

MEMORANDUM

State of Alaska ^{2.10}

TO: Honorable Mark S. Hickerson
 Commissioner
 Department of Transportation and Public Facilities

DATE: August 3, 1987

RECEIVED
 AUG 05 1987

FILE NO.:
 TELEPHONE NO.: 465-3603

THRU:

DOT/PT
 COMMISSIONER'S OFFICE

SUBJECT: Proposed Alaska
 Federal Agency
 RS 2477 Policy

FROM:

W.F.C.
 William F. Cummings
 Assistant Attorney General
 Transportation Section
 Department of Transportation

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REGIONAL DIRECTOR
 NORTHERN REGION
 D.O.T. & P.F.

By teletcopy dated July 23, 1987, you asked that we review the proposed "Alaska Federal Agency RS 2477 Policy" and comment upon a proposed memorandum of understanding to be executed between federal agencies and the State of Alaska. We have reviewed both documents and have a number of comments to offer. Our comments are broken down by which document they relate to.

Alaska Federal Agency RS 2477 Policy

- ¶ 3.B(1) The state should take objection to this paragraph because the approach taken is contrary to state law.
- ¶ 3.B(3) The state should take objection to this language because it is a contradiction of state law found in Hammerly v. Denton and subsequent cases.
- ¶ 5. The state ought not to agree with this provision because it is contrary to the provisions of AS 19.10.-015 which sets rights of way on section lines at 50 feet either side of section line.
- ¶ 6. The state should object to the provisions of this paragraph relating PLO 601 and other public land orders to RS 2477 rights of way because the language is too broad.
- ¶ 9. The state ought to object to the provisions of this paragraph because its provisions are too broad.

Proposed MOU

As referred above there are a number of aspects of the proposed "Alaska Federal Agency RS 2477 Policy" to which the state has valid objections. We believe that the following language should be added to the last page of the proposed MOU. This language should be inserted before the last paragraph of the document.

CHIEF RAW AGEN	
PRE AUDIT	
ENGINEERING	
TITLE	
PLANS	
MATERIALS	
SALES	
NEGOTIATIONS	
RELOCATION/PROP. MGMT	
RETURN TO:	

RETURN TO:	
Western Dir. Noyes	
Southcentral Dir. Valdez	
Leasing Officer	
M&O Director	
Adm. Serv. Officer	
Planning & Research	
Dir. Director	
Regional Director	
NORTHERN REGION	

Honorable Mark S. Hickey
Department of Transportation
and Public Facilities

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"The State of Alaska, by signing this memorandum of understanding, is not expressing any opinion as to the validity of the federal government's understanding of the legal principles that govern RS 2477 rights of way."

If you have questions on this matter, please contact me at your earliest convenience.

WFC:bap

cc: Jack B. McGee