Attorney
General Thomas E. Meacham to Anchorage Daily Times

1978 Memorandum dated February 22 from Alaska Assistant Attorney
General Thomas E. Meacham to Donald Harris, Commissioner, Alaska
Department of Transportation and Public Facilities

1978 Letter dated May 16 from Alaska Assistant Attorney General
Gary W. Vancil to Phillip R. Berrian, Planning Director, Fairbanks
North Star Borough

1978 State of Alaska v. Green and Goodman, Alaska Supreme Court
Opinion No. 1706, dated September 1

1979 State of Alaska, Division of Parks v. Village Developers,
Inc., et al, Memorandum Decision Granting Motion for Partial Summary
Judgement and Order dated January 29, Alaska Superior Court, Third
Judicial District, Case No. 78-2482

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1979 Letter dated May 2 from Alaska Assistant Attorney General William R. Satterberg, Jr., to David H. Call

1979 Monograph dated August 17, by Joseph D. Darnell, legal intern for David H. Call

1979 Memorandum dated September 18 from Alaska Assistant Attorney General Barbara J. Miracle to Claude M. Hoffman, Acting Director, Division of Technical Services, Alaska Department of Natural Resources

1979 Memorandum dated October 9 from Theodore G. Smith, Director, Alaska Division of Forest, Land & Water Management to Director's Policy File 80-4

City of Anchorage v. Nesbett, 530 P.2d 1324 (Alaska)

1980 Memorandum and "Position Paper on Federal Right of Way Grants", dated January 21 from Allen R. Cronk, Land Management Officer Fairbanks North Star Borough to Borough Mayor John A. Carlson

1980 Letter dated April 23 from Department of Interior Deputy Solicitor Frederick Ferguson to James W. Moorman, Assistant Attorney General, Land and Natural Resources Division, Department of Justice

1980 Memorandum dated April 30 from Alfred H. George, Land Management Officer, Office of the Pipeline Coordinator to Charle Behlke, State Pipeline Coordinator

1980 Memorandum dated May 21 from David S. Case, Attorney/Advisor to Acting Area Director, Bureau of Indian Affairs

1980 Transcript of presentation of Allen R. Cronk to International Right of Way Association in Fairbanks, June 11

43 CFR 2802.5 published in Federal Register

1980 Memorandum dated October 13 from Alaska Assistant Attorney General Thomas E. Meacham to Assistant Attorneys General Doug Mertz and Tom Wickwire

1980 Alaska National Interest Lands Conservation Act (ANILCA) enacted December 1

1980 Anderson v. Richards, 608 P.2d 1096 (Nevada)

1980 Northway Natives, Inc., 88 ID 14

1981 Anderson v. Edwards, 625 P.2d 282 Alaska

1981 Nick Dire, 55 IBLA 151

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1981 Memorandum dated February 11 from Alaska Assistant Attorney General Barbara J. Miracle to Theodore Smith, Director, Division of Forest, Land & Water Management

1981 Letter dated February 19 from Alaska Assistant Attorney General Gary Foster to Lee Saylor and Mike Tinker of the Alaska Department of Transportation and Public Facilities, and to Stan Stowell of the Bureau of Land Management in Fairbanks

1981 Memorandum dated April 28 from Theodore G. Smith, Director, Division of Forest, Land & Water Management to Director's Policy File 81-37

1981 Memorandum dated September 14 Alaska Assistant Attorneys General Thomas E. Meacham and Barbara J. Miracle to Reed Stoops, Director, Division of Research and Development

Edward A. Nickoli, 90 IBLA 275

1982 Humboldt County v. United States, 68 F.2d 1276 (9th Circuit)

Bureau of Land Management Manual 2801 released

1982 Letter dated September 23 from Alaska Assistant Attorney General Larry D. Wood to Ernest L. Woods, Jr., Chief, Real Estate Division, Alaska District Corps of Engineers

1982 Memorandum dated September 23 from Alaska Assistant Attorney General Linda Walton to Robert Venusti, Director, Planning and Programming, Department of Transportation and Public Facilities

Brice v. State of Alaska, 669 P.2d 1311 (Alaska)

State of Alaska, 62 IBLA 187

1983 Fisher v. Golden Valley Electric Association, Inc., 658 P.2d 714 (Alaska)

1983 Memoranda dated February 1 and September 12 from Alaska Assistant Attorney General Larry D. Wood to Jim Frechione, Natural Resource Officer, Division of Land and Water Management

1983 Memorandum dated February 24 from Jim Frechione, Natural Resource Officer to Esther Wunnicke, Commissioner, Alaska Department of Natural Resources

1983 Letter dated April 8 from Fairbanks North Star Borough Mayor B.B. Allen to Neil Johanssen, Director, Alaska Division of Parks and Tom Hawkins, Director, Alaska Division of Land and Water Management

