

#36.2

- M E M O -

Date: July 12, 1991

To: P.J. Sullivan, SR/WA
Land Field Services, Inc.
Anchorage

Re: Alyeska Oil Spill
Contingency Plan
Updated Title
CS # 8-18

From: Charles L. Parr, SR/WA
Land Field Services, Inc.
Fairbanks



This site is located on Jarvis Creek within the Richardson Highway right of way in T10S, R10E, F.M., Section 26, U.S. Survey 2626. No right of way drawings are available for the area, and U.S. Survey 2626 (accepted January 30, 1948) does not specify the exact location or width of the highway. Scaling from the survey indicates a width slightly over 100.

The Bureau of Land Management status plat shows a highway right of way 150' each side of centerline through U.S. Survey 2626. However, I am of the opinion that the right of way at that location is 100' wide, 50' either side of centerline. My reasoning is presented below.

The Richardson Highway was established by user under RS 2477 at a time these lands were unreserved. The first official action pertaining to these lands was on June 25, 1941, when they were withdrawn as Air Navigation Site 162. The withdrawal was subject to a right of way for the Richardson Highway 50' on either side of centerline. A later order, Public Land Order 84, dated February 8, 1943, withdrew the lands within 20 Miles of Big Delta between the Delta and Tanana Rivers for protection of the Richardson Highway, subject to ANS 162. On October 21, 1953, ANS 162 was enlarged to include all of U.S. Survey 2626, again subject to a right of way 50' either side of centerline for the Richardson Highway. ANS 162 was revoked August 30, 1963, as to the lands within U.S. Survey 2626, and those same lands were simultaneously withdrawn for use by the Department of the Army as withdrawn under PLO 255.

PLO 255 was a "confidential" order dated December 15, 1944, which withdrew the lands for military purposes subject to ANS 162. PLO 255 also provided that the "...Alaska Road Commission will be allowed sufficient right of way and access to the areas in order to improve and maintain the roads."

PLO 601, dated August 10, 1949, withdrew the lands within 150' of the centerline of the Richardson Highway from all forms of appropriation and reserved them for highway purposes subject to...existing surveys and withdrawals for other than highway purposes,..." As the lands in question were withdrawn under ANS 162 (and PLO 255) at that time, PLO 601 did not apply to them.

PLO 757 (10/16/51) amended PLO 601, but did not change its "subject to" language. Secretarial Order 2665 of the same date purports to "fix the width of all public highways in Alaska established or maintained under the jurisdiction of the Secretary of the Interior...", and would set the width of the Richardson at 300' (150' each side of centerline). However, the order also makes it clear that the order refers to the lands reserved under PLO 601. SO 2665 also provided that the "reservation" of right of way would not "attach" to the highway until "...survey stakes have been set on the ground and notices have been posted...", and I could not find any record of that having been done. PLO 1613 (4/7/58) revoked PLO 601 and "established" an easement for highway purposes over the lands formerly reserved under PLO 601, and therefore does not apply to lands within U.S. Survey 2626.

To summarize, the lands at Jarvis Creek and the Richardson Highway have been "withdrawn" continuously since June 25, 1941 when ANS 162 was created and a 100' right of way (50' either side of centerline) was specified. Public Land Orders and Secretarial Orders subsequent to June 25, 1941 have had no effect on the subject lands.