Alaska Section-Line Easement History





DEPARTMENT OF NATURAL RESOURCES Division of Mining, Land & Water



eorge C. Horton, PLS, CFedS

Survey Section 550 West 7th Avenue, Suite 650 Anchorage, AK 99501-3576

Tel: (907) 269-8610 Email: george.horton@alaska.gov www.dnr.alaska.gov

(907) 269-8914

Easement - a right, such as a right-of-way, afforded a person to make limited use of another's real property.

A section-line easement is a public right-of-way reserved for public highways, generally 33, 50, 66, 83 or 100-feet wide that runs along certain surveyed (or protracted) section lines.

There are two ways section-line elements were created in Alaska

1) Offer & acceptance (RS2477)

The offer-acceptance concept is the source of section-line easements created on <u>unappropriated and unreserved</u> federal lands in Alaska.

2) Dedication (State)

Section-line easements created on State lands result directly from a dedication by the Alaska legislature

- (March 26, 1951) which provided:
 - x "A tract 100 feet wide between eac h section of land owned by the Territory of Alaska or acquired from the Territory, is hereby dedicated for use as public highways, a section line being the center of said highway..."
- 1953 the territorial legislature amended Ch. 123 SLA 1951 by enacting Ch. 35, SLA 1953 (March 21, 1953) which provided:
 - x "A tract 100 feet wide between each section of land owned by the Territory of Alaska, or acquired from the Territory, and a tract 4 rods wide between all other sections in the Territory, is hereby dedicated for use as public highways, the section line being the center of said right-of-way...

- ► April 6, 1923 the territorial legislature enacted Ch.19, SLA 1923 which provided:
 - "A tract 4 rods wide (66') between each section of land in the Territory of Alaska is hereby dedicated for use as public highways, the section line being the center of said highway..."
- ➤ Section 1, Ch. 1, CLA 1949, approved January 18, 1949, expressly repealed all acts of the Alaska Legislature not contained in the 1949 act. The 1923 act was not included, therefore it was repealed.

- 1951 the territorial legislature enacted Ch.123, SLA 1951 (March 26, 1951) which provided:
 - ► "A tract 100 feet wide between each section of land owned by the Territory of Alaska or acquired from the Territory, is hereby dedicated for use as public highways, a section line being the center of said highway..."
- ◆ 1953 the territorial legislature amended Ch. 123 SLA 1951 by enacting Ch. 35, SLA 1953 (March 21, 1953) which provided:
 - ► "A tract 100 feet wide between each section of land owned by the Territory of Alaska, or acquired from the Territory, and a tract 4 rods wide between all other sections in the Territory, is hereby dedicated for use as public highways, the section line being the center of said right-of-way...

- Currently codified as A.S. 19.10.010 July 1, 1960 -
- A.S. 19.10.010. Dedication of land for public highways.

My Marty maring

A tract 100 feet wide between each section of land owned by the state, or acquired from the state, and a tract four rods wide between all other sections in the state, is dedicated for use as public highways. The section line is the center of the dedicated right-of-way. If the highway is vacated, title to the strip inures to the owner of the tract of which it formed a part by the original survey.

The end of RS2477 SLE's

- ▶ PLO 4582 Interior Secretary Udall's "Land Freeze"
 - In anticipation of the Alaska Native Claims Settlement Act (ANCSA) PLO 4582 withdrew all public lands in Alaska (except locations for metalliferous minerals) not already reserved, from all forms of appropriation and disposition under the public land laws;
 - Went into effect upon publication of the notice of withdrawal (published in Federal Register December 14, 1968);
 - Continued in force until passage of ANCSA on December 18, 1971, which withdrew vast amounts of land for native selections, parks, forests & refuges.

The end of RS2477 SLE's

- ◆ A series of other PLO's withdrew additional acreage between 1971 & 1972.
- ◆ PLO 5418, dated March 25, 1974, withdrew all remaining unreserved Federal lands in Alaska.
- October 21, 1976 -- The grant under RS 2477 was repealed by Title VII of the Federal Land Policy & Management Act.

