

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990
6460 SENATE RESOURCES

8672

864

PRUDHOE BAY UNIT GAS HANDLING EXPANSION--PHASE ONE (GHX-1):

Over the past year there has been much publicity concerning the possible decline in 1989 in the oil production rate from the main producing reservoir at Prudhoe Bay. The primary reasons cited for the pending decline in oil production rates are the recent large increases in associated natural gas production and the inability of the surface production facilities to handle the increased gas volumes. As the Prudhoe Bay field matures, more and more natural gas will be produced for each and every barrel of oil that is produced. The field is at a stage in its life where the surface facilities (the gas pipelines, the gas compressors, etc.) can no longer handle this increased volume of gas. As a result, the oil production rate has had to be curtailed at times to reduce the amount of associated gas production. Historically, the gas handling equipment has performed more efficiently in the winter months when the gas compressors can be cooled more easily. Most of the scheduled maintenance shutdowns (such as shutting down flowlines to inspect for or repair corrosion problems) are also planned for the summer months further compounding the problem of making rate this past summer.

To remedy the gas handling problems, the Prudhoe Bay owners have approved the installation of additional gas pipelines, gas compressors and gas injection wells. They also have approved the retrofitting of equipment and flowlines in the gathering centers and flow stations that will increase the gas flow through those facilities. Installation of the new 60-inch gas pipelines combined with the new compressors and retrofits is expected to increase the gas handling capabilities of the unit from the current 3.5 billion cubic feet per day (BCF/D) to about 5 BCF/D. A phase two of the GHX project is under study to determine the feasibility (economics, permits, equipment, etc.) of increasing the gas handling capacity to 7 BCF/D.

If gas handling capacity is not increased, the oil production rate will have to be curtailed relative to the past 1.5 million barrels per day rate. It has long been recognized that increasing gas production would be one of the limiting factors in the field. The exact timing of the problem was somewhat problematic, though.

Some preliminary construction work (VSM placement, road crossings) is being done this winter. The new 60-inch lines should be installed beginning the summer of 1989 and the new compressors should arrive during the summer of 1990. The entire project is scheduled to be completed in October 1990.

Most of the major construction-related permits have already been issued. Needed air quality permits (EPA and DEC) are yet to be issued.

FIVE-YEAR LEASING PROGRAM:

The state's five-year oil and gas leasing program proposes the following sales through 1993: Beaufort Sea Sale 52 (January 1989), Oliktok Point Sale 72A (January 1989), Cook Inlet Exempt Sale 67A (June 1989), Kuparuk Uplands Exempt Sale 70A (September 1989), Cook Inlet Sale 59 (January 1990), North Slope

Foothills Sale 57 (June 1990), North Slope Exempt Sale 73A (June 1990), Kavik Sale 64 (January 1991), Alaska Peninsula Sale 56 (May 1991), Beaufort Sea Sale 65 (May 1991), Cook Inlet Sale 74 (September 1991), White Hills Sale 61 (January 1992), Beaufort Sea Sale 68 (May 1992), Kuparuk Uplands Sale 75 (September 1992), Cook Inlet Sale 76 (January 1993) and Nanushuk Sale 77 (May 1993). "Exempt" sales will be added to the schedule depending on industry nominations and interest.

LEASE SALES LITIGATION:

After years of proceeding on schedule without significant controversy, the state's oil and gas leasing program is being attacked by environmental groups, communities and members of the public. Lawsuits have been filed by Trustees for Alaska against two recent Beaufort Sea sales offshore of ANWR, Sales 50 and 55. The state won the first of those suits in Superior court; that decision is now being appealed by Trustees and others to the Alaska Supreme Court. As a result of a second extension request by Trustees, its brief must now be filed with the Supreme Court on March 13, 1989. However, even if the court ultimately rules in the state's favor, it is anticipated that environmental challenges will continue under the department's appeal regulations. The North Slope Borough opposed Sale 52, offshore of NPRA, and appealed DNR's decision to hold the sale to the cabinet. The borough also raised objections to Sale 55. Criticism of the leasing program is not limited to the North Slope. Increased complaints are now being heard from Southcentral communities and citizens about oil and gas leasing in Cook Inlet.

In addition, environmental groups are now scrutinizing all lease operation permit applications and are expected to challenge the issuance of a number of those permits.

A great deal of unbudgeted, unplanned staff time has and will continue to be devoted to researching and responding to these appeals. It is important that the division respond promptly and properly to these challenges, as many are clearly directed toward proving the oil industry cannot operate in an environmentally responsible manner in ANWR.

CAUSEWAYS IN THE BEAUFORT SEA:

Endicott

Resource agencies, especially the U. S. Army Corps of Engineers, have taken a particular interest in gravel-fill causeways over this past year. The Corps has formed the Endicott Mitigation Advisory Group (EMAG) to assist it in assessing the need for corrective action to mitigate the effects of the Endicott causeway. The primary issue is whether or not additional breaches are needed in the existing causeway. Adverse effects to habitat are the reasons being cited by resource agencies for the possible need for the additional breaches. Currently there are a 200 foot and a 500 foot breach in the causeway; the Corps is considering requiring up to 1,300 feet of additional breaching. A decision should be issued by the Corps by mid 1989.

Required monitoring studies have been and are being conducted to assess the impacts of the Endicott causeway. While changes in water quality have been observed, it is not clear to the department that permit terms have been violated or that habitat has been significantly impacted.

Niakuk

Standard Alaska Production Company (B P America) has applied to construct a 6,600 foot causeway in the Beaufort Sea in order to develop the Niakuk field. Production from the field is expected to average 20,000 b/d when (if) it comes on line. The Corps has conditionally denied Standard's request to construct the causeway based on expected adverse environmental impacts and the Corps' perception that feasible alternatives to a causeway do exist. The Corps has stated that Standard has the option in lieu of a causeway of using subsea pipelines, elevated pipelines or directional drilling from shore. To date, Standard has claimed that the gravel causeway is the only economically feasible way to develop this small new field.

State permits for the Niakuk project are still in the review process. Standard is conducting computer modeling of the water quality indicators (temperature and salinity) in the Niakuk area in order to help determine if the causeway will result in adverse environmental effects. Standard has proposed to install one 350 foot breach in the causeway. The computer model will also be used to test the need (effectiveness) of more, smaller or larger breaches. The state review of the Niakuk permits will resume once the computer modeling is complete. It is not known how the Corps' conditional denial of the Niakuk application will affect the final permit process. To our knowledge, Standard has not filed an appeal of the Corps' initial decision, and we do not know if or when it might do so. The North Slope Borough already has approved the Niakuk project permits.

Considerable study of the habitat and water quality parameters in the area has occurred over the past four years. The results of these studies are disputed, and it is not likely that a consensus will be reached in the next year.

West Dock

Once the Endicott and Niakuk issues are resolved or at least temporarily settled, it is expected that the West Dock causeway will come under review. Some agencies have claimed that of all the existing and proposed causeways, the West Dock is the most problematic. Perceived environmental problems are the greatest, and the permitting authority to require remedial action is the weakest. Considerable study of the habitat and fish populations in the West Dock area has been done, but the results are at best inconclusive. Localized changes in nearshore habitat have been observed, but no changes in fish populations or age-class distributions have been conclusively documented.

DEDUCTIBILITY OF FIELD COSTS FOR NATURAL GAS LIQUIDS PRODUCTION:

ARCO, Exxon and Standard presently claim a substantial deduction, for both royalty and tax purposes, for the cost of extracting what they call "natural

gas liquids" ('NGLs") during the production of oil and gas in the Kuparuk River and Prudhoe Bay Units. Both the Departments of Revenue and Natural Resources are contesting this practice. On the Department of Revenue side, this has entailed the recent preparation of draft regulations. It is likely that the regulations will be actively resisted both in the hearing process and, if the regulations are adopted, in subsequent proceedings. On the royalty side, the NGL issue is included within the Amerada Hess pleadings. However, the NGL issue has been put off pending the resolution of the downstream oil valuation issues. Nonetheless, the Department of Natural Resources is anxious to find a way to bring the issue to resolution promptly, and it appears that the companies are similarly inclined to address the issue outside the confines of the Amerada Hess litigation, if possible. Accordingly, it is likely that the NGL issue will soon be the subject of active negotiation and/or separate litigation or alternative dispute resolution process. The combined value of the royalty and tax NGL deduction issue has been estimated to be in excess of \$26 million per year.

KIC WELL LITIGATION:

In ASRC, Chevron & Standard v. State, DNR, 3AN-88-04357 Civil, the Arctic Slope Regional Corporation and two major oil companies sued the state to block DNR's access to drilling data from the KIC well, an oil and gas well located on ASRC land near Kaktovic, within the borders of the Arctic National Wildlife Refuge ("ANWR"). The well is the only well drilled within ANWR, and has been called "the best kept secret since the 'A' bomb." Last session in similar overview hearings, several members of the House of Representatives expressed interest in the state's vigorous pursuit of the data. The oil companies assert the state's use of the data would be a taking for which compensation would be required, and are challenging the constitutionality of the statute which authorizes DNR's access to the data. A decision in this case is expected before February 15 when Judge Serdahely is scheduled to leave the court to return to private practice.

1716E

Date of Sale: January 24, 1989

State of Alaska
Department of Natural Resources
Division of Oil and Gas

Preliminary Report

Competitive Oil and Gas Lease Sale:

Deaufort Sea Sale 52

Bidding Method:	Cash bonus with 12.5% Fixed Royalty		
Total Number of Bids Received:	20		
Tracts Offered:	43	Acreage Offered:	175,981.48
Tracts Sold:	15	Acreage Sold:	52,463.34
Total High Bonus Bids:	\$1,737,512.53		
Total Exposed (Sum of All Bids):	\$1,959,056.66		
Average High Bonus Bid Per Acre:	\$33.12		
Highest Bid:	\$413,575.00	Highest Bid/Acre:	\$94.04
Tract Number:	29	Tract Number:	29
Submitted By:	Submitted By:		
	Chevron U.S.A.		Chevron U.S.A.

Bidder Company or Group Name:	Number of Tracts Bid On:	Total of All Bids:	Number of Tracts Won:	Total of High Bids
Phillips Petroleum	7	\$814,500.00	5	\$730,500.00
Mobil Oil	2	\$104,160.00	2	\$104,160.00
Chevron U.S.A.	5	\$815,805.00	5	\$815,805.00
Arco Alaska	5	\$197,101.38	3	\$87,047.50
Alfred James, III	1	\$27,490.28	0	\$0.00

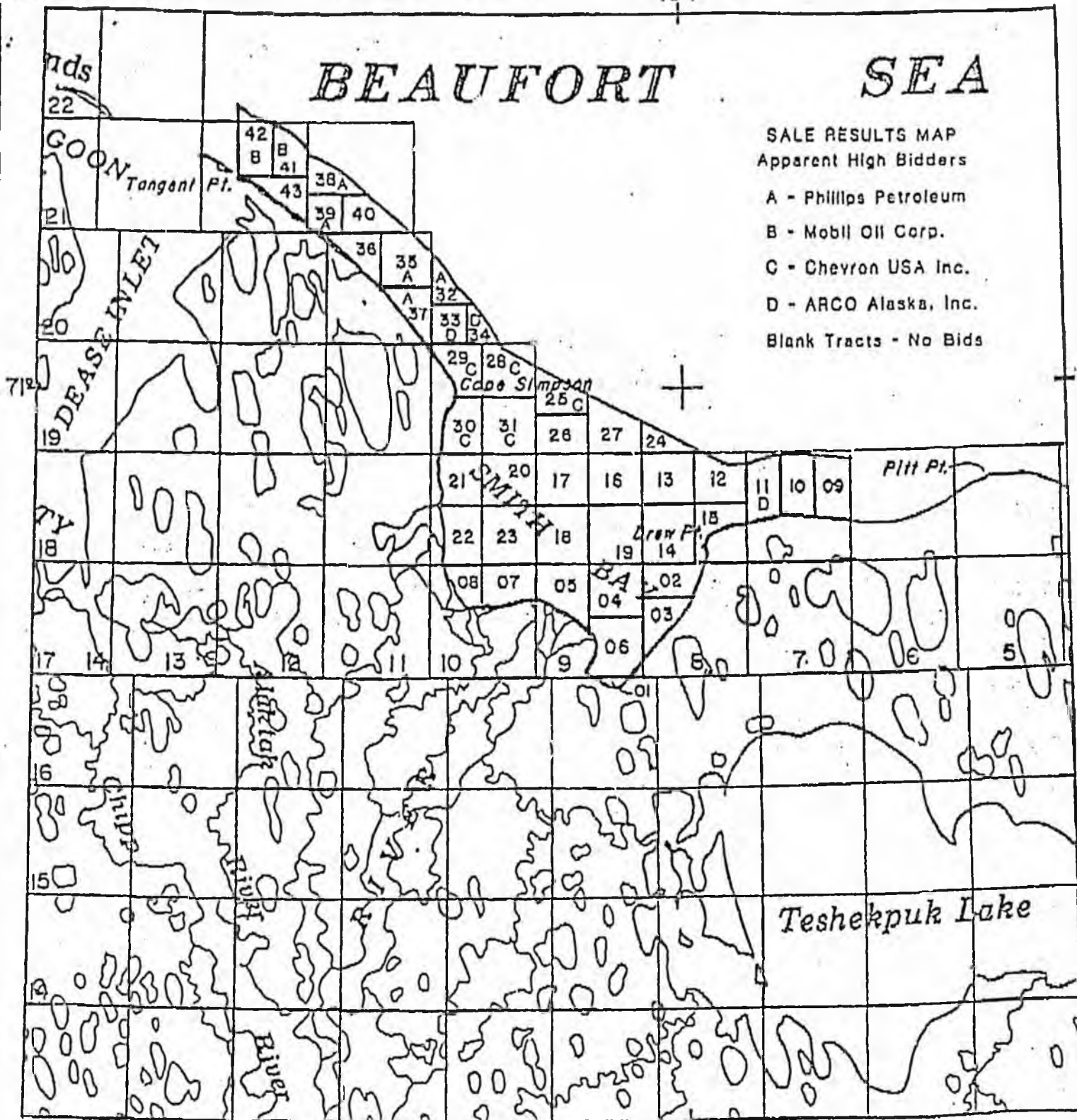


BEAUFORT SEA

SALE RESULTS MAP
 Apparent High Bidders

- A - Phillips Petroleum
- B - Mobil Oil Corp.
- C - Chevron USA Inc.
- D - ARCO Alaska, Inc.

