

**LOCAL
SERVICE
ROADS &
TRAILS
PROGRAM
(LSR&T)
/RS 2477'S**

STATE OF ALASKA
THE LEGISLATURE

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Mary Van Nimwegen

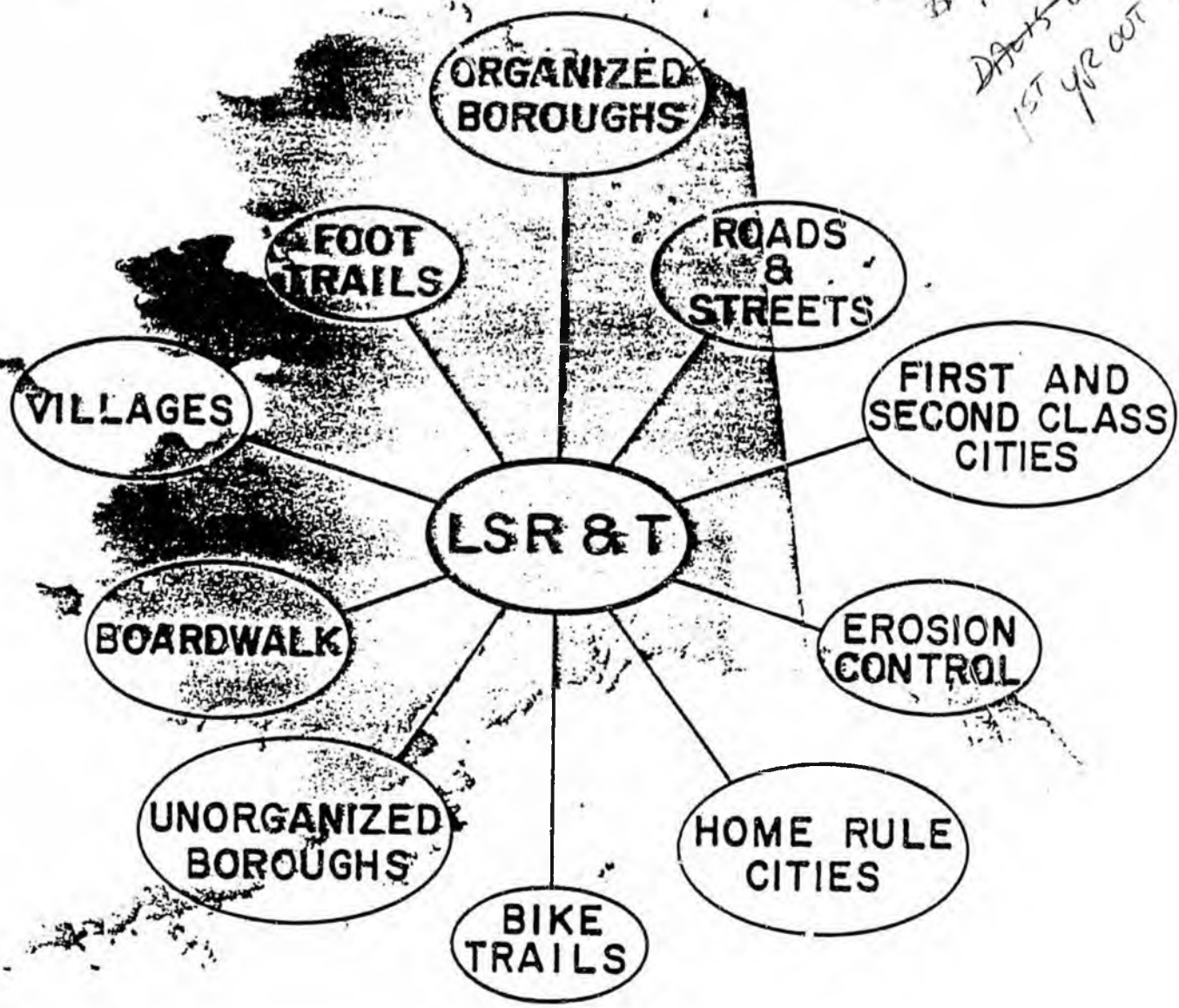
House Transportation

3/6/90

LOCAL SERVICE ROADS AND TRAILS PROGRAM

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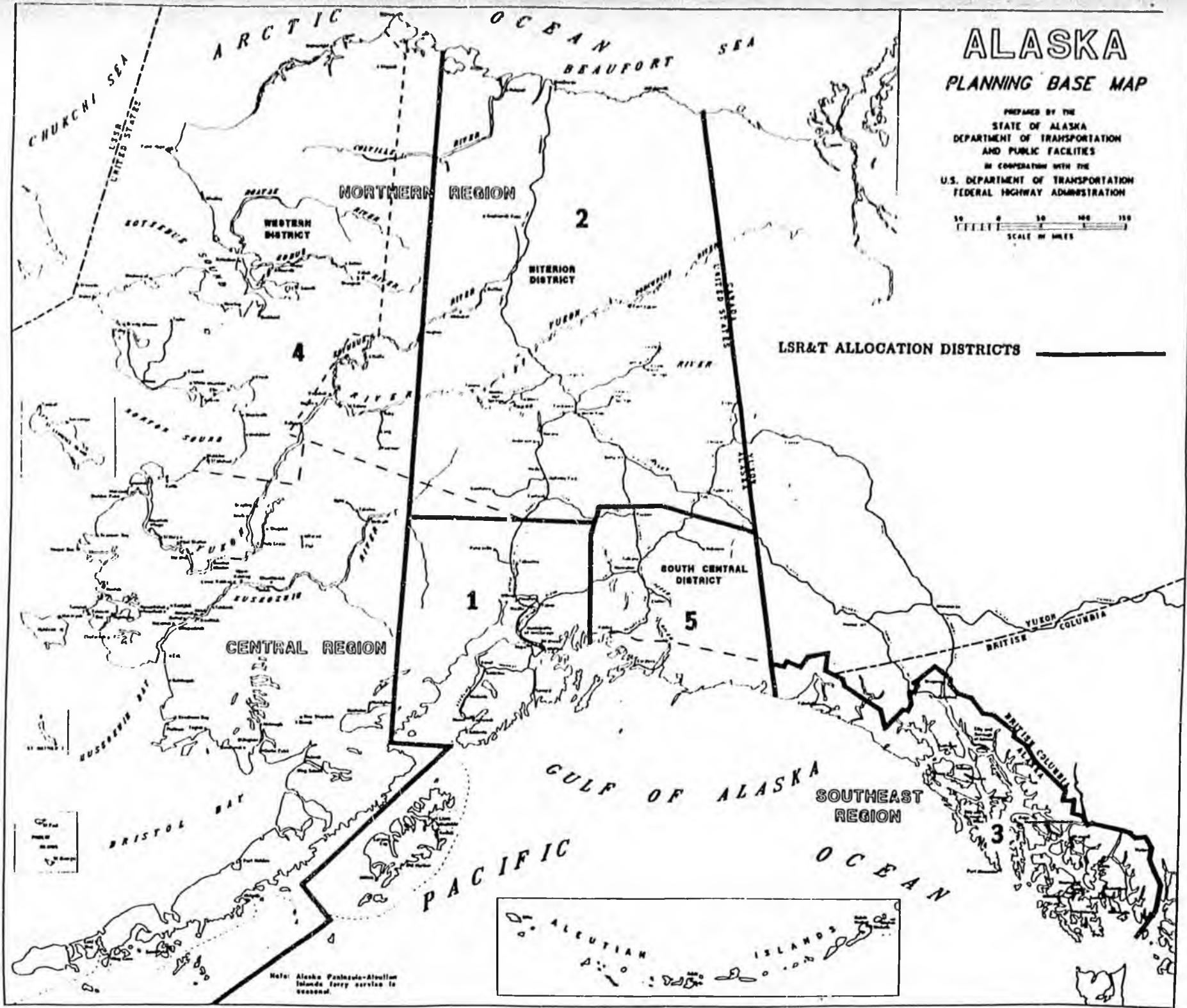
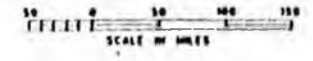
R/W NC'S
BZ - 5-10 mi
DAYS BNC?
1ST YR OUT of BZ?



STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES

ALASKA PLANNING BASE MAP

PREPARED BY THE
STATE OF ALASKA
DEPARTMENT OF TRANSPORTATION
AND PUBLIC FACILITIES
IN COOPERATION WITH THE
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL HIGHWAY ADMINISTRATION



LSR&T ALLOCATION DISTRICTS

Note: Alaska Peninsula-Aleutian Islands Ferry service is seasonal.

HISTORY

LOCAL SERVICE ROADS AND TRAILS PROGRAM

Primary Functions:

The Local Service Roads and Trails (LSR&T) program was established by the State Legislature in 1971 to provide for special needs of "bush" communities, rural communities and communities both within and outside of organized boroughs.

The Local Service Roads and Trails program was designed to aid communities that do not have either the financial means or the technical expertise to accomplish a project alone. These projects are in the nature of roads, trails, bridges and boardwalks.

The LSR&T Program is wholly State funded. Generally, local government projects are contracted; although some local governments prefer to utilize their own forces. In remote areas, local labor and equipment rental is often utilized to construct LSR&T projects. When equipment is not available to rent, State equipment is utilized. Contract construction in remote areas is utilized only when it is cost effective.

The scope of LSR&T is basically three-fold. This is particularly true for "bush" projects. It provides:

1. Needed projects to communities that do not have the capabilities of accomplishing a project alone without assistance.
2. A source of training for construction work by employing local residents as laborers and equipment operators.
3. Supplemental income to communities that are single-income or subsistence oriented.

Project Limitations:

LSR&T road projects are confined to roads which are not part of the federal-aid system, (secondary roads excepted) and are not the responsibility of corporate units or private individuals but are dedicated to public use. These projects cover wide ranging road needs. They include State recreation routes, connections between outlying villages and airports, villages and canneries, villages and port facilities, short routes needed to better integrate subdivision roads and State highways, and improvements to existing local roads.

Statutory Authority:

AS 19.30.111 - 19.30.251 as follows:

Article 3. Local Service Roads and Trails.

Section	Section
111. Purpose	171. Acquisition and conveyance of rights-of-way
121. Regulations	181. Project agreements
127. Allocation districts	191. Letting of contracts
131. Allocation of funds	201. Construction
141. Acquisition and construction programs	211. Maintenance
151. Local government participation	221. Availability of allocated sums
161. Design standards, rights-of-way, and widths	233. Reports
	241. Definitions
	251. Local government powers

Sec. 19.30.110. [Repealed, § 1 ch 84 SLA 1971.]

Sec. 19.30.111. Purpose. It is the purpose of AS 19.30.111 — 19.30.251 to provide for the acquisition and construction of local service roads and trails that are not included in the approved federal-aid primary highway systems eligible for federal-state matching funds. (§ 2 ch 84 SLA 1971; am § 1 ch 38 SLA 1981)

Collateral references. — 39 Am. Jur. 2d, Highways, Streets and Bridges, §§ 178-180

39A C.J.S., Highways, §§ 141-143.
Power to directly regulate or prohibit abutter's access to street or highway. 73 ALR2d 652.

Accidents arising from merger of traffic on limited-access highway with that from service road or ramp. 49 ALR3d 1429.

Measure and elements of damage for limitation of access caused by conversion of conventional road into limited access highway. 42 ALR3d 148.

Sec. 19.30.120. [Repealed, § 1 ch 84 SLA 1971.]

Sec. 19.30.121. Regulations. The commissioner may adopt regulations necessary to carry out AS 19.30.111 — 19.30.241. (§ 2 ch 84 SLA 1971)

Sec. 19.30.127. Allocation districts. The state is divided into five allocation districts as follows:

(1) The boundary of allocation district one begins in Kamishak Bay at 59° 15' N, 154° 00' W; and travels north along longitude line 154° 00' W to latitude 63° 00' N; thence east along latitude line 63° 00' N to a point common with the boundaries of allocations districts two and

five; southerly of the Denali Highway at Corkscrew Creek (Milepost 59.1); thence southerly to Prince William Sound at Fairmount Point 60° 53'45" N, 147° 27' W and inclusive of Kodiak, Afognak, Barren, Trinity, and Chirjkof Islands.

(2) The boundary of allocation district two begins at and includes the point at which the Alaska Highway intersects the Alaska-Yukon border; travels northwesterly to the west abutment of the Little Tok River Bridge on Tok Cutoff Highway (Milepost 91.2); thence west to the northerly abutment of the McCallum Creek Bridge on the Richardson Highway (Milestone 202.4); thence west to a point directly north of the Denali Highway at Corkscrew Creek (Milepost 59.1); thence southwesterly to the Glenn Highway at Summit (Milepost 118) and continuing along that line to latitude 63° 00' N; thence west along latitude 63° 00' N; to longitude 154° 00' W; thence north along longitude 154° 00' W to the Arctic Ocean.

(3) The boundary of allocation district three begins in the Gulf of Alaska on longitude line 141° 00' W; thence north along longitude 141° 00' W to Boundary Point 187; thence southeasterly along the Canadian-United States border bounding Southeastern Alaska in its entirety.

(4) The boundary of allocation district four begins in the Arctic Ocean at Smith Bay 70° 54' N, 154° 19' W; on longitude line 154° 00' W; travels south along longitude 154° 00' W to latitude 59° 15' N in Kamishak Bay; thence east along latitude 59° 15' N to longitude 152° 15' W; thence southwesterly through Shelikof Strait and bounds of the entire Aleutian Chain.

(5) The boundary of allocation district five begins at the Gulf of Alaska on longitude line 141° 00' W and travels northerly along that line to the point (but not including the point) at which Alaska Highway intersects the Alaska-Yukon border; thence northwesterly to the west abutment of the Little Tok River Bridge on the Tok Cutoff Highway (Milepost 91.2); thence west to the northerly abutment of McCallum Creek Bridge on the Richardson Highway (Milepost 202.40); thence west to the point directly north of Denali Highway at Corkscrew Creek (Milepost 59.1); thence southwesterly to the Glenn Highway at Summit (Milepost 118); thence southerly to Prince William Sound at Fairmount Point 60° 53'45" N, 147° 27' W. (§ 2 ch 84 SLA 1971)

Sec. 19.30.130. [Repealed, § 1 ch 84 SLA 1971.]

Sec. 19.30.131. Allocation of funds. (a) During each fiscal year the commissioner shall allocate sums appropriated or otherwise designated for expenditure upon local service roads for that fiscal year among the five allocation districts in the following manner: one-half in the ratio that the area of each allocation district bears to the total

area of the state and one-half in the ratio that the population of each allocation district bears to the total population of the state as shown by the latest available federal or state census or other census approved by the Department of Community and Regional Affairs.

(b) The commissioner shall also further allocate the sums in each allocation district to the boroughs and unified municipalities within each allocation district in the following manner: one-half in the ratio that the area of each organized borough or unified municipality (excluding salt water areas) within that district bears to the total area of the allocation district and one-half in the ratio that the population of each organized borough area or each unified municipality within that district bears to the total population of the allocation district as shown by the latest available federal or state census or other census approved by the Department of Community and Regional Affairs.

(c) The commissioner shall also further allocate portions of the sum allocated to any organized borough and to any home rule city within the organized borough in the following manner:

(1) one-half in the ratio that the area of each home rule city bears to the total area of the organized borough, excluding salt water areas; and

(2) one-half in the ratio that the population of each home rule city bears to the total population of the organized borough as shown by the latest available federal or state census or other census approved by the Department of Community and Regional Affairs.

