


Slide 1

ROW Mapping Case Studies

"The Older I Get, the Less I Know..."



Alaska Surveying & Mapping Conference 2015

Slide 2

The Art of Historical Research...

Township No. 19 North, Range No. 5 East of the Seward Meridian
MATANUSKA COAL FIELDS

SEGREGATION OF GLENN HIGHWAY RIGHT OF WAY

STATUS OF PUBLIC DOMAIN LAND AND MINERAL TITLES

MTP

FIELD NOTES OF THE SURVEY OF THE

SUBDIVISION AND HEADER LINES

OF

Township No. 19 North, Range No. 5 East

THE UNITED STATES OF AMERICA,
Do hereby certify that the following described land:

Section 5, Township 19 North, Range 5 East, Matanuska Coal Fields, Alaska.

The area described contains 640.00 acres, according to the official plan at the Survey of the said land, as filed in the Bureau of Land Management.

From survey to settlement and private ownership...

What happened before patent ?

RECEIVED
UNITED STATES DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
OCT 31 1948
HOMESTEAD ENTRY
ADDRESSER, Alaska
SERIAL NO. 311456
APPLICATION: RECEIPT NO. 321828

I, ISAAC CHRISTIAN FABER, do hereby apply to enter, under Section 2089, Revised Statutes of the United States, the North 1/4 Southeast 1/4, Southeast 1/4, and Southwest 1/4, Section 3, Township 19 North, Range 2 West, Fourth Section, containing 320-25 acres, within the ANCHORAGE land district; and I do solemnly swear that I am not the proprietor of more than 160 acres of land in any State or Territory; that I am a citizen of the United States of America, was born on the 19th of Nov 1881 in

(a) Actually resided on the land

Year	From	To	Year	From	To
1946	Oct. 20	Dec. 1, 1946	1946	Jan. 1, 1948	Feb. 16, 1947
1947	Feb. 16	Feb. 16, 1947	1947	Feb. 16, 1947	Mar. 28, 1947
1947	Mar. 28	Mar. 28, 1947	1947	Mar. 28, 1947	Mar. 28, 1947
1947	Mar. 28	Mar. 28, 1947	1947	Mar. 28, 1947	Mar. 28, 1947
1948	Mar. 28, 1948	Mar. 28, 1948			

ALASKA ROAD COMMISSION
MAP OF
COPPER RIVER DISTRICT
Scale: 1:500,000
Date of Preparation: Oct 31 1948

UNITED STATES DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
Bureau of Land Management
DA 3115
Section 19 - Alaska
REPORT
Last owner and serial No. Anchorage 01166 Date of acquisition: June 25, 1948
Name Isaac Christian Faber Paid amount W.L. 300.
When Homestead Entry Submitted Proof Approved:
Date Constitution Proof Filed March 29, 1948
Land involved-1/4 S, 1/4 SE, 1/4 SW, 1/4 NE, Section 3, T. 19N., R. 2W., S. 4E.

PROPOSED ALASKA SYSTEM OF TRUNK HIGHWAYS
 - HIGHWAYS CONSTRUCTED 1944
 - HIGHWAYS TO BE CONSTRUCTED


In Alaska, we often need to look at the history before settlement and private ownership...

Palmer-Richardson Highway

Excerpt from Map of Alaska, prepared by The American Geographical Society for The Alaska Road Commission, 1923
(Image from NOAA's Office of Coast Survey Historical Map and Chart Collection)

Basis of Right of Way at Construction

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Excerpt from Anchorage, Alaska quadrangle Edition of 1951, Alaska Reconnaissance Topographic Series (USGS Historical Topographic Map Collection)

Focusing on...
Glenn Highway: Palmer to Chickaloon

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What evidence did we have to start with?

- ❖ Executive Order (EO) 9145, April 23, 1942
- ❖ Alaska Road Commission Maps of Palmer-Richardson Highway (CRDOT&PF Files)
- ❖ ROW Agreement with ARR for use of the old railroad bed
 - ❖ ROW Deeds from 2 homesteaders
- ❖ A few homestead patents referencing ROW
 - ❖ Field survey data for both the Glenn Highway and the railroad bed

EO 9145

April 23, 1942

- Specific BOP/EOP
- Sec/Twp/Range identified
- Map No. 1877260

EXECUTIVE ORDER 9145

RESERVING PUBLIC LANDS FOR THE USE OF THE ALASKA ROAD COMMISSION IN CONNECTION WITH THE CONSTRUCTION, OPERATION AND MAINTENANCE OF THE PALMER-RICHARDSON HIGHWAY