Blank Tracts - No Bids



154°



STATE OF ALASKA
 DEPARTMENT OF NATURAL RESOURCES
 DIVISION OF OIL & GAS
OIL AND GAS LEASE SALE 52
BEAUFORT SEA TRACT MAP

SCALE 1:300,000 1 Inch = 8 miles
 6 5 4 3 2 1 0 6 12 18 MILES

DIRECTOR, DIV. OF OIL & GAS JIM EASON <i>Pamela L. Rogers</i>	DRAWN BY O.D.S.
LEASING MANAGER, PAMELA ROGERS <i>Pamela L. Rogers</i>	CHECKED BY: RCR

DATE APPROVED 11/07/88
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NOTE: THIS MAP IS NOT TO BE CONSIDERED AS AN OFFICIAL TRACT MAP. A SET OF FULL-SCALE TRACT MAPS ARE AVAILABLE AT THE DEPT. OF NATURAL RESOURCES, DIVISION OF OIL AND GAS, 3001 C. ST., PO BOX 10763 ANCHORAGE, AK 99510-7063. PHCNZ (907)961-2020

SALE AREA

Date of Sale: January 24, 1969

State of Alaska
 Department of Natural Resources
 Division of Oil and Gas

Preliminary Report

Competitive Oil and Gas Lease Sale: Beaufort Sea Sale 52

Record of All Bids Received

Tract Number:	ADL Number:	Acres:	Apparent High Bid	Bid Amount:	Bid/Acre:	Bidder Name:
11	373211	4,417.31	**	\$46,028.37	\$10.42	Arco Alaska
25	373225	3,241.88	**	\$36,225.00	\$11.17	Chevron U.S.A.
28	373228	4,429.99	**	\$235,555.00	\$53.17	Chevron U.S.A.
				\$57,013.97	\$12.87	Arco Alaska
29	373229	4,398.00	**	\$413,575.00	\$94.04	Chevron U.S.A.
				\$53,039.88	\$12.06	Arco Alaska
30	373230	4,098.00	**	\$49,225.00	\$12.01	Chevron U.S.A.
31	373231	5,760.00	**	\$81,225.00	\$14.10	Chevron U.S.A.
32	373232	1,689.63	**	\$51,000.00	\$30.18	Phillips Petroleum
				\$27,490.28	\$16.27	Alfred James, III
33	373233	2,455.00	**	\$25,016.45	\$10.19	Arco Alaska
34	373234	1,521.17	**	\$16,002.71	\$10.52	Arco Alaska
35	373235	5,054.29	**	\$278,500.00	\$55.10	Phillips Petroleum
37	373237	3,707.00	**	\$306,000.00	\$82.55	Phillips Petroleum
38	373238	2,470.84	**	\$54,000.00	\$21.85	Phillips Petroleum
39	373239	2,526.00	**	\$41,000.00	\$16.23	Phillips Petroleum
41	373241	2,660.15	**	\$34,080.00	\$12.81	Mobil Oil
				\$32,000.00	\$12.03	Phillips Petroleum
42	373242	4,034.00	**	\$70,080.00	\$17.37	Mobil Oil
				\$52,000.00	\$12.89	Phillips Petroleum

Date of Sale: January 24, 1989

State of Alaska
Department of Natural Resources
Division of Oil and Gas

Preliminary Report

Competitive Oil and Gas Lease Sale: Beaufort Sea Sale 52

Apparent Winning Bids

Treat Number:	ADL Number:	Acres:	Amount:	Bid/Acre:	Bidder Name:
1	373201	374.00	No Bid Received!		
2	373202	4,183.00	No Bid Received!		
3	373203	3,608.00	No Bid Received!		
4	373204	5,760.00	No Bid Received!		
5	373205	5,290.00	No Bid Received!		
6	373206	5,506.00	No Bid Received!		
7	373207	4,381.00	No Bid Received!		
8	373208	2,672.00	No Bid Received!		
9	373209	4,496.24	No Bid Received!		
10	373210	4,457.45	No Bid Received!		
11	373211	4,417.31	\$46,028.37	\$10.42	Arco Alaska
12	373212	4,508.69	No Bid Received!		
13	373213	5,672.79	No Bid Received!		
14	373214	5,697.00	No Bid Received!		
15	373215	3,610.00	No Bid Received!		
16	373216	5,760.00	No Bid Received!		
17	373217	5,673.00	No Bid Received!		
18	373218	5,697.00	No Bid Received!		
19	373219	5,760.00	No Bid Received!		
20	373220	5,760.00	No Bid Received!		
21	373221	4,672.00	No Bid Received!		
22	373222	4,303.00	No Bid Received!		
23	373223	5,760.00	No Bid Received!		
24	373224	1,375.88	No Bid Received!		
25	373225	3,241.88	\$36,225.00	\$11.17	Chevron U.S.A.
26	373226	3,768.00	No Bid Received!		
27	373227	4,286.66	No Bid Received!		
28	373228	4,429.99	\$235,535.00	\$53.17	Chevron U.S.A.
29	373229	4,398.00	\$413,575.00	\$94.04	Chevron U.S.A.
30	373230	4,098.00	\$49,225.00	\$12.01	Chevron U.S.A.
31	373231	5,760.00	\$81,225.00	\$14.10	Chevron U.S.A.
32	373232	1,689.63	\$51,000.00	\$30.18	Phillips Petroleum
33	373233	2,455.01	\$25,016.45	\$10.19	Arco Alaska

Date of Sale: January 24, 1989

State of Alaska
Department of Natural Resources
Division of Oil and Gas

Preliminary Report

Competitive Oil and Gas Lease Sale: Beaufort Sea Sale 52

Apparent Winning Bids

Tract Number	NDL Number	Acres:	Amount:	Bid/Acre:	Bidder Name:
34	373234	1,521.17	\$16,002.71	\$10.52	Arco Alaska
35	373235	5,054.29	\$278,500.00	\$55.10	Phillips Petroleum
36	373236	3,832.00	No Bid Received!		
37	373237	3,707.00	\$306,000.00	\$82.55	Phillips Petroleum
38	373238	2,470.84	\$54,000.00	\$21.85	Phillips Petroleum
39	373239	2,526.00	\$41,000.00	\$16.23	Phillips Petroleum
40	373240	3,045.43	No Bid Received!		
41	373241	2,660.15	\$34,080.00	\$12.81	Mobil Oil
42	373242	4,034.08	\$70,080.00	\$17.37	Mobil Oil
43	373243	3,609.00	No Bid Received!		

Date of Sale: January 24, 1909

State of Alaska
Department of Natural Resources
Division of Oil and Gas

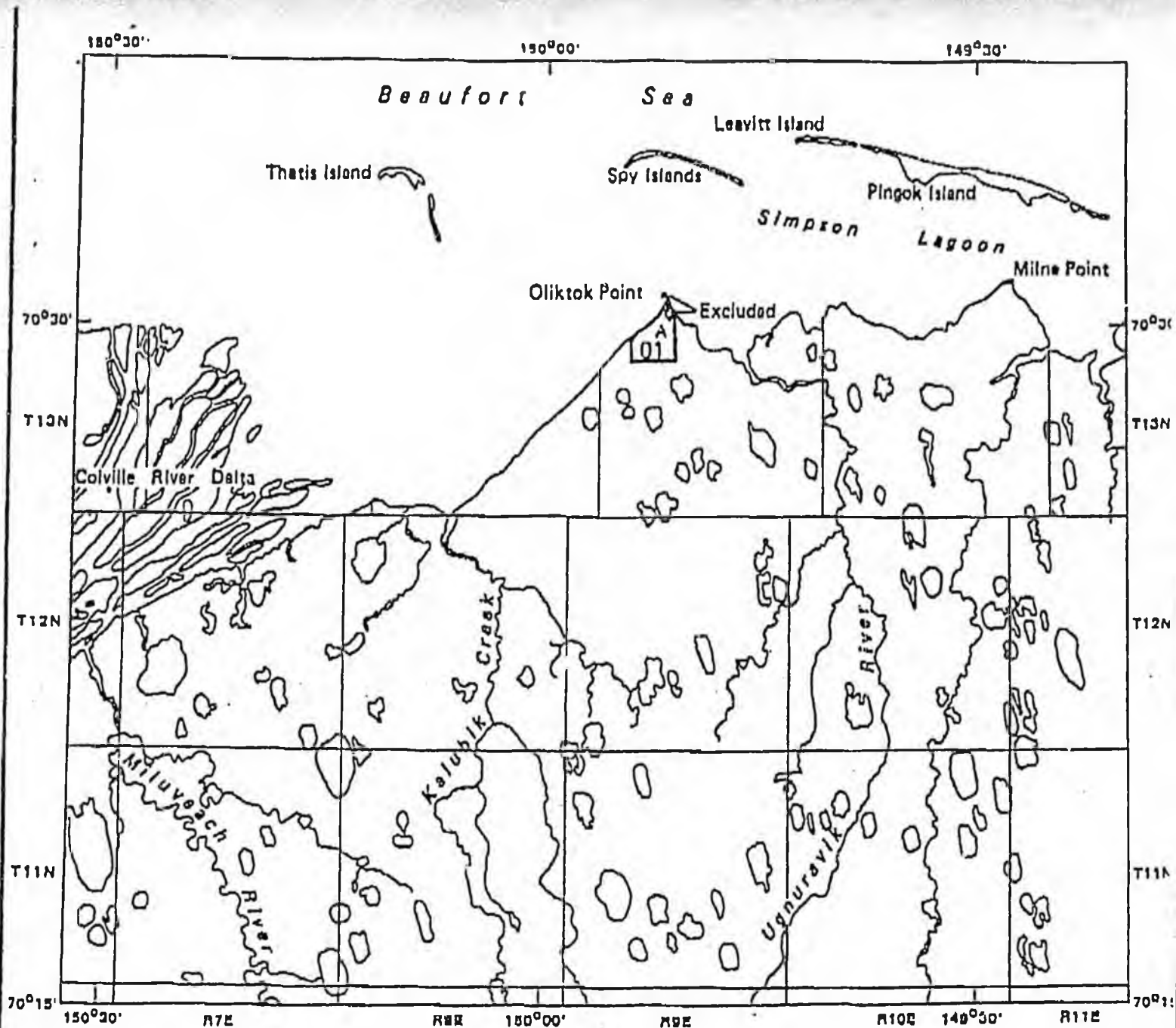
Preliminary Report

Competitive Oil and Gas Lease Sale:

Ollktok Point Sale 72A

Bidding Method:	Cash bonus with 12.5% Fixed Royalty		
Total Number of Bids Received:	1		
Tracts Offered:	1	Acreage Offered:	677.15
Tracts Sold:	1	Acreage Sold:	677.15
Total High Bonus Bids:	\$454,997.40		
Total Exposed (Sum of All Bids):	\$454,997.40		
Average High Bonus Bid Per Acre:	\$671.93		
Highest Bid:	\$454,997.40	Highest Bid/Acre:	\$671.93
Tract Number:	1	Tract Number:	1
Submitted By:	Arco Alaska		Submitted By:
	Arco Alaska		Arco Alaska

Bidder Company or Group Name:	Number of Tracts Bid On:	Total of All Bids:	Number of Tracts Won:	Total of High Bids:
Arco Alaska	1	\$454,997.40	1	\$454,997.40



SALE RESULTS MAP
Apparent High Bidder

A - ARCO Alaska, Inc.

STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL & GAS
OIL AND GAS LEASE SALE 72A
OLIKTOK POINT TRACT MAP

SCALE 1:200,000

DIRECTOR, DIV. OF OIL & GAS JIM EASON <i>[Signature]</i>	DRAWN BY O.D.S. <i>[Signature]</i>	DATE APPROVED 11/07/83
LEASING MANAGER, PAMELA ROGERS <i>[Signature]</i>	CHECKED BY <i>[Signature]</i>	BASED FROM USGS PORTIONS OF BEECHY POINT & HARRISON BAY QUADRANGLES. UNIVERSAL TRANSVERSE MERCATOR PROJECTION.