(d) The sums not allocated within each district to a local government under (b) and (c) of this section shall be allocated to the unorganized borough and administered by the department. (§ 2 ch 84 SLA 1971; am § 2 ch 38 SLA 1981; am §§ 1 — 3 ch 5 SLA 1986)

Effect of amendments. — The 1986 amendment in subsection (a) inserted "or state" preceding "census" near the end of the subsection and added the language beginning "or other census" at the end of the subsection; in subsection (b) inserted "and unified municipalities" preceding "within each allocation district," "or unified municipality" preceding "(excluding salt water areas)," "or each unified municipality" following "organized borough area" and "or state" preceding "census" and added the language beginning "or other census" at the end of the subsection; and

in subsection (c) in the introductory language substituted "organized borough" for "borough, either organized or unorganized," deleted "or first class" following "home rule" and inserted "organized" following "city within the"; in paragraph (1) deleted "or first class" following "home rule" and inserted "organized" preceding "borough"; and in paragraph (2) deleted "or first class" following "home rule," inserted "organized" preceding "borough" and "or state" preceding "census," and added the language beginning "or other census" at the end of the subsection.

Sec. 19.30.140. [Repealed, § 1 ch 84 SLA 1971.]

Sec. 19.30.141. Acquisition and construction programs. Before October 1 of each fiscal year each local government eligible for allocation of funds under AS 19.30.131 shall submit to the commissioner for approval a five-year plan for the acquisition and construction of local service roads and trails. Before December 1 of each fiscal year the commissioner shall submit to the governor a five-year plan for the acquisition and construction of local service roads and trails, including the approved local government programs. An organized borough shall include in its five-year plan local service road acquisition and construction programs for all cities other than home rule cities within the boundaries of the borough. The commissioner shall include in the five-year plan local service road and trail acquisition and construction within the unorganized borough. (§ 2 ch 84 SLA 1971; am § 3 ch 38 SLA 1981; am § 4 ch 5 SLA 1986)

Effect of amendments. — The 1986 amendment deleted "and first class" following "other than home rule" in the next-to-last sentence and substituted "the" for "his" preceding "five-year plan" in the last sentence.

Sec. 19.30.150. [Repealed, § 1 ch 84 SLA 1971.]

Sec. 19.30.151. Local government participation. (a) Upon application by a local government, local service roads and trails constructed under the provisions of AS 19.30.111 — 19.30.241 and located within the jurisdictional boundaries of a local government may be transferred to that local government upon approval by the department and after a vote of the people in the area.

(b) The commissioner shall, upon request of a local government, transfer funds allocated under AS 19.30.131 to any local government that has assumed local road powers for project cost amounts and contract award amounts submitted to the commissioner.

(c) AS 19.30.111 — 19.30.241 do not prohibit a local government from participating financially in the acquisition and construction of a local service road or trail. (§ 2 ch 84 SLA 1971; am §§ 2, 3 ch 168 SLA 1980; am § 4 ch 38 SLA 1981)

Sec. 19.30.160. [Repealed, § 1 ch 84 SLA 1971.]

Sec. 19.30.161. Design standards, rights-of-way, and widths. Design standards, rights-of-way, and widths for each local service road and trail project must have the prior approval of the commissioner, unless the project is under the supervision of a local government that has assumed local road powers. Where approval is required the commissioner must make a decision within 90 days after the De-

partment of Transportation and Public Facilities receipt of the local government's request. If the project is under the supervision of a local government that has assumed road powers and the project is not located on a federal-aid secondary route, design standards, rights-of-way, and widths shall be established by the local government. If a project under the supervision of a local government that has assumed road powers is located on a federal-aid secondary route, design standards, rights-of-way, and widths must have the prior approval of the commissioner. (§ 2 ch 84 SLA 1971; am § 4 ch 168 SLA 1980; am § 5 ch 5 SLA 1986)

Effect of amendments. — The 1986 amendment in the first sentence substituted "must" for "shall," added the second sentence, in the third sentence inserted

"and the project is not located on a federal-aid secondary route," added the last sentence, and made minor punctuation changes.

Sec. 19.30.170. [Repealed, § 1 ch 84 SLA 1971.]

Sec. 19.30.171. Acquisition and conveyance of rights-of-way.

(a) The local government shall acquire all rights-of-way required for local service road and trail construction. However, if the local government is unable to acquire the necessary right-of-way, the commissioner may acquire it in accordance with AS 19.05.080 — 19.05.120. The commissioner may convey to the local government, by appropriate instrument executed in the name of the state, any land or interest in land which has been acquired by the state for the construction of local service roads or trails.

(b) The costs incurred by the commissioner in acquiring this land or interest in land includes all costs and any fees incidental to acquisition. All costs incurred in connection with the acquisition of the land or interest in land for local governments that have assumed local road powers shall be charged to the project allocation for which the land or interest in land is acquired. Right-of-way acquisition costs incurred by the commissioner for local governments without local road powers under AS 19.30.151(a) shall be charged to the project allocation for the local government for which the land or interest in land is acquired.

(c) When rights-of-way for local service roads are acquired over land or interest in land owned by the state, the commissioner may make arrangements with the department having jurisdiction over the land as may be necessary to give the local government adequate rights-of-way, and any department having jurisdiction is directed to transfer the jurisdiction of the land to the commissioner. (§ 2 ch 84 SLA 1971; am § 17 ch 71 SLA 1972; am § 5 ch 168 SLA 1980; am § 5 ch 38 SLA 1981)

Sec. 19.30.181. Project agreements. A local government that has assumed local road powers may enter into a formal project agreement with the commissioner for the acquisition and construction of a specific project. (§ 2 ch 84 SLA 1971; am § 6 ch 168 SLA 1980; am § 6 ch 38 SLA 1981)

Sec. 19.30.191. Letting of contracts. (a) *[Repealed, § 16 ch 168 SLA 1980.]*

(b) Contracts entered into by a local government that has assumed local road powers for the construction of each project shall be awarded only on the basis of the lowest responsible bid submitted by a bidder meeting established criteria of responsibility.

(c) All contracts by a local government that has not assumed local road powers must have the prior concurrence of the commissioner. The commissioner may delegate the power to approve contracts to a local government that has assumed local road powers for the acquisition and construction of local service roads and trails.

(d) Except as provided in (b) and (c) of this section and in AS 44.33.300, construction of each project shall be administered by the department in accordance with guidelines established by the commissioner by regulation. (§ 2 ch 84 SLA 1971; am § 4 ch 277 SLA 1976; am §§ 7 — 9, 16 ch 168 SLA 1980; §§ 7, 8 ch 38 SLA 1981)

Sec. 19.30.201. Construction. Except as provided under AS 19.30.161, the construction of a local service road or trail undertaken by the department or under its direct supervision under the provisions of AS 19.30.111 — 19.30.241, shall be performed according to approved design standards and is subject to the inspection and approval of the commissioner. All construction work done and labor performed by or under the direct supervision of the department shall be in accordance with applicable state law. (§ 2 ch 84 SLA 1971; am § 10 ch 168 SLA 1980; am § 9 ch 38 SLA 1981)

Sec. 19.30.211. Maintenance. (a) The department shall maintain, or cause to be maintained, any project constructed by the department under the provisions of AS 19.30.111 — 19.30.241, except that upon mutual agreement of the commissioner and the local government the responsibility for maintenance may be transferred to the local government if it is authorized to assume road maintenance powers.

(b) The department shall continue maintenance on all projects maintained by the department on January 1, 1980.

(c) A local government may contract with the department for maintenance of a project. The maximum annual maintenance cost to the local government may not exceed twice the amount of state aid to municipalities for roads. (§ 2 ch 84 SLA 1971; am § 11 ch 168 SLA 1980)

Sec. 19.30.221. Availability of allocated sums. (a) On and after the date that the commissioner has certified the sums allocated to each local government, the sums shall be available for expenditure under the provisions of this chapter.

(b) These allocated sums shall be available for expenditure for a period of five years after the close of the fiscal year for which the sums are authorized and any amounts so obligated remaining unexpended at the end of that period shall lapse and shall be available for other local service road or trail construction within that allocation district in accordance with AS 19.30.111 — 19.30.241.

(c) This section applies to sums transferred under AS 19.30.151(b).

(d) The payment of royalties required to obtain materials to construct local service road and trail projects is a valid expenditure under this chapter. (§ 2 ch 84 SLA 1971; am § 12 ch 158 SLA 1980)

Sec. 19.30.231. Payment for construction. [Repealed, § 15 ch 158 SLA 1980.]

Sec. 19.30.233. Reports. (a) No later than October 1 of each year, a local government that has received money under AS 19.30.151(b) shall prepare a report showing the use of the money by the local government during the preceding 12 months. The local government shall submit a copy of the report to the commissioner.

(b) No later than December 1 of each year, the commissioner shall prepare a report showing the use of the money allocated under this chapter during the preceding 12 months and a report on the status of all projects under this chapter for which the department has construction responsibility. The commissioner shall submit copies of the reports to the governor. (§ 13 ch 158 SLA 1980)

Sec. 19.30.241. Definitions. In AS 19.30.111 — 19.30.241

(1) "commissioner" means the commissioner of transportation and public facilities;

(2) "construction" means the building of a new road, street or trail or the improvement of existing roads, streets or trails and includes the necessary preliminary engineering, construction engineering and utility relocation;

(3) "department" means the Department of Transportation and Public Facilities;

(4) "home rule city" means a city as defined in AS 29.04.010;

(5) "local government" means an organized borough of any class, a unified municipality, or a city of any class;

(6) "local service road" means a public road that is used by an average of fewer than 750 vehicles each day and that is not designated as a route on the approved primary, urban, or interstate federal-aid highway system;

(7) "project" means an undertaking to construct a particular portion of a local service road or trail, or, if the context so implies, the particular portion of a local service road or trail so constructed;

(8) "secondary road" means a road that is not included in the approved federal-aid primary highway system and is being maintained by the state or local government;

(9) "trail" means a footpath or way on land or water that is open to public use as a matter of right whether or not a thoroughfare, particularly for dogs, sleds and mechanized snow vehicles. (§ 2 ch 84 SLA 1971; am § 30 ch 53 SLA 1973; am § 14 ch 158 SLA 1980; am §§ 10, 11 ch 38 SLA 1981; am §§ 45, 46 ch 74 SLA 1985; am §§ 8, 7 ch § SLA 1986)

Revisor's note. — Reorganized in 1985 to alphabetize the defined terms.

Effect of amendments. — The 1985 amendment in paragraph (4) substituted "AS 29.04.010" for "AS 29.06.010" and in paragraph (5) deleted "organized under AS 29.68.240 — 29.68.440" following "unified municipality" and substituted "first class city" for "city of the first class." The 1986 amendment in paragraph (5)

deleted "a home rule city" following "municipality," and substituted "city of any class" for "first class city"; and in paragraph (6) substituted "that is used by an average of fewer than 750 vehicles each day and that" for "which" and inserted "primary, urban, or interstate."

Legislative history reports. — For report on ch. 53, SLA 1973 (CBI[B 382]), see 1973 House Journal, pp. 793, 845.

Sec. 19.30.251. Local government powers. Road construction and maintenance authority is granted to local governments, as defined in AS 19.30.241, which do not otherwise have that authority; however, the authority granted is limited to participation in the construction and maintenance of local service roads under AS 19.30.111 — 19.30.241. (§ 2 ch 84 SLA 1971)

**TYPICAL
ALLOCATION OF LSR & T FUNDS
FLOW CHART**

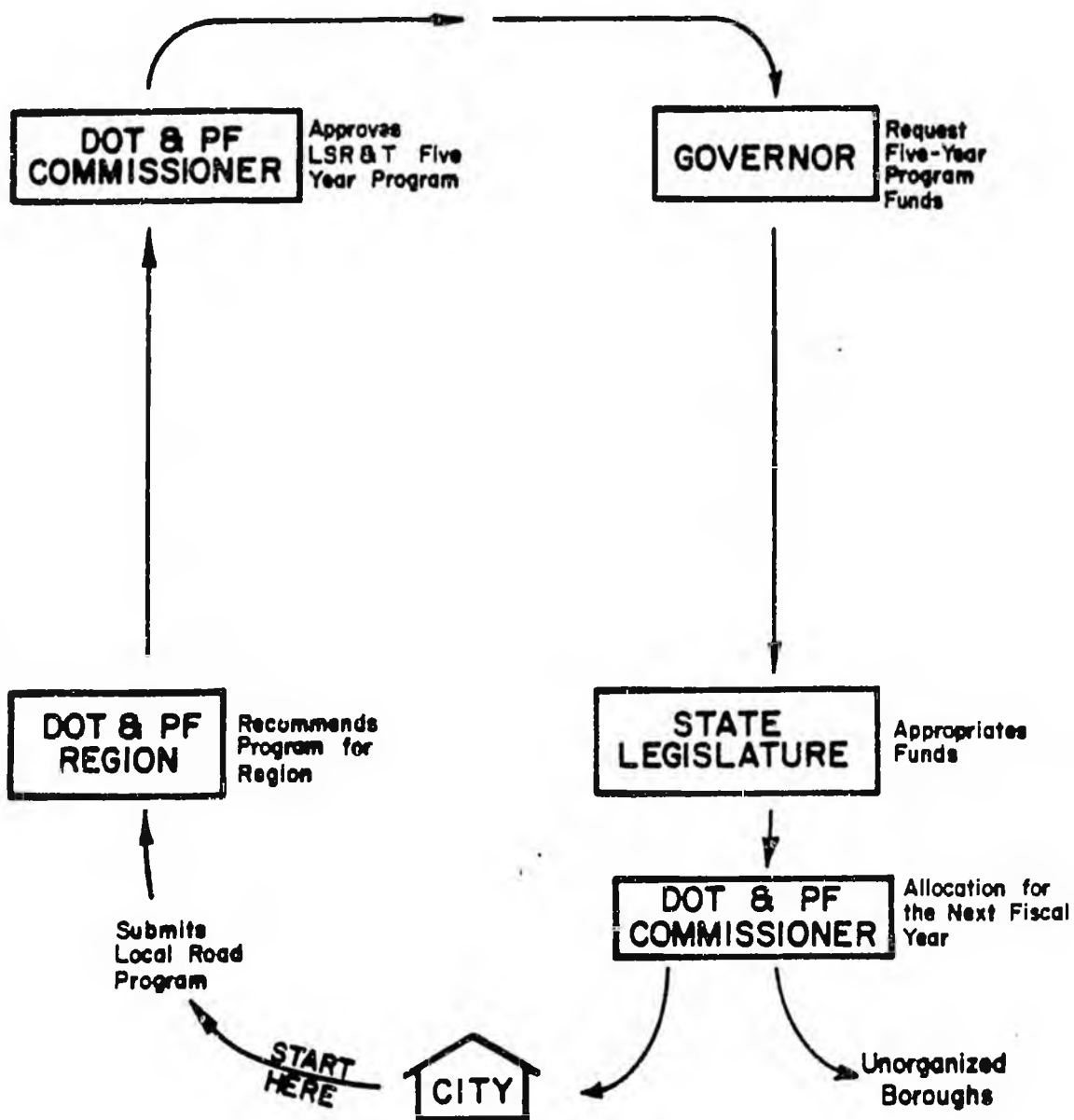


FIGURE 1

NARRATIVE

LOCAL SERVICE ROADS & TRAILS PROGRAM

The Local Service Roads and Trails Program provides for construction of local roads and trails which are not included in the federal-aid primary, urban or interstate highway systems.

