

#15.3

BUREAU OF LAND MANAGEMENT

Department of the Interior
Washington, D. C.

ALO:L7
LU 16-7

Land Office
Cordova Building
555 Cordova Street
Anchorage, Alaska

Mar 21 1963

State of Alaska
Department of Highways
Box 1841
Juneau, Alaska

Gentlemen:

This is in reply to your recent inquiry regarding acquisition of highway rights-of-way across lands which have been entered as homesteads.

It has been held that the grant by a homestead entryman of an easement is not an alienation of the land as the grant of an easement does not transfer title nor the right of possession to land but merely grants a right to use the land for a specified purpose or for specified purposes. To transfer or alienate land means to pass title and with it the right of possession. Therefore, an entryman may grant an easement without violating any of the provisions of the homestead law regarding alienation; however, an entryman may neither sell a strip of land for right-of-way purposes nor agree if and when he obtains title to sell such a strip. Solicitor's Opinion, M-36601 (June 8, 1960).

We trust this clarifies the situation

Sincerely yours,

/s/

Warner T. May
Manager

Copy to: State of Alaska
District Right-of-Way Office
1306 East Fourth Avenue
Anchorage, Alaska

cc: L7

NGOnzales:sla:3/21/63