Highway Rights-of-Way In Alaska

Section Line Easement Determinations

In order for SLEs to exist, the survey establishing the section lines must have been approved or filed prior to entry on Federal lands or disposal of State or Territorial lands. The Federal lands must have been unreserved at some time subsequent to survey and prior to entry.

| Surveyed Federal lands that were unreserved at any time during the indicated time period. | Effective Dates | Surveyed lands that were under State or Territorial ownership at any time during the indicated time period. (Note: includes un-surveyed lands after July 1, 1960) |
|--|---|--|
| none | April 5, 1923 | None |
| 66 | April 6, 1923 To January 17, 1949 | 66' |
| Control Award | January 18, 1949 To March 25, 1951 | none |
| none | March 26, 1951 to March 20, 1953 | Lilator vicini |
| 66' | March 21, 1953 to December 14, 1968 | 100' <i>March 25, 1974</i> |
| PLO 4582 <i>Udall Land Freeze</i> none | December 14, 1968 to Present | PLO 5418 |

Ch. 19 SLA 1923

Ch. 1 CLA 1949

Ch. 123 SLA 1951

Ch. 35 SLA 1953

AS 19.10.010 July 1, 1960

> land status can result in total easement widths of 0', 33', 50', 66', 83', and 100'. A section line easement, once created by survey and accepted by the State, will remain in existence unless vacated by the proper authority.

Highways 2013 Page 52 of 99 1/1/13

> This table is from a 2013 paper by John F. Bennett, PLS, SR/WA titled "Highway Rights-of-Way in Alaska"

Note: This table assumes the same land status on both sides of the section line. A review of the

AS 19.10.010 July 1, 1960 to Present





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Survey Section 550 West 7th Avenue, Suite 650 Anchorage, AK 99501-3576

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(907) 269-8914

- For RS 2477 SLE's you need:
 - Date of Entry (date the homestead application was received/accepted);
 - Date of Occupancy (Native Allotments)
 - Date of approval/acceptance of US Rectangular Survey (USRS) plat or
 - ▶ Date of approval of the Official Protraction Diagram
 - Verify that the subject lands were unappropriated & unreserved during one of the legislative periods of acceptance.
- State SLE's you need:
 - Verify that the subject lands were at some point owned by the State;
 - ▶ The date the State acquired title (TA is as good as title).
 - ▶ The date the State conveyed the lands into private ownership
 - Date of approval/acceptance of the USRS plat / Protraction Diagram

- 1. To get the date of USRS plat approval/acceptance:
 - Get a copy of the USRS plat that surveyed and approved the section line in question at http://dnr.alaska.gov/landrecords/ or at http://sdms.ak.blm.gov/sdms/ and obtain the date the plat was accepted. For older plats the date the plat was approved may be the only date available.
- 2. To get the Date of Entry:
 - For a Homestead get the date the application was received/accepted
 - For a Native Allotment get the Date of Occupancy

To get the Date of Entry (continued) :

Review the BLM Master Title Plat (MTP) to obtain the federal patent number for the lands that affect the section line in question (example patent number format e.g. 1182455 or 50-94-0094). The MTP can be found at

http://dnr.alaska.gov/landrecords/ or at http://sdms.ak.blm/gov/sdms/.

- ✓ Get a copy of the patent at http://www.glorecords.blm.gov/ or at http://sdms.ak.blm.gov/sdms/
- ✓ With the patent get the BLM case file number (located in upper left corner).

To get the Date of Entry (continued):

- Go to BLM's Public Information Room and get a copy of the Serial Page that's associated with the BLM case file number.
 - Another option is to get a copy of the BLM case file abstract at http://sdms.ak.blm.gov/sdms/ by clicking the ACRES link and searching by document (patent) number. My opinion is that the serial page is more defendable than an abstract.
 - Verify that the legal description on the patent & serial page and/or abstract are the same.

- 3. Research BLM's Historical Index to determine if the subject lands were unappropriated and unreserved.
 - Pay particular attention to PO's, EO's PLO's, etc. These documents need to be researched to determine what affect they may have.
 - The Historical Index can be accessed through the ACRES link at http://sdms.ak.blm.gov/sdms/
 - Historical Index aperture cards are on the 6th floor. Orange files in the Survey Section.
 - PO's, EO's PLO's, etc are located on 10th floor in the Title Section.

4 Perform an analysis using:
the date of USRS plat approval,
the date of entry,
and information obtained from the BLM historical index research.

Compare this data with the periods of legislative acceptance.