ALASKA

By virtue of the authority vested in me as President of the United States, it is ordered as follows:

Section 1. Executive Orders No. 2319 of February 16, 1916, No. 5582 of March 16, 1931, No. 9095 of January 31, 1942,* No. 9085 of March 4, 1942,† withdrawing certain lands for townsite purpose, examination and classification, supply base and repair shop site, administrative and fire patrol station site, and other purposes, are hereby modified to the extent necessary to permit the reservation described in Section 2 of this order.

Section 2. Subject to all valid existing rights, there is hereby reserved for the use of the Alaska Road Commission, in connection with the construction, operation and maintenance of the Palmer-Richardson Highway, a right-of-way 200 feet wide, 100 feet on each side of the center line, beginning from terminal point Station 1369+42.8, in the NE¼ Section 36, T. 20 N., R. 5 E., 6th Meridian, and extending easterly and northeasterly over surveyed and unsurveyed lands to its point of connection with the Richardson Highway in the SE¼ Section 19, T. 4 N., R. 1 W., Copper River Meridian, Alaska, a distance of approximately 143 miles, as shown on the map, dated March 14, 1942, No. 1877260, on file in the General Land Office.

FRANKLIN D. ROOSEVELT

THE WHITE HOUSE,
April 23, 1942.

(P. R. Doc. 42-3697; Filed April 24, 1942; 2:59 p. m.)

* 7 FEB. 1942.
† 7 FEB. 1942.

ARC Mapping

DEPARTMENT OF THE INTERIOR
ALASKA ROAD COMMISSION
PALMER-RICHARDSON HIGHWAY

STA. 0+00 - 1370 - MILE 5 - MILE 31
Drawn by: F.F.S.
TOPOG BY: W.L.
Traced by: F.J.S.
Scale: 1" = 400' Dec. 20, 1941.

EOP at 1369+42.8
in Sec. 36, T20N, R5E

Contract No. I-3arr-2657

RIGHT-OF-WAY AGREEMENT

THIS INDENTURE, made the 2nd day of June 1941, between The Alaska Railroad, U. S. Department of the Interior, hereinafter referred to as the "Railroad", and the Alaska Road Commission, U. S. Department of the Interior, hereinafter referred to as the "Commission".

WITNESSETH:

Whereas the Commission is now constructing a highway from Palmer, Alaska to connect with the Richardson Highway at or near Copper Center, Alaska and the route of said highway parallels the railroad right-of-way of the Railroad between Sutton and Chickaleon, in consideration of the benefits accruing to both parties hereto it is hereby agreed as follows:

ARR Permit

ROW Deed

A.R.C. #57a
12/33

Road
Right-of-Way Deed

THIS INDENTURE Made this / day of September, the year one thousand nine hundred and forty one, between Sammie Barr, of the Palmer Recording District, Third Judicial Division, Territory of Alaska, Grantor, and the United States of America, Grantee, hereinafter referred to as Grantor and Grantee, respectively.

WITNESSETH:

That for and in consideration of the construction, improvement and maintenance of a public highway as hereinafter recited, and for other good and valuable considerations, the grantor does hereby grant, bargain, sell, convey and confirm unto the grantee, an easement and right of way in gross over and across the following described tract, lot, piece or parcel of land, situated, lying and being in the Palmer Recording District of the Third Judicial Division:

A strip of land 100 feet wide whose center line is described as follows: Beginning at a point called station 434 plus 22.5 located on the west boundary line of 597, 21, 1115 N. 103 E. 112