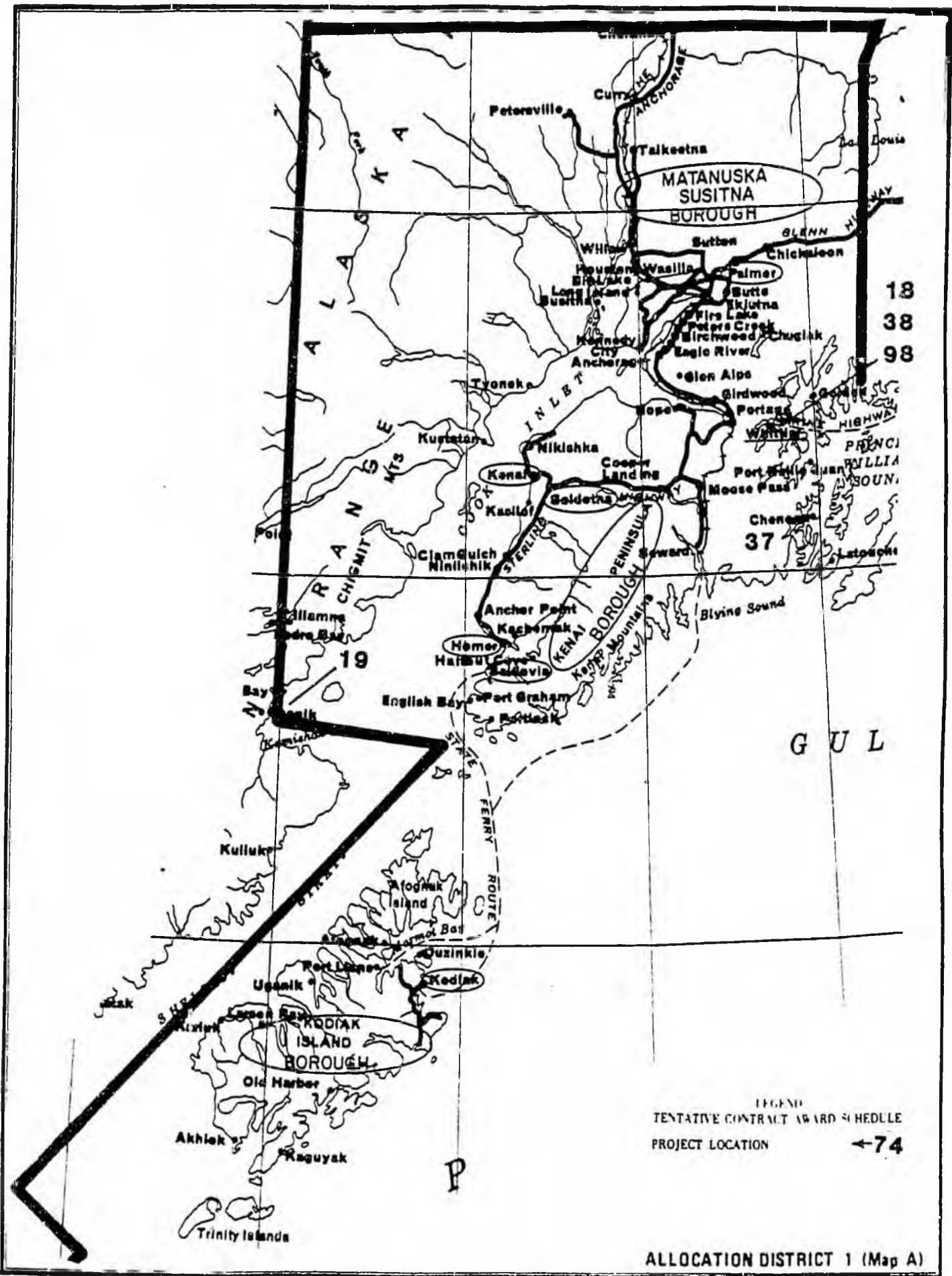
Under the Local Service Roads & Trails Act, funds for home rule and first class cities, municipalities and organized boroughs are allocated by strict formula. These local governments then establish their own project scheduling; therefore, this publication is merely a listing of their individual programs as submitted. Project priorities and scheduling in the unorganized boroughs are based primarily on requests and recommendations of village councils and residents. Personal contact with the communities is established by LSR&T representatives from the Department's regional offices. Community needs are thus determined first-hand, along with approximate costs. Since the cost of requested projects usually exceeds the funds available, priorities must be established based on need. Local communities often participate in project costs with their own funds.

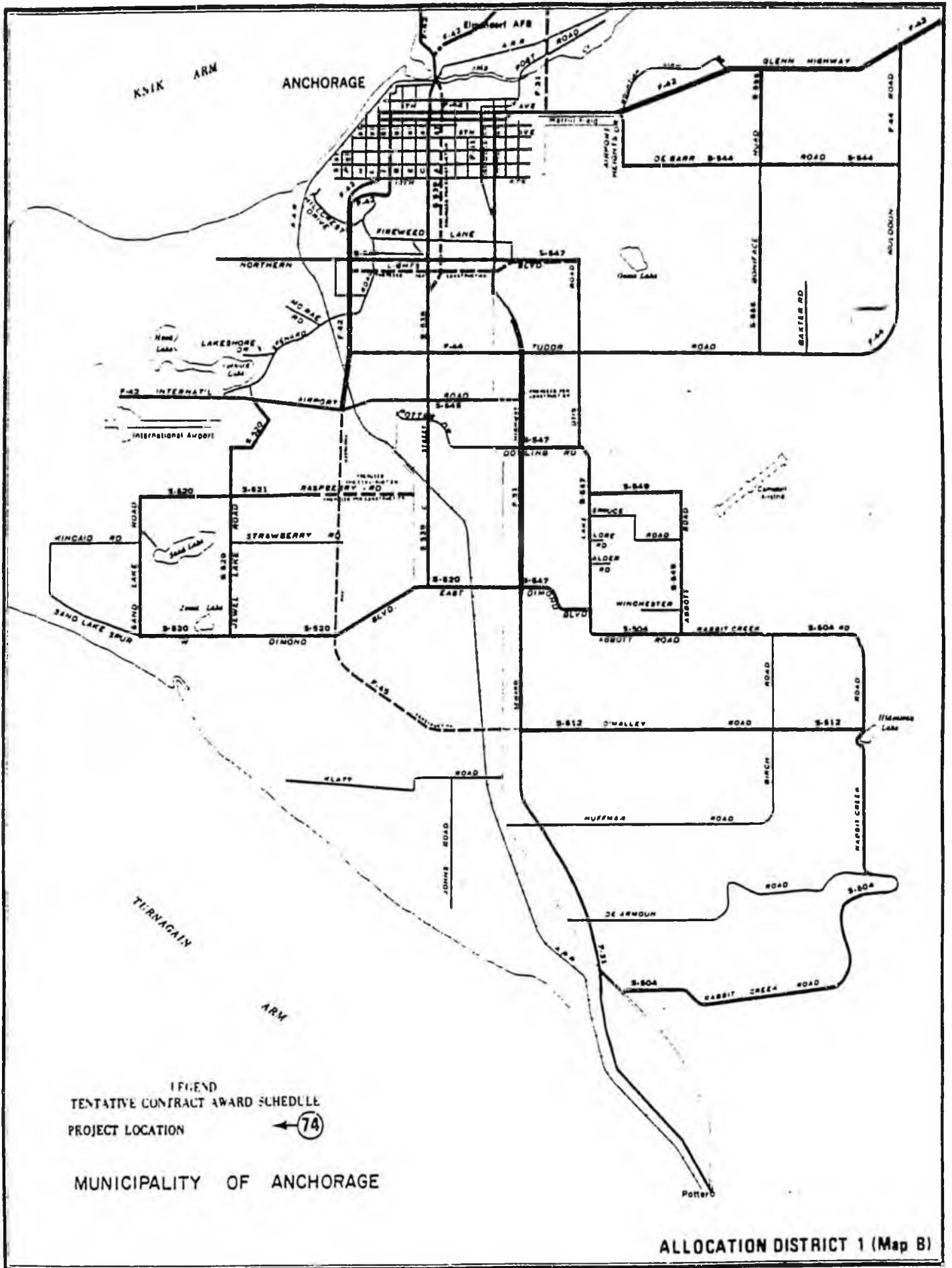
Local labor and equipment are utilized wherever practical in the construction of these projects. Not only is this beneficial to the economy of the communities, but it normally reduces the overall cost of the project. A side benefit is the training of local residents who will, in many cases, be maintaining the completed project.

This five year LSR&T Program is based on funds from a recent allocation of \$3,500,000 for fiscal year 1985 and with proposed allocations of \$7,000,000 for fiscal years 1986 through 1989.

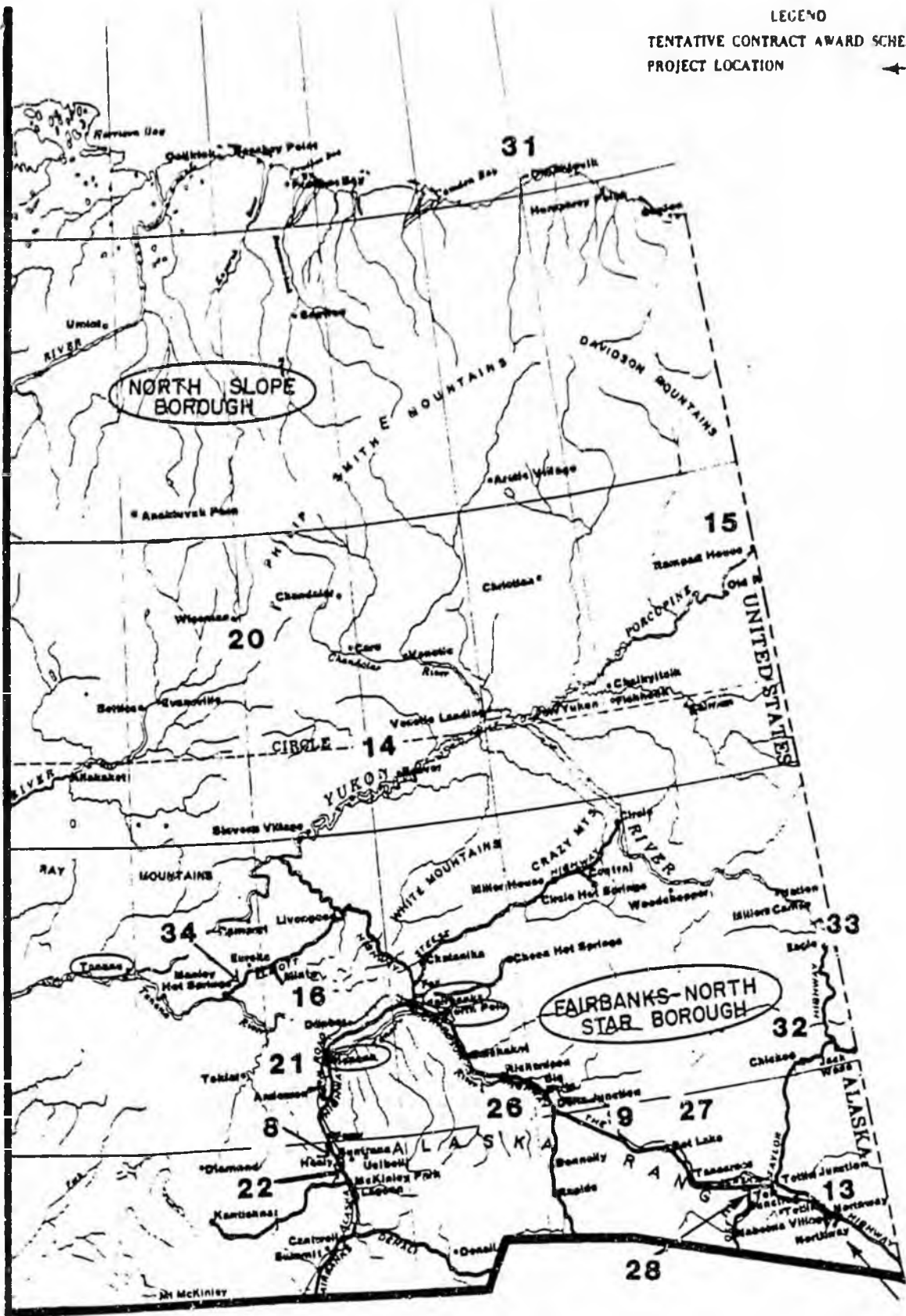
It is anticipated that the funding shown in this program will be used by the end of fiscal year 1985. Therefore, projects shown for fiscal years beyond 1985 can only proceed if additional funds are made available.

88
JOB TR
more?





LEGEND
 TENTATIVE CONTRACT AWARD SCHEDULE
 PROJECT LOCATION ← 11

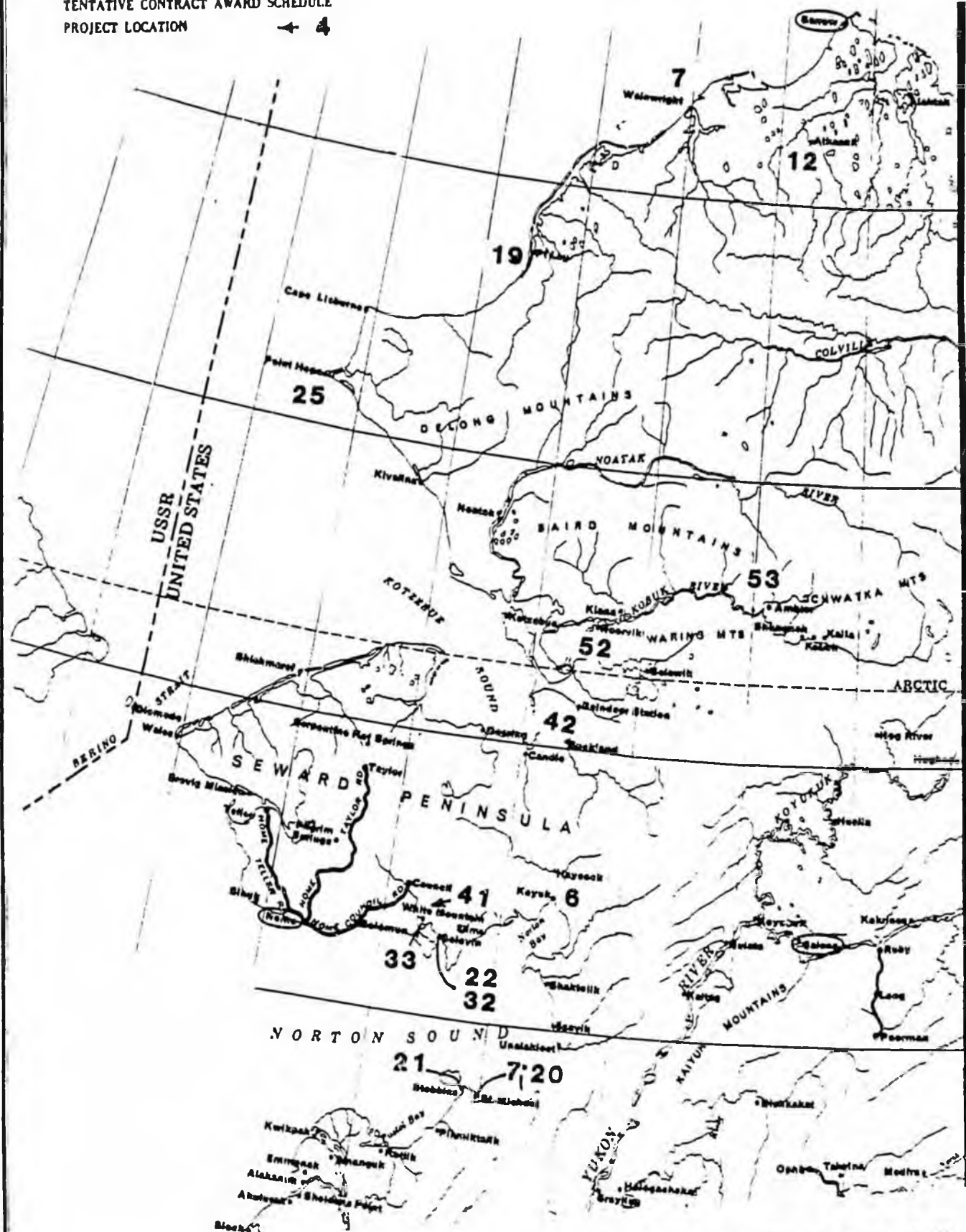


ALLOCATION DISTRICT 2 (Map A)



