

From: John Bennett
To: [Karen Tilton](#); [Charlie Parr](#)
Subject: State SLE on ARRC lands
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I don't think the Railroad can argue that their lands are not "state" lands. They tried to in Laverty saying that as their lands were not State lands and they were not under an obligation to post public notice when disposing of a land interest. The supreme Court disagreed. The other memo was in regard to the difficulty (time) in obtaining a ROE for surveys on ARRC lands. The DOT commissioner declared that we would no longer request a ROE as long as we were working outside of the 20' safety zone. The only question I have is whether they might argue that the federal law granting them the exclusive use easement was in conflict with the state law establishing section line easements on state land because it would interfere with their ability to manage their lands. I would say no. That the state section line easement exists but that a person would still need a permit from ARRC to build an access road in the SLE due to safety and security issues in the same manner that SLEs crossing airports are managed. As a result, if ARRC conveys away any of their lands, they will be subject to state SLEs.

With regard to UAF lands, while they are not to be considered public domain lands, they are still land owned by the state and are likely subject to state SLE's. Back in 1983 Sedwick's paper on SLEs referenced MHT, school and university lands and noted that state legislation converted MHT and school lands to the state public domain but that university lands continued to be subject to the trust obligations imposed by federal law. He said that the supreme court could interpret AS 19.10.010 narrowly to avoid that conflict so the state would not be found to owe compensation for the SLEs. I'm not aware that this has ever come to a head.

Sec. 14.40.291. Land of the University of Alaska not public domain land.

(a) Notwithstanding any other provision of law, university-grant land, state replacement land that becomes university-grant land on conveyance to the university, land conveyed to the Board of Regents in trust for the University of Alaska under [AS 14.40.365](#), and any other land owned by the university is not and may not be treated as state public domain land. Land conveyed to the Board of Regents in trust for the University of Alaska under [AS 14.40.365](#) shall be managed as nontaxable trust land under [AS 14.40.365](#) - 14.40.367 and policies of the Board of Regents.

(b) Title to or interest in land described in (a) of this section may not be acquired by adverse possession, prescription, or in any other manner except by conveyance from the university.

(c) The land described in (a) of this section is subject to condemnation for public purpose in accordance with law.

Sec. 19.10.010. Dedication of land for public highways. A tract 100 feet wide between each section of land **owned by the state**, or acquired from the state,

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