My Manty Marine

11 AAC 51.025 Section-line easements

Editor's note:

- ▶ 1. For public lands in the Territory of Alaska before April 6, 1923, section-line easements did not arise by operation of statute;
- 2. For surveyed land owned by the Territory of Alaska at any time on or after April 6, 1923 through Jan. 17, 1949, or for surveyed federal land that was unappropriated and unreserved at any time during that period, the width identified in Ch. 19, SLA 1923 for any section-line easement is 33 feet;
- ▶ 3. For any land owned by the Territory of Alaska at any time on or after January 18, 1949 through March 25, 1951, section-line easements did not arise by operation of statute;

11 AAC 51.025 Section-line easements

- ▶ 4. For federal land at any time on or after January 18, 1949 through March 20, 1953, section-line easements did not arise by operation of statute;
- 5. For any surveyed land owned by the Territory of Alaska or the state on or after March 26, 1951 through June 30, 1960, the width identified in ch. 123, SLA 1951 for any section-line easement is 50 feet;
- ▶ 6. For surveyed federal land that was unappropriated and unreserved at any time on or after March 21, 1953 through December 14, 1968, the width identified in Ch. 35, SLA 1953 for any section-line easement is 33 feet;

11 AAC 51.025 Section-line easements

- ➤ 7. For surveyed or unsurveyed land owned by the state on or after July 1, 1960, the width, as identified in AS 19.10.010, is 50 feet.
- For purposes of calculating the widths for section-line easements, "each section of land," as used in Ch. 19, SLA 1923, is read to mean each section of surveyed land owned by the Territory of Alaska, and each section of surveyed, unappropriated, unreserved federal land open to the grant of a right-of-way under R.S. 2477. As used in Ch. 35, SLA 1953, and AS 19.10.010, "all other sections" is read to include all sections of surveyed, unappropriated, unreserved federal land open to the grant of a right-of-way under R.S. 2477. An easement, if any, may exist on each side of a section line. Depending on land status on each side of the section line, the total easement width may be 33 feet, 50 feet, 66 feet, 83 feet, or 100 feet.

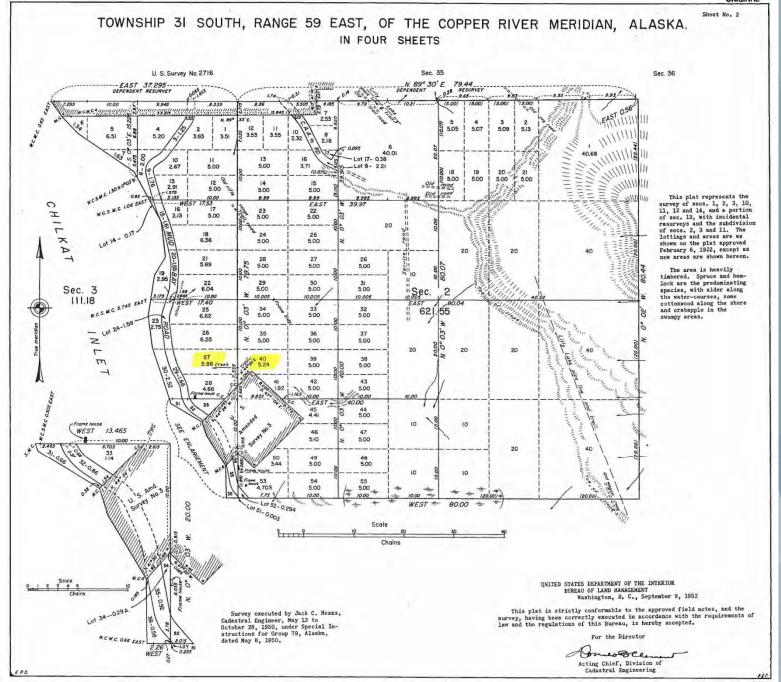
Notes:

Acceptance of the federal grant (1866 mining law - RS2477) applies only to those lands which were public lands not reserved for public uses, during periods in which the legislative acceptance was in effect: Between April 6, 1923 & January 17, 1949 and between March 21, 1953 and December 14, 1968 (March 24, 1974).

University Grant Lands may be an exception as the application of a section-line easement may be in conflict with the federal trust obligation. University lands are lands granted to the territory by the Act of March 4, 1915 (38 Stat. 1214) and the Act of January 21, 1929 (45 Stat. 1091).

A section-line easement, once created by survey and accepted by the State, will remain in existence unless vacated by the proper authority.