NOTE: THIS MAP IS NOT TO BE
CONSTRUED AS AN OFFICIAL
TRACT MAP. A 1:50,000
SCALE TRACT MAP IS
AVAILABLE AT THE DEPT.
OF NATURAL RESOURCES,
DIVISION OF OIL AND GAS,
3601 G. ST., P.O. BOX 107034,
ANCHORAGE, ALASKA 99510
PHONE (907)841-3020



SALE AREA



Date of Sale: January 24, 1969

State of Alaska
Department of Natural Resources
Division of Oil and Gas

Preliminary Report

Competitive Oil and Gas Lease Sale:

Ollktok Point Sale 72A

Bidding Method:

Cash bonus with 12.5% Fixed Royalty

Total Number of Bids Received:

1

Tracts Offered:

1

Acreage Offered:

677.15

Tracts Sold:

1

Acreage Sold:

677.15

Total High Bonus Bids:

\$454,997.40

Total Exposed (Sum of All Bids):

\$454,997.40

Average High Bonus Bid Per Acre:

\$671.93

Highest Bid: \$454,997.40

Highest Bid/Acre:

\$671.93

Tract Number:

1

Tract Number:

1

Submitted By:

Arco Alaska

Submitted By:

Arco Alaska

Bidder Company or Group Name:	Number of Tracts Bid On:	Total of All Bids:	Number of Tracts Won:	Total of High Bids:
Arco Alaska	1	\$454,997.40	1	\$454,997.40

Please deliver to Jim Eason. (From Bill Van Dyke) North Slope 1989 Exploratory Activity

Twenty two exploratory wells are permitted to be drilled this winter on the north slope. Given past performance, not all of these proposed wells will actually get drilled. It is reasonable to assume that at least nine of these wells will get drilled this winter season. In addition to the exploratory wells, nine delineation/tract wells are to be drilled within the boundaries of the Kuparuk River Unit this winter. Listed below are the proposed activities:

Pending major exploration projects

1. Chevron---Karluk ice island location; in the Beaufort Sea 10 miles east of Endicott. Ice island being finished now.
2. B P America---Shirukak and Ekvik locations; both located 40 miles southwest of Kuparuk. One well scheduled to be drilled this winter.
3. Texaco---Wolfbutton locations; 12 locations staked 30 miles south of Kuparuk. 2 or 3 wells actually to be drilled this winter. Two rigs running.
4. Unocal---Ruby locations; two locations staked 15 miles south of Kuparuk. One well to be spudded within the next few weeks.
5. Arco---Point McIntyre locations; 3 wells just northwest of the west dock causeway at Prudhoe Bay. One rig to start within 5 days.
6. Arco West Storkerson location; on shore location in Gwydyr Bay Unit. Scheduled to be drilled this winter.
7. Arco---KRU tract/delineation wells; 9 locations around the edge of the Kuparuk River Unit. Scheduled to be drilled this winter.
8. Arco---Stinson location; Beaufort Sea location 6 miles east of Point Thomson/Flaxman Island. Likely to be drilled next summer or next winter using a bottom-founded rig.

Pending major development projects

1. Niakuk---B P America; permits on hold awaiting additional information.
2. Hurl State (P pad in Prudhoe Bay Unit)---B P America; some work already under way.
3. West Sak Pilot #2---Arco; first well to be spudded within 10 days.

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

STEVE COWPER, GOVERNOR

400 WILLOUGHBY AVE.
JUNEAU, ALASKA 99801-1798
PHONE: (907) 465-2400

January 20, 1989

JAN 26 1989

The Honorable Tim Kelly
President of the Senate
P. O. Box V
Juneau, AK 99811

Dear Mr. President:

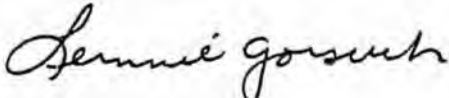
As required by AS 38.05.180(b) and (e), I am submitting the annual Five-Year Oil and Gas Leasing Schedule for state lands. Copies of this document will be distributed to all members of the Legislature.

The Department of Natural Resources has added seven sales to the five-year oil and gas leasing program for 1989 to 1993. We are proposing a total of 16 sales for this five-year period. The proposed new sales are: Oliktok Point Sale 72A (exempt), Kuparuk Uplands Sale 70A (exempt), North Slope Sale 73A (exempt), Cook Inlet Sale 74, Kuparuk Uplands Sale 75, Cook Inlet Sale 76, and Nanushuk Sale 77.

In addition to providing a description of areas proposed for leasing, this document contains the results of oil and gas lease sales held in 1988, a discussion of the state's oil and gas leasing strategy and process, a projection of oil and gas revenues through the year 2005, and a summary report of North Slope oil and gas development to date. The document also provides a brief summary of oil and gas matters of interest or concern to the State of Alaska that occurred during 1988. Topics summarized include 1988 exploratory wells, proposed Arctic National Wildlife Refuge (ANWR) land exchanges, ANWR legislation, seasonal drilling restrictions, exploration incentive credits, Camden Bay Sale 50 litigation, Demarcation Point Sale 55 controversy, K.I.C. well litigation, and discovery royalties.

Please let me know if you would like additional information about our oil and gas leasing program.

Sincerely,



Lennie Gorsuch
Commissioner

Enclosure

cc: w/enclosure members of the Senate

THE FOLLOWING DOCUMENT HAS
NOT BEEN FILMED BUT IS
AVAILABLE IN THE ORIGINAL
FILE

FIVE-YEAR OIL AND GAS LEASING PROGRAM

JANUARY 1989



Alaska Department of

NATURAL RESOURCES

DIVISION OF OIL & GAS

STATE OF ALASKA

STEVE COWPER, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF OIL AND GAS

PO. BOX 7034
ANCHORAGE, ALASKA 99510-7034

January 20, 1989

Phone: 762-2586

**-NOTICE-
OF**

**FINAL DECISION AND FINDING UNDER AS 38.05.035(e)
REGARDING PROPOSED OIL AND GAS LEASE SALE 67A (Cook Inlet)**

JAN 23 1989

The Department of Natural Resources, Division of Oil and Gas (DO&G), gives formal notice under AS 38.05.945(a)(3) of its intention to make a final finding and decision under AS 38.05.035(e) regarding the sale of oil and gas leases in proposed Oil and Gas Lease Sale 67A (Cook Inlet). Before this sale may be held, the Director of the Division of Oil and Gas must make a written final decision that the sale best serves the interests of the state. This decision will set out the facts and applicable policies upon which the director bases his determination that the sale of oil and gas leases in proposed Sale 67A will or will not best serve the interests of the state. This final decision is expected to be available to the public in April 1989.

Proposed Sale 67A includes 173 tracts with an area of approximately 679,804 acres. The proposed sale area consists of state-owned uplands in Anchorage, Wasilla, and Houston, in the lower Susitna Valley, near Redoubt and Trading Bays and on the upper Kenai Peninsula, and tide and submerged lands in Cook Inlet. The entire sale is contained within the Municipality of Anchorage and the Kenai Peninsula and Matanuska-Susitna Boroughs. The communities of Anchorage, Big Lake, Houston, Wasilla and Tyonek may be affected by the proposed sale.

Mental Health Trust Lands

Oil and Gas Lease Sale 67A includes approximately 120,696 acres of Mental Health Trust Lands in 50 tracts. Mental Health Trust lands are contained in tracts 76, 79, 80, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 106, 107, 108, 109, 110, 111, 114, 115, 116, 117, 118, 125, 126, 127, 128, 129, 130, 131, 132, 133, 136, 137, 142, 143, 145, 146, 147, 148, 149, 154, 155, 156, 157, 164, 167, 168 and 169, and are all uplands. Tract 93 contains 1,280 acres which have been legislatively designated as part of the Trading Bay State Game Refuge. The Department of Natural Resources believes that these lands within the game refuge are no longer in the body of the Mental Health Trust, but this position may be disputed by counsel for the plaintiffs and intervenor in Weiss v. Alaska.

Chapter 48 SLA 1987 establishes the Interim Mental Health Trust Commission (commission) to oversee Mental Health Trust lands. Members of the commission include the commissioner of Natural Resources and appointees representing the plaintiffs and the intervenors. The law requires that the Department of Natural Resources obtain the approval of the commission before the sale, lease, or exchange of mental health lands. The Department was granted approval for the inclusion of these Mental Health Trust Lands on December 16, 1988. Notice was also provided directly to the plaintiffs and intervenors in the Weiss case. All leases on Mental Health Trust lands will be managed in compliance with Departmental Order 121, or any other laws, orders or regulations subsequently placed in effect regarding Mental Health Trust Lands.

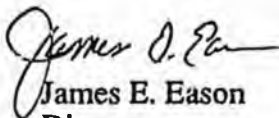
The tracts included in Sale 67A are being offered as exempt acreage under the terms of AS 38.05.180(d), which allows the commissioner of the Department of Natural Resources to issue oil and gas leases in areas that have not been included in the state's five-year oil and gas leasing program, if the land to be leased (1) was previously subject to a valid state or federal oil and gas lease, or (2) is contiguous to land already under lease and the commissioner makes a written finding, after hearing, that the leasing of the land would result in a substantial probability of early evaluation and development of the lands to be leased. Acreage within tracts 1, 8, 9, 10, 25, 26, 27, 35, 36, 37, 49, 52, 77, 98, 110, 111, 114, 117 and 135 is adjacent to one or more tracts currently under an oil and gas lease. All other tracts in the sale area were previously leased in state or federal oil and gas lease sales.

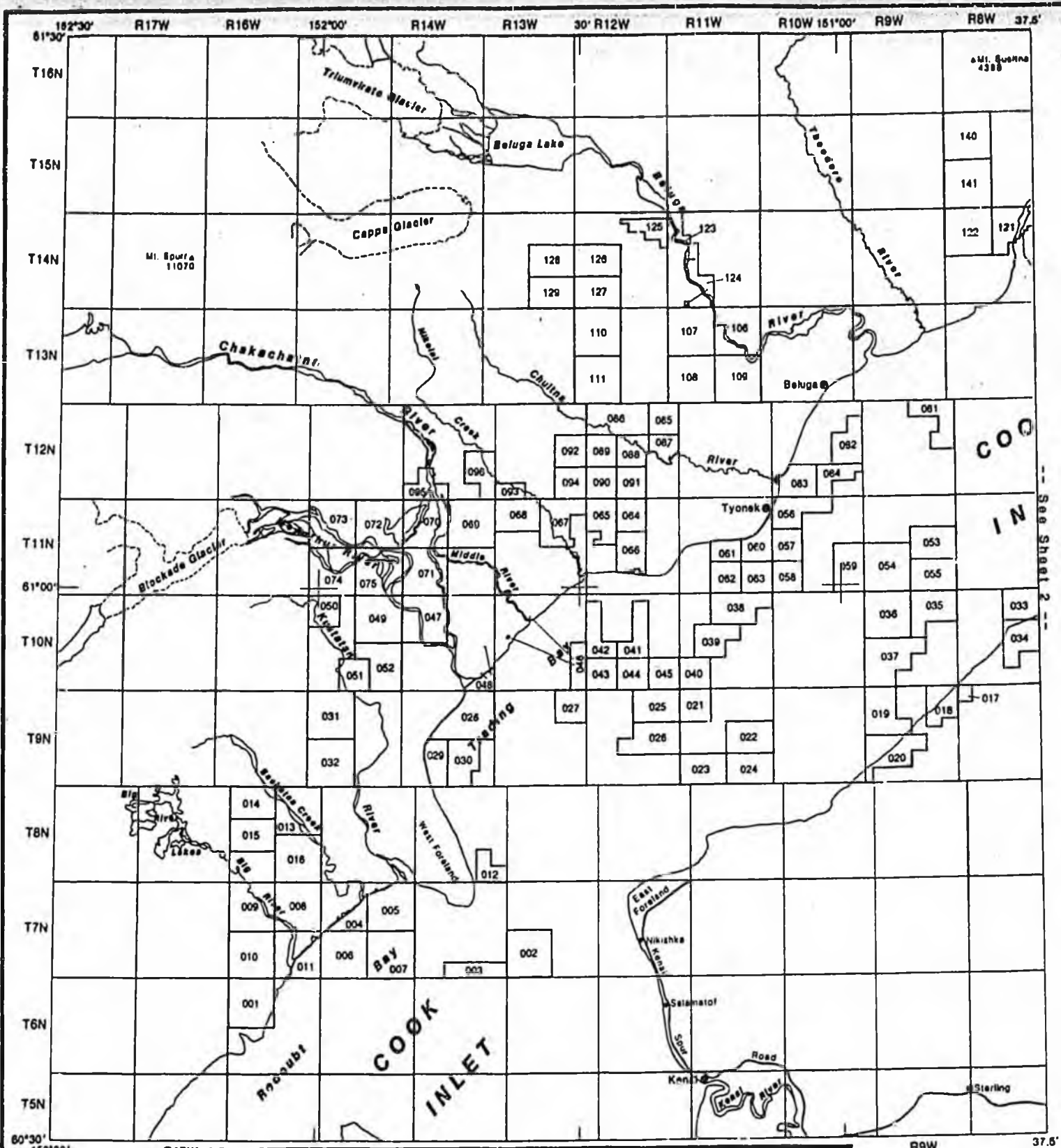
The Department of Natural Resources will hold a public hearing to gather comments to assist in the determination of whether or not the leasing of the tracts in Sale 67A which are contiguous to existing leases would result in a substantial probability of early evaluation and development. This public hearing will be held at the Division of Oil and Gas office, Frontier Building, 3601 "C" Street, Room 1380, Anchorage at 10:00 a.m. on February 14, 1989. Anyone having information relating to this topic is encouraged to testify at this hearing or submit written comments to DO&G by February 22, 1989.

A preliminary finding describing the potential effects of proposed Sale 67A and the means by which they may be mitigated is now available from DO&G, at 3601 "C" Street, Room 1398, Anchorage, Alaska. Copies of this document are also available for public review at the following locations: Loussac Library (Anchorage), and the Wasilla, Kenai, Soldotna, and Palmer Public Libraries. Included in the preliminary finding is the Alaska Coastal Management Program (ACMP) consistency analysis. The public is invited to comment on any aspect of the sale including any proposed term or condition.

Comments should be mailed to DO&G, P.O. Box 107034, Anchorage, Alaska 99510-7034 Attention: Pam Rogers. Comments must be received at DO&G no later than February 22, 1989 in order to be considered in the final decision of whether or not this sale is to be held in whole or in part. The conclusive ACMP consistency determination will be included in the Final Finding and Decision of the Director. Preliminary Legal Descriptions for Sale 67A are available on request to potential bidders and the public at DO&G. Preliminary tract maps are also available at a cost of \$50 per set.

If a decision is made that the proposed sale best serves the interests of the state, an "Information to Bidders" packet will be made available in April 1989. If a decision is made to hold the sale, it is tentatively scheduled to occur at the William A. Egan Civic and Convention Center, 555 West Fifth Avenue, in Anchorage, June 27, 1989 in accordance with AS 38.05.180.