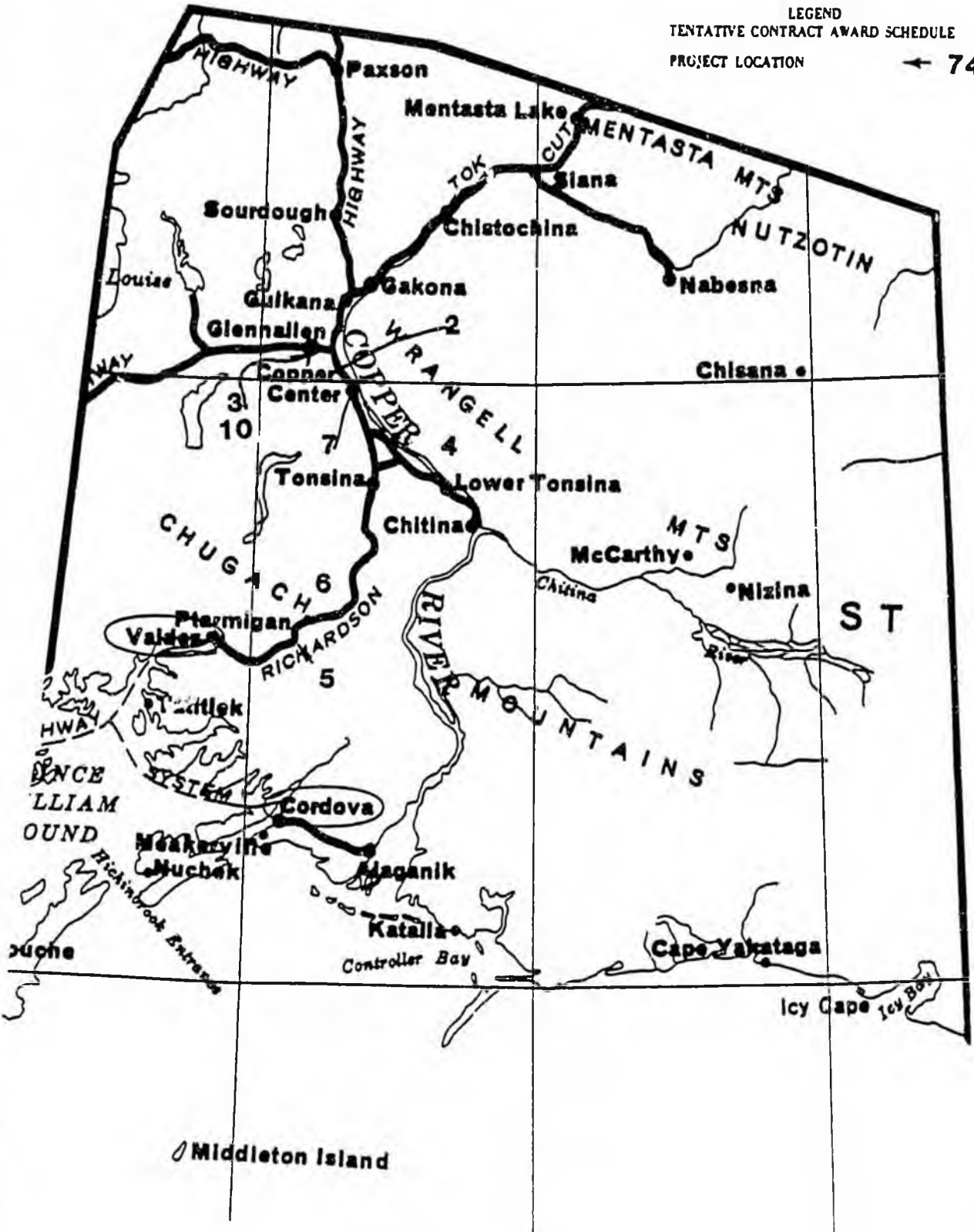
ALLOCATION DISTRICT 3

LEGEND
 TENTATIVE CONTRACT AWARD SCHEDULE
 PROJECT LOCATION ← 4



ALLOCATION DISTRICT 4 (Map A)

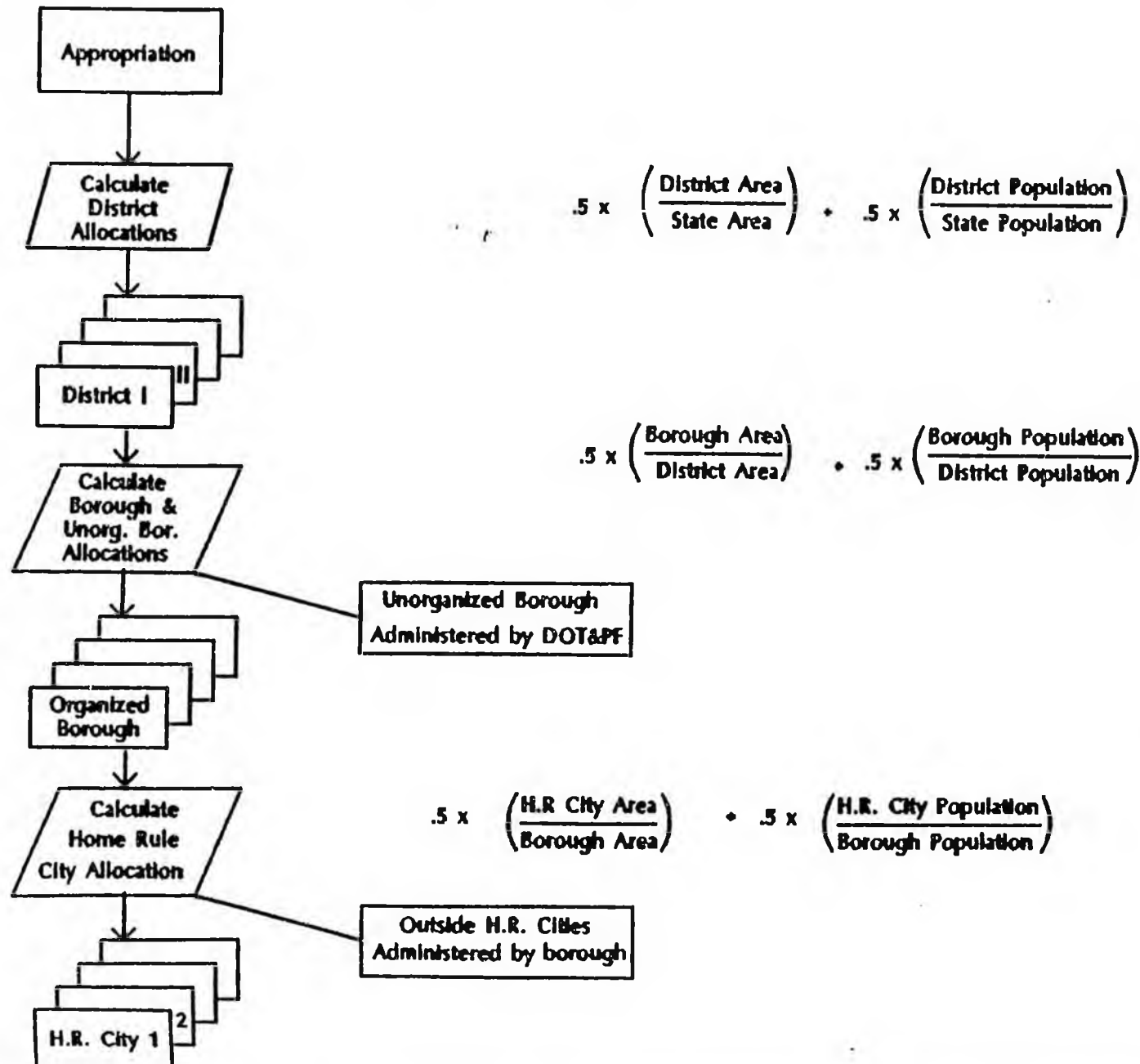
LEGEND
 TENTATIVE CONTRACT AWARD SCHEDULE
 PROJECT LOCATION ← 74



ALLOCATION DISTRICT 5

LSR&T ALLOCATION FLOW

AS 19.30.127 (1987)



MEMORANDUM


State of Alaska
Department of Transportation & Public Facilities

TO: John J. Simpson, Director
Standards and Technical
Services Division

DATE: February 10, 1984

FILE NO: 2519

TELEPHONE NO 789-0841

FROM: Charles D. Karella 
LSR&T Engineer
DC&M Standards

SUBJECT: LSR&T Program

This program is designed to accomplish the most with the least amount of State dollars under the rules and regulations of the Alaska State Statutes, 19.30.111 - 19.30.251.

FUNDING

First Allocation	1971	\$ 6 Million
	1972	4 Million
	1974	8 Million
	1976	7 Million
	1978	15.8 Million
	1980	10 Million
* Last Allocation	1983	7 Million
Total Allocation		\$60.8 Million

Projects (Dollars)

Completed or under agreement	\$54.5 Million
Reimbursements remaining	6 Million

Under the present allocation, Local Governments throughout the State share 57% of each LSR&T Bond issue. The unorganized boroughs share in the remaining 43%. Annual expenditures average to this percentage.

ANNUAL PROGRAM (Typical)

- 150 Active Projects
50 Road Projects Completed
50 Miles of Road Completed
2000 Miles of Winter Trail Staking
Several Miles of Boardwalk
Foot Trails and Bike Paths

* FY84 ALLOCATION = \$7 MILLION

2. Expenditures For Typical \$6.0 Million Annual Program

Roads \$4.5 Million (75%)
Includes \$1.1 million (25%) for subdivision streets and roads.

Trail Staking	\$100,000	(2%)
Boardwalks	600,000	(10%)
Foot Trails	200,000	(3%)
Bike Paths	100,000	(2%)
Shelter Cabins	50,000	(1%)
State Maintenance Routes	250,000	(4%)
Engineering and Administration	200,000	(3%)

3. Administrative support is \$200,000 or 3%

PROGRAM PHASE OUT

Phase out of the LSR&T Program began January 5, 1982 and ended with a 7 million appropriation for F.Y. 83.

MANAGEMENT

LSR&T Managers and Project Engineers are tailored after the early Alaska bush pilots. Quite often, they have to operate by the seat of their pants, which is why this program is successful.

LSR&T PROGRAM 1977-1981

1. 250 road projects completed.
Average Length one mile.
Average cost \$100,000.00
2. Expenditures \$25 Million.
- 3.* \$19.0 million for road projects, includes five million for subdivision roads.
4. \$750,000 for project administration charged to projects.
5. One million dollars for program support (\$200,000 per year).
6. Administered several special legislative appropriated projects; totalling in excess of a million annually.

*It is difficult to define subdivision roads or streets, i.e. access roads to new subdivisions can be considered an intergal part of the subdivision network or in some communities, it may be the only transportation corridor available. For this report, subdivision roads are those roads or streets within subdivisions, designated as such, by the local entity.

COST COMPARISON

The cost of a project constructed under contract ranges between 25% and 200% more than a comparable project constructed with local equipment rental when available or LSR&T equipment and local hire, depending on size and location. Much of this is due to our policy of paying the prevailing community wage.

PRESENT PROGRAM

See Attached.

SUMMARY

Over 95% of all Alaskan communities have had at least one LSR&T project since the program set out to "Get the people out of the mud" in 1971.

There are many reasons why the program is successful, least of which is the maximization of State dollars. The LSR&T Program offers more to a rural community than just a finished product; it offers a learning experience. Traditionally, LSR&T has been able to offer additional benefits to the community as the program is tailored to their needs.

The LSR&T program spends a considerable amount of time administering projects funded through special Legislative appropriations and grants. In administering these projects for the Department, the program guarantees the credibility of the State in its commitment to meet the transportation needs of the bush communities.

Attachment

cc: Loren Rasmussen, Chief, DC&M Standards

CDK:ct

LOCAL SERVICE ROADS AND TRAILS PROGRAM

Primary Functions:

The Local Service Roads and Trails (LSR&T) program was established by the State Legislature in 1971 to provide for special needs to "bush" communities, rural communities and communities both within and outside of organized boroughs.

Local Service Roads and Trails was designed to aid communities in accomplishing projects that do not have the financial means nor the technical expertise to achieve alone. These projects were to be in the nature of roads, trails, bridges and boardwalks specifically. Special exceptions are considered and granted if justification is sufficient.

The LSR&T Program is wholly State funded. Wherever costs are not prohibitive, generally within organized boroughs, projects are awarded by bid contract. In the remote areas where, because of location and size of the project bid contracts cost are prohibitive, LSR&T maintains its own small fleets of equipment or rents equipment, if available, and directs the operation of the projects.

The scope of LSR&T is basically three-fold. This is particularly true for "bush" projects. It provides:

1. Needed projects to communities that have not the capabilities of accomplishing alone.
2. A source of training for construction work by employing local residents as laborers and equipment operators.
3. Provides supplemental income to communities that are single-income or sub-sistence oriented.

Project Limitation:

Local Service projects are confined to roads which are not part of the primary federal-aid system and are not the responsibility of corporate units or private individuals but are dedicated to public use. These projects cover wide ranging road needs. They include State recreation routes, connections between outlying villages and airports, villages and canneries, villages and port facilities, short routes needed to better integrate subdivision roads and State highways, and improvements to existing roads.

PLANNING

Five Year Program

The allocation districts are the boundaries of the Highway Department established in 1970. The larger of the five districts being the Western District, engulfing nearly half of the land mass of Alaska, is administered by the Central and Northern Regions. This split jurisdiction is strictly an economic measure.

Whenever organized boroughs whose boundaries partially overlap allocation districts, the administrative responsibility lies with the primary region.

A construction program utilizing LSR&T construction equipment, State employees, village labor, and equipment rental when available, is the primary mode of operation in the unorganized boroughs of the Central, and Northern Regions. Programming the projects in the unorganized boroughs depends on requests from local governing bodies (both submitted and solicited), available road building materials, right-of-way access, and coordination of other projects in the area.

The State equipment fleet and maintenance personnel are utilized when local equipment is not available or when a contract for the work is not feasible.

The Local Service Roads and Trails Program is a vital link in the State road network. It is the only State program established for solving local transportation needs. During a typical construction season, several miles of new road, new and reconstructed boardwalks, year around foot trails, winter trail staking, foot bridges, paved bike paths and vehicle bridges are constructed with LSR&T funds.

These and other special projects are completed each year in answer to what the LSR&T is all about, "Get the people out of the mud". This program does a lot for all the people of Alaska and is presently performing a service the people of Alaska could not do without.

Summary

I. Definition

* A. Purpose

- a. To get people out of the mud
- b. Flexibility of Program
- c. To aid communities with no revenue
- d. Economy of operation

B. Type of Projects

- a. Local Service Roads
- b. Year around foot trails
- c. Winter trail staking
- d. Bicycle paths
- e. Erosion control
- f. Foot bridges
- g. Boardwalks

* ALSO PROVIDED VILLAGE RESIDENT TRAINING ON EQUIPMENT OPERATION

II. Allocation

- A. F.Y. Year Legislation (6 million proposed)
- B. Five Year Duration
- C. 50-50 Factor, Area - Population
- D. Operating Budget - Program Support
 - a. Bridge Design - Headquarters
 - b. Road Design and Advertising - Region
 - c. R/W Certification - Region
 - d. Construction Review - Region
 - e. Administration Headquarters and Region

III. Administration

- A. Allocation District - Regional Control
- B. Organized Boroughs and Home Rule Cities
 - a. Construction contract by Local Government
 - b. Local Government Labor and Equipment
- C. Unorganized Boroughs.
 - a. Construction Contract by Local Government or State
 - b. Village or City Labor and Equipment
 - c. State Equipment and Village Labor
 - d. State Equipment and State Employees
 - e. State Equipment and Village State Employees

IV. Five Year Program

- A. Project Selection
 - a. Organized Boroughs, First Class Cities and Home Rule Cities
 - 1. Select their own projects
 - 2. Able to change program at will
 - b. Unorganized Boroughs
 - 1. Cities and Villages select their own projects.
 - 2. Region sets priorities within funds available.
 - 3. Regions may subfill projects with funds available on non-federal routes.

