

GENERAL: Between August 10, 1949, and April 7, 1958, the lands underlying the following highways in the Fairbanks Land District were withdrawn from entry for highway purposes:

<u>Highway</u>	<u>Width from Center Line</u>	<u>Total Width</u>
Alaska Highway	300'	600'
Richardson Highway	150' ✓	300' ✓
Glenn Highway	150'	300'
Fairbanks-College Highway	150'	300'

The acquisition of rights in homesteads, homesites etc., along these highways during this period included property only up to the boundary line of the highway withdrawals. They did not include any part of the reserved area. 150'

On April 7, 1958, Public Land Order 1613 was issued revoking the withdrawals and opening the lands to application for private ownership under the public land laws. However, the Government retained an easement for highway and other purposes extending 150 feet from the center line of each highway listed here. The effect on you, as owner of land or as an applicant for land adjoining these highways is as follows:

PRIVATE OWNERS OF PATENTED LAND:

If you own land with frontage on the Alaska Highway there now exists 300 feet of public land between your boundary and the center line of the highway. Of this the Government has retained an easement of 150 feet from the center line for highway and other purposes. The remaining 150 feet will be fully useable land. If you own land with frontage on any of the other highways listed above, there now exists 150 feet of public land between your boundary and the center line of the highway. The same Government easement applies to this 150 feet. It cannot be used for other than highway purposes without permission of the Bureau of Public Roads. However, should the highway be changed or abandoned, the owner would have full use of the land. Owners of private lands will have a preference right to purchase at the appraised value the released land adjoining their private property. This right will extend to land only up to the center line of the highway concerned. Such preference right claimants may apply to purchase the released lands by filing in the Land Office Form FLO 189 properly executed in accordance with instructions contained therein.

At the time the application is filed, the owner of the land adjoining the highway will be required only to show the recordation information pertaining to his patent or deed. However, at the time of purchase he must furnish proof that he is the sole owner in fee simple of the adjoining land. Forms will be furnished for this purpose at the time the land is offered for sale to the adjoining owner.

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CLAIMANTS WITH VA () UNPERFECTED ENTRIES OR () CLAIMS FILED BEFORE

APRIL 7, 1958: If, on April 7, 1958, you had on file in the Land Office, a valid entry or claim to land with frontage on the highways listed (and it has not gone to patent or sale), the same situation in regard to footage and use exists as mentioned above. In this instance, you may exercise a right to amend your entry or claim to include the property. This additional land will not be included in the area limitation for your type of filing. For example, if you have a 160 acre homestead entry, the additional acreage will not be counted against the 160 acre limitation. You may make application to amend your entries or claims by filing in the Land Office Form FLO No. 189 mentioned above. Allowance of the amendment will be subject to the subsequent payment of appropriate fees and commissions, cost of survey and purchase price, if any.

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APPLICATIONS AND NOTICES OF LOCATION FILED AFTER APRIL 7, 1958:

Applications or Notices of Location filed after April 7, 1958, involving lands released by Public Land Order 1613, will describe the land involved either by cardinal direction metes and bounds descriptions or by legal subdivisions as may be appropriate. The total area of the entry will be based on the area described, including the area of the highway. The entry will thereafter be subject to an easement for the area of the highway right-of-way.

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TIME LIMITATIONS:

The preference right applications mentioned above must be filed in the Land Office within 90 days of receipt of the appropriate Notice from the Land Office. If not filed within that time, the preference right will be lost. The lands then will become subject to sale at public auction. This preference right may also be lost if the purchase price and other costs are not paid within a specified period. This period shall be at least 60 days from allowance of the application.

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PURCHASE PRICE:

~~The purchase price of the land sold to private owners under the Order shall be not less than its appraised value as determined by an authorized officer of the Bureau of Land Management.~~
~~For lands included in amendments under the Order, the fees and commissions, purchase price and cost of survey will be established by the Bureau of Land Management.~~

the subsequent payment of appropriate fees and commissions, cost of survey and purchase price, if any.

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~~APPLICATIONS AND NOTICES OF LOCATION FILED AFTER APRIL 7, 1938:~~

Applications or Notices of Location filed after April 7, 1938, involving lands released by Public Land Order 1613, will describe the land involved either by cardinal direction metes and bounds descriptions or by legal subdivisions as may be appropriate. The total area of the entry will be based on the area described, including the area of the highway. The entry will thereafter be subject to an easement for the area of the highway right-of-way.