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- 1983 "The Law of Section Line Easements in Alaska", John W. Sedwick
- 1983 Transcript of Proceedings, Section Line Easement Seminar, presented by the International Right of Way Association in Fairbanks, May 24
- 1983 State of Alaska v. Alaska Land Title Association, 667 P.2d 714 (Alaska)
- 1983 Memorandum dated July 13 from Department of Interior Alaska Region Regional Solicitor John M. Allen to Area Director, Bureau of Indian Affairs, Juneau Area Office
- 1983 Memorandum dated December 22 from John M. Allen, Regional Solicitor to State Director, Bureau of Land Management
- 1984 Resource Investments v. State (Alaska Supreme Court Opinion No. 2853)
- 1984 United States v. Gates of the Mountains Lakeshore Homes, Inc., 732 F.2d 1411 (9th Circuit)
- 1984 Memorandum of Understanding signed by Bureau of Land Management, Alaska Department of Natural Resources, and the Alaska Department of Transportation and Public Facilities
- 1984 State of Alaska Department of Transportation and Public Facilities v. First National Bank of Anchorage, Alaska Supreme Court Opinion No. 2882, dated October 12
- Keogan v. Bergh, 348 N.W.2d 462 (South Dakota)
- 1984 St. Amand v. Copper Valley Electric Association, Inc., 3VA 84-16 Civil, Alaska Superior Court, Third Judicial District
- 1984 Instruction Memorandum No. AK-85-72, dated November 28, from State Director, Bureau of Land Management to "DM's and DSD's"
- Alaska Department of Transportation, 88 IBLA 106
- 1985 Dillingham Commercial Co. v. City of Dillingham, 705 P.2d 4110 (Alaska)
- 1985 Letter dated March 27 from R.J. Knapp, Commissioner, Alaska Department of Transportation and Public Facilities to Alaska State Representative Steve Frank
- 1985 Memorandum dated November 22, from Ric Davidge, Chairman RS 2477 Task Force to RS 2477 Task Force

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- 1985 "RS 2477", by Theodore G. Bingham, Chief, Division of Rights of Way, Bureau of Land Management, dated December 20
- 1986 "Issue Paper, Revised Statute 2477 Rights-of-Way In Alaska," dated March 17, and "Supplement Number 1" dated April 1, both prepared by Dwight Hempel, District Realty Officer, Bureau of Land Management
- Revisions to BLM Manual 2801 released June 30
- 1986 Murray, et al, v. O'Brien, et al, 4FA 85-609 Civil, Alaska Superior Court, Fourth Judicial District, "Findings of Fact and Conclusions of Law and Memorandum Decision" dated July 9
- 1986 Wilkenson v. Department of the Interior, 634 F. Supp. 1265 (Colorado)
- 1986 Board of County Commissioners of Mesa County, Colorado v. James Watt, 634 F. Supp. 1265 (Colorado)
- 1987 "RS 2477s--Building on Experience", by Tom Hawkins, Assistant Commissioner, Alaska Department of Natural Resources
- 1987 "You Can Get There From Here: The Alaska Lands Act's Innovations in the Law of Access Across Federal Lands," Steven P. Quarles and Thomas R. Lundquist, University of Wyoming Land & Water Law Review, Volume XXII No. 2
- 1988 "Public Access Over Alaska Public Lands As Granted By Section 8 Of The Lode Mining Act Of 1866," by Leroy K. Latta, Jr., Santa Clara Law Review, Fall 1988
- Sierra Club v. Hodel, 848 F.2d 1068 (10th Circuit)
- 1988 United States v. Vogler, No. A84-289 Civ. 40 (D. Alaska January 5, 1987)
- 0.958 Acres v. State, 762 P.2d 96 (Alaska)
- 1988 U.S. Department of the Interior Departmental Policy on RS 2477 approved by Secretary of the Interior Donald Paul Hodel on December 7
- 1989 Alaska Greenhouses v. Municipality of Anchorage, Order dated February 23, A85-630 Civil, U.S. District Court, Alaska
- 1990 Instruction Memorandum No. AK 90-154 dated April 2 from State Director, Alaska, Bureau of Land Management to "DMs"

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1990 Instruction Memorandum No. 90-589 dated August 15 from Assistant Director for Land and Renewable Resources, Bureau of Land Management to all State Directors

1991 Letter dated May 8 from Governor Hickel to U.S. Representative George Miller

1991 Schultz v. United States, F 86-030 U.S. District Court Alaska--final arguments heard 5/24/91

1991 "RS 2477 - Building on Experience," updated May 30 by Gary Gustafson, Director, Division of Land and Water Management, Alaska Department of Natural Resources