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STATE OF ALASKA  
THE LEGISLATURE

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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary

4/26/85

1:30 pm

4/

# COMMITTEE REPORT

## HOUSE

(7)

FURTHER: FINANCE

4/12/85

Date: \_\_\_\_\_

The Committee on JUDICIARY has had HB 321

"An Act relating to the title to property abutting certain highways in the state; and providing for an effective date."

under consideration and recommends:

- do pass  do not pass
- do pass with attached amendments(s)
- replace with CS for \_\_\_\_\_  same title  
 new title
- and recommends \_\_\_\_\_
- AND attaches a "Letter, of Intent"  New Fiscal Note
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

[Signature] - no rec  
[Signature] - no rec  
[Signature] - no rec  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
CHAIRMAN

COMMITTEE REPORT  
HOUSE

4/12

(7)

FURTHER: JUDICIARY

3/25/85

Date: <sup>4/12</sup> 11 APRIL 1985

The Committee on TRANSPORTATION has had HB 321

"An Act relating to the title to property abutting certain highways in the state; and providing for an effective date."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for HB 321 (TRSP) [X] same title [X] new title

and recommends J. P. ...

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note See 4-17

[ ] reports it back without recommendation [X] ~~NO~~ Fiscal Note Attached

[ ] referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

Marrou [Signature] Furnace  
herrmann Alheid Herrmann Davis  
Cato Bette Cato  
Pignalberi Mike Pignalberi  
~~[Signature]~~  
Shultz Dick Shultz

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

Walt Furnace None  
Mike Davis No Rec  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bette Cato  
CHAIRMAN



Dept. of Transportation & Public Facilities

# Position Paper

C.S.  
BILL NO: House Bill No. 321

APPROVED:

*R. J. Knapp*  
R. J. Knapp  
Commissioner

TITLE: An Act relating to the title to  
property abutting certain highways  
in the State; & providing for an effective date

DATE:

4/12/85

The Department of Transportation and Public Facilities cannot support House Bill 321 as written. It is our understanding that HB 321 is intended to resolve a problem created by the revocation of Public Land Order 601 by Public Land Order 1613 issued on April 7, 1985. PLO 1613 creates highway easements for the following roads: Alaska Highway, Richardson Highway, Glenn Highway, Haines Highway, Seward-Anchorage Highway, Spenard Highway and the Fairbanks-College Highway. The problem arose because PLO 1613 converted the road withdrawals created by PLO 601 to road easements. This conversion freed up a narrow strip of land adjoining the highway created by PLO 601 for disposal by the Bureau of Land Management. BLM then sold off these strips (called highway lots) to the adjoining owners.

Section 2 of HB 321 grants DOT&PF, under certain circumstances, the authority to condemn in fee private lands that are subject to PLO 1613 easements. The practical effect of this section would be to allow DOT&PF to condemn the ~~PLO 1613 easement~~ (formerly a PLO 601 withdrawal). The unwritten intent of Section 2 is apparently to have DOT&PF then sell off this condemned easement to the abutting owner, thus resolving the ownership dispute.

DOT&PF is aware of the title problems created by the conversion of PLO 601 withdrawals to easements under PLO 1613, and the subsequent sales of highway lots by BLM. Our position has been carefully considered in view of the greatest public interest: (a) there is doubt we can condemn private property to convey to another private ownership (b) there already are two existing procedures resolving these title problems between owners - Appeal to BLM and the court system, and (c) the fiscal impact at resolving ownership disputes would be significant.

It is our recommendation that these private ownership disputes be settled in a court of law on a case-by-case basis.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: CSHB 321  
 Title: An Act Relating to Title  
to Property  
 Sponsor: Cotten and Marrou  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: DOT&PF  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		115	115	115	115	115
200 TRAVEL		20	20	20	20	20
300 CONTRACTUAL		2,020	2,020	2,020	2,020	2,020
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES		400	400	400	400	400
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>2,555</b>	<b>2,555</b>	<b>2,555</b>	<b>2,555</b>	<b>2,555</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		2,555	2,555	2,555	2,555	2,555
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached analysis

Prepared By: Milton H. Lentz

Phone: 465-2985

Division: Standards and Technical Services

Date: April 11, 1985

Approved by Commissioner: *Wick*

Date: 4/12/85

Agency: Dept. of Transportation & Public Facilities

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

7/1/84

BASIS FOR FISCAL IMPACT

Due to the cost in manpower and time, it was not practical to conduct a detailed analysis of the impact of House Bill No. 221 and there are no available figures to determine the number of actual parcels affected by this bill. We therefore have assumed there are approximately 2,000 parcels of highways lots that would be affected. Our assumption is based on the fact that approximately 950-miles of the state's road system include PLO 1613. Again, we have assumed that it would not be unreasonable to include 2+ parcels per mile of road. Cost figures are based on historical cost per parcel. These estimated costs per year are broken down on a per-parcel basis as follows:

Personal Services (100) - 3 positions

Grade 20 -	\$ 50,000/yr.
Grade 18 -	45,000/yr.
Grade 10 -	<u>20,000/yr.</u>
	\$115,000/yr.