APPLICANT GUIDELINES

Nature and Purpose of Program:

To provide State assistance in the development of roads and trails on routes that are not eligible for federal-aid matching funds.

Who May Apply:

Each organized borough, first class city and home rule city is eligible for a direct allocation, based on their population and area. All other areas are considered unorganized boroughs and are eligible for projects administered by the Department, subject to priority scheduling within the respective allocation districts.

Authorizing Legislation:

AS 19.30.111-251

Administrative Agency:

Department of Transportation and Public Facilities, State of Alaska.

Type of Assistance:

Financial and Engineering.

How Program is Financed:

100% State. Organized boroughs and home rule cities may supplement their allocation with local funding in any amount. Unorganized borough areas will be encouraged to provide local participation whenever possible. Federal and State grants can be used in conjunction with LSR&T funds.

How to Apply:

Each organized borough, first class city and home rule city may receive their allocation by submitting a five-year project program for the construction of such roads to their Regional DOT&PF Deputy Commissioner by October 1 of each year, indicating the priorities for construction on the program. When a project is approved, a project agreement will be drafted, and development of the project may proceed. No payment can be made for work done prior to execution of the project agreement.

Unorganized borough communities should provide input data for road needs in their areas to their Regional DOT&PF Deputy Commissioner, who will compile a five-year program and establish priorities for the unorganized borough projects within his jurisdiction. When a project is approved, the Department will proceed with development of the project.

JOBS BILL				
LSR&T PROGRAM STATUS REPORT				
STATEWIDE SUMMARY				
	TOTAL AMOUNT ALLOCATED	TOTAL SPENT TO DATE	TOTAL AMOUNT OBLIGATED	REMAINING BALANCE
PROJECT COSTS BY REGION				
CENTRAL	\$966,306	\$564,690	\$401,616	\$0
NORTHERN	\$741,169	\$367,172	\$373,997	\$0
SOUTHEAST	\$192,523	\$184,033	\$8,490	\$0
PROJECT TOTALS	\$1,899,998	\$1,115,895	\$784,103	\$0
PROJECT COSTS BY DISTRICT				
ALLOCATION DISTRICT 1	\$620,295	\$317,067	\$303,228	\$0
ALLOCATION DISTRICT 2	\$448,149	\$271,340	\$176,809	\$0
ALLOCATION DISTRICT 3	\$192,523	\$184,033	\$8,490	\$0
ALLOCATION DISTRICT 4	\$552,598	\$340,350	\$212,248	\$0
ALLOCATION DISTRICT 5	\$86,433	\$3,105	\$83,328	\$0
PROJECT TOTALS	\$1,899,998	\$1,115,895	\$784,103	\$0
ADMINISTRATIVE COSTS				
CENTRAL	\$30,000	\$10,235	\$0	\$19,765
NORTHERN	\$25,000	\$9,426	\$0	\$15,574
SOUTHEAST	\$10,000	\$4,419	\$0	\$5,581
HEADQUARTERS	\$35,002	\$10,235	\$0	\$24,767
RESERVE	\$0	\$0	\$0	\$0
TOTAL ADMINISTRATIVE COSTS	\$100,002	\$34,315	\$0	\$65,687
TOTAL JOBS BILL FUNDING	\$2,000,000	\$1,150,210	\$784,103	\$65,687

Report Date 2/13/90

JOBS BILL, LSR&T PROGRAM STATUS REPORT									
CENTRAL DISTRICT									
ALLOCATION DISTRICT 1									
AREA	PROJECT	PROJECT NUMBER	TOTAL AMOUNT ALLOCATED	EXPENDITURES PREVIOUSLY REPORTED	EXPENDITURES THIS REPORT	TOTAL SPENT TO DATE	TOTAL AMOUNT OBLIGATED	REMAINING BALANCE	REMARKS
Mat-Su Borough	Grant-6 Road Projects	57895	\$140,319	\$0	\$10,391	\$10,391	\$129,928	\$0	'89 construction
City of Palmer	TID	57897	\$8,986	\$0	\$0	\$0	\$8,986	\$0	Project to be determined
Kodiak Island Borough	Grant	57891	\$35,899	\$35,899	\$0	\$35,899	\$0	\$0	E. Elementary Ped. Path-done
City of Kodiak	Grant	57893	\$10,747	\$10,747	\$0	\$10,747	\$0	\$0	E. Elementary Ped. Path-done
Kenai Peninsula Borough	Grant	57885	\$108,592	\$0	\$0	\$0	\$108,592	\$0	Project to be determined
City of Kenai	VII' Sub Road Paving	57887	\$10,733	\$0	\$10,733	\$10,733	\$0	\$0	June '89 construction
City of Seward	TID	57889	\$4,610	\$0	\$0	\$0	\$4,610	\$0	Under contract
Municipality of Anchorage	Chester Creek Bike Path	57883	\$249,297	\$0	\$249,297	\$249,297	\$0	\$0	Under contract
City of Whittier	Harbor Access Boardwalk	57899	\$51,112	\$0	\$0	\$0	\$51,112	\$0	'89 construction-under contract
TOTAL			\$620,295	\$46,646	\$270,421	\$317,067	\$303,228	\$0	

JOBS BILL									
LSR&T PROGRAM STATUS REPORT									
NORTHERN REGION-INTERIOR DISTRICT									
ALLOCATION DISTRICT 2									
AREA	PROJECT	PROJECT NUMBER	TOTAL AMOUNT ALLOCATED	EXPENDITURES PREVIOUSLY REPORTED	EXPENDITURES THIS REPORT	TOTAL SPENT TO DATE	TOTAL AMOUNT OBLIGATED	REMAINING BALANCE	REMARKS
Fairbanks N. Star Bor.	Rosie Crk/Cripple Crk	64350	\$153,687	\$153,687	\$0	\$153,687	\$0	\$0	Project Complete
City of Fairbanks	D' Street	64365	\$41,648	\$0	\$0	\$0	\$41,648	\$0	Work Force Account-Paying
City of North Pole	3rd Ave Improvements	64396	\$1,358	\$1,358	\$0	\$1,358	\$0	\$0	Project Complete
Rampart Village	Road Improvement	64337	\$50,000	\$13,476	\$0	\$13,476	\$36,524	\$0	Project 27% complete
Minto	Minto Street Improvement	64346	\$50,000	\$47,500	\$2,500	\$50,000	\$0	\$0	Project 95% complete
Lake Minchumina	Trail Improvement	64348	\$20,000	\$10,560	\$0	\$10,560	\$9,440	\$0	Project 60% complete
Mansfield Lake	Trail Improvement	64363	\$40,000	\$12,259	\$0	\$12,259	\$27,741	\$0	Project 30% complete
Hettles	Haul Rd Winter Trail Impr	64373	\$30,000	\$29,000	\$1,000	\$30,000	\$0	\$0	Project complete
Kaktovik	Local Road Improvement	64373	\$53,957	\$0	\$0	\$0	\$53,957	\$0	Agreement with Borough signed
Contingency	Local Road Improvement		\$7,499	\$0	\$0	\$0	\$7,499	\$0	To be allocated during FY89
TOTAL			\$448,149	\$267,840	\$3,500	\$271,340	\$176,809	\$0	

LOCAL SERVICE ROADS AND TRAILS ALLOCATION AT \$ 1,900,000

	PERCENT OF		AMOUNT \$1,900,000			
	TOTAL	DISTRICT	BOROUGH	DISTRICT	BOROUGH	CITY/DOTPF
DISTRICT #1	32.6471%			\$620,295		
MUNICIPALITY OF ANCHORAGE		40.1900%			\$249,297	
KENAI PENNINSULA BOROUGH		19.9800%			\$123,935	
-CITY OF KENAI			8.6604%			\$10,733
-CITY OF SEWARD			3.7198%			\$4,610
KODIAK ISLAND BOROUGH		7.5200%			\$46,646	
-CITY OF KODIAK			23.0400%			\$10,747
MAT-SU BOROUGH		24.0700%			\$149,305	
-CITY OF PALMER			6.0184%			\$8,986
UNORGANIZED BOROUGH #1		8.2400%			\$51,112	
DISTRICT #2	23.5868%			\$448,149		
FAIRBANKS/NORTH STAR BOR.		43.8900%			\$196,693	
-CITY OF FAIRBANKS			21.1742%			\$41,648
-CITY OF NORTH POLE			0.6906%			\$1,358
NORTH SLOPE BOROUGH (EAST)		12.0400%			\$53,957	
UNORGANIZED BOROUGH #2		44.0700%			\$197,499	

LOCAL SERVICE ROADS AND TRAILS ALLOCATION AT \$ 1,900,000

	PERCENT OF			AMOUNT \$1,900,000		CITY/DOTPF
	TOTAL	DISTRICT	BOROUGH	DISTRICT	BOROUGH	
DISTRICT #3	10.1328%			\$192,523		
C/B OF JUNEAU		21.9900%			\$42,336	
C/B OF SITKA		12.8000%			\$24,643	
HAINES BOROUGH		4.8100%			\$9,260	
KETCHIKAN GATEWAY BOROUGH		12.0700%			\$23,238	
-CITY OF KETCHIKAN			31.8845%			\$7,409
UNORGANIZED BOROUGH #3		48.3300%			\$93,046	
DISTRICT #4	29.0841%			\$552,598		
BRISTOL BAY BOROUGH		1.3700%			\$7,571	
NORTH SLOPE BOROUGH (WEST)		11.5200%			\$63,659	
NORTHWEST ARCTIC BOROUGH		11.6900%			\$64,599	
ALEUTIAN EAST BOROUGH		10.9800%			\$60,675	
UNORGANIZED BOROUGH		64.4400%			\$356,094	
-WESTERN DIST				17.3%		\$61,513
-INTERIOR DIST				9.4%		\$33,428
-CENTRAL DIST				73.3%		\$261,153

LOCAL SERVICE ROADS AND TRAILS ALLOCATION AT \$ 1,900,000

		PERCENT OF			AMOUNT \$1,900,000		CITY/DOTPF
		TOTAL	DISTRICT	BOROUGH	DISTRICT	BOROUGH	
DISTRICT #5		4.5491%			\$86,433		
	UNORGANIZED BOROUGH		100.0000%			\$86,433	
	-CENTRAL			19.2190%			\$16,612
	-SOUTHCENTRAL			80.7810%			\$69,821
	CORDOVA ?						
	TOTAL ALLOCATED				\$1,899,998	\$1,899,998	\$528,019
DIST 4	DOTPF REGION/DIST	POPULATION	AREA	% POPULATION	% AREA		
	WESTERN	6700	22284	21.8533%	12.6953%		
	INTERIOR	2000	21505	6.5234%	12.2515%		
	CENTRAL	21959	131740	71.6233%	75.0531%		
		30659	175529	100.0000%	100.0000%		
	UNORGANIZED TOTAL	30659	172231				

RS 2477 BRIEFING PAPER
March 6, 1990

**THE RIGHT OF WAY FOR THE CONSTRUCTION OF HIGHWAYS
OVER PUBLIC LANDS, NOT RESERVED FOR PUBLIC USES, IS
HEREBY GRANTED.**

This deceptively simple phrase became law in 1866, ten months before Alaska was purchased from Russia. Interpretations of the congressional intent of this law have varied over the past 120 years. Land ownership or management changes created under the Alaska Native Claims Settlement Act and the Alaska National Interest Lands Conservation Act have further complicated the interpretation and implementation of the law in Alaska.

Although RS 2477 refers to rights-of-way without limitation as to purpose, the statute of which it was a part addressed only mining and homesteading claims. It was the first comprehensive mining law for land owned by the United States. Before 1866 miners had entered, settled on, and used public domain land without benefit of federal statutory protection. Thus, RS 2477 insured that miners, and homesteaders, would have access rights across otherwise unreserved public lands to reach their claims and improvements.

RS 2477 was only one of many authorities which provided for access across Federal lands. But, the RS 2477 grant was unique among these access authorities. It was a congressional grant which did not require any action on the part of a Federal agency. While the grant was "offered" by Congress, a right could not come into existence until

there was an "acceptance" of the offer and thereby a contract was completed. Courts have ruled that the scope of the offer is defined by Federal law while the acceptance was by a State, instrumentality of the State, or public user.

CHRONOLOGY OF R.S. 2477 ACTIONS AFFECTING ALASKA

July 26, 1866 - RS 2477 Passed.

May 17, 1884 - Organic Act extends RS 2477 to Alaska.

April 6, 1923 - Territorial Legislature passes law accepting grant on section line easements - 66 feet wide.

January 18, 1949 - Territorial laws codified; section line law left out. This created a gap when new section line easements could not be established.

March 26, 1951 - Territorial legislature passes law accepting grant for section line easements on State lands - 100 foot width.

March 21, 1953 - Territorial legislature passes law accepting grant for section line easements across Federal lands - 66 feet wide.

December 14, 1968 - All public lands in the State of Alaska are segregated (reserved) by the posting of the withdrawal application for Public Land Order 4582. No new R.S. 2477 rights could come into existence after this date; construction or use had to occur prior to December 14, 1968. Although the RS 2477 law was still an available authority for the construction of highways, there was no remaining unreserved lands in Alaska.

April 8, 1974 - Commissioner Bruce Campbell, Alaska Department of Highways, sent a copy of the Existing Trail System for the State of Alaska to the State and Federal Land Use Planning Commission of

Alaska and BLM with the following statement: "The State of Alaska maintains ownership of these trails."

October 21, 1976 - Federal Land Policy and Management Act passes and repeals RS 2477.

December 7, 1988 - Secretary of the Interior, after extensive consultation with State officials, approves a formal policy statement clarifying the Federal position on RS 2477 in Alaska.

