

## Note to the DNR, DML&W, Survey Section, Easement Vacation Team

On 1/3/2018 at 1:30 pm Gwen Gervelis (Survey Section Chief) and I (George Horton - Surveyor) met with Marty Parsons (DML&W Operations Manager) and Andrew Naylor (AAG Dept. of Law) in the Director's Conference Room (Suite 1080) to discuss issues regarding the assertion of section-line easements on Mental Health Trust (MHT) lands. Issues regarding protracted and surveyed section lines were discussed on both original and replacement lands.

Asserting SLE's on protracted section lines on unreserved and unappropriated federal lands was discussed as well.

Public Law 830; known as the **Alaska Mental Health Enabling Act**, was enacted by the Senate and House of Representatives of the United States of America in Congress on **July 28, 1956**. It was agreed by all individuals noted above that on this date the Act reserved up to 1,000,000 acres of unappropriated and unreserved public (federal) lands in Alaska to be held in trust by the State for future selections and conveyances to the Alaska Mental Health Trust Authority (MHTA).

The selection process (I believe) was conducted in the following manner:

- MHTA selects unappropriated and unreserved public lands. Notifies the Department of Natural Resources (DNR) of their selection.
- DNR, acting on behalf of the Territory or State of Alaska, acts as liaison between MHTA and BLM and makes application to BLM for the MHTA selection.
- BLM makes a determination to either approve or deny said selections.
- BLM (if approved) conveys said lands to the Territory or State of Alaska pursuant to Sec. 202(a) of the Alaska Mental Health Enabling Act as lands to be held in trust.
- DNR then conveys (QCDs) said lands to MHTA.

Regardless of when these trust lands were selected by MHTA it was agreed that the enactment date of the Alaska Mental Health Enabling Act - July 28, 1956 - is the date said trust lands became reserved. These trust lands are not to be treated as General Grant (State Owned) lands.

### Regarding Protracted Section Lines:

In General: Asserting section-line easements (33' and/or 50') on protracted section lines pursuant to "Footnote 15" of the 1969 Opinions of the Attorney General No. 7 IS VALID STATEWIDE ON FEDERAL AND STATE-OWNED LANDS providing said lands were unappropriated and unreserved at the time of BLM protraction diagram approval and that "Notice of Filing" was published in the Federal Register.

- Documentation **must be obtained** (both protraction diagram and federal register notice) confirming BLM protraction diagram approval prior to the Date of Entry (DOE) and that public "notice of filing" was posted in the Federal Register. **A protraction diagram showing only DNR approval is not sufficient; it must have BLM approval.**

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Specific to the Alaska Mental Health Trust Authority

- Lands selected prior to July 28, 1956 (very doubtful) - the date of enactment of the Alaska Mental Health Enabling Act – MAY or MAY NOT BE SUBJECT to 33’ and/or 50’ section-line easements. Typical SLE research as applicable to surveyed and/or protracted section lines must be conducted.
- Lands selected on or after July 28, 1956 WILL NOT BE SUBJECT to 50-foot AS 19.10.010 section-line easements because said lands were reserved on this date by the above ACT regardless of their selection or application date; UNLESS typical SLE research determines that SLE’s existed and are valid existing rights prior to this date.

Specific to the protracted section lines on Unappropriated and Unreserved Federal Lands

- Asserting section-line easements (33’ and/or 50’) on protracted section lines in accordance with footnote 15 of the 1969 Opinions of the Attorney General No. 7 IS VALID STATEWIDE ON FEDERAL AND STATE-OWNED LANDS providing said lands were unappropriated and unreserved at the time of BLM protraction diagram approval and that “Notice of Filing” was published in the Federal Register.
  - Documentation must be obtained (both protraction diagram and federal register notice) confirming BLM protraction diagram approval and that public “notice of filing” was posted in the Federal Register. A protraction diagram showing only DNR approval is not sufficient; it must have BLM approval.

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