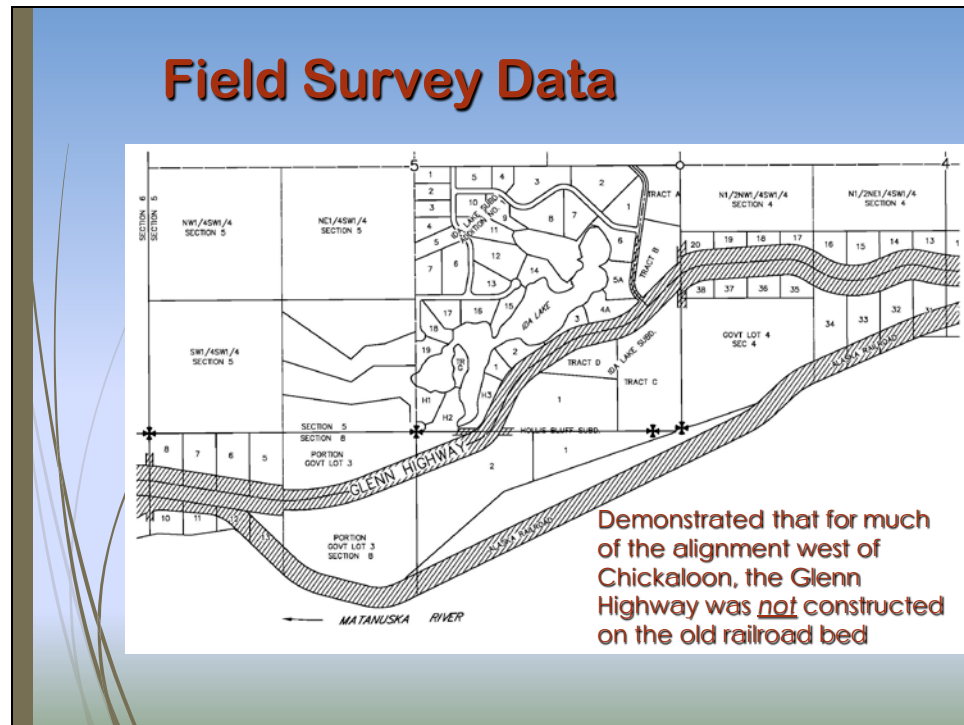
Homestead Patents along the corridor

- Most entries occurred 1945 or later
- A few patents contained this language:

Excepting, however, from the conveyance that certain highway right-of-way and all appurtenances thereto, constructed by the UNITED STATES through, over, or upon the land herein described, and the right of the UNITED STATES, its officers, agents, or employees to maintain, operate, repair, or improve the same so long as needed or used for or by the UNITED STATES, according to the Act of January 27, 1906 (33 Stat. 616), as amended.

Excerpt from Patent No. 1125771 to James Austin Carroll
(Note: Act of January 27, 1905 established the Board of Road Commissioners for Alaska)

- How was the ROW established?
- How wide is the ROW?

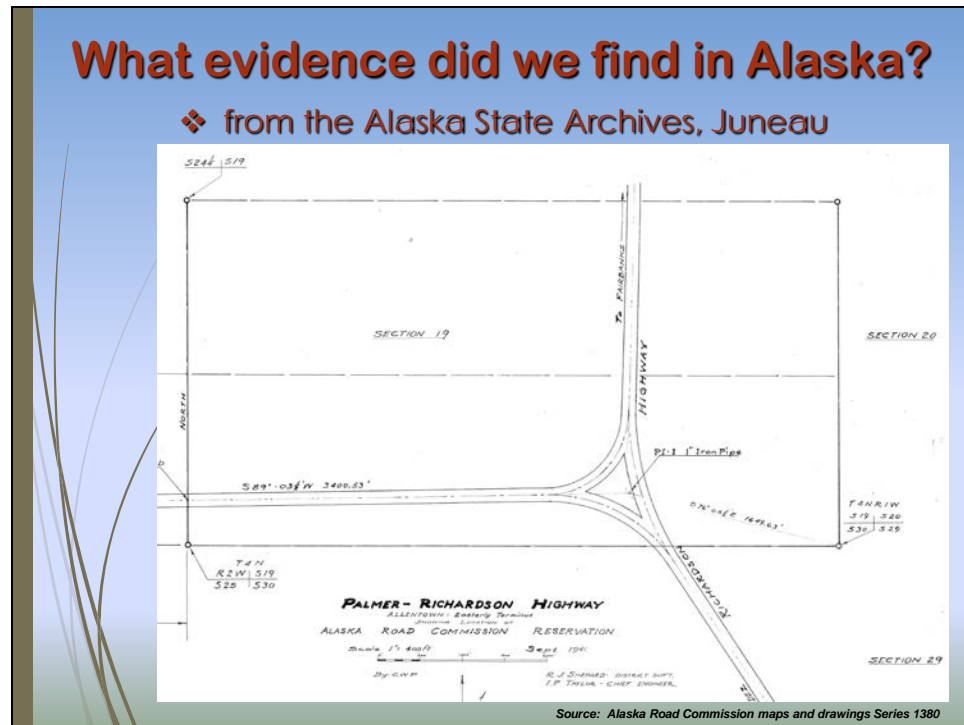


Why is this important anyway?