HANDOUT

MEMORANDUM

State of Alaska

Department of Transportation and Public Facilities

To: Bruce Freitag
State LSR&T Engineer

Date: February 28, 1990

File No:

Telephone No: 451-2259

From: James R. Weed, P.E.
LSR&T Engineer

Subject: LSR&T Projects from
1981 to the Present

Following is our list of LSR&T Projects since 1981, per your request:

1980-1981	Manley to Tofty	\$604,000
1981	Tanana to Old Mission	347,000
1981	Kaltag Village Street Improvements	97,000
1981-1982	Wainwright Community Roads Phase II	775,000
1981	Violet Drive	130,000
1981	Toris Road	234,000
1981-1982	Richardson Hwy, Glennallen High School Access	96,000
1981	Healy-Otto Lake Area Roads	197,000
1981	Ruby Street Improvement	70,000
1981	Lakloey Drive	88,000
1981	Savoonga Village Street Construction	62,000
1981	Beaver Village Streets	78,000
1982	Stevens Village Dump Site Road	101,000
1983	Eureka North	442,000
1983	Carr Road	175,000
1983	Dennis Road	110,000
1983	Northway Road	273,000
1983-1984	Mukluk Creek Bridge #1382 - Abutments	224,000
1983	Glennallen Disposal Site Road	36,000
1984-1985	Birch Creek Local Roads	21,000
1984-1985	Herning Hills Service Area	46,000
1984	Chena Hot Springs Road Trail	100,000
1984	Eagle River Road	343,000
1984	Glennallen H.S. Access Road Guardrail Improvements	25,000
1984	Tok Area Access Road	32,000
1985	Dawson Connector	17,000
1985	Terrace Drive in Glennallen Subdivision	156,000
1985	Tazlina Terrace Road & Poplar Drive	144,000
1985	Jan Lake Access Road	127,000
1986	Healy Otto Lake Road	103,000
1986	Robe River Bike Path	124,000
1986-1987	Wainwright Community Road Phase III	266,000
1987-1988	Park Ridge Service Area	228,000
1987-1988	Northway Village Community Roads	279,000
1987-1988	Rosie Creek	466,000
1987-1990	Street Signing (F.N.S.B.)	165,000

1988	Galena Local Roads	24,000
1988	3rd Avenue Improvements (N.P.)	1,000
1988-1989	Rosie Creek/Cripple Creek	154,000
1988-1989	Minto Street Improvements	52,000
1988-1989	Bettles Haul Road Winter Trail Improvements	30,000
1988-1989	Kaktovik Local Road Improvements	54,000
1988-1989	Point Hope Road Improvements	64,000
1988-1989	Cripple Creek	323,000
1988-1990	Lake Minchumina Trail Improvements	20,000
1988-1990	Rampart Road Improvements	50,000
1989-1990	Mansfield Lake Trail Improvements	40,000
1989-1990	Ruby to Poorman Road	49,000
1989-1990	Klutina River Road	70,000
1989-1990	South Cushman-Baler Site Road	185,000
1990	"D" Street (Fairbanks)	42,000
1990	"D" Street Shannon Park (Fairbanks)	303,000

NORTHLAND

NEWS



VOL IV, No. 55

FAIRBANKS, ALASKA, MAY, 1986

Northland News, Fairbanks, Alaska, May 1986—11

Shelter cabins surely way to go

By JULIE COLLINS
Correspondent

LAKE MINCHUMINA—"It's taken a long time, but I think we're finally beginning to get the idea," my sister Miki said as she leaned lethargically against the plywood wall.

I lay sprawled on the bunk, gasping and incapacitated by the 104° heat. "What, you mean these shelter cabins?"

"Yeah," she wheezed. "Sure beats camping out!"

We were spending the night at the McKinley Creek shelter cabin between Golovin and Elim on our way east from Nome to Kobuk. The small, air-tight plywood shack sported a huge barrel stove, and with the driftwood we'd hauled by dog sled burning hotly, the cabin had quickly overheated. But after three weeks of camping out between Nenana and Nome, we couldn't bear to let a single blast of freezing air through the door.

During the three-week journey by dog team from Nenana to Nome, we camped out all but six days. Then we discovered shelter cabins—and in the two weeks of travel to Shungnak, where we are now (April 9), we only camped out twice.

Of course we passed a few shelter cabins on the way to Nome, although there are fewer cabins in the Interior. But we never knew where they were in advance, and rather than stopping we usually went on by. After leaving Nome we began to ask ahead to find out where the cabins were, and plan-

ned our schedule around the cabins.

Because the shelter cabins were usually 25 to 35 miles apart, we found ourselves traveling shorter distances than the 35 to 50 miles a day we had been making. Still, the dogs enjoyed the slower pace, and as we had nearly 850 miles to travel if we went all the way to Bettles, we didn't mind easing the strain on the team.

The two nights we did camp out, the temperature dropped to 25 below and 40 below. That convinced us that shelter cabins were the way to go.

I don't know who maintains these cabins, but they were all in good shape—a little dirty, sometimes a patched windowpane—but all tightly built, all made of plywood and ready to use. Although they were each supplied with a small amount of firewood, we preferred to cut our own, and of course we took care to leave kindling for the next wayfar- ing stranger.

Every cabin had a good stove, most had bunk beds and a little furniture—stools, a table, shelves. They did lack wood-cutting tools, though, and only a couple had brooms, candles, and reading material. Fortunately dry wood—dead standing spruce or driftwood—was nearly always available for anyone willing to work for it.

As we traveled across the Seward Peninsula we learned that these cabins are numerous in treeless areas. The trails, too, are carefully staked, a tedious but worthy task.

Nobody knows better than the Eskimo the value of these precautions when storms blow up.

We often preferred staying in isolated cabins instead of in villages, too. The dogs rested better in the quiet, and injured ones enjoyed nights inside.

Miki and I both felt awkward about barging into a village and asking for shelter, and these cabins often saved us from that necessity, too.

"This is definitely the way to go," Miki said in the McKinley Creek cabin as she sat by the barrel stove, sweating profusely.

"No more weeping in the dog sled if we can help." "I agreed.

"No more weeping over smoky campfires," she said.

"We can mix our powdered milk now and it won't all blow away like it did at Unalakleet."

"We don't have to worry about sticking our tongues to the spoons on 30 below mornings," Miki added.

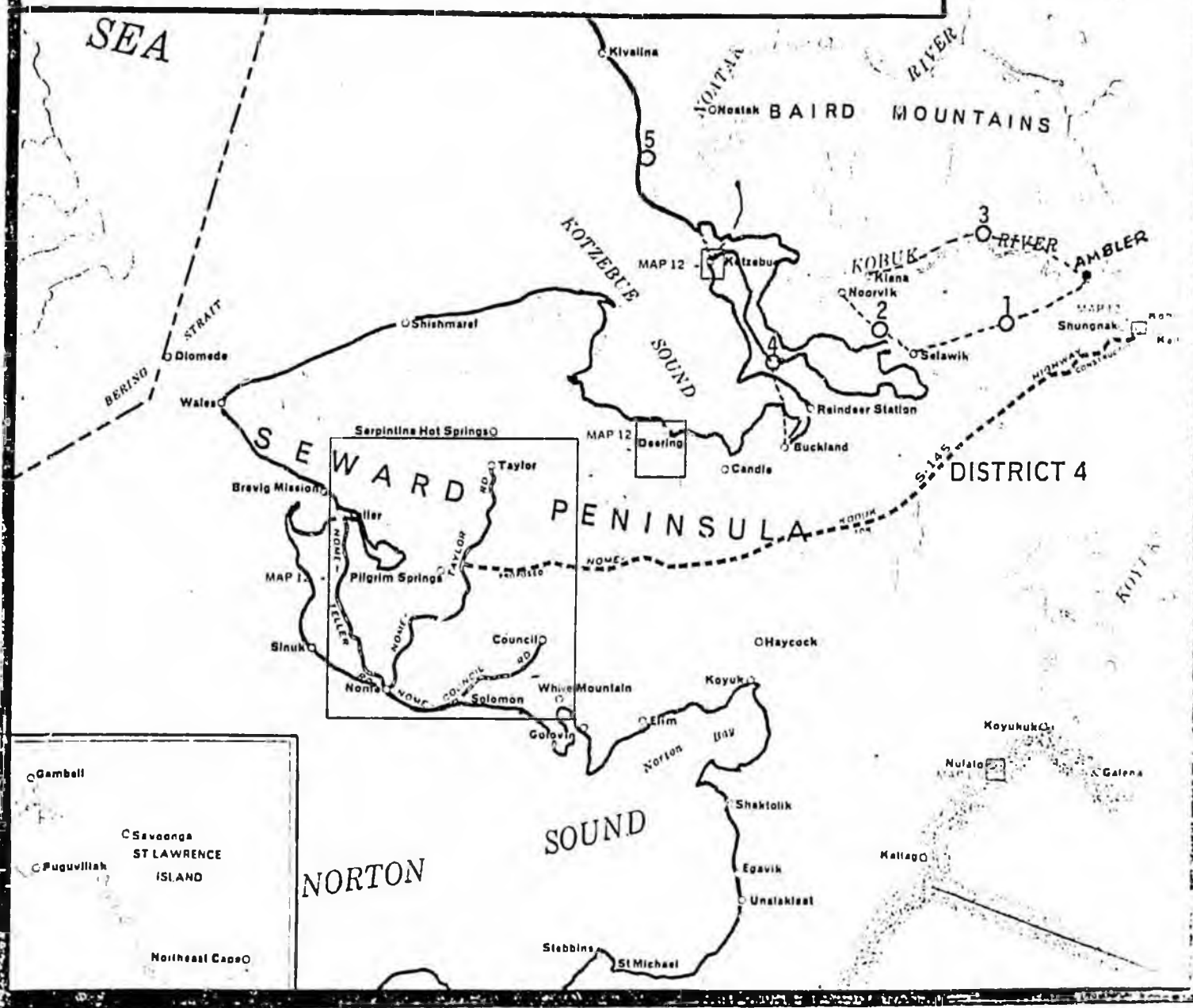
"Hallelujah!" I cried. "And we don't have to pray every night: good night, sleep tight, don't let the bed bugs bite—and don't freeze your nose."

WESTERN HIGHWAY DISTRICT

ARCTIC

PROJECT G47025, SHELTER CABINS
NANA REGIONAL SEARCH & RESCUE
FIVE CABINS, 1981

- | | | |
|------------------------|----------------------|--------------------|
| 1. Selawik - Ambler | T15N, R1E, S11, KRM | Art Skin Allotment |
| 2. Selawik - Noorvik | T15N, R9W, S1, KRM | USFWS (SELA NWR) |
| 3. Kiana - Ambler | T21N, R3W, S26, KRM | USNPS (KOVA NPK) |
| 4. Buckland - Kotzebue | T12N, R14W, S13, KRM | KIC LNC, NANA |
| 5. Kotzebue - Kivalina | T21N, R23W, S3, KRM | USNPS (CAKR NM) |



PROGRAM INCEPTION THROUGH JANUARY 1, 1981

SOUTHEASTERN REGION

Unorganized Borough III

Completed Projects

Kasaan Bridges	\$ 2,237
Pelican Landfill Access	59,960
Craig Beach Road	14,960
Metlakatla Tamgass Trail	9,998
Angoon to Killisnoo	17,682
Tenakee Streets	3,754
Yakutat Bayview Drive	5,393
Hoonah Front Street	23,981
Yakutat Housing Access	9,719
Kake Totem Park	6,028
Skagway Dock Street	45,412
Hyder Bridge	4,230
Hydaburg Landfill Road	5,000
Klawock Union Street	8,507
Kasaan Bridges	4,406
Craig School Bypass	20,000
Hydaburg Housing Access	7,059
Klawock Housing	20,854
Tenakee Dock Street	30,493
Kake Drainage	20,235
Yakutat Housing Access	16,711
Port Alexander	44,729
Hydaburg Townsite Road	19,971

Elfin Cove Boardwalk	\$ 45,604
Metlakatla Paving	26,640
Kasaan Boardwalk	29,705
Yakutat Street Surfacing	16,200
Pelican Boardwalk	50,511
Hoonah Trail	17,348
Tenakee Bridge	16,568
Klawock Anchorage Street	12,835
Craig 4th and Main	18,481
Craig Main and Beach	21,501
Hydaburg Quarry Access	18,636
Hoonah Lumbago Road	16,081
Skagway Dewey Lake Trail	2,668
Port Alexander B.W.	14,252
Lagoon Cribwall	53,000
Tenakee Trail	15,275
Klawock Surfacing	26,600
Kasaan Totem Park	18,057
Skagway Trails	5,522
Yakutat Streets	19,230
Tenakee "D" Street	34,823
Elfin Cove BW	12,619
Hydaburg BW	7,850
Klawock Surfacing	16,354
Craig Hamilton Drive	19,431
Hoonah Parking	11,117
Kake Drainage	19,621
Klawock BW	<u>27,190</u>
TOTAL	\$993,338

City & Borough of Juneau

Completed Projects

1. Trinity Drive	\$ 53,657
2. Memorial Drive I	48,876
3. Evergreen Bowl	73,800
4. Davis Avenue	111,000
5. Riverside Drive	73,245
6. Memorial Drive II	144,000
7. North Riverside Drive	<u>208,235</u>
TOTAL	\$712,813

Haines Borough

Completed Projects

1. Mt. Ripinski Trail	\$ 46,598
2. Learning Center Drainage	1,280
3. Tlingit Park Access	<u>8,340</u>
TOTAL	\$ 56,218

City & Borough of Sitka

Completed Projects

1. Cascade Creek	\$ 10,450
2. Wachusetts Street	25,000
3. Monastary Street	5,400
4. Spruce Street	13,927
5. Nakwasina Street	7,400
6. Thimbleberry Bay Road	29,000
7. Sirstad Street	16,500
8. Shuler Drive	22,084
9. Verstovia Street	<u>151,161</u>
TOTAL	\$280,922

No projects under construction.

City of Wrangell

Completed Projects

1. Outer Drive	\$ 43,703
2. Second Avenue	37,001
3. St. Michael Street	<u>50,000</u>
TOTAL	\$130,704

No projects under construction.

City of Petersburg

Completed Projects

1. Birch Street	Not Available (Est. 71,000)
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Ketchikan Gateway Borough

Completed Projects

1. Carlanna Road Exit	\$242,357
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GRAND Total

\$ 2,437,352

ISRT PROJECTS CONSTRUCTED
1981 - 1989
SOUTHEAST REGION

<u>LOCATION</u>	<u>PROJECT NO.</u>	<u>DESCRIPTION</u>	<u>COST</u>
Kasaan	G37063	Trails	\$ 10,000
Pelican	G32801	Boardwalk	1,792
Haines	G31309	Walkway	5,053
Tenakee	G37064	Road	58,000
Thorne Bay	G37065	Road Improvements	33,000
Port Protection	G37066	Boardwalk	30,000
Ketchikan	G31408	Secondary Bypass	67,417
Hyder	G37067	Streets	27,000
Sitka	G31206	Lincoln Ave.	13,000
Sitka	G31207	Katlina	42,129
Wrangell	G32304	Grant	24,262
Hoonah	G32401	Grant	7,375
Hydaburg	G32501	Grant	3,240
Kake	G32602	Grant	2,357
Klawock	G32701	Grant	3,457
Pelican	G32802	Grant	171
Skagway	G32902	Grant	1,230
Craig	G33002	Grant	5,849
Yakutat	G33102	Grant	433
Juneau	69820	Gastineau Ave.	42,336
Sitka	69822	Verstovia Trail	24,643
Haines	69824	Beach Road	9,260
Ktn Gateway Boro	69826	Sidewalk/Trail	15,829

LSRT PROJECTS CONSTRUCTED
1981 - 1989
SOUTHEAST REGION

<u>LOCATION</u>	<u>PROJECT NO.</u>	<u>DESCRIPTION</u>	<u>COST</u>
Ketchikan	G31402	Drainage & Lighting	\$ 43,946
Petersburg	G32201	8th & Gauffin	165,600
Haines	G31302	Chilkoot Trail	35,750
Pelican	G37033	Musael Street	57,500
Hoonah	G37035	Drainage/Parking	41,000
Angoon	G37036	Surfacing	33,000
Tenakee	G37038	Bridge	14,000
Skagway	G37041	Sidewalks	27,000
Angoon	G37042	Stairway	4,700
Tenakee	G37403	Culverts	11,000
Metlakatla	G37044	Road	52,000
Hoonah	G37045	Stairway	48,700
Yakutat	G37047	Bulkhead	8,500
Tenakee	G37048	"J" Street	3,000
Klawock	G37049	Drainage	5,000
Kupreanof	G37050	Trail	55,000
Kake	G37051	Access Road	92,500
Pelican	G37053	Clam Street	43,000
Ketchikan	G31403	Parking Lot	10,000
Ketchikan	G31404	Firehall Access	35,000
Ketchikan	G31405	Seaman Parking	50,000
Ketchikan	G31406	Harriet Hunt Rd.	20,000
Juneau	G31105	Bituminous Overlay	205,126