James E. Eason
Director



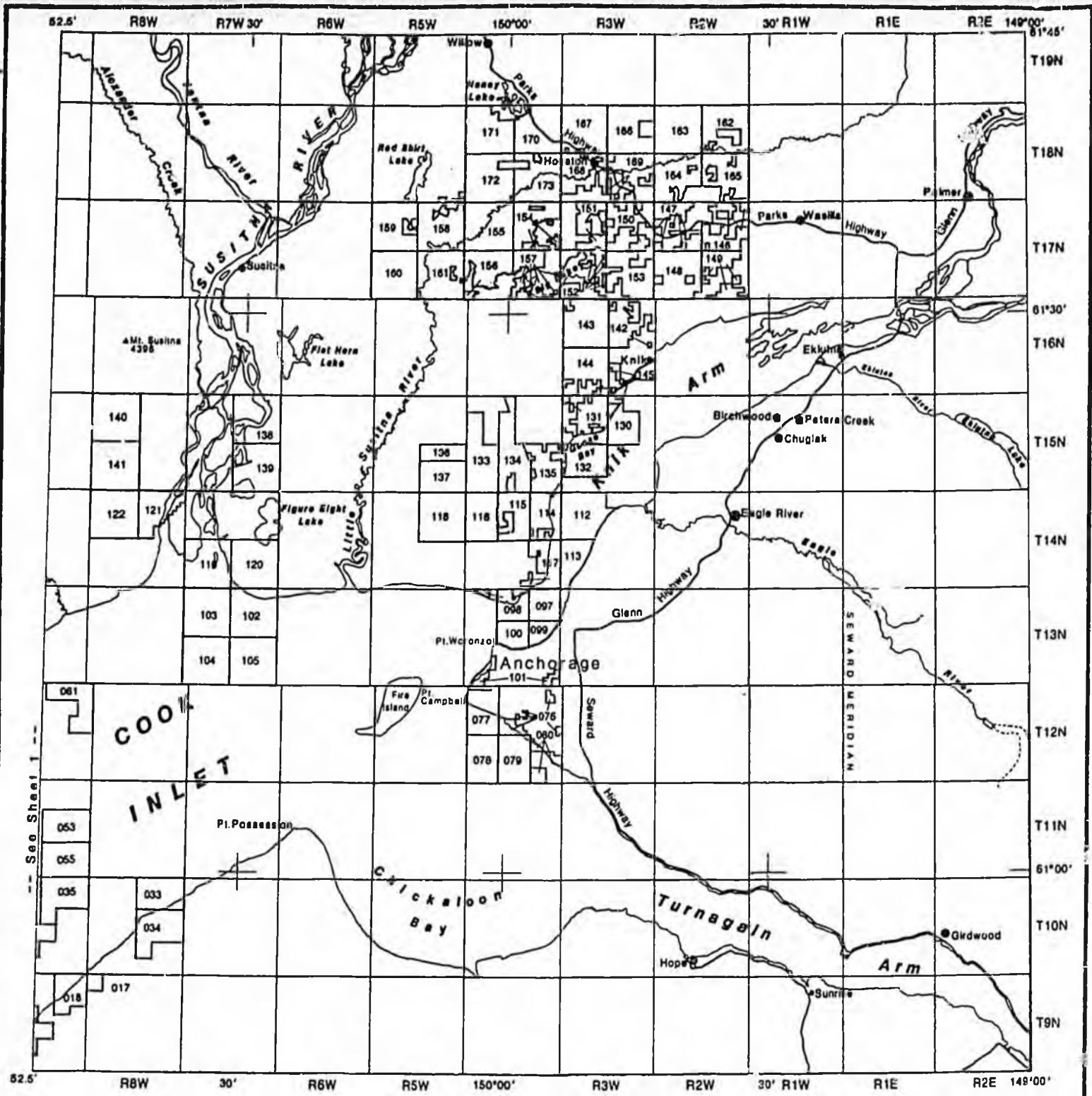
STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL & GAS
PROPOSED OIL AND GAS LEASE SALE 67A
COOK INLET PRELIMINARY TRACT MAP
 SCALE 1:554,000 1" = 8.75 Miles Approx. 18 ml.

DIRECTOR, DIV. OF OIL & GAS JIM EASON <i>William Van Dyke</i>	DRAWN BY O.D.S.	DATE APPROVED 01/17/89 Base Map: U.T.M. Projection By U.S.G.S.
LEASING MANAGER PAMELA ROGERS <i>Paula Rogers</i>	CHECKED BY <i>JM</i>	

NOTE: NO DECISION HAS YET BEEN MADE ON WHETHER THE STATE WILL HOLD THIS LEASE SALE. THE STATE IS GATHERING SOCIAL, ENVIRONMENTAL & ECONOMIC INFORMATION ON WHICH TO BASE A DECISION.

NOTE: THIS MAP IS NOT TO BE CONSTRUED AS AN OFFICIAL TRACT MAP. A SET OF 1:63,360 SCALE TRACT MAPS ARE AVAILABLE AT THE DEPT. OF NATURAL RESOURCES, DIVISION OF OIL AND GAS, 3601 C. ST., P.O. BOX 7034, ANCHORAGE, ALASKA 99516- PHONE (907)561-2020 7034

SHEET 1 OF 2



See Sheet 1



STATE OF ALASKA
DEPARTMENT OF NATURAL RESOURCES
DIVISION OF OIL & GAS
PROPOSED OIL AND GAS LEASE SALE 67A
COOK INLET PRELIMINARY TRACT MAP
 SCALE 1:554,000 1" = 8.75 Miles Approx.

DIRECTOR, DIV. OF OIL & GAS: *Walker Van Dyke*
 JIM EASON O.D.S.
 LEASING MANAGER, PAMELA ROGERS: *Pamela Rogers*
 CHECKED BY: *JW*

DATE APPROVED 01/17/89
 Base Map: U.T.M. Projection
 By U.S.G.S.

NOTE: NO DECISION HAS YET BEEN MADE ON WHETHER THE STATE WILL HOLD THIS LEASE SALE. THE STATE IS GATHERING SOCIAL, ENVIRONMENTAL & ECONOMIC INFORMATION ON WHICH TO BASE A DECISION.

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STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

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

Mary Van Nimwegen

Senate Resources

2/1/89

**Prudhoe
Bay
Environmental
Alliance**

Protect
Our Future

Keep It Clean

**PRUDHOE BAY
ENVIRONMENTAL
ALLIANCE**



GOVERNMENT & INDUSTRY Working Together

Cooperation between DNR/DOT and lease tract holders for pad inspections and compliance

Working together to achieve lease tract compliance

Joint workshops and seminars with ADEC and Division of Emergency Planning

Cooperation between North Slope Borough, state and federal agencies to comply with EPA's SARA Title III.

Formation of Local Emergency Planning Committee in cooperation with the Division of Emergency Planning

Waste minimization workshop with Alaska Health Project and ADEC

Comment and review of waste handling studies

Joint effort with DNR to stabilize and contain a possible water contamination

AVA International

ATLAS Wireline

Alaska Petroleum Contractors

Alaska Airlines

Alaska Clean Seas

Alaska Interstate Construction

Alaska Pipe Inspection

Alaska Telecom

Alaska United Drilling

AMF Tuboscope

Anglo Alaska Petroleum Service

ARCO Alaska

Arctic Coil Tubing

Arctic Slope Telephone Association

BP Exploration

Brooks Range Supply

Brown & Root

CAMCO

Fracmaster

CATCO/Crowley Maritime

Coldweather Contractors

Colville Environmental Services

Dowell Schlumberger

Doyon Drilling

ENSR

ERA Helicopter

Exxon

Evergreen Helicopters

Fluor Alaska

Frontier Transportation

GBR

Geophysical Services

Green Construction

Halliburton Logging Services

Halliburton Services

H. C. Price

Joe's Oilfield Services

KIC Lab

Little Red Services

Lynden Transport

MarkAir

Milpark

M-I Drilling Fluids

NANA Oilfield Services, Inc.

Natchiq

N L Bariod

Norgasco

Otis Engineering

Northwest Technical Services

Overhead Door

Parker Drilling

Peak Oilfield Services

Pool Arctic Alaska

Rowan Drilling

Schlumberger Well Servicing

Udelhoven Oilfield Services

Veco, Inc.

VRCA Environmental

Western Geophysical



LOCAL
North Slope Borough
Service Area Ten

STATE
Department of Natural Resources
Department of Environmental Conservation
Department of Transportation
Division of Emergency Services

FEDERAL
U.S. Environmental Protection Agency



Purpose

The Prudhoe Bay Environmental Alliance is a forum for federal, state and local government agencies to join with service companies, oil companies and individuals. The group discusses ideas and implements actions that will insure development of Alaska's Arctic Oilfields is done in a responsible and environmentally sound manner.

Seminar by Anchorage Recycling Center
on recycling cardboard, paper
and metals.

Spring 1989 Workshop on waste minimization
by Ak Health Project - ADEC grant.

Styrofoam seminar for substituting/eliminating
styrofoam from camps.

(LEPC) workshop
Local Emergency
Planning Committee

Written response to article in San Francisco
Examiner characterizing North Slope
as "toxic wasteland".

1989 scrap metal backhaul.

Keep it clean signs, bumper
stickers and tee shirts.

Written response rebuttal to
VERSAR report to EPA.

Formulation of goals to improve the
appearance and housekeeping of
service companies in Deadhorse.

Local Emergency
Planning Committee

September 1988 - stabilized pad at
Forward Alaska.

Summer of 88 cleanup effort.

Forum and meeting place for Deadhorse service
contractors, state and local government,
federal government (EPA) and unit owners. Fire
chief/medical and road maintenance reports.

Monthly Meetings Established

1st Public Meeting - February 1988

1st Organization Meeting - January 1988



1989 SCRAP METAL BACKHAUL

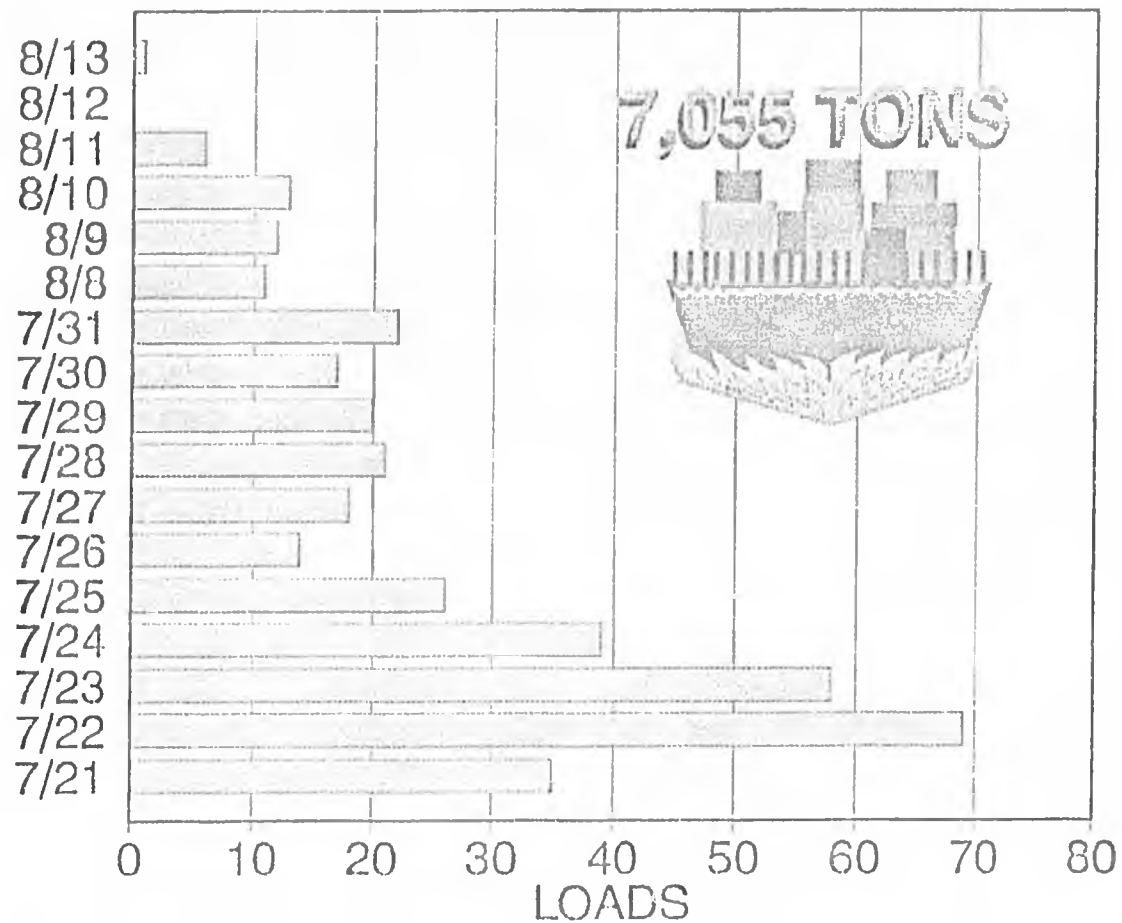
- ➔ 7, 055.8 Tons
- ➔ 382 Truck Loads
- ➔ 18.4 Tons/Load
- ➔ Average Labor Cost/Load \$600.00 (Totaling \$229,000)
- ➔ Trucking Cost To Dock \$125/Load (Totaling \$47,750)
- ➔ Total Cost To Contractors \$276,950
- ➔ Program totally initiated, executed and funded by industry.
- ➔ Participation required by government - NONE.