TIME LIMITATIONS:

The preference right applications mentioned above must be filed in the Land Office within 90 days of receipt of the appropriate Notice from the Land Office. If not filed within that time, the preference right will be lost. The lands then will become subject to sale at public auction. This preference right may also be lost if the purchase price and other costs are not paid within a specified period. This period shall be at least 60 days from allowance of the application..

PURCHASE PRICE:

The purchase price of the land sold to private owners under the Order shall be not less than its appraised value as determined by an authorized officer of the Bureau of Land Management.

For lands included in amendments under the Order, the fees and commissions, purchase price and cost of survey will be established by the Bureau of Land Management. These charges will be based upon the laws or regulations governing the type of filing on the adjoining land. The Bureau of Land Management will also determine how much of the released land may be available and will provide its proper legal description.

In some areas there may be considerable lapse of time between filing the application and allowance of amendment or issuance of patent on the released lands. This will be dependent upon the filing of official plats of survey in the Land Office and other factors. Such delay will not affect your preference rights.

To apply for either of the preference rights described herein, you may write or call at the Land Office for the proper forms. For the full legal requirements on this subject, copies of Public Land Order 1613 are also available upon request at the Land Office.

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notify the applicant and the authorized officer of the Bureau of Public Roads either (1) that the approval of the application would be contrary to the public interest or inconsistent with the purposes for which the lands or materials have been reserved or (2) that he proposes to grant the right-of-way under the regulations of this part, subject to said regulations and to such conditions which he indicates in his notice.

§ 2821.5 Terms and conditions of allowance.

Grants of rights-of-way under Title 23, United States Code, by the authorized officer of the Bureau of Land Management will be made to the appropriate State highway department or to its nominee and based upon considerations of adequate protection and utilization of Federal lands and interests in lands will be subject to (1) all the pertinent regulations of this part except those which the authorized officer, upon formal request of the applicant may modify or dispense with, in whole or in part, upon a finding that it is in the public interest and in conformity with the purposes of Title 23, United States Code, and (2) any conditions which he deems necessary. Grants of highway rights-of-way under this subpart may include an appropriation and release to the State or its nominee of all rights of the United States, as owner of underlying and abutting lands, to cross over or gain access to the highway from its lands crossed by or abutting the right-of-way, subject to such terms and conditions and for such duration as the authorized officer of the Bureau of Land Management deems appropriate.

§ 2821.6 Additional rights-of-way within highway rights-of-way.

§ 2821.6-1 General.

No application under the regulations of this part is required for a right-of-way within the limits of a highway right-of-way granted pursuant to Title 23, United States Code, for facilities usual to a highway, except (a) where terms of the grant or a provision of law specifically requires the filing of an application for a right-of-way, (b) where the right-of-way is for electric transmission facilities which are designed for operation at a nominal voltage of 33 KV or above or for conversion to such operation or (c) where the right-of-way is for oil or gas pipe-

lines which are part of a pipeline crossing other public lands, or if not part of such a pipeline, which are more than two miles long. When an application is not required under the provisions of this subparagraph, qualified persons may appropriate rights-of-way for such usual highway facilities with the consent of the holder of the highway right-of-way, which holder will be responsible for compliance with § 2801.1-5, in connection with the construction and maintenance of such facilities.

§ 2821.6-2 Terms of grant.

Except as modified by § 2821.6-1 of this subpart, rights-of-way within the limits of a highway right-of-way granted pursuant to Title 23, United States Code, and applications for such rights-of-way, are subject to all the regulations of this part pertaining to such rights-of-way.

(43 U.S.C. 932)

Subpart 2822—Roads Over Public Lands Under R.S. 2477

SOURCE: The provisions of this Subpart 2822 appear at 35 F.R. 9646, June 13, 1970, unless otherwise noted.

§ 2822.0-3 Authority.

R.S. 2477 (43 U.S.C. 932), grants rights-of-way for the construction of highways over public lands, not reserved for public uses.

§ 2822.1 Applications.

§ 2822.1-1 For unreserved public lands.

No application should be filed under R.S. 2477, as no action on the part of the Government is necessary.

§ 2822.1-2 Procedure when reserved land is involved; rights-of-way over revested and reconveyed lands.