- A section-line easement vacation requires approval from
 - ► The Department of Transportation and Public Facilities
 - ► The Department of Natural Resources
 - ▶ The Local Platting Authority



PARTIALLY SURVEYED TOWNSHIP 31 SOUTH RANGE 59 EAST OF THE COPPER RIVER MERIDIAN, ALASKA

PROTRACTION DIAGRAM NO. CR11-7 OFFICIALLY FILED 9/6/1976

USS 2716 № A-386.08 AAB773 City of Hoines AA71376 QCD from US 8-2.18 -9-2.21 +,9-5.00 1214768 R/W All Min 1202286 R/W All Mis 1181864 R/W All Min 1202157 R/W At Min 1202158 R/W All Min 50-92-010J 0/C 1181865 R/W All Min 1212310 R/W All Min 1222946 R/W AR Mic 5 0 5 10

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MTP SUPPL SEC 2

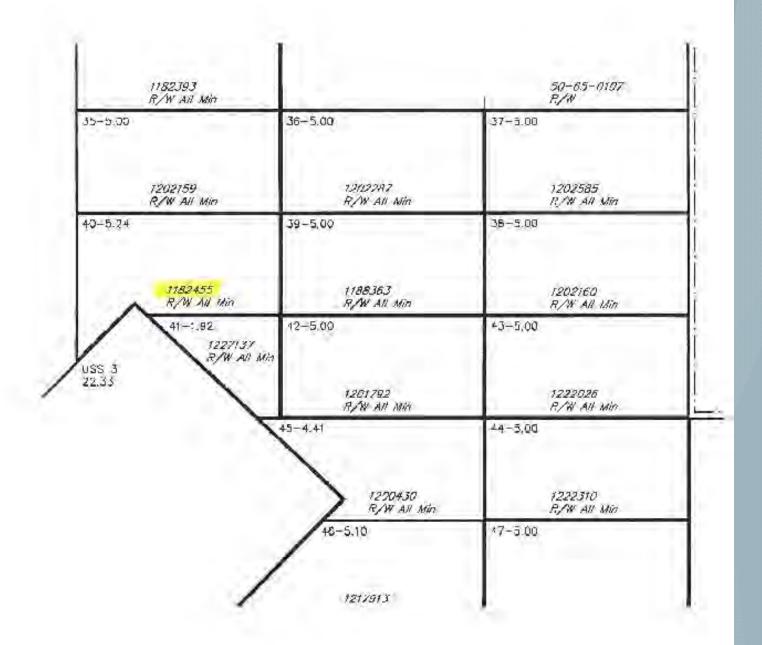
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FOR ORDERS EFFECTING DISPOSAL OR USE OF UN-IDENTIFED LANDS MITHERAWN FOR CLASSIFICATION MINERALS, WATER AND/OR OTHER PUBLIC PURPOSES REFER TO INDEX OF MISCELLANEOUS DOCUMENTS.

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A061493 SS Amdt PL 96-487 Sec 906(e) Top Filed

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Juneau 011114

The United States of America

To all to whom these presents shall come, Greeting:

WHEREAS, a certificate of the Land Office at in the Bureau of Land Management, whereby it appears that pursuant to the act of Congress of June 1, 1938 (52 Stat. 669), as smended by the Act of July 14, 1945 (59 Stat. 467), and the acts supplemental thereto, the claim of Allen Dale Wiley

has been established and that the requirements of law pertaining to the claim have been met, for the following-described land:

Copper River Meridian, Alaska.

T. 31 S., R. 59 E.,

Sec. 2, Lot 40.

The area described contains 5.24 area, according to the official plat of the survey of the said land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, DOES HEREBY GRANT unto the said claimant and to the heirs of the said claimant the tract above described; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to (1) any vested and accrued water rights for ming, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and decisions of courts; (2) the reservation of a right-of-way for ditches or canals constructed by the authority of the United States, in accordance with the act of August 30, 1890 (26 Stat, 391, 43 U. S. C. sec. 945), and (3) the reservation of a right-of-way for roads, roadways, highways, tramways, trails, bridges, and appurtenant structures constructed or to be constructed by or under authority of the United States or by any State created out of the Territory of Alaska, in accordance with the act of July 24, 1947 (61 Stat, 418, 48 U. S. C. sec. 321d). There is also reserved to the United States a right-of-way for the construction of railroads, telegraph and telephone lines, in accordance with section 1 of the act of March 12, 1914 (38 Stat, 305, 48 U. S. C. sec. 305)

Excepting and reserving, also, to the United States, all oil, gas, and other mineral deposits, in the land so patented, together with the right to prospect for, mine, and remove the same according to the provisions of said Act of June 1, 1938. This patent is subject to a right-of-way not exceeding 50 feet in width, for road-way and public utilities purposes, to be located along the north and west boundaries of said land.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat., 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in the District of Columbia, the
TMENTY-FIRST day of MAY in the year of
our Lord one thousand nine hundred and FIFTY-EIGHT
and of the Independence of the United States the one hundred
and EIGHTY-SECOND.