\* includes management, negotiatons, clerical, etc.  
(4 months/region)

Travel (200)

\$ 50 per parcel x 400 parcels/yr. - \$ 20,000/yr.

Acquisition (600)

\$1,000 per parcel x 400 parcels/yr. - \$400,000/yr

Contractual (300)

Title search and survey -	\$ 300/parcel
Appraisal and review -	250/parcel
Attorney fee and court cost -	<u>4,500/parcel**</u>
	\$5,050 x 400 parcels
	= \$2,020,000

\*\* Not including trial, if required

Although the actual cost cannot be identified on a year-to-year basis, the fiscal note covers a period through FY 90. The estimated fiscal impact on the State is estimated to be in excess of twelve million dollars. It should be noted the fiscal impact indicates the worse case analysis. The potential for an impact of the magnitude stated in the fiscal note is possible and believed reasonable.

Savings Provisions. Repeal by Pub.L. 94-579 insofar as applicable to the issuance of rights-of-way not to be construed as terminating any valid

lease, permit, patent, etc., existing on Oct. 21, 1976, see note under section 1701 of this title.

**§ 971a. Alaskan lands within highway, telephone and pipeline withdrawals; disposal; amendment of land description of claim or entry on adjoining lands**

Upon revocation of a withdrawal for highways, telephone lines, or pipelines, in Alaska, the lands involved shall be subject to disposal only under laws specified by the Secretary of the Interior, subject to easements as established by the Secretary. Notwithstanding any statutory limitation on the area which may be included in an unpatented claim or entry, the Secretary may permit the amendment of the land description of a claim or entry on adjoining lands to include the restored lands.

(Aug. 1, 1956, c. 848, § 1, 70 Stat. 898.)

**§ 971b. Sale of restored Alaskan lands preference rights; consent of Federal agency**

The Secretary may sell such restored lands for not less than their appraised value, giving an appropriate preference right to the holders of adjoining claims or entries and to owners of adjoining private lands. If such lands are under the jurisdiction of a Federal department or agency other than the Department of the Interior, any sale thereof shall be made only with the consent of such department or agency.

(Aug. 1, 1956, c. 848, § 2, 70 Stat. 898.)

**§ 971c. Utilization or occupancy of Alaskan easements; consent of agency**

Lands in Alaska within an easement established under sections 971a to 971e of this title by the Secretary of the Interior may not be utilized or occupied without the permission of the Secretary, or an officer or agency designated by him. If the lands crossed by an easement established under sections 971a to 971e of this title are under the jurisdiction of a Federal department or agency other than the Department of the Interior, or of a State, Territory, or other government subdivision or agency, such permission may be granted only with the consent of such department, agency, or other governmental unit.

(Aug. 1, 1956, c. 848, § 3, 70 Stat. 898.)

**§ 971d. Effect on valid existing Alaskan rights**

Nothing in sections 971a to 971e of this title shall affect adversely any valid existing rights.

(Aug. 1, 1956, c. 848, § 4, 70 Stat. 898.)

**§ 971e. Definition of restored Alaskan lands**

For the purposes of sections 971a to 971e of this title, the words "restored lands" include, without limiting the meaning thereof, those lands at Big Delta and Tok Junctions that are withdrawn by public land orders numbered 808 and 975 and that lie between the centerline of the Richardson and Glenn Highways and the land included within United States surveys 2727, 2728, 2770, 2771, 2772, 2773, 2774, 2723, 2724, 2725 and 2726.

(Aug. 1, 1956, c. 848, § 5, as added June 11, 1960, Pub.L. 86-512, 74 Stat. 207.)