(a) *Showing Required.* When a right-of-way is desired for the construction of a highway under R.S. 2477 over public land reserved for public uses, and such reserved land is under the jurisdiction of the Department of the Interior, and when a right-of-way is desired for the construction of a highway under R.S. 2477 over the Revested and Reconveyed Lands, an application should be made in accordance with § 2802.1. Such application should be accompanied by a map, drawn on tracing linen, with two print copies thereof, showing the location of the proposed highway with relation to the smallest legal subdivisions of the lands affected.

(b) *Revolucation or modification of withdrawal.* Where reserved lands are involved, no rights to establish or construct the highway will be acquired by reason of the filing of such application, unless and until the reservation shall have been revoked or modified so as to permit construction of the highway, subject to such terms and conditions, if any, as may be deemed reasonable and necessary for the adequate protection and utilization of the reserve.

(c) *Revested and Reconveyed Lands.* Where Revested and Reconveyed Lands are involved, no rights to establish or construct the highway will be acquired by reason of the filing of such application unless and until the authorized officer of the Bureau of Land Management shall grant permission to construct the highway, subject to such terms and conditions as he deems necessary for the adequate protection and utilization of the lands, and for the maintenance of the objectives of the act of August 28, 1937 (50 Stat. 874; 43 U.S.C. 1181a).

§ 2822.2 Nature of interest.

§ 2822.2-1 Effective date of grant.

Grants of rights-of-way referred to in the preceding section become effective upon the construction or establishment of highways, in accordance with the State laws, over public lands, not reserved for public uses.

§ 2822.2-2 Extent of grant.

(a) *Consent of grantees to additional facilities within right-of-way.* Rights-of-way granted by R.S. 2477 do not include rights-of-way for facilities with respect to which any other provision of law specifically requires the filing of an application for a right-of-way. When the holder of such highway right-of-way determines that such facility will not seriously impair the scenic and recreational values of an area and its consent is obtained, the Department waives the requirement of an application for a right-of-way for all facilities usual to a highway along a highway right-of-way granted by R.S. 2477 except for electric transmission facilities, designed for operation at a nominal voltage of 33 kv or above, or designed for conversion to such operation, or for oil or gas pipe lines which are more than 2 miles long and are not part of any other pipe line crossing public lands. Applications shall be made under Subpart 2851, with

respect to any right-of-way for an electric transmission facility subject to this exception, and under Subpart 2881 inclusive, for pipe line facilities subject to this exception.

(b) *Terms of grant.* Holders of grants under R.S. 2477 shall be subject to the terms and conditions of § 2801.1-5, (c), (d), (e), (i), and (k). Where the holder of the highway consents to the construction of usual highway facilities, as provided above, such holder shall be responsible for compliance with the designated subparagraph § 2801.1-5 in connection with the construction and maintenance of such facilities.

PART 2840—RAILROADS, STATION GROUNDS, WAGON ROADS

Subpart 2841—Railroads, Wagon Roads and Tramways in Alaska

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2841.0-3	Authority.
2841.0-7	Cross reference.
2841.1	Nature of interest.
2841.2	Procedures.
2841.2-1	Applications.
2841.2-2	Survey.
2841.3	Evidence of construction.
2841.3-1	Statement and certificates required when road is constructed.
2841.3-2	Action where required evidence is not filed.
2841.4	Charges for transportation of passengers and freight.
2841.4-1	Required showings, consent.
2841.4-2	Schedules to be filed with Interstate Commerce Commission.

Subpart 2842—Railroads and Station Grounds Outside of Alaska

2842.0-3	Authority.
2842.1	Nature of interest.
2842.2	Procedures.
2842.2-1	Applications.
2842.2-2	Evidence of construction.

Subpart 2847—Railroads, Wagon Roads and Tramways in Alaska

SOURCE: The provisions of this Subpart 2841 appear at 35 F.R. 9647, June 13, 1970, unless otherwise noted.

§ 2841.0-3 Authority.

The rights-of-way for railroads, wagon roads, and tramways in the State of Alaska, granted by sections 2 to 8 inclusive, of the act of May 14, 1898 (50 Stat. 409; 48 U.S.C. 411-419).

§ 2841.0-7 Cross reference.

For forms 1 to 8 inclusive, referred to in this subpart, see appendix C of this subchapter.