LSRT PROJECTS CONSTRUCTED
1981 - 1989
SOUTHEAST REGION

<u>LOCATION</u>	<u>PROJECT NO.</u>	<u>DESCRIPTION</u>	<u>COST</u>
Wrangell	G32303	Street Imp.	\$ 80,159
Sitka	G31204	Davidoff St.	75,000
Hydaburg	G37052	Surfacing	52,140
Craig	G37054	Port Bagail Blvd.	34,000
Haines	G31304	Third Ave.	10,073
Haines	G31305	Dalton St.	74,600
Haines	G31306	Bike Path	17,823
Sitka	G31205	Katlian Ave.	105,228
Haines	G31307	Chilkat Road	36,000
Elfin Cove	G37055	Trails	38,500
Thorne Bay	G37056	Access Road	85,000
Angoon	G37057	Access Road	30,000
Juneau	G31106	Riverside Dr.	156,000
Haines	G31308	6 Year Program	10,195
Pelican	G31058	Pelican Creek	6,000
Tenakee	G37059	Columbia Cove	25,000
Ketchikan	G31407	Schoenbar Lighting	15,000
Edna Bay	G37060	Boardwalk	36,000
Harris River	G37061	Harris River Road	15,000
Gustavus (PE)	G37062	Good River Bridge	5,000
Yakutat	G33101	2nd Street	3,029
Skagway	G32901	Skagway Alleys	8,959
Kake	G32601	Guardrail	5,498

LSRT PROJECTS CONSTRUCTED
1981 - 1989
SOUTHEAST REGION

<u>LOCATION</u>	<u>PROJECT NO.</u>	<u>DESCRIPTION</u>	<u>COST</u>
City Ketchikan	69828	Sidewalk	\$ 7,409
Petersburg	69830	Boardwalk	22,000
Skagway	69832	Streets	14,000
Thorne Bay	69834	Trail	14,000
Hoonah	69836	Road	14,046
Port Protection	69838	Boardwalk	10,000
Kasaan	69840	Boardwalk	7,000
Klawock	69842	Stairways	12,000

Region	Central
Allocation District	One
Project No.	LSR&T Grant
Project Name	Mat-Su 88-1
Local Government	Mat-Su Borough
Mailing Address	P.O. Box 1608
Business Address	Palmer, Alaska, 99645
Telephone	(907) 745-4801

GRANT AGREEMENT
LOCAL SERVICE ROADS AND TRAILS
LOCAL GOVERNMENT

PROJECT:

Under the provisions of AS 19.30.111 et. seq. this grant agreement is entered into on this 13 day of May, 1988, by and between the State of Alaska, Department of Transportation and Public Facilities (hereinafter the Department), and the Matanuska-Susitna Borough, (hereinafter the Local Government) in the amount of \$305,618.00 for the purpose of constructing the following described projects:

Various roads within the Matanuska-Susitna Borough identified as Priority #1 in Matanuska-Susitna Borough Resolution Serial Number 88-059 (Attachment No. 1 to this agreement).

A. OBLIGATIONS OF THE LOCAL GOVERNMENT

To further accomplish the construction of the projects, it is agreed that the Local Government shall:

1. Assume all responsibility relating to the planning, construction and maintenance of the projects as described;
2. Construct the above described projects, which are more fully described Appendixes "A1" through "A16" attached hereto and made a part hereof.
3. Acquire and certify that all necessary right-of-way, easements permits and utility agreements have been obtained prior to commencement of construction;
4. Award a contract for construction to the lowest responsible bidder through the competitive bidding process;
5. Submit reports as required under Section 19-30.233(a);
6. Maintain accurate, daily written records for all costs, which records shall be made available for inspection by the Department upon written notice. Preserve such records for a period of three years following final acceptance of the projects by the Local Government or until all claims are satisfied.

LSR&T Form 30

Project No. _____
 Project Name Mat-su LSR&T Grant 88-1

7. Promptly pay in full all legitimate claims for services or materials provided for construction of the projects and hold the Department harmless from any claims or costs arising from the Local Government's failure or refusal to pay claims.
8. Indemnify, defend and hold harmless the Department from all liability, claims and demands arising from the work undertaken by the Local Government, its employees, agents or representatives.
9. The Local Government should be aware of and comply with State Administration Code 02 AAC 45.010 which requires a single audit covering all grant monies received in excess of \$100,000 in any two year period.

B. OBLIGATIONS OF THE DEPARTMENT

The Department shall:

1. Transfer funds to the Local Government on a reimbursement basis per billings and supporting documentation submitted by the Local Government. Advance payments may be requested with the prior approval of the Department;
2. Not authorize funds which exceed the unallocated balance of the Local Government's LSR&T funds.

C. FURTHER CONDITIONS

1. The Local Government will coordinate all regulatory agency reviews and obtain all necessary written approvals from all regulatory agencies;
2. The parties to this agreement shall obey all federal, state, and local laws and regulations;
3. The Local Government shall notify the Department one week in advance of holding final project inspections;
4. This agreement may not be modified except by written agreement between the Regional Director for Design and Construction of the Department and an authorized agent of the Local Government;
5. This supersedes any and all other agreements expressed or implied between the Department and the Local Government with respect to this project, and this agreement contains the entire agreement between said parties.

Project No. _____
Project Name Mat-Su LSR&T Grant 88-1


- 6. The allocation of funds to the Priority #1 project shall be as shown in Attachment No. 1. There shall be no changes to the project allocations without the prior approval of the Department.

To witness this agreement, the Department and the Local Government have affixed hereto the signatures of the Regional Director Design and Construction of the Department and the Borough Manager, the duly authorized signatory for said Local Government.

DATED this 13 day of May, 1988.

Matanuska-Susitna Borough
(Name of Local Government)

LOCAL GOVERNMENT

BY 
(Attach the completed resolution approved by the Local Government)

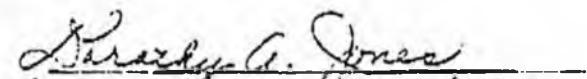
DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

RECOMMEND FOR APPROVAL:



Chief Construction Engineer

5.13.88
Date

ATTEST:


Mayor, Matanuska-Susitna Borough

APPROVED AND EXECUTED BY:


Director Design and Construction

5.13.88
Date

THIS IS TO CERTIFY that this is an exact duplicate of the record on file in the Borough Clerk's Office.

Introduced by: Borough Manager
Prepared by: Public Works Dept

By: H. L. Van Orden

MATANUSKA-SUSITNA BOROUGH
RESOLUTION SERIAL NO. 88- 059

A RESOLUTION OF THE MATANUSKA-SUSITNA BOROUGH AUTHORIZING THE CONSTRUCTION OF VARIOUS ROAD PROJECTS TO BE PAID FOR BY THE LOCAL SERVICE ROADS AND TRAILS FUNDS.

WHEREAS, the Matanuska-Susitna Borough Assembly desires to construct the following designated projects:

<u>Project Name</u>	<u>RSA #</u>	<u>Estimated Amount</u>	<u>Assembly District</u>
<u>Priority #1:</u>			
Corky Blvd	RSA#21	3,500	5
Pioneer Drive	RSA#9	10,176	3
Garden Terrace Subdivision	RSA#14	5,500	3
Leroy Davis Road	RSA#15	16,500	7
Sunset Road	RSA#17	4,456	5
Thor Road	RSA#19	41,910	1
Florence Drive	RSA#20	28,600	7
Marion Lakes Access	RSA#21	3,850	5
Burlwood Lane	RSA#25	13,200	3
Butte Airman Road	RSA#26	34,100	1
Beverly Lakes Road	RSA#27	9,240	7
Tex Al Drive	RSA#28	54,208	6
Kustaka/Malaspina Loop Roads	RSA#29	25,300	7
Chulitna Drive/Two Block Rd	RSA#30	13,750	7
Freitag St/Myers Ave	RSA#31	11,000	1
Mulchatna Drive	RSA#28	30,328	6
	SUB TOTAL	\$305,618	
<u>Priority #2:</u>			
Hay Street	RSA#9	16,500	3
Suburban Country Estates	RSA#14	9,680	5
Sockeye Avenue	RSA#15	58,850	7
Guernsey Road	RSA#17	16,280	5
First Avenue/Willow Drive	RSA#20	28,600	7
South Big Lake Road	RSA#21	17,710	5
Lake View Drive	RSA#27	6,634	6
Moose Meadow Road	RSA#28	35,332	6
Powers Road	RSA#29	17,050	7
Danielson Avenue	RSA#31	22,308	1
	SUB TOTAL	\$228,944	
<u>Priority #3:</u>			
Brush Clearing	RSA#14	17,081	5
Settlers Bay/Victoria Est	RSA#17	16,500	5
	SUB TOTAL	\$33,581	

TOTAL PROPOSED LSR&T PROJECTS AMOUNT: \$568,143

WHEREAS, pursuant to AS Ch. 84, Sec. 19.30.111 through Sec 19.30.241, the State of Alaska has a fund for construction of local service roads and trails.

WHEREAS, the Matanuska-Susitna Borough agrees to secure all royalties for road building materials from private or public land necessary for the construction of this project, at no cost to the Department of Transportation and Public Facilities if a method other than the competitive bidding process is approved by the Commissioner of the Department.

NOW, THEREFORE, BE IT RESOLVED that application be made to the State of Alaska for funds from the Local Service Roads and Trails Fund to be used in construction of the projects.

PASSED AND APPROVED by the Assembly of the Matanuska-Susitna Borough this 3rd day of May, 1988.

Dorothy A. Jones
Dorothy A. Jones, Borough Mayor

ATTEST:

Linda Dahl
Linda Dahl, Borough Clerk

(SEAL)



THE SECRETARY OF THE INTERIOR
WASHINGTON

Memorandum

To: Secretary.

From: ~~Acting~~ Assistant Secretary for Fish and Wildlife and Parks
Assistant Secretary for Land and Minerals Management

(S33) Susan Recce
DET

Subject: Departmental Policy on Section 8 of the Act of
July 26, 1866, Revised Statute 2477 (Repealed),
Grant of Right-of-Way for Public Highways (RS 2477)

Although RS 2477 was repealed nearly 12 years ago, controversies periodically arise regarding whether a public highway was established pursuant to the congressional grant under RS 2477 and the extent of rights obtained under that grant. Under RS 2477, the United States had (has) no duty or authority to adjudicate an assertion or application. However, it is necessary in the proper management of Federal lands to be able to recognize with some certainty the existence, or lack thereof, of public highway grants obtained under RS 2477.

With the passage of the Federal Land Policy and Management Act, the Bureau of Land Management (BLM) developed procedures, policy, and criteria for recognition, in cooperation with local governments, of the existence of such public highways and notation to the BLM's land records. This has allowed the BLM to develop land use plans and to make appropriate management decisions that consider the existence of these highway rights.

Issues have recently been raised by the State of Alaska and others which question not only the BLM policy but also the management actions by other bureaus within the Department. We have had the BLM review and report on the various issues and concerns (Attachment 2) and consulted with the State of Alaska, the BLM, the Fish and Wildlife Service, and the National Park Service.

We believe that the land management objectives of the Department will be improved with adoption of a Departmental policy and recommend that the attached policy (Attachment 1) be adopted for Departmentwide use.

Approve: Donald Paul Hodel

Disapprove: _____

Date: DEC 07 1988

Date: _____

Attachments: 1-RS 2477 Policy
2-BLM Report

cc: Secretary's Reading File (2)

ES (8): MIB Rm. 6221

LW (2)

FW (2)

330 Official

330 Reading File, MIB 3660

LLM-330:Bingham:3/4/88, IB Rm. 3660:343-5441:0434B09

Revised: FW-Wyman:10/4/88:343-9211:RS2477.1

RS 2477

Section 8 of the Act of July 26, 1866
Revised Statute 2477 (43 U.S.C. 932)
Repealed October 21, 1976

Section 8 of the Act of July 26, 1866, provided:

"The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted."

Although this statute, 43 U.S.C. 932 (RS 2477), was repealed by Title VII of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2793, many rights-of-way (R/W) for public highways obtained under the statute exist or may exist on lands administered by the Department and other Federal agencies. The existence or lack of existence of such highway R/Ws has material bearing on the development and implementation of management plans for conservation system units and other areas of Federal lands. Land managing Bureaus of the Department should develop, as appropriate, internal procedures for administratively recognizing those highways meeting the following criteria and recording such recognized highways on the land status records for the area managed by that Bureau.

Acceptance:

To constitute acceptance, all three conditions must have been met:

1. The lands involved must have been public lands, not reserved for public uses, at the time of acceptance.
2. Some form of construction of the highway must have occurred.
3. The highway so constructed must be considered a public highway.

Public lands, not reserved for public uses:

Public lands were those lands of the United States that were open to the operation of the various public land laws enacted by Congress.

Public lands, not reserved for public uses, do not include public lands reserved or dedicated by Act of Congress, Executive Order, Secretarial Order, or, in some cases, classification actions authorized by statute, during the existence of that reservation or dedication.

Public lands, not reserved for public uses, do not include public lands pre-empted or entered by settlers under the public land laws or located under the mining laws which ceased to be public lands during the pendency of the entry, claim, or other.

Construction:

Construction must have occurred while the lands were public lands, not reserved for public uses.

Construction is a physical act of readying the highway for use by the public according to the available or intended mode of transportation - foot, horse, vehicle, etc. Removing high vegetation, moving large rocks out of the way, or filling low spots, etc., may be sufficient as construction for a particular case.

Survey, planning, or pronouncement by public authorities may initiate construction but does not, by itself, constitute construction. Construction must have been initiated prior to the repeal of RS 2477 and actual construction must have followed within a reasonable time.

Road maintenance over several years may equal actual construction.

The passage of vehicles by users over time may equal actual construction.

Public Highway:

A public highway is a definitive route or way that is freely open for all to use. It need not necessarily be open to vehicular traffic for a pedestrian or pack animal trail may qualify. A toll road or trail is still a public highway if the only limitation is the payment of the toll by all users. Multiple ways through a general area may not qualify as a definite route, however, evidence may show that one or another of the ways may qualify.

The inclusion of a highway in a State, county, or municipal road system constitutes being a public highway.

Expenditure of construction or maintenance money by an appropriate public body is evidence of the highway being a public highway.

Absent evidence to the contrary, a statement by an appropriate public body that the highway was and still is considered a public highway will be accepted.

Ancillary uses or facilities usual to public highways:

Facilities such as road drainage ditches, back and front slopes, turnouts, rest areas, and the like, that facilitate use of the highway by the public are considered part of the public highway R/W grant.

Other facilities such as telephone lines, electric lines, etc., that were often placed along highways do not facilitate use of the highway and are not considered part of the public highway R/W grant. An exception is the placement of such facilities along such R/W grants on lands administered by the Bureau of Land Management prior to November 7, 1974. Prior to this date, the requirement of filing an application for such facilities was waived. Any new facility, addition, modification of route, etc., after that date requires the filing of an application/permit for such facility. Facilities that were constructed, with permission of the R/W holder, between November 7, 1974, and the effective date of this policy, should, except in rare and unusual circumstances, be accommodated by issuance of a R/W or permit authorizing the continuance of such facility.

Width:

For those highway R/Ws in the State, county, or municipal road system, i.e., the R/W is held and maintained by the appropriate government body, the width of the R/W is as specified for the type of highway under State law, if any, in force at the time the grant could be accepted.

In some cases, the specific R/W may have been given a lesser or greater width at the time of creation of the public highway than that provided in State law.

Where State law does not exist or is not applicable to the specific highway R/W, the width will be determined in the same manner as non-governmentally controlled highways.

Where the highway R/W is not held by a local government or State law does not apply, the width is determined from the area, including appropriate back slopes, drainage ditches, etc., actually in use for the highway at the later of (1) acceptance of the grant or (2) loss of grant authority under RS 2477, e.g., repeal of RS 2477 on October 21, 1976, or an earlier removal of the land from the status of public lands not reserved for public uses.