**§ 975. Alaskan railroads; location, construction, and operation; passes; security officers**

The President of the United States is empowered, authorized, and directed to adopt and use a name by which to designate the railroad or railroads and properties to be located, owned, acquired, or operated under the authority of sections 975 to 975g of this title; to employ such officers, agents, or agencies, in his discretion, as may be necessary to enable him to carry out the purposes of said sections; to authorize and require such officers, agents, or agencies to perform any or all of the duties imposed upon him by the terms of said sections; to detail and require any officer or officers in the Engineer Corps in the Army or Navy to perform service under said sections;

to fix the compensation by him; and, not relocation, travel railroad designated be located a route not to exceed in the or more of the open navigable waters in aid in the development and the settlement coal for the Army mails, and for other passengers and private route or routes as feeders, sidings, or personal property. the power of eminent declared to be a part with the laws now grounds, and all equipment for the or otherwise acquired the equipment and rates for the transport and uniform, but the provisions of the fees and their families and except also the secretaries of Rail engaged in charity to indigent, destitute, eleemosynary institutions, societies or hospitals, newsboys on train such persons; the common carriers, object of providing visitation is permitted and property and railroad; to make of said railroad or or any portion thereof under such terms shall be for a long sections 975 to 975g in the event of Congress. If said leased under the shall be operated in commerce laws; to may deem proper necessary to complete located by him. The actual physical of railroad or steam ships or property steamship line or necessary to carry the work herein provided, and other projects the construction needed at Panama authorized to delineate, and to

REPRESENTATIVE  
SAM COTTEN  
DISTRICT 15



PO BOX 296, EAGLE RIVER, AK 99577  
POUCH V. JUNEAU, AK 99811

ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
MEMORANDUM

FROM: Rep. Sam Cotten

DATE: April 23, 1985

TO: Members of the  
House Judiciary  
Committee

RE: Requesting a committee hearing  
HB 321, on right-of-way  
problems related to PLO 1613

---

House Bill 321 aims to resolve right-of-way problems plaguing Chugiak-area residents living along the Old Glenn Highway; it also affects similarly situated residents living on other Alaska highways. The problem stems from the federal government awarding ownership of a narrow strip of land in front of their lots to someone else.

The situation dates back almost 30 years when the Act of August 1, 1956 and Public Land Order 1613 (in 1958) allowed people to purchase highway lots and file for patents to the abutting highway easements. The intent of the law was to award the highway easement to the abutting landowner. However, after a decades-long delay, BLM has only recently started issuing these patents. In doing so, BLM has decided to award the patents to the original applicants, who, in many cases, no longer live there, rather than the abutting landowners. (In some cases the original applicants have died, in other cases the land has changed hands several times.) This administrative delay by BLM has meant that current highway residents face the situation of having someone else claim ownership to the highway easement they thought they owned. This clearly contradicts the intent of the law.

The situation has caused much distress and confusion among Chugiak area residents in particular. Many of these residents have appealed BLM's decision to the Interior Board of Land Appeals and at least one case is in court. All cases are pending.

House Bill 321 aims to accomplish the same goals as PLO 1613: to give abutting landowners title to the highway easement.

The first section of this bill presumes that the title should go to the current abutting landowner, who may or may not be the original applicant. If another person claims an interest in the highway parcel it places the burden of proof on him or her to show that the title was not conveyed to the original landowner.

The second section of the bill gives the state the authority to condemn land or acquire claims in order to convey the parcel to the abutting landowner.

Register Data

Vol.:  
Page:

PLO No.: 1613  
Date PLO signed: 4/7/58

TITLE 43—PUBLIC LANDS:  
INTERIOR

Chapter I—Bureau of Land Management,  
Department of the Interior

Regulations—Public Land Order  
(Public Land Order 1613)  
(37100)

Alaska

SEVERAL PUBLIC LAND ORDER NO. 1613 OF  
AUGUST 10, 1948, WHICH REVOKES PUBLIC  
LANDS FOR HIGHWAY PURPOSES, AND PAR-  
TIALLY REVOKES PUBLIC LAND ORDER NO.  
1613 OF JULY 31, 1947

By virtue of the authority vested in  
the President and pursuant to Executive  
Order No. 10333 of May 26, 1953, and  
the act of August 1, 1956 (70 Stat. 888)  
it is ordered as follows:

1. Public Land Order No. 401 of  
August 10, 1948, as modified by Public  
Land Order No. 137 of October 16, 1951,  
reserving for highway purposes the pub-  
lic lands in Alaska lying within 300 feet  
on each side of the center line of the  
Alaska Highway and within 150 feet on  
each side of the center line of the Rib-  
erdson Highway, Olen Highway, Pitmea  
Highway, theeward-Anchorage High-  
way, exclusive of that part thereof  
within the boundaries of the Chugach  
National Forest, the Anchorage-Lake  
Bryant Highway, and the Fairbanks-  
College Highway, is hereby revoked.