For the Director, Bureau of Land Management.

By Chief, Patents Section.

Patent Number 1182455

[SEAL]

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(Designation of land)

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Bureau of Land Management - Alaska LIS-Online Reports Case Abstract for: AKJ 011114

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and can be released in whole.

PARTIALLY SURVEYED TOWNSHIP 31 SOUTH RANGE 59 EAST OF THE COPPER RIVER MERIDIAN, ALASKA

PROTRACTION DIAGRAM NO CRIT-7 OFFICIALLY FILED 9/6/1976

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STATUS OF PUBLIC DOMAIN LAND AND MINERAL TITLES

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SUPPL SECS 3, 10 & 11

FOR ORDERS EFFECING DISPOSAL OR USE OF UN-IDENTITIED LANDS WITHDRAWN FOR CLASSIFICATION MINERALS, WATER AND/OR OTHER PUBLIC PURPOSES REFER TO INDEX OF INSCELLANEOUS DOCUMENTS.

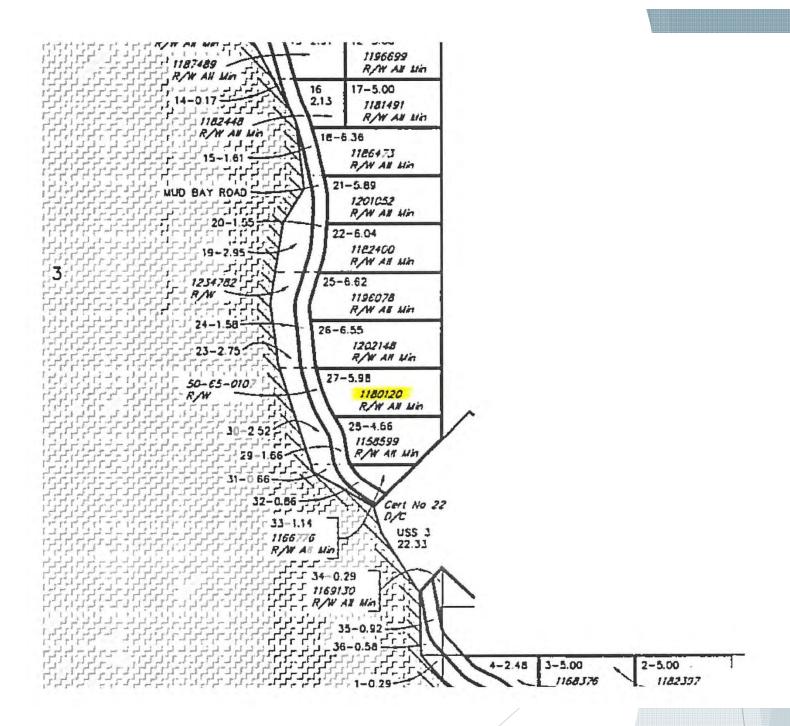
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Form (-1212 (Feb. 1957)

Juneau 010241

The United States of America

To all to whom these presents shall come, Greeting:

WHEREAS, a certificate of the Land Office at Juneau , Alaska, is now deposited in the Bureau of Land Management, whereby it aspears that pursuant to the act of Congress of June 1, 1936 (52 Stat. 609), as seemeded by the Act of July 14, 1945 (59 Stat. 467),

and the acts supplemental thereto, the claim of Harry Larry Young, assignee by mesne conveyance of George W. Borton, has been established and that the requirements of law pertaining to the claim have been met, for the following-described land:

Copper River Meridian, Alaska.

T. 31 S., R. 59 E.,

Sec. 3, Lot 27.