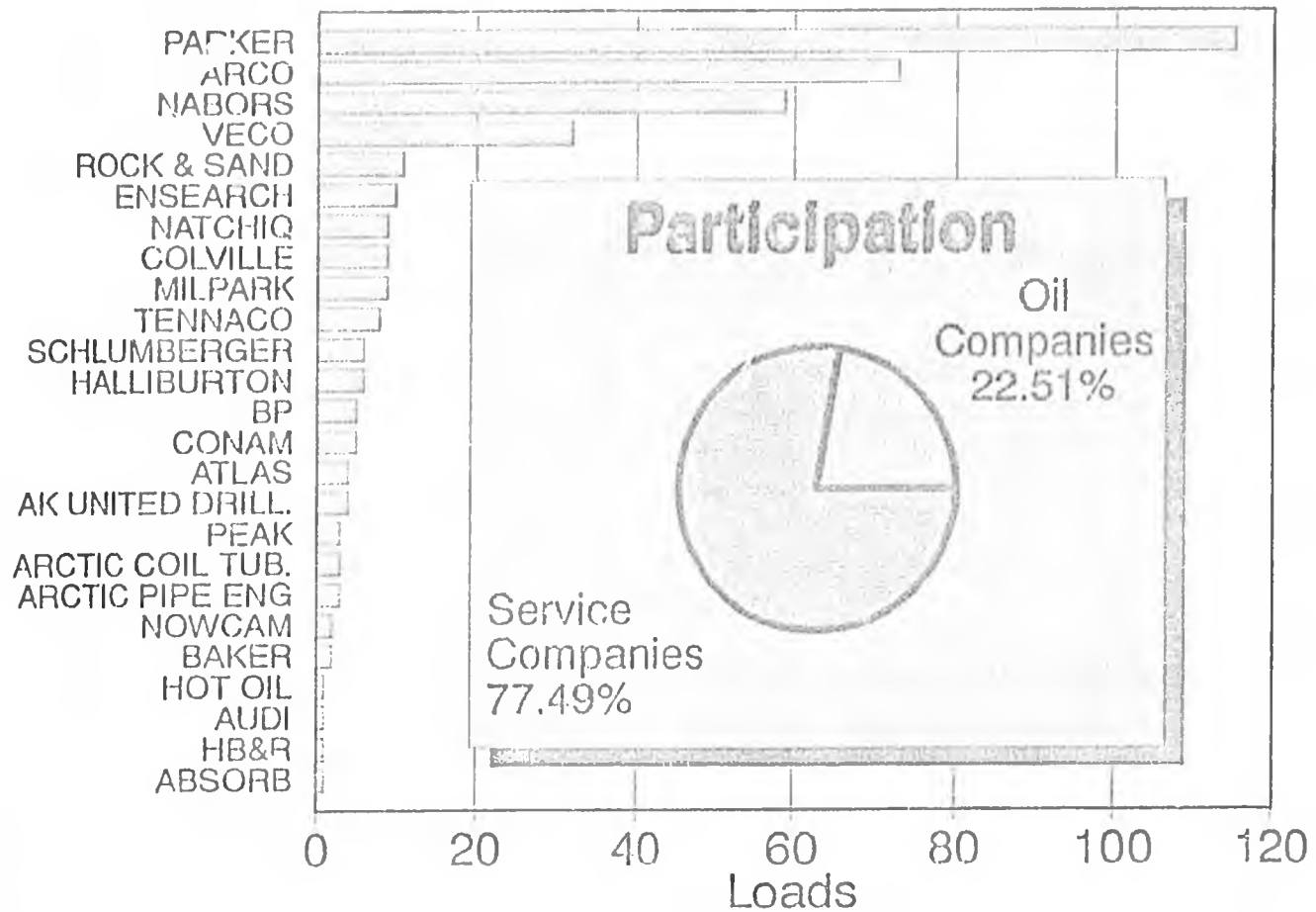
TOTAL COST TO GOVERNMENT - NONE.



1989 SCRAP METAL BACKHAUL Loads Per Day



1989 SCRAP METAL BACKHAUL Loads By Company



RS 2477

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

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Mary Van Nimwegen

Joint Senate & House Transportation Resources 1/20/89

RS2477



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

(Sgd) Susan Recce

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

LM (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:

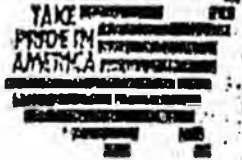
This policy addresses the creation and abandonment of property interests under RS 2477 and the respective property rights of the holder of a R/W and the owner of the servient estate.

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

APR

2801 (330)
RS 2477**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 much 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 Plats 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

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 effect 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 arena. 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 2). 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.

6

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 rectangular 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 outside 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 millions 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 this State in 1907 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. 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 of April 6, 1897. To identify the extent of such county ordinances would require a historical search of individual County actions.

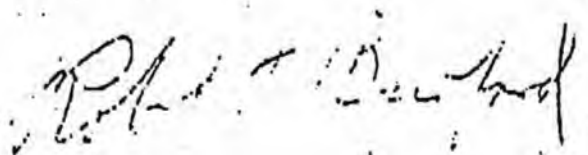
It is our recommendation that we do not modify our interpretation of the Statute that construction must have occurred in order for a R/W grant under RS 2477 to attach.

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 AK 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

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:

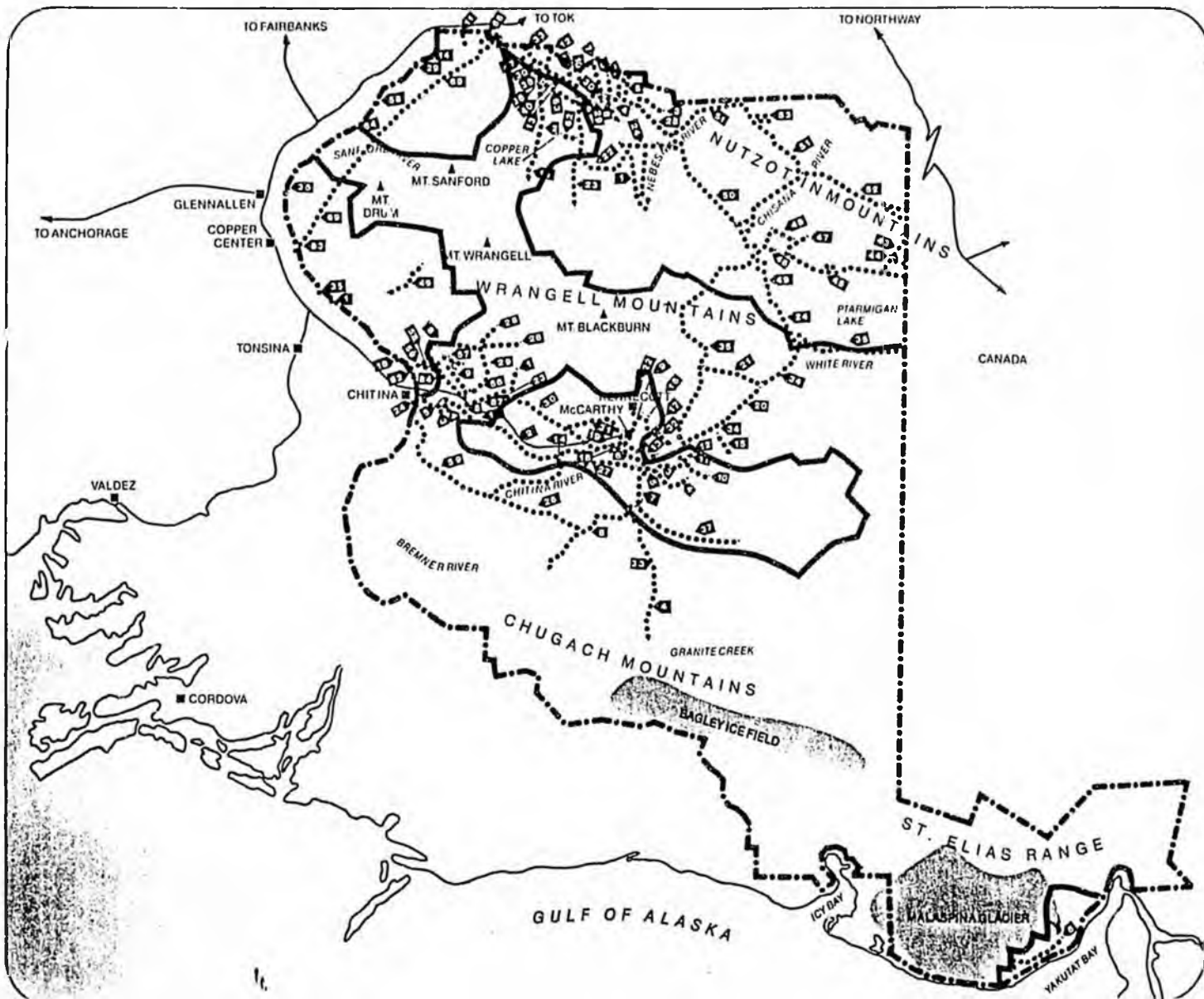
Abandonment, including relinquishment by proper authority, occurs in accordance with State, local or common law or Judicial precedence.

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.

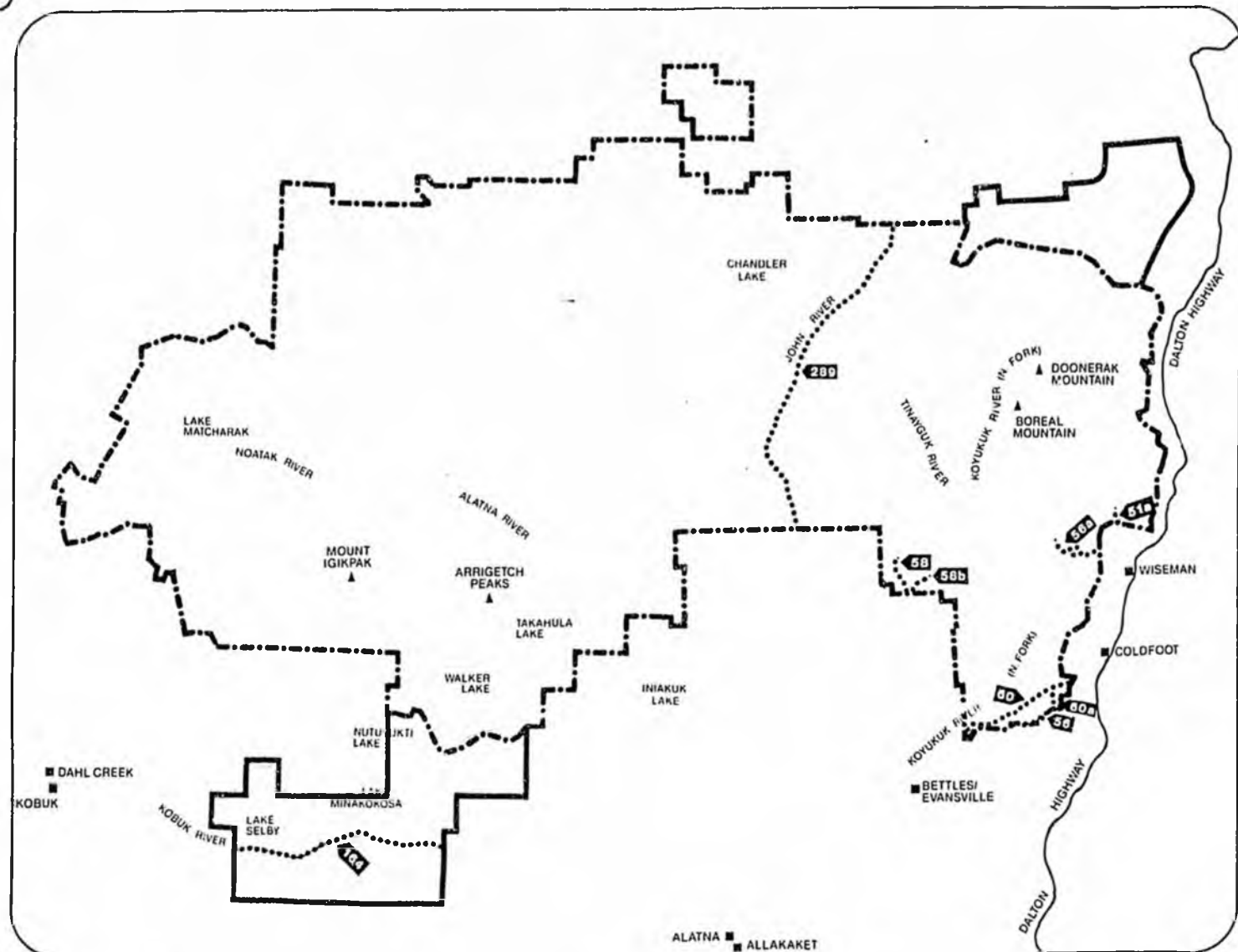


THIS MAP HAS BEEN PROVIDED BY THE STATE TO ILLUSTRATE HIS OFFERINGS OF WAY THAT HAVE BEEN ASSIGNED THE MAP DOES NOT ESTABLISH THE VALIDITY OF THESE RIGHTS OF WAY AND DOES NOT NECESSARILY PROVIDE THE PUBLIC THE RIGHT TO TRAVEL OVER THESE AREAS. THE USE OF OFF ROAD VEHICLES IN THE MOUNTAINS OTHER THAN ESTABLISHED ROADS OR DESIGNATED AREAS IS PROHIBITED BY 36 CFR 114. THESE CLAIMS DO NOT CONSTITUTE DESIGNATED ROUTES FOR OFF ROAD VEHICLE USE.