2. Public Land Order No. 288 of July  
31, 1947, so far as it withdrew the follow-  
ing-described lands, identified as items  
1a) and 1b) in said order, under the jur-  
isdiction of the Secretary of War for  
right-of-way purposes for a telephone  
line and an oil pipeline with appurte-  
nances, is hereby revoked:

(a) A strip of land 80 feet wide, 33 feet on  
each side of a telephone line as located and  
constructed generally parallel to the Alaska  
Highway from the Alaska-Tulua Territory  
boundary to the junction of the Alaska  
Highway with the Richardson Highway near  
Big Delta, Alaska.

(b) A strip of land 30 feet wide, 10 feet  
on each side of a pipeline as located and  
constructed generally parallel to the Alaska  
Highway from the Alaska-Tulua Territory  
boundary to the junction of the Alaska  
Highway with the Richardson Highway near  
Big Delta, Alaska. (land is private)

3. An easement for highway purposes  
including appurtenant protective, scenic,  
and service areas, over and across the  
lands described in paragraph 1 of this  
order, extending 150 feet on each side of  
the center line of the highways men-  
tioned therein, is hereby established.

4. An easement for telephone line pur-  
poses in, over, and across the lands de-  
scribed in paragraph 2 (a) of this order,  
extending 33 feet on each side of the  
telephone line referred to in that para-  
graph, and an easement for pipeline pur-  
poses in, under, over, and across the  
lands described in paragraph 2 (b) of  
this order, extending 10 feet on each side  
of the pipeline referred to in that para-  
graph, are hereby established, together  
with the right of ingress and egress to all  
sections of the above easements on and  
across the lands hereby released from  
withdrawal.

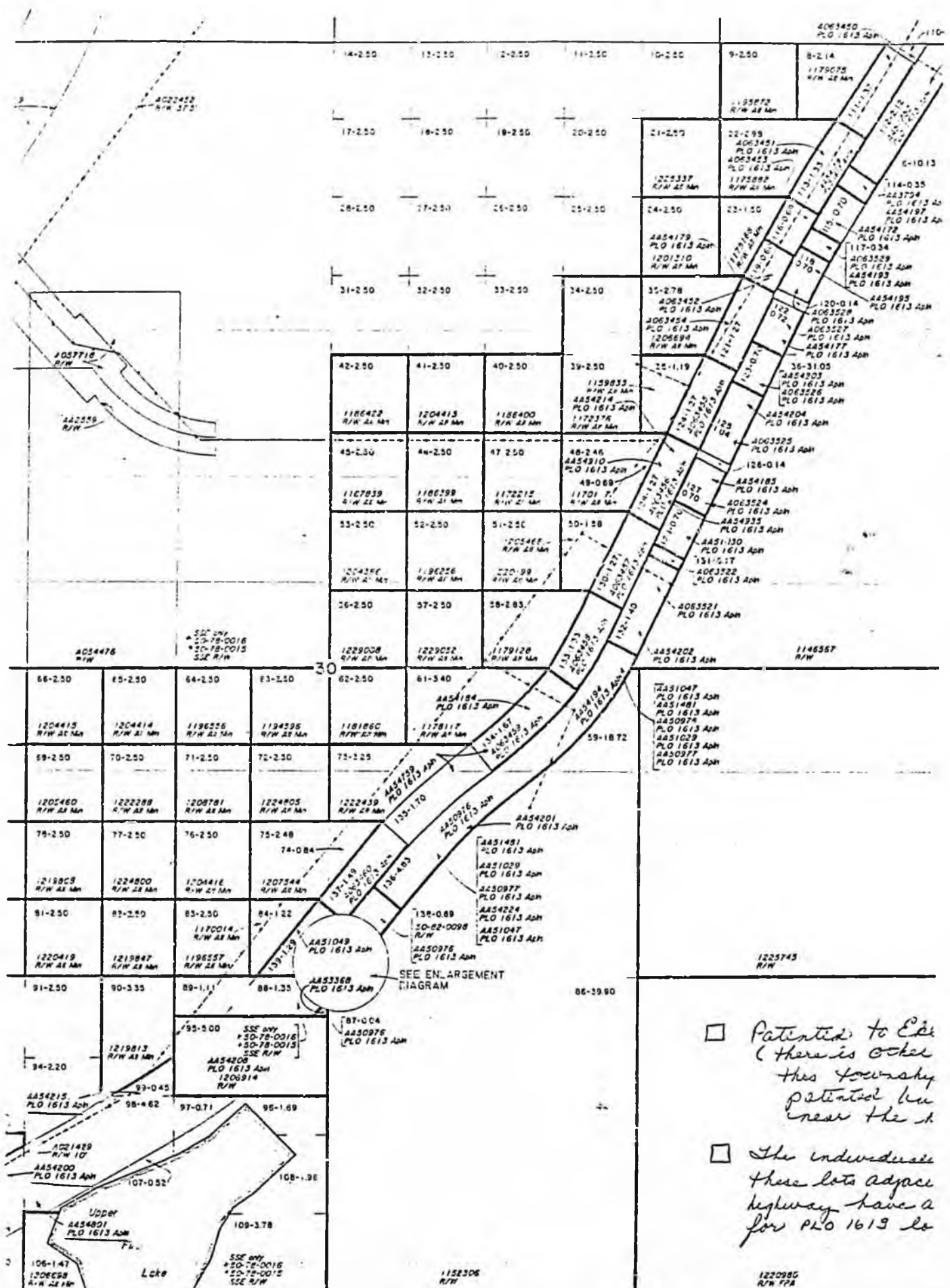
3 The easements established under  
paragraphs 3 and 4 of this order shall  
extend across both surveyed and unsurveyed  
public lands described in para-  
graphs 1 and 2 of this order for the  
specified distance on each side of the  
centerline of the highways, telephone  
line and pipeline, as those center lines  
are definitely located as of the date of  
this order.