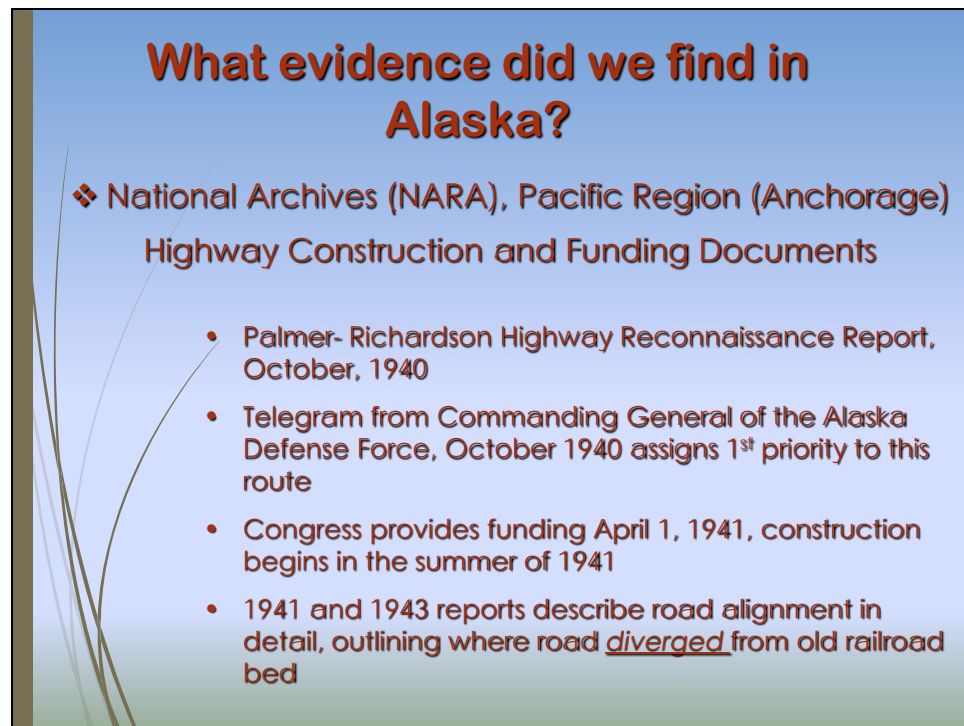
- ❖ Encroachments within 100 feet each side of Glenn Highway centerline
- ❖ Challenges from property owners:
"my patent doesn't say anything about a highway ROW"
- ❖ Many homestead entries were prior to August, 1949 (PLO 601)

Additional evidence, if available, would confirm the basis and width of ROW...and help defend it.

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June 11, 1941

Hon. Ernest Gruening
Governor of Alaska
Juneau, Alaska

Sir:

It is recommended that an Executive Order be sought setting aside a strip of land 200 feet in width (100 feet on either side of the center line of the roadway) along the route of the Palmer-Richardson Road, now under construction. This road, throughout almost its entire length, will be constructed upon unreserved public lands. The width of reserve, 200 feet, is greater than usually requested and possibly greater than will be required during initial construction. However, it will provide for gravel pits, camp sites, storage areas, and so forth, and should it later develop that certain sections are desirable for private development the reserve, upon reconsideration, can be reduced to include only such width as is actually required.

The right of way location has not yet been definitely determined; probably will not have been for a year or more. The area is entirely unurveyed, and the distance is approximately 2.5 miles. On this account it is impossible to give a definite description of the area by notes and bounds. Reservations of this nature have, however, been made in Alaska in the past (Executive Order of May 24, 1909 and October 14, 1915). The route begins at Mile 115.8 on the Richardson Highway and extends westerly to right of way of the abandoned Chickaloon Branch of The Alaska Railroad at approximately Mile Post 134.

Respectfully,

Ike P. Taylor
Chief Engineer

Office of the Governor of Alaska, Juneau, Alaska, June 11, 1941.
To: The Division of Territories and Island Possessions, Department of the Interior, Washington, D. C.

I concur in the above recommendation. It is suggested that and Executive Order be requested creating the reservation above described.

Ernest Gruening
Governor of Alaska

What evidence did we find in Alaska?