POSSIBLE R.S. 2477 RIGHTS-OF-WAY
WRANGELL-ST. ELIAS
National Park and Preserve

- PARK BOUNDARY
- PRESERVE BOUNDARY
- GLACIERS AND ICEFIELDS
- POSSIBLE R.S. 2477 TRAIL
- 2477** R.S. 2477 TRAIL NO.
(This number corresponds to the Alaska Existing Trails System Source State of Alaska Department of Transportation Public Facilities Submitted April 1974)



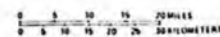


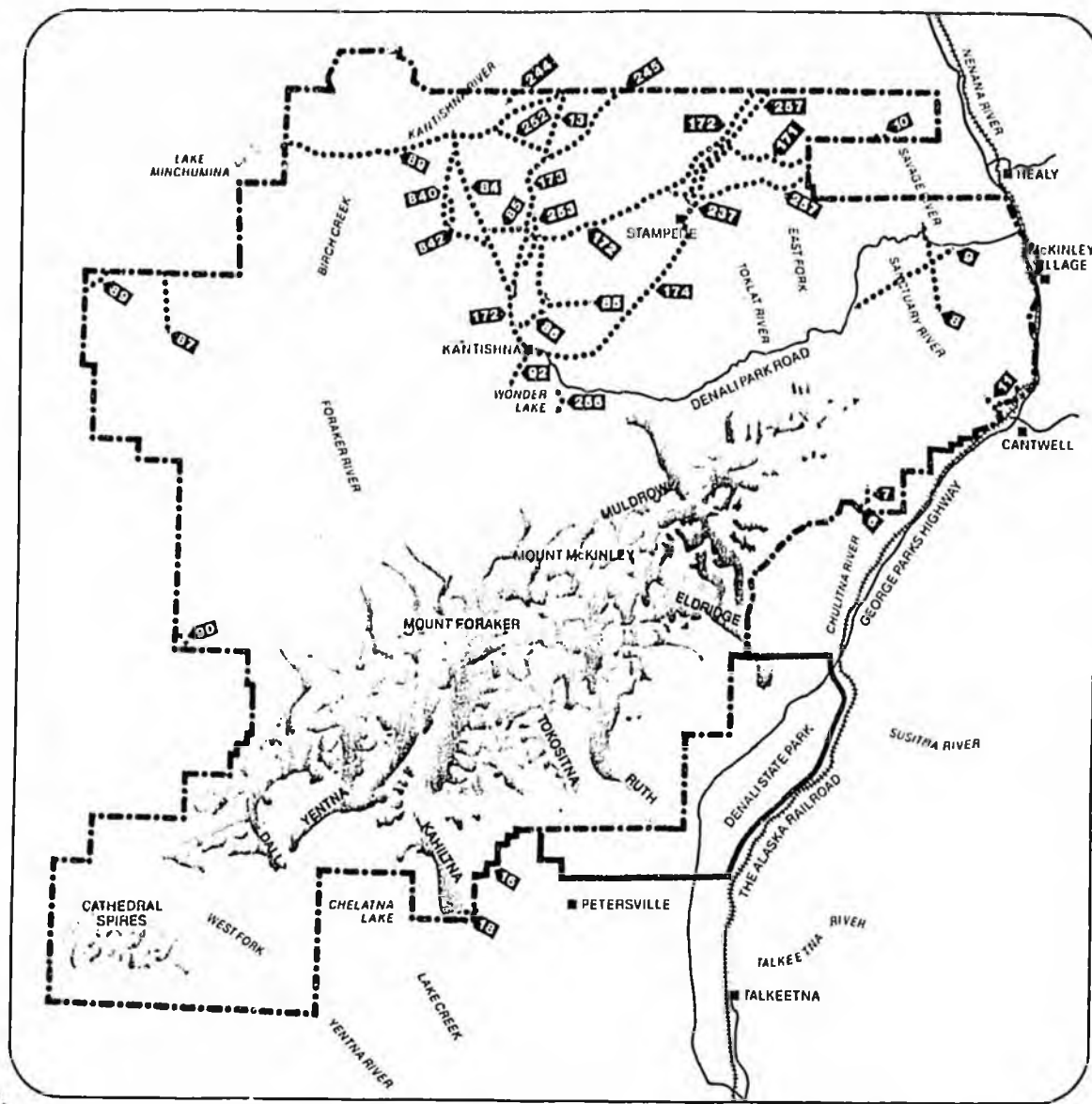
THIS MAP HAS BEEN PROVIDED BY THE STATE TO ILLUSTRATE ITS 2477 RIGHTS-OF-WAY CLAIMS. IT DOES NOT ESTABLISH THE VALIDITY OF THESE RIGHTS-OF-WAY AND DOES NOT NECESSARILY PROVIDE THE PUBLIC THE RIGHT TO TRAVEL OVER THESE AREAS. THE USE OF OFF ROAD VEHICLES IN LOCATIONS OTHER THAN ESTABLISHED ROADS OR DESIGNATED AREAS IS PROHIBITED BY AS 30.05.114. THESE CLAIMS DO NOT CONSTITUTE DESIGNATED ROUTES FOR OFF ROAD VEHICLE USE.

**POSSIBLE R.S. 2477
RIGHTS-OF-WAY
GATES OF THE
ARCTIC
National Park and Preserve**

- PARK BOUNDARY
- PRESERVE BOUNDARY
- POSSIBLE R.S. 2477 TRAIL
- 22 R.S. 2477 TRAIL NO.

(This number corresponds to the Alaska Existing Trails System Source State of Alaska Department of Transportation Public Facilities Submitted April 1974)





THIS MAP HAS BEEN PROVIDED BY THE STATE TO ILLUSTRATE ITS PROPOSED RIGHTS-OF-WAY THAT HAVE BEEN ASSERTED. THE MAP DOES NOT ESTABLISH THE VALIDITY OF THESE RIGHTS-OF-WAY AND DOES NOT NECESSARILY PROVIDE THE PUBLIC THE RIGHT TO TRAVEL OVER THESE AREAS. THE USE OF OFF-ROAD VEHICLES IN LOCATIONS OTHER THAN ESTABLISHED ROADS OR DESIGNATED AREAS IS PROHIBITED BY 38 C.F.R. 171.4. THESE CLAIMS DO NOT CONSTITUTE DESIGNATED ROUTES FOR OFF-ROAD VEHICLE USE.

**POSSIBLE R.S. 2477
RIGHTS-OF-WAY
DENALI
National Park and Preserve**

- PARK BOUNDARY
- PRESERVE BOUNDARY
- GLACIERS
- POSSIBLE R.S. 2477 TRAIL
- R.S. 2477 TRAIL NO.
(This number corresponds to the Alaska Existing Trails System. Source: State of Alaska Department of Transportation/Public Facilities Submitted April 1974)



STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907.465-3800

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

Mary Van Nimwegen

*Joint Senate Transportation
and Senate Resources*

2/3/86

Senate Resources

2/22/85

STEVE COWPER
GOVERNOR



PHONE
907-452-1545
451-2920

STATE OF ALASKA
OFFICE OF THE GOVERNOR
FAIRBANKS

December 14, 1988

The Honorable Senator
Bettye Fahrenkamp
Suite 201
119 North Cushman Street
Fairbanks, AK 99701

Dear Senator *Bettye* Fahrenkamp:

Re: Revised Statute 2477

Enclosed is a copy of the recent policy agreement reached on RS 2477. It is the long-awaited agreement that I promised to send, once it became official.

The policy does not deal with section line easements because of differing opinions about the relevant law.

Sincerely,

A handwritten signature in cursive script that reads "Rebecha".

Rebecha Miller, Director
Fairbanks Regional Office

Encl.



THE SECRETARY OF THE INTERIOR
WASHINGTON

Memorandum

To: Secretary.

From: ^(Sgt) Acting Assistant Secretary for Fish and Wildlife and Parks, *Susan Recce*
Assistant Secretary for Land and Minerals 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)

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
LM (2)
FW (2)
330 Official
330 Reading File, MIB 3660
LLM-330:Bingham:3/4/88, IB Rm. 3660:343-5441:0434809
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.
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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.

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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 much 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 Plats 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

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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 effect 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 arena. 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 2). 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.

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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 rectangular 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 outside 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 millions 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 this State in 1907 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. 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 195,000. 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 of April 6, 1897. To identify the extent of such county ordinances would require a historical search of individual County actions.

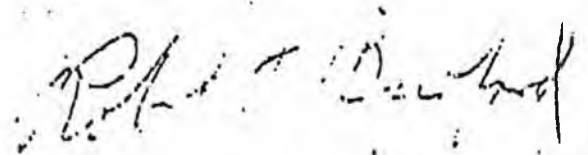
It is our recommendation that we do not modify our interpretation of the Statute that construction must have occurred in order for a R/W grant under RS 2477 to attach.

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 AK 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

dividend checks, in communities that have no banks. The Post Office designated about 160 Alaska communities and contract post offices where this service could continue. It has also promised to work with the state on a case-by-case basis if the issue occurs anywhere else. The prompt delivery of food packages under the Women, Infants and Children program is another problem which the state is seeking to solve on a permanent basis. (A temporary solution has been achieved.)

Housing - This year, the state focused primarily on specific initiatives that provided at least some help to the depressed residential housing market in Southcentral Alaska. The state originated a successful dialogue with the Administrator of the Veterans Administration to cancel what would have been a disastrous housing auction by that agency in Anchorage. We also worked closely with the Alaska State Building Authority (ASBA) and the Alaska Congressional Delegation to insure the success of the Willow Park initiative. That project included obtaining authority from the U.S. Department of Housing and Urban Development to demolish Willow Park and, in turn, to provide subsidized housing through the acquisition of existing scattered site housing throughout Anchorage.

RS 2477 (Public Access) - The state and the U.S. Department of Interior are on the brink of an agreement concerning the establishment, use, and abandonment of rights-of-way for public access under former RS 2477. Until it was repealed in 1976, RS 2477 constituted a standing Federal offer of rights-of-way for highway purposes on public lands otherwise available for such purposes.

Submerged Lands - After several years, Congress was finally persuaded to pass legislation authorizing the BLM to apply to state and Native land conveyances the acreage chargeability rules used everywhere else in the nation, and repealing a statute of limitations that restricted the state's ability to challenge certain navigable waters determinations. Passage of the legislation means that the state and Natives can receive their full land entitlements from the federal government, and that much unnecessary litigation concerning navigable waters will be avoided.

In the context of the submerged lands legislation, Congress passed a provision that requires the Secretary of the Interior to submit any proposed ANWR land exchange agreements to Congress for approval.

Payment-in-Lieu of Taxes (PILT) - Federal law provides payments to local governments whose boundaries include extensive areas of federally-owned land to partially compensate the governments for their inability to tax those lands. Until this year, these "PILT" payments were

V. PROPOSED RS 2477 CORRIDORS

Diversifying Alaska's economy will be enhanced greatly if the following RS 2477 corridors (routes) are validated by the State of Alaska:

- 1) Arctic Coastal Plain - access to oil/gas
- 2) Nenana/Kobuk/Ambler- access to several mineralized areas
- 3) Upper Cook Inlet (Beluga) - access to coal and a port for export to Pacific markets
- 4) Yukon/Kuskokwim Portage - a link between the Yukon and Kuskokwim Rivers for improved transportation
- 5) Susitna/McGrath - access to mineralized area
- 6) Kantishna Spur - tourism/recreation/mining/timber
- 7) Circle/Eagle - access to mineralized areas
- 8) Aleutian Crossing - Port Moller to Balboa Bay - access to resources

A summary of each corridor, its paralleling RS 2477 ROWs and rationale for use, follows.

PROPOSED R.S. 2477 CORRIDORS



Corridor # 1: Arctic Coastal Plain

Length: approximately 200 miles

Land status: Arctic National Wildlife Refuge, Native lands

Rationale for use: access to oil and gas

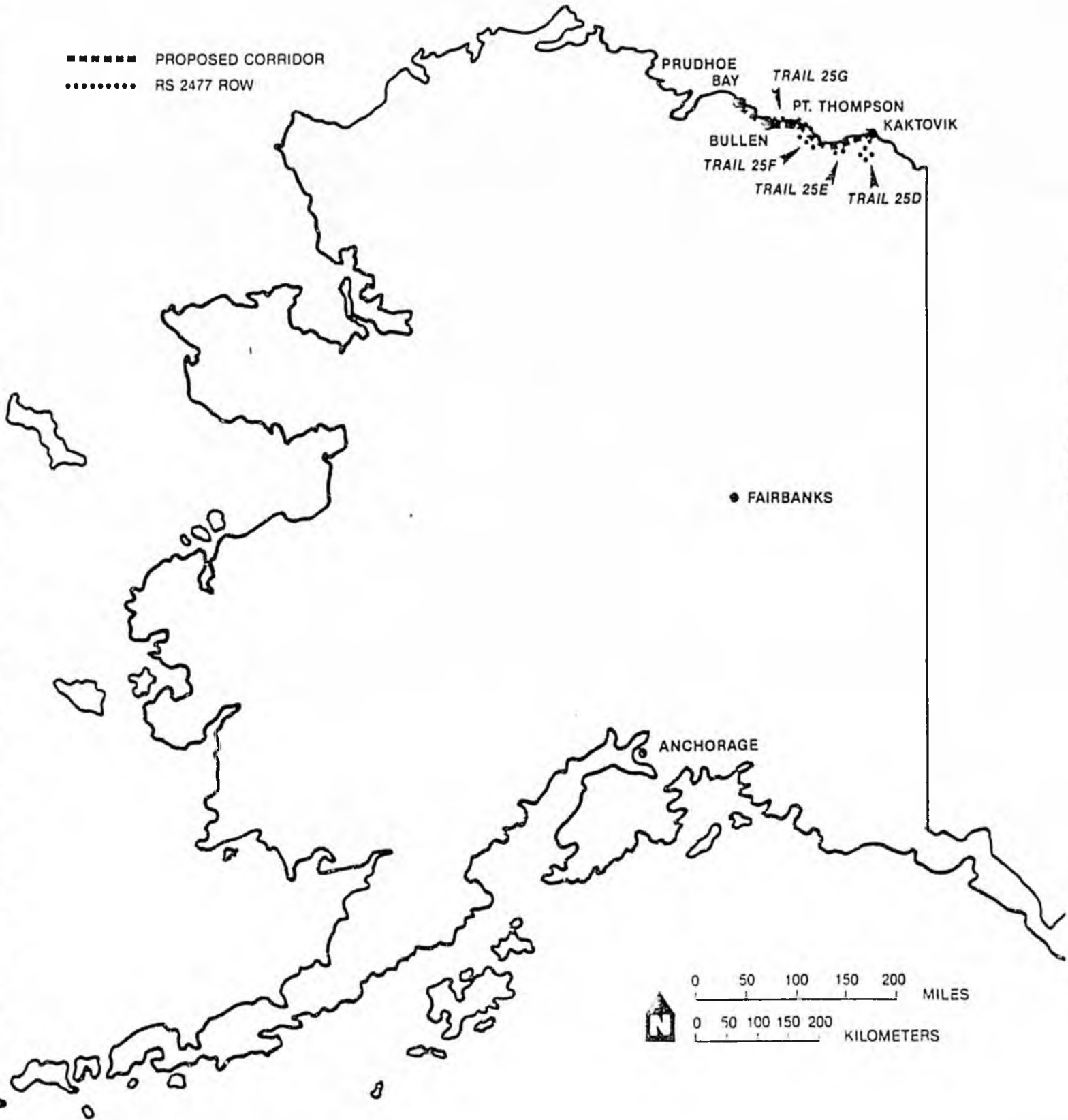
This corridor will prove invaluable if the Arctic Coastal Plain is explored and significant quantities of hydrocarbons are located. The Department of Interior's 1002 report, released in November 1986, recommends that the Refuge be opened. For this to happen, the U.S. Congress must pass legislation. If this takes place, the Coastal Plain could provide a major diversification of oil sources to allow the Trans Alaska Pipeline to continue to operate at full capacity. Currently, unless additional fields are developed, TAPS throughput will drop below capacity starting in 1988 and will decline by approximately 50% in 1990. In addition, gas reserves at Pt. Thompson contain valuable gas liquids which could be moved to market in the same feeder pipeline from ANWR to TAPS.