4 The lands within the easements  
established by paragraphs 3 and 4 of  
this order shall not be occupied or used  
for other than the highways, telegraph  
line and pipeline referred to in para-  
graphs 1 and 2 of this order except with  
the permission of the Secretary of the  
Interior or his delegate as provided by  
section 2 of the act of August 1, 1956  
(70 Stat. 888), provided that if the lands  
covered by such easements are under the  
jurisdiction of a Federal department or  
agency, other than the Department of  
the Interior, or of a Territory, State, or  
other Government subdivision or agency,  
such permission may be granted only  
with the consent of such department,  
agency, or other governmental unit.

5 The lands released from withdrawal

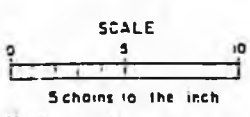
by paragraphs 1 and 2 of this order,  
which, at the date of this order, adjoin  
lands in private ownership, shall be of-  
fered for sale at not less than their ap-  
praised value, as determined by the au-  
thorized officer of the Bureau of Land  
Management, and pursuant to section 2  
of the act of August 1, 1956 supra.  
Owners of such private lands shall have  
a preference right to purchase at the ap-  
praised value so much of the released  
lands adjoining their private property  
as the authorized officer of the Bureau of  
Land Management deems equitable, pro-  
vided, that ordinarily, owners of private  
lands adjoining the lands described in  
paragraph 1 of this order will have a  
preference right to purchase released  
lands adjoining their property, only up  
to the centerline of the highways located  
therein. Preference right claimants may  
make application for purchase of re-  
leased lands at any time after the date  
of this order by giving notice to the ap-  
propriate land office of the Bureau of  
Land Management. Lands described in  
this paragraph not claimed by and sold  
to preference claimants may be sold at  
public auction at not less than their ap-  
praised value by an authorized officer of  
the Bureau of Land Management, pro-  
vided that preference claimants are first  
given notice of their privilege to exercise  
their preference rights by a notice ad-  
dressed to their last address of record in  
the office in the Territory in which their  
title to their private lands is recorded.  
Such notice shall give the preference  
claimant at least 60 days in which to  
make application to exercise his prefer-  
ence right; and if the application is not  
filed within the time specified, the pre-  
ference right will be lost. Preference  
right claimants will also lose their prefer-  
ence rights if they fail to pay for the  
lands within the time period specified by  
the authorized officer of the Bureau of  
Land Management, which time period  
shall not be less than 60 days.

WETED TOWNSHIP IS NORTH, RANGE 1 WEST OF THE SEWARD



Patented to Ede  
(there is other  
this township  
patented in  
near the h

The individuals  
these lots adjae  
highway have a  
for PLO 1613 lo



WARNING:  
THIS PLAT IS THE BUREAU'S RECORD OF TITLE AND SHOULD  
ONLY AS A GRAPHIC DISPLAY OF TOWNSHIP SURVEY DATA.  
HEREON DO NOT REFLECT TITLE CHANGES WHICH MAY HAVE  
EFFECTED BY LATERAL MOVEMENTS OF RIVERS OR OTHER  
INFORMATION. REFER TO THE CADASTRAL SURVEY FOR OFFICIAL  
INFORMATION.