NARA, Pacific Region (Anchorage)
ROW Correspondence

Request for EO, June 11, 1941

ARC Taylor to Gov. Gruening, forwarded to Division of Territories in D.C. for action

What evidence did we find in Alaska?

July 12, 1941 reply from Commissioner of the General Land Office (CGLO) Fred Johnson

UNITED STATES
DEPARTMENT OF THE INTERIOR
General Land Office
Washington

C O P Y

1877250 "FM"

JUL 12 1941

MEMORANDUM for the Director,
Division of Territories and Island Possessions.

Reference is had to your memorandum of June 26, 1941, transmitting for appropriate action a copy of a letter from the Chief Engineer, Alaska Road Commission, dated June 11, 1941, requesting the withdrawal by Executive Order of a strip of land 200 feet wide for right-of-way for the construction of the Palmer-Richardson Highway in Alaska.

In the absence of maps showing the location of the highway or such other data as would serve to identify the highway on the ground and the land to be reserved, it is not seen how the withdrawal would serve any useful purpose. The withdrawals made by Executive Orders of May 24, 1909, and October 14, 1915, to which you referred, were of lands desired for rights-of-way for the operation and maintenance of apparently existing telephone lines and a road sufficiently described to enable identification on the ground of the areas withdrawn. In the instant case there is nothing by which the proposed highway or a reservation for the right-of-way as suggested could be identified on the ground so that a withdrawal in advance of survey or actual construction of the highway would have no effect.

In this connection see our letter to you of January 20, 1939 (1751330 "FM") with respect to rights-of-ways for roads and highways in Alaska.

(Sgd.) FRED W. JOHNSON
Commissioner.

RECEIVED
JUL 23 1941

NOTE: Letter of January 20, 1939 discusses ARC's authority to construct roads and appropriate ROW under Revised Statute 2477 (R.S. 2477). "This grant becomes effective upon the construction or establishing of the highway in accordance with the State or Territorial laws." However, if ARC wanted the ROW noted to GLO's land records, maps of definite location are required.

What evidence did we find in Alaska?

❖ NARA, Pacific Region (Anchorage) and NARA, Washington, D.C. Land Patent Files

Rights-of-way *none* **1877260** Highway - 44 LD 513
Reservation made Apr 10/42 as to S33E, N33E, Sec. 5

Excerpt, Status Clerk Report for BLM Serial Case File Anchorage 011066 from GLO Land Entry Files, NARA, Washington, D.C.

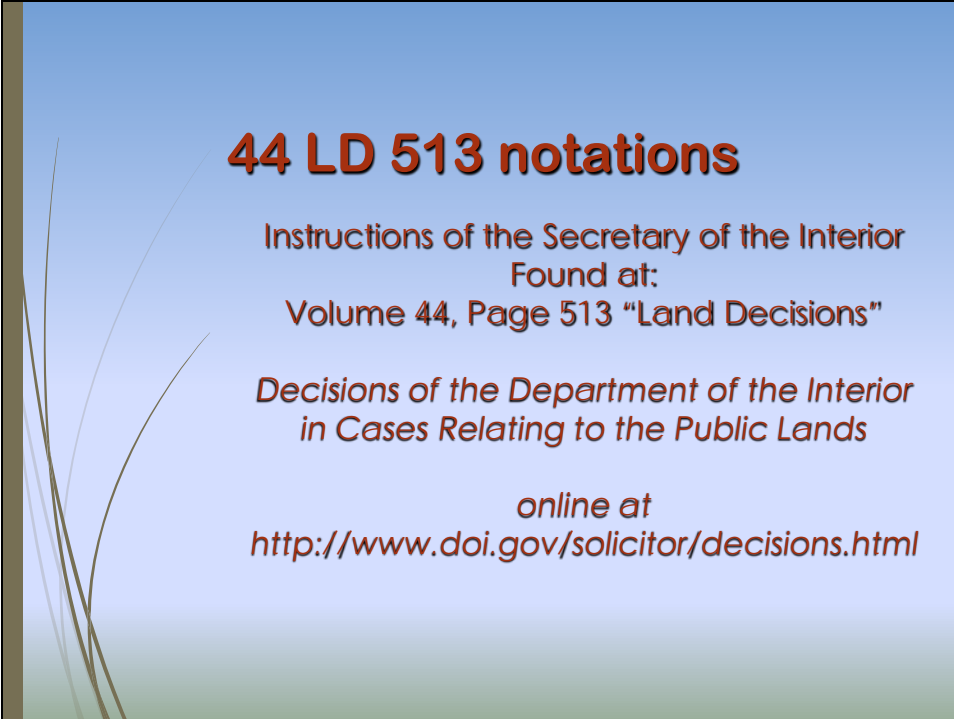
Notations of ROW on the Status Clerk Report contained in each homestead case file:

Rights-of-way *3/4 n² Highway - Anchorage Reservation*
Alaska Road Com - 44 LD 513 - 1877260 made 4/10/42
Withdrawals. *none*

Excerpt, Status Clerk Report for BLM Serial Case File Anchorage 010741 from GLO Land Entry Files, NARA, Washington, D.C.

More questions than answers...

Why did the CGLO change his mind about the EO?
Why wasn't the area west of Chickaloon included in the EO?
Where is the map dated March 14, 1942, No. 1877260 "on file in the General Land Office"?
What document created the "reservation" of April 10, 1942?
What is the significance of 44 LD 513?
What does 1877260 "F" mean?

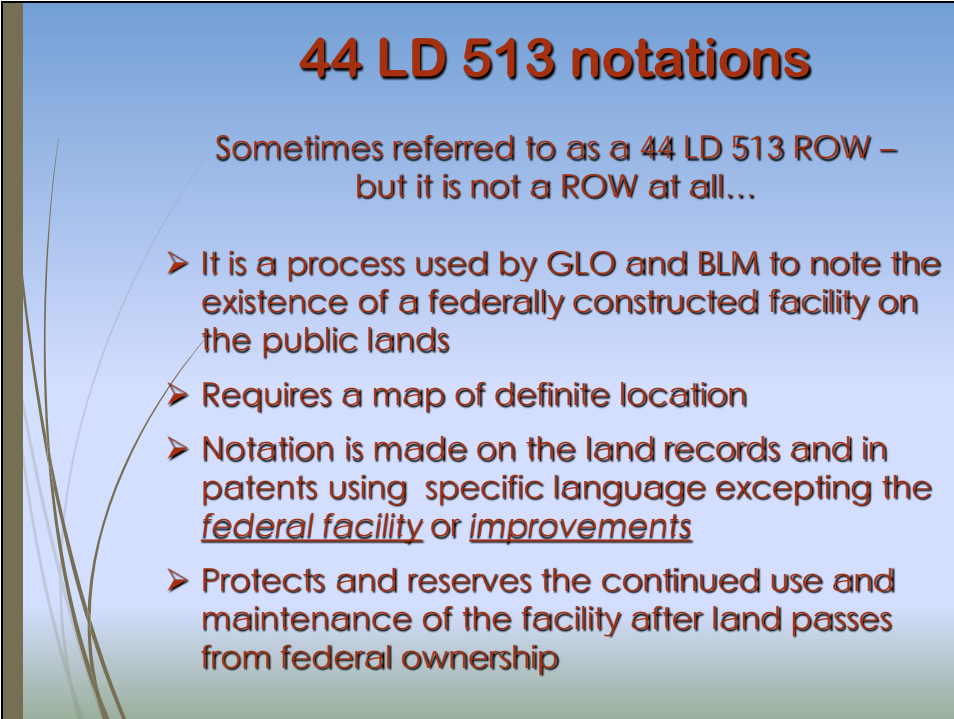


44 LD 513 notations

Instructions of the Secretary of the Interior
Found at:
Volume 44, Page 513 "Land Decisions"

*Decisions of the Department of the Interior
in Cases Relating to the Public Lands*

online at
<http://www.doi.gov/solicitor/decisions.html>



44 LD 513 notations

Sometimes referred to as a 44 LD 513 ROW –
but it is not a ROW at all...

- It is a process used by GLO and BLM to note the existence of a federally constructed facility on the public lands
- Requires a map of definite location
- Notation is made on the land records and in patents using specific language excepting the federal facility or improvements
- Protects and reserves the continued use and maintenance of the facility after land passes from federal ownership

44 LD 513 instructions

The notation itself does not create an interest in land – it is not an easement.

(See Appeal of Doyon, Limited, 87 I.D. 480 for an excellent discussion of the history of 44 L.D. 513)

But we know that ARC asked for an interest in land – a ROW - for the entire corridor of the Glenn Highway.

Clearly, we need to find File No. 1877