Socio-economic climate: The Alaskan community at large, the Arctic Slope Regional Corporation and the Kaktovik Village Council endorse exploration of the Refuge and presumably would support utilization of this corridor. Most national environmental groups oppose exploration and development within the Refuge.

Applicable RS 2477s: The corridor, as can be seen in the accompanying map, conforms with or parallels at least four existing RS 2477 rights-of-way which run along the Coastal Plain - trails 25D, 25E, 25F, and 25G. Note that the trails are not all continuous because the ice pack was utilized as part of the trail system.

CORRIDOR #1 ARCTIC COASTAL PLAIN

- PROPOSED CORRIDOR
- RS 2477 ROW



Corridor # 2: Nenana/Kobuk/Amblor
(Alaska Railroad extension to Kobuk Valley)

Length: approximately 550 miles

Land status: This corridor crosses state, Native and federal properties including the Kanuti National Wildlife Refuge, Gates of the Arctic National Park and Preserve, Kobuk Valley National Park, Selawik National Wildlife Refuge and BLM lands.

Rationale for use: access to major mineralized areas

This corridor will provide access to numerous world-class mineral deposits on the Seward Peninsula, including bonanza size deposits of copper and critical strategic minerals, such as chromium. It will also provide access for fire control and recreation purposes. The villages in the Kobuk region will benefit from reduced costs for goods and services linked to lower transportation costs. A railroad would also serve as a means to carry local goods to market.

Various routes have been studied for this corridor. The route indicated on the accompanying map is from the Alaska Transportation Corridor Study, prepared by the Federal Highway Administration, U.S. Department of Transportation (1970). It runs from the existing railroad line in Nenana to north of Black Bear Flats and then along the south side of the Tanana River to Round Point, where a bridge would be required. The line then follows the Tozitna and Mentanontli valleys near Norseman Lake to the Koyukuk River at Alatna. It then proceeds westerly following the Alatna River, passing south of Norutak Lake and into the Kobuk River valley to the Dahl Creek Airstrip near Kobuk and continues west to Shungnak, then proceeds northwesterly through a valley on the east side of the Kobuk River to Amblor.

An Alaska Miners Association study, Future Mineral Freight Estimates, Interior Alaska (1982), determined that it is economically feasible to develop this corridor to the Kobuk/Amblor area because of the enormous quantities of valuable ores that await production. The preferred mode of transportation is a railroad.

Socio-economic climate: The construction of a railroad will provide the necessary transport for bulk resource shipments, while limiting the influx of "outsiders," a major concern of local residents.

Some federal agency personnel and environmentalists oppose the use of any corridors, including this one. However, the economic impact arising from development will benefit people

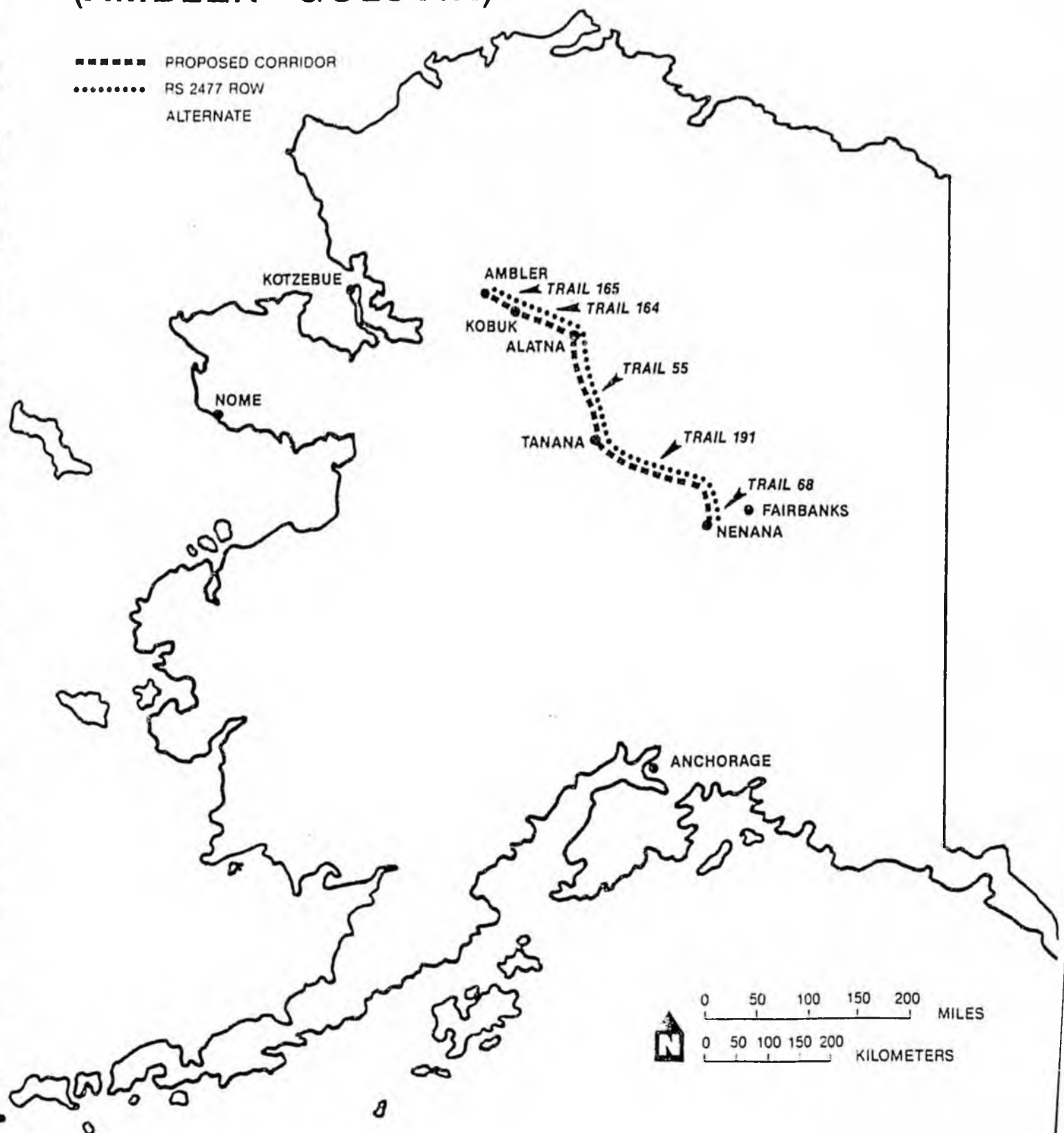
living in that region at a time when prospects for economic growth are diminishing and the resources can help the nation as a whole. The Red Dog Mine project, with its emphasis on local employment and environmentally-sensitive development, can be used as a model.

A number of experts believe that such a corridor, rather than tie into the railbelt, should extend southwest from Ambler to Golovin. (See map on following page.)

Applicable RS 2477s: There are many RS 2477 ROWs in this region, however, those applicable to this route are indicated on the map as trails 68, 191, 55, 164, and 165. The route to Golovin would follow RS 2477 ROWs 165, 98, 217, 264, and 156.

CORRIDOR # 2 AMBLER - NENANA or alternate (AMBLER - GOLOVIN)

----- PROPOSED CORRIDOR
..... RS 2477 ROW
ALTERNATE



Corridor # 3: Upper Cook Inlet (near Beluga)

Length: approximately 175 miles

Land status: state lands, Native lands

Rationale for use: transportation link from the existing railbelt to coal resources and/or a port for export to Lower 48 and the Pacific Rim. This route would provide a major outlet for Alaska's mineral resources from the Interior region of the state.

Proposed modes of transportation are either road or railroad. The transport of minerals from Interior Alaska as well as energy related resources including oil, gas, and coal to shipping points is the prime reason for this corridor. Major coal resources in this area could provide jobs for Alaska's people and revenues for the state.

The corridor extends along a northeast-southwest alignment about 10 miles east of the Susitna River, then runs west along the flats of the north side of Cook Inlet. It crosses the Susitna and Beluga Rivers and ends just north of the Drift River Delta at existing oil shipping facilities.

This corridor would also be a starting point for access to the north side of the Alaska Range, a highly-mineralized area untapped due to lack of transportation access.

Socio-economic climate: With the recent construction of a gas pipeline along this corridor by ENSTAR, the environmental problems have already been addressed and only those individuals who oppose all development should oppose its continued use. The villagers in Tyonek have expressed some concern about potential adverse impacts, and yet welcome job opportunities.

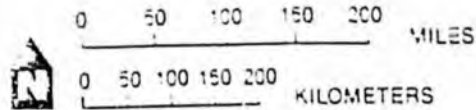
Applicable RS 2477s: Two RS 2477s (trails 1 and 3) run along the coastal area of Cook Inlet.

CORRIDOR # 3 BELUGA / UPPER COOK INLET

----- PROPOSED CORRIDOR
..... RS 2477 ROW

● FAIRBANKS

TRAIL 1
TYONEK
ANCHORAGE
TRAIL 3
BELUGA
Drift River
Trading Bay
Cook Inlet



Corridor # 4: Yukon/Kuskokwim Portage or Canal

Length: approximately 30 miles

Land status: Yukon Delta National Wildlife Refuge, Native lands, BLM lands

Rationale for use: linkage between Yukon & Kuskokwim Rivers

This route was originally developed by the Jesuits who built a tramway, using a windlass to hoist boats and barges out of the water and wooden rails to move them between the rivers. A north-south corridor, it lies between the Yukon and Kuskokwim Rivers. It extends from a point southeast of Holy Cross on the Yukon south to the Kuskokwim, west of Aniak. The portage can provide up to two months of additional ice-free navigation on the Yukon River. Using the lower Kuskokwim River would shorten the barging route and time into the Yukon and would provide deeper shipping waters than the shallow lower Yukon. The results would include improved transportation for bulk cargo, movement of petroleum and mineral exploration equipment and product. In winter months, snowmobiles could use the frozen route to reduce the distance in overland travel.

The benefits include better distribution of cargo after the portage or canal is opened, and greater mobility for people in that region.

Socio-economic climate: The main impetus for establishing such a portage or canal will come from the Native people, village and regional corporations, as well as natural resource industries that need improved water transportation. If a canal is considered, water quality, fisheries and waterfowl habitats will have to be studied as well as permafrost dehydration and water interchange vis-a-vis fisheries impact.

Applicable RS 2477s: Trail 16 parallels the proposed corridor. This route has a history of state construction and maintenance dating back to the 1930's according to the records of the Alaska Road Commission.

