

STATE OF ALASKA

KEITH H. MILLER, GOVERNOR #4,22

DEPARTMENT OF LAW

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with copy of KMO

To For
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June 19, 1970

MEMORANDUM

TO: Robert L. Beardsley
Commissioner of Highways
State of Alaska
Juneau

FROM: Richard P. Kerns *RPK*
Assistant Attorney General
Chief, Highways Section
Anchorage

RE: Jurisdiction of Section Line Rights of Way for Highways

It has come to my attention that certain questions have arisen in connection with administering the use of section line rights of way by the public where these rights of way have not actually been utilized by the Department of Highways for the State highway system. As you know, 1969 Opinions of the Attorney General No. 7 concluded that "each surveyed section in the State is subject to a section line right of way for construction of highways" subject to certain exceptions defined in the Opinion. A copy of this Opinion is attached.

Since the publication of this Opinion, various members of the public, property owners and governmental agencies have attempted to utilize or exert jurisdiction over these rights of way resulting in a certain amount of conflict of opinion. This results in inquiries being directed either to the Department of Highways, the Division of Lands or the Office of the Attorney General which in turn does or could result in further inconsistent approaches to the use of these rights of way.

With this in mind, a meeting was held attended by representatives of the Division of Lands, the Department of Highways and the Department of Law. As a result of this meeting, it was suggested that a memo be directed to you with copies as indicated, suggesting that jurisdiction of these highway rights of way be asserted by the Department of Highways. This conclusion is in keeping with a former Memorandum Opinion issued by the Department of Law dated November 4, 1963 prepared by David B. Ruskin, then assistant attorney general. A copy of this memorandum is also attached. It is suggested that when inquiries are directed to the State as to the use of these rights of way, that such inquiries

ADL