



United States Department of the Interior

BUREAU OF LAND MANAGEMENT

Alaska State Office
701 C Street, Box 13
Anchorage, Alaska 99513

Mr. Tom Hawkins, Director
State of Alaska
Department of Natural Resources
Division of Land and Water Management
Pouch 7-005
Anchorage, Alaska 99510

DEC 30 1983

Dear Mr. Hawkins:

This is in response to your letter of December 5, 1983 in which you discuss the Native Allotment applications in the Point Hope area which are in conflict with the Kotzebue - Point Barrow Trail.

In the past, BLM's policy was to make native allotment conveyances subject to PLO 1613 and granted rights-of-way of record. Based on further interpretation Certificate of Allotments are now issued subject also to the rights conveyed to the State by the Omnibus Act.

When the allotment appears to be impacted by a State owned or operated transportation system, it will be adjudicated as to "potentially exclusive use". If during this adjudicative process it is determined that the land is not being used "potentially exclusively" by the allottee and the transportation system predates the use and occupancy of the applicant, the conveyance will be made subject to that use. This interest will be addressed in the decision approving the allotment. The survey request will serve as notice to Division of Cadastral Survey to locate the improvements and plot them on the plat of survey.

The following criteria for R.S. 2477 Public Highways will be adhered to by the Bureau and the State must provide the following information before such rights-of-way can be plotted to our records:

- 1) There must have been the actual construction of a highway; or
- 2) The State has to have a procedure to confirm the R.S. 2477 public highway right-of-way grant.

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- 3) The highway is freely open to everyone;
- 4) The construction of the public highway on unreserved public land must have occurred prior to October 21, 1976 (Enactment of FLPMA).

Once the above criteria are met and the State supplies us with a plottable map, 43 CFR 2802.5(b), preferably a U.S.G.S. 1:250,000 with the use clearly marked, we will assign a case file number to the request and have it noted to our records.

Before we accept your letter as a State claimed interest pursuant to 43 USC 932 (14 Stat. 253), for the Kotzebue - Point Barrow Trail we need to know what officer in the State Government has the authority to file an application of this type with the Bureau.

After review of case file F-14921-EE, we find that the description and maps are not adequate. You need to submit a map which has sufficient detail to show the location of the improvement. As stated above a U.S.G.S. 1:250,000 scale with the trail clearly marked is adequate.

The Secretary of the Interior does not have the authority to resolve the conflicts between the 17(b) easements for proposed roads, trails and sites and the pending Native allotments on lands which have been conveyed to Arctic Slope Regional Corporation or the villages within that region. This is because the terms of the August 1, 1976 agreement remove ASRC from the Calista et al. suit.

Robert W. Faithful IV