CORRIDOR # 4 YUKON - KUSKOKWIM PORTAGE

- PROPOSED CORRIDOR
- RS 2477 ROW



Corridor # 5: Susitna/McGrath

Length: approximately 225 miles

Land status: State and BLM lands

Rationale for use: mineralized area

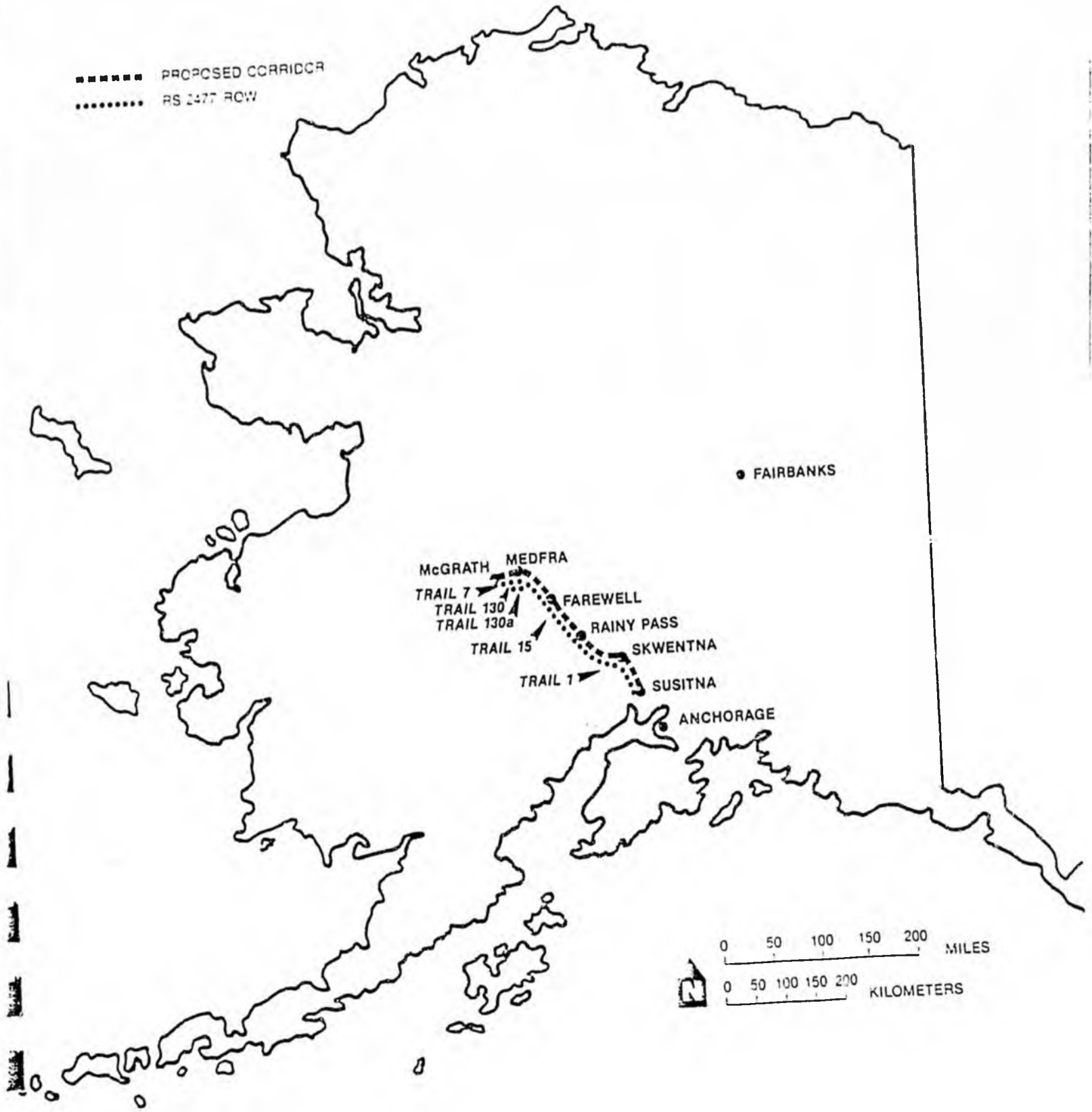
This corridor would provide access from Southcentral Alaska to the mineral belt that lies northwest of the Alaska Range. Mode of transportation would be a railroad or highway. This corridor begins at the abandoned village of Susitna (on the Susitna River) and runs northwest to the Skwentna River then north to the junction with Happy River. It continues westward through the Alaska Range by way of Rainy Pass and emerges on the north side at Farewell, then follows the south fork of the Nikolai to a junction of the south and east forks of the Kuskokwim where the trail forks, with one route continuing to Medfra and the other turning southwesterly along the north side of the Kuskokwim River to McGrath.

Socio-economic climate: The benefits include development of minerals that could significantly impact Alaska's economy. In addition, year-round job opportunities will be created for people living in the region. Portions of this route follow the Iditarod Trail which has been designated a National Historic Trail.

Applicable RS 2477s: There are several RS 2477s along this corridor, including those that make up the original Iditarod Trail. These include trails 1, 15, 130, 130A, and 7 (to McGrath.)

CORRIDOR # 5 SUSITNA / McGRATH

----- PROPOSED CORRIDOR
..... RS 2477 ROW



Corridor # 6: Kantishna Spur

Length: approximately 25 miles

Land status: Denali National Park, state lands

Rationale for use: tourism, recreation, mining & timber

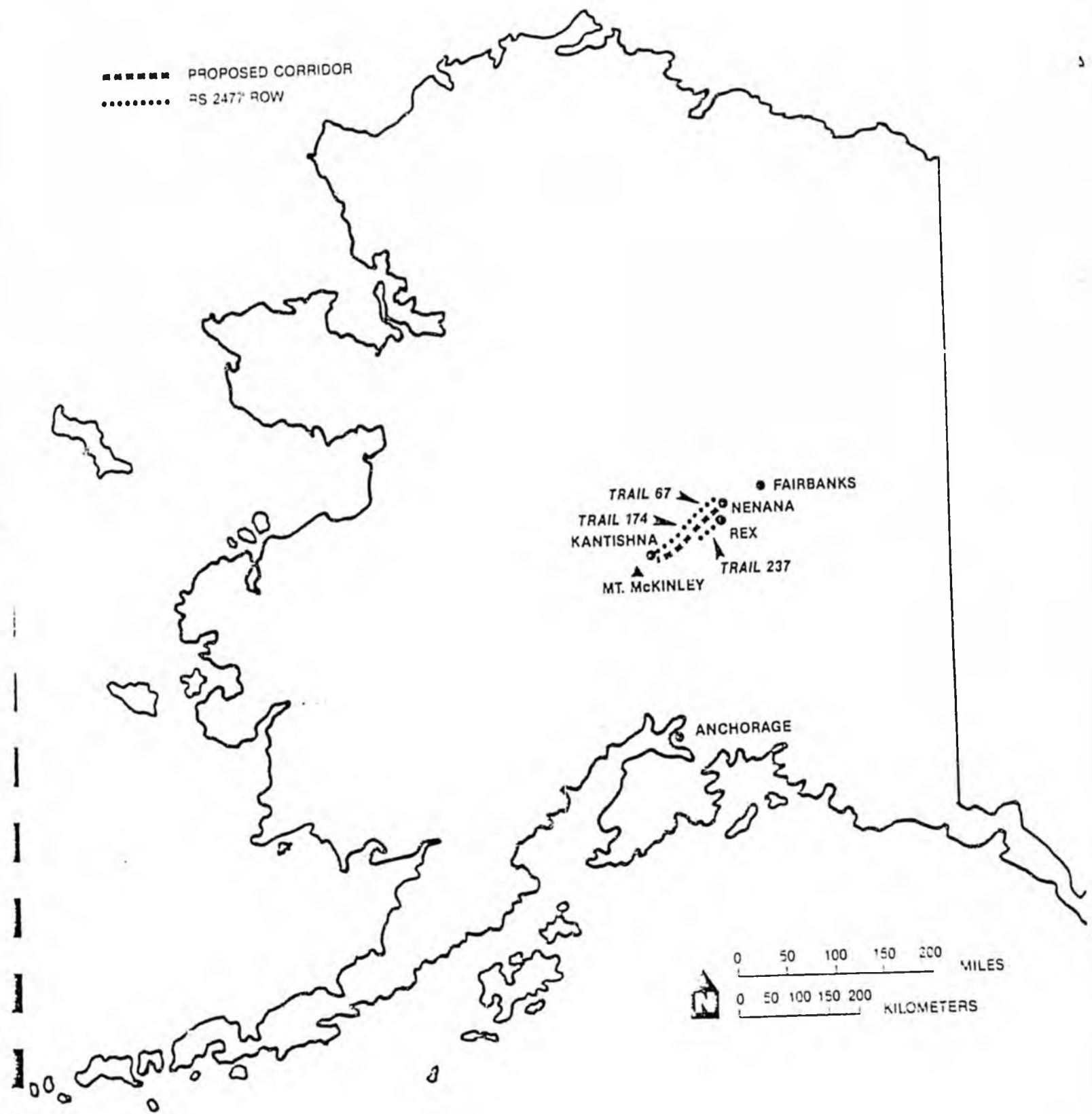
This route runs southwesterly alongside the Kantishna Hills to Kantishna on the north boundary of Denali National Park. Kantishna is presently connected by a road through the park. This route would provide access to mining areas with deposits of gold, silver, lead, tin and antimony. Access to the north side of the park would also be a major benefit for recreational purposes. This route could also be extended north towards Nenana. The Alaska DOT/PF conducted extensive studies on a highway into this area in 1982.

Socio-economic climate: The mining industry in the state would be supportive of this route and tourism in the area could be substantially assisted by this corridor. Opposition from environmentalists and the Park Service can be expected.

Applicable RS 2477s: There are six to eight RS 2477s in the northern area of the park, several of which lie near the proposed corridor including trails 67, 237, and 174. In addition to its validity, vis-a-vis RS 2477, the Kantishna Road was quit claimed to the State in the Omnibus (statehood) Act.

CORRIDOR # 6 KANTISHNA

----- PROPOSED CORRIDOR
..... RS 2477' ROW



Corridor # 7: Circle-Eagle

Length: approximately 130 miles

Land status: Yukon-Charley Rivers National Preserve,
Native lands

Rationale for use: access to mineralized areas and
recreation

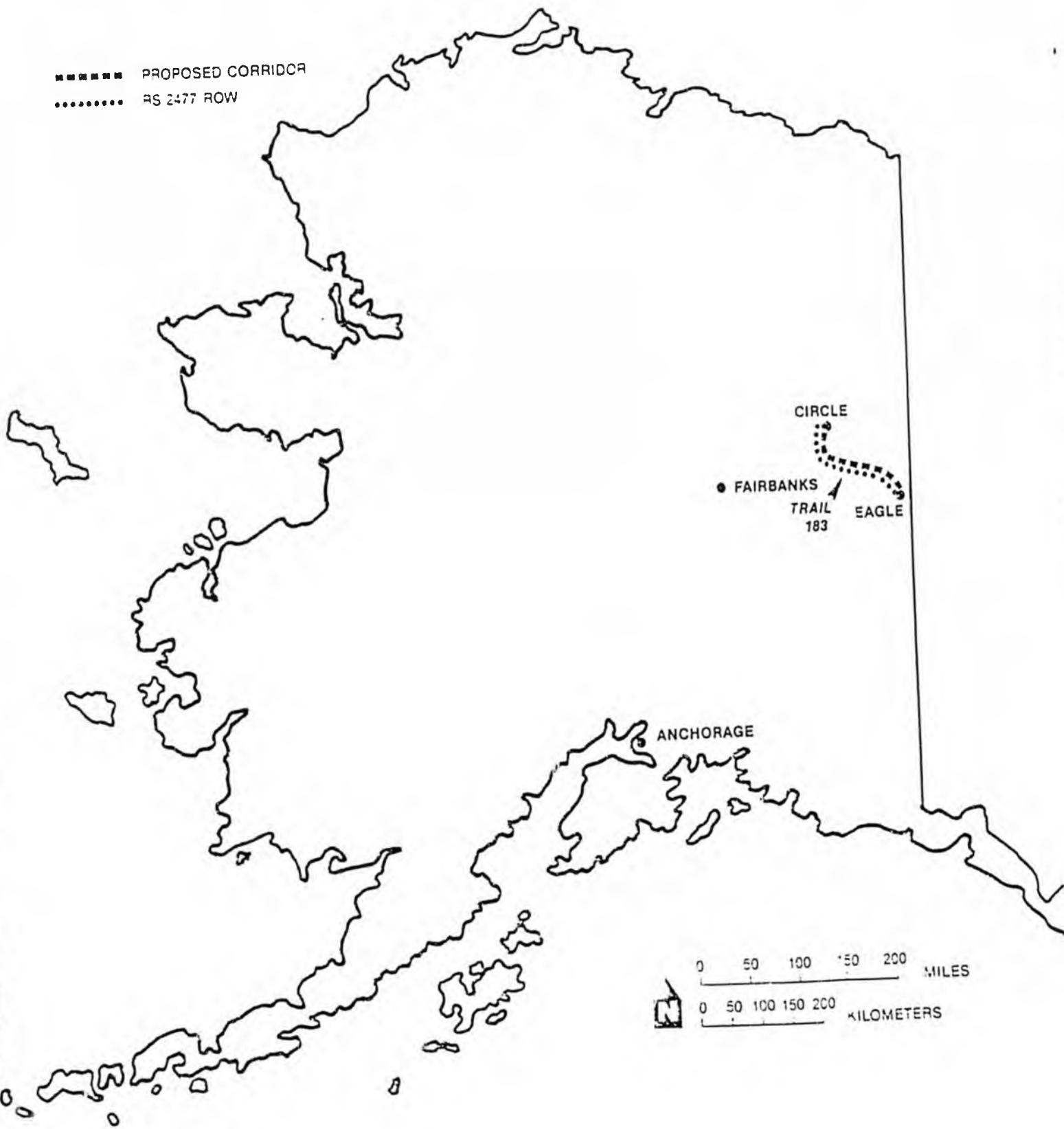
The route runs southeast along the Yukon River from the Steese Highway near Circle to Eagle on the Yukon about 6 miles from the US/Canada border where the route connects to the Taylor Highway. The route crosses the Charley River ten miles upstream from the confluence with the Yukon. Modes of transportation include a highway and possible oil and gas pipelines. This corridor will increase access into a highly mineralized area for development and exploration of gold, coal and possibly asbestos. It would also allow for recreation access and fire control activities.

Socio-economic climate: Increased jobs during construction would benefit the local and state economies, and there could be an increase in tourism through this historic area. Opposition from the Park Service and environmentalists is expected and possibly from some elements within the communities of Circle and Eagle. Attention must be given to water quality, erosion near crossings, permafrost degradation and wildlife values.

Applicable RS 2477s: Trail 183 runs along the south side of the Yukon River from Circle to Eagle and has a history of state construction and maintenance expenditures.

CORRIDOR #7 CIRCLE / EAGLE

----- PROPOSED CORRIDOR
..... RS 2477 ROW



Corridor #8 - Aleutian Crossing
Port Moller to Balboa Bay

Length: approximately 25 miles

Land status: Alaska Peninsula National Wildlife Refuge,
Native lands

Rationale for use: to enhance the region's transportation system to support resource development including oil and gas from lease sale areas on the north side of the peninsula or OCS sale area. There is potential for a port site on Balboa Bay.

This route was identified in the State's Bristol Bay Area Plan as one of three preferred trans-peninsula routes for transportation corridors. The corridor runs from the Bering Sea through Portage Valley to Lefthand Bay on Balboa Bay.

Socio-economic climate: The State of Alaska and Bristol Bay Native Corporation have recognized the potential of this corridor to transport oil and gas from the north side of the peninsula to deepwater ports on the Pacific Ocean and the use of this corridor for general transportation across the Alaska Peninsula. The corridor could be used for pipelines, roads, transmission lines and transportation or utility systems, according to the Bristol Bay Area Plan.

Applicable RS 2477s: Trail 3 runs parallel to this proposed corridor.