Abandonment:

Abandonment, including relinquishment by proper authority, occurs in accordance with State, local or common law or Judicial precedence.

Responsibilities of Agency and Right-of-Way Holder:

This policy addresses the creation and abandonment of property interests under RS 2477 and the respective property rights of the holder of a R/W and the owner of the servient estate.

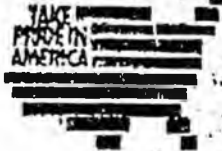
Under the grant offered by RS 2477 and validly accepted, the interests of the Department are that of owner of the servient estate and adjacent lands/resources. In this context, the Department has no management control under RS 2477 over proper uses of the highway and highway R/W unless we can demonstrate unnecessary degradation of the servient estate. It should be noted, however, that this policy does not deal with the applicability, if any, of other federal, state, and/or local laws on the management or regulation of R/Ws reserved pursuant to RS 2477.

Reasonable activities within the highway R/W are within the jurisdiction of the holder. As such, the Department has no authority under RS 2477 to review and/or approve such reasonable activities. However, review and approval may or may not occur, depending upon the applicability, if any, of other federal, state, or local laws or general relevance to the use of a R/W.



United States Department of the Interior

BUREAU OF LAND MANAGEMENT
WASHINGTON, D.C. 20240



IN REPLY REFER TO

2801 (330)
RS 2477

APR

Memorandum

To: Assistant Secretary - Land and Minerals Management

From: Director, Bureau of Land Management

Subject: Departmental Policy on Section 8 of the Act of July 26, 1866, Revised Statute 2477 (Repealed), Grant of Right-of-Way for Public Highways (RS 2477)

Issue: Department Policy on the Recognition of Public Highway Rights-of-Way Granted Under RS 2477 and the Administration of such Recognized Grants.

Need:

Significant issues have been raised, principally in Alaska, regarding the Department's interpretation and position as to the acceptance of the right-of-way (R/W) grant offered by Congress by Section 8 of the Act of July 26, 1866, RS 2477, repealed by Title VII of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2793 (FLPMA). For those grants recognized, issues exist as to the extent of the grant, i.e., terms and conditions such as the width, allowable uses, and Federal oversight.

Historically, such issues have generally affected only the Bureau of Land Management (BLM), with minor impact on other Federal land managing agencies. Two relatively recent events have heightened the need for expressed policy at the Departmental or higher level. First, the repeal of RS 2477 in 1976 closed the door to the acceptance of the grant for new highways or corrections to existing road situations to perfect acceptance of the grant. Secondly, the addition of extensive acreages in Alaska to the National Park and National Wildlife Refuge Systems by the Alaska National Interest Lands Conservation Act of 1980 (ANILCA) requires the managing agency to consider the possible existence of RS 2477 highways on these Conservation System Units. Other Federal land managing agencies in Alaska, principally the Forest Service, U.S. Department of Agriculture, are also involved but to a lesser extent than the three Interior Bureaus.

Historical:

RS 2477 provided:

"The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted."

In the past, the Department paid little attention to such public highways on the public lands since if the grant was not accepted today it could be tomorrow. In disposing of the public lands, the General Land Office and, subsequently, the BLM did not even include the existence of such public highways in the patent document; the agency had no duty to adjudicate the acceptance or non-acceptance of the highway grant. As with other "open" offers by Congress, such as the railroad grants, the existence of such rights were considered factual matters that the settler or enterer of public lands should recognize as existing at the time of settlement or entry. Disputes between the holder of the highway and the patentee were left for settlement in local court under the laws of the State or Territory.

As a result, there is lacking any quantity of administrative or judicial decisions at the Federal level to provide such assistance in setting Federal policy and a plethora of local judicial decisions, often conflicting between States or Territories. Attachment 8 is a summary of published administrative decisions regarding RS 2477.

Regulations:

Regulations promulgated by the Department in 1938 provided:

"The grant . . . becomes effective upon the construction or establishing of highways in accordance with the State laws, over public lands not reserved for public uses. No application should be filed under said R.S. 2477 as no action on the part of the Federal Government is necessary." See 43 CFR 244.55 (1938) (Par. 55, Circ. 1237a, May 23, 1938).

In 1949, regulations were added to provide for a highway applicant to petition the BLM to modify a "public use" reservation to allow application of RS 2477. See 43 CFR 244.47 (1949).

In 1952, the regulations were modified to exclude from the RS 2477 grant any R/Ws for facilities with respect to which any other provision of law specifically required the filing of an application for R/W. These regulations also waived the requirement of filing an application for all facilities usual to or along a highway R/W (certain specific exceptions) where the holder of the highway R/W consented. These regulations also provided that the R/W granted under RS 2477 would be subject to certain terms and conditions—clearing, soil and resource conservation, prevent and suppress fires, build or repair facilities damaged in construction of highway, restoration upon termination, nondiscrimination, and reservation of certain minerals. Where the highway holder consented to construction of related facilities, such holder was responsible for compliance with appropriate terms and conditions of the Department for the type of facility. See 43 CFR 244.58 (1953 Supp).

In 1974, the regulations were modified to remove the waiver provided in 1952 and required applications to be filed for facilities usual to a highway. See 43 CFR 2822.2-2 (1979).

With the repeal of RS 2477 in 1976, regulations were adopted allowing any person or State or local government which has constructed public highways under RS 2477 to file a map showing the location of such highway with the BLM. See 43 CFR 2802.5(b) (1985). This action was taken to facilitate the management of the public lands under the FLPMA.

BLM Policy:

Current policy is contained in BLM Manual 2801.48B (1986). It provides:

- Grant became fixed when constructed and accepted as a public highway.
- Construction must be actual; survey and planning are not construction. Road maintenance over several years may equal construction. Incremental maintenance over several years may equal construction. Construction on public lands must have occurred prior to 10/21/76. Where history is unknown or questionable, its existence in condition suitable for public use is evidence that sufficient construction has taken place.
- Highway must be public, an access road restricted by locked gates is not a public highway. Expenditure of public funds on a road will equate to a public highway. State in which road is located must have a procedure to confirm the road as a public highway, i.e., a public highway may not be created contrary to local law.
- RS 2477 did not specify the extent, width, or nature of rights conveyed. State law specifying highway width(s) that is specific to RS 2477 highways shall be used. Where State law does not apply, width is that required for the road uses existing at the time of acceptance or repeal of RS 2477.
- Holder has right to maintain, including realignment and reconstruction within the R/W width; activities outside require permit.
- Facilities usual to public highways, i.e., telephone and electric lines, are to be authorized by separate R/Ws granted under FLPMA; grandfather clause for those established during application waiver period.
- Field Offices are directed to work with each State, county, and municipality to identify all existing highways; acknowledge, serialize, and note Master Title Plates of those meeting criteria.

Concern in Alaska:

By 1985 many issues were raised in Alaska concerning possible RS 2477 R/Ws and management plans being prepared for the individual Conservation System Units created under the ANILCA. Positions and concerns expressed by the State (both administrative and legislative), Native entities, minerals industry, conservation groups, and others illustrated a need for a single Departmental or Federal Government position on RS 2477. In 1986, the BLM State Director, Alaska, was asked to chair an interagency group consisting of the regional heads of the BLM, Fish and Wildlife Service, National Park Service, and the

4

Forest Service to formulate a policy acceptable to these regional heads. A proposed policy was submitted by that group, together with comments by the State of Alaska, to the Director, BLM, in August 1987 requesting agency approval (Attachment 1). This proposed policy deviates from existing BLM policy in two areas: (1) establishing the width as that which was necessary for the use involved at the time the land was reserved for a public use or the repeal of RS 2477 (ignoring State statutes) and (2) providing that the Federal land managing agency had administrative control over use of the public highway.

Expressing reservations with the proposed policy, the Governor of Alaska's Washington representative requested meetings with the Assistant Secretaries for Land and Minerals Management and for Fish and Wildlife and Parks to present the State's views and seek a policy acceptable to both the State and the Department. As a result of such a meeting on November 24, 1987, the Governor's representative submitted four issues needing resolution, including the State's reasoning for its position on the issues. These issues and our response are contained in Attachments 5 and 6. With some clarification, BLM's existing policy is acceptable to the Governor's representative on all but one issue--legislative acceptance of RS 2477 on section lines.

Interior's Position is critical:

As the steward of the public lands, not reserved for public purposes, the Department's past and current policy and rulings on the acceptance of the grant of R/Ws for public highways can have impacts on the management of Federal lands in the 30 "public land" States--basically those west of the Mississippi River. RS 2477 issues involving the creation of "Federal reserves - Forests, Parks, Refuges" at the turn of the century and the early 1900's have, generally, been long resolved either through Federal recognition, abandonment, or judicial decisions, although some issues such as utility lines usual to a public highway still occur. Federal reserves created from unreserved public lands in the near past, especially the Conservation System Units in Alaska established under the ANILCA, contain or possibly contain numerous RS 2477 issues.

The one remaining issue involving recognition of acceptance of the congressional grant by State/Territorial law or local government ordinance not diligently followed by actual construction is an issue that has a potential affect on many Federal reserves in the public domain States as well as the remaining public lands under BLM jurisdiction.

In addition there is a perception, with some reality, that decisions made reflecting Federal lands will carry over into the private realty area. Concern has been expressed here by the Alaska Federation of Natives.

Section Line RS 2477 R/Ws:

Alaska contends, as do some other States, that a positive act by the public authorities, i.e., State/Territory legislative branch, county or municipal authorities pursuant to State law, declaring a public highway along all section/township lines is acceptance of the grant offered by Congress under RS 2477. It is contended that such a covenant runs with the land, whether a highway is actually constructed or not, until there is appropriate action taken to abandon or otherwise terminate the R/W pursuant to State law or judicial action. To mollify private landowners who received title from the United States subsequent to such section line legislation, the Alaska Governor's representative has indicated that the State would compensate such owners prior to actual construction of a section line highway.

While section line statutes constitute the primary discussion issue, this issue would also include those cases where the appropriate local authority, counties, for example, by resolution or other appropriate action declared the establishment of a public highway along a route which, for some reason, was never actually constructed.

Western States which have/had section line statutes include Alaska (Territorial and State), Arizona (however State law requires a road to be adopted by the county or other jurisdiction after it has been constructed to become a public highway), North and South Dakota (Dakota Territorial law), and Kansas. Montana, although it does not have a section line statute, has interpreted RS 2477 as requiring construction. Various counties in California, Colorado, and Washington are known to have enacted section line ordinances. Local courts have held that, once dedicated, the highway may only be terminated according to the procedures of the local jurisdiction which, depending on the local jurisdiction, may be only through a public procedure of intent to abandon, hearing, and final abandonment or may occur through non-use and/or adverse possession.

As early as 1898 the Department held that such section line statutes or ordinances did not apply unless the highway was actually constructed (26 LD 446) (Attachment ?). In 1980, the Deputy Solicitor provided a lengthy and detailed position on RS 2477 to the Department of Justice (Attachment 3). Included in this letter was the requirement that construction must have occurred for acceptance of the RS 2477 grant. At the request of the District Court, Alaska, the United States submitted an Amicus Curiae brief to the Court in 1986, which included detailed reasoning that RS 2477 requires construction in order to establish a R/W (Attachment 4).

Problems if Section Lines Adopted:

A number of issues arise if such section line legislation/ordinances are considered acceptance of the grant under RS 2477. Among these are:

When/What does it attach?

If the land was covered by a rectangular survey our position would be that the grant would have become effective on the date of the legislation or ordinance.

If the land is subsequently surveyed, does the effective date of the grant relate back to the date of the legislation or ordinance or to the date of survey? We believe the later would be the answer.

If the land is reserved for public use prior to survey but subsequent to the legislation or ordinance, does the effect of the legislation or ordinance attach upon survey? We believe that it would not.

Are officially accepted protraction diagrams, which are used for resource sale/lease and from which subsequent surveys conform as to the location of township and section corners, considered as establishing section lines for which the grant becomes effective? We would not concur with such a proposition.

In Alaska, departures from the usual regular survey system are authorized, especially for conveyances to the State and to Native Corporations. Since these surveys are based on the township grid (identified as T.-N., R.-E., -M) but do not necessarily identify sections, i.e., the interior of the township is designated Tract A or Tracts A & B, would the surveyed lines that would otherwise correspond to section lines be impressed with the R/W grant? We think they would.

Alaska. Depending on the answers to the above questions, only a small amount of federally owned land would be subject to a R/W grant if applied to only actually surveyed section lines (by 1976 only about 15 percent of the State had been surveyed) and most all Federal lands if applied to protracted survey lines.

Impacts out: of Alaska

Assume that the R/W grant attaches to the section line where such land was public land, not reserved for public use, at the time of the legislative act or subsequent date when actually surveyed.

North and South Dakota. All surveyed public land, not reserved for public use, in these two States in 1872 would be impressed with a section line R/W grant. At time of subsequent survey, such public lands not entered would also be impressed with the R/W grant.

In 1872, little public lands had been set aside for public uses; Forest Reserves, the forerunners to National Forests, and National Parks, came into existence in the 1890's and later. In these two States, 9.5 million acres are owned by the Federal Government (1981 Public Land Statistics), including some 4.0 million reacquired acres. Acres by agency are: Forest Service 3.0 million acres, Corps of Engineers 1.1 million, Fish and Wildlife Service 0.5 million, and BLM, National Park Service, Bureau of Reclamation, and Bureau of Indian Affairs at 0.2 million each.

Kansas. All surveyed public land, not reserved for public use, in 1907 would be impressed with a section line R/W grant. At subsequent survey, such public lands not entered would also be impressed with the R/W grant. By 1976 all lands in the State had been surveyed.

Only some 750,000 acres are owned by Federal agencies—Corps of Engineers 320,000; Army 125,000; and Forest Service 105,000. The majority of this acreage is acquired land.

Other Western States. Arizona had (has) section line legislation, however, the courts there ruled that Arizona law also required an acceptance action after construction for the road to become a public highway.

In Washington, California, and Colorado, there are published cases involving section line ordinances enacted by county government, i.e., the Douglas County, Washington, ordinance April 6, 1897. To identify the extent of such county ordinances would require a historical search of individual County actions.

It is our recommendation that we do not modify our interpretation of the Statute that construction must have occurred in order for a R/W grant under RS 2477 to attach.

Federalism - Executive Order 12612:

With the possible exception of the section line issue, existing BLM policy and the action we are herein recommending comport with the principles of Executive Order 12612. The section line issue involves interpretation of a Federal statute and the property rights of the United States and various States, including Alaska. To accede to the position of the State of Alaska would have adverse impact on numerous properties of the Federal Government, including the possibility of having to reacquire such property interests to protect Federal interests.

Recommendation:

It is recommended that the Department retain the policy established in BLM Manual 2801.48B (1986) and adopt it as Departmental policy for use by other land managing Bureaus in the Department.

8 Attachments

- 1 - SD AR BLM Memo of 8/1/87 + Attachment
- 2 - 26 L.D. 466
- 3 - SOL letter of 4/23/80
- 4 - Pgs 1 & 16-26 of US Amicus Brief in Greenhouse
- 5 - Katz letter of 12/4/87
- 6 - BLM response
- 7 - Katz letter of 2-29-88
- 8 - Summary of Published Administrative Decisions



Representative Bette Cato, Chair House Transportation Committee

SUBJECT OF MEETING:

DATE:

PLACE:

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Clyde Stolzfus	DOT/PF	Box 2, Juneau AK	99801	789-1460	445-3900	<input checked="" type="radio"/>	<input type="radio"/>	RS 2477
JEFF OTTESEN	"	" Bruce Retas	"	789-0796	"	<input checked="" type="radio"/>	<input type="radio"/>	LSR & T
						<input type="radio"/>	<input type="radio"/>	
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