The area described contains 5.98 acres, according to the official plat of the survey of the said land, on file in the Bureau of Land Management:

NOW KNOW YE, That the UNITED STATES OF AMERICA, in consideration of the premises, DOES HEREBY GRANT unto the said claimant and to the heirs of the said claimant the tract above doeseribed; TO HAVE AND TO HOLD the same, together with all the rights, privileges, immunities, and appurtenances, of whatsoever nature, thereunto belonging, unto the said claimant and to the heirs and assigns of the said claimant forever; subject to (1) any vested and accured water rights for mining, agricultural, manufacturing, or other purposes, and rights to ditches and reservoirs used in connection with such water rights, as may be recognized and acknowledged by the local customs, laws, and ecisions of courts; (2) the reservation of a right-of-way for ditches or canals constructed the authority of the United States, in accordance with the act of August 30, 1890 (26 Stat., 391, 43 U. S. C. see, 945), and (3) the reservation of a right-of-way for or locads, readways, highways, tramways, trails, bridges, and appurtenant structures constructed or to be constructed by or under authority of the United States or by any State created out of the Territory of Aliaska, in accordance with the act of July 24, 1947 (61 Stat., 418, 48 U. S. C. sec. 321d). There is also reserved to the United States a right-of-way for othe Construction of railroads, telegraph and telephone lines, in accordance with section 1 of the act of March 12, 1914 (38 Stat., 305, 48 U. S. C. sec. 305)

Excepting and reserving, also, to the United States, all oil, gas, and other mineral deposits, in the land so petented, together with the right to prospect for, sine, and remove the same according to the provisions of said Act of June 1, 1938. This petent is subject to a right of way not exceeding 50 feet in width, for roadway and public utilities purposes, to be located along the cast boundary of said land.

IN TESTIMONY WHEREOF, the undersigned authorized officer of the Bureau of Land Management, in accordance with the provisions of the Act of June 17, 1948 (62 Stat., 476), has, in the name of the United States, caused these letters to be made Patent, and the Seal of the Bureau to be hereunto affixed.

GIVEN under my hand, in the District of Columbia, the SEVENTH day of MARCH in the year of our Lord one thousand nine hundred and PIPTI-RIGHT and of the Independence of the United States the one hundred and ENDITY-SECOND.

For the Director, Bureau of Land Management.

By Rose Mr. Bull Chief, Patenta Section.

Patent Number 1180120

[SEAL]

N. S. SAVERNOUS PRINTING SETTER 15-05632-4

Bureau of Land Management - Alaska LIS-Online Reports Case Abstract for: AKJ 010241

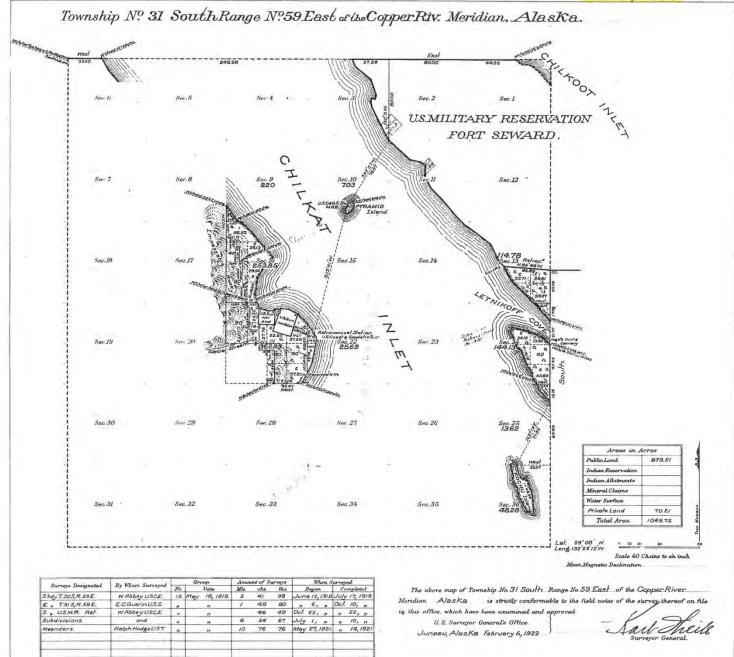
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| Cust Address: | Withheld | | | |
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Sec. 36 48.28

| 221 0000 010 2 | |
|--------------------|---------|
| Public Land | 979.5/ |
| Indian Reservation | |
| Indian Allotments | |
| Mineral Claims | |
| Water Surface | |
| Private Land | 70.2/ |
| Total Area | 1049.72 |

Lal. 59°08' N. Long. 135°23'12'W.

0 30 20 40

Scale 40 Chains to an inch

Mean Magnetic Declination

| | The above map of Township No.31 South Range No.59 East of the Copper River |
|-----------|--|
| 19. | Meridian Alaska is strictly conformable to the field notes of the survey thereof on file |
| \exists | in this office, which have been examined and approved. |
| | U.S. Surveyor General's Office. |
| 2/. | U.S. Surveyor General's Office. |

Sec.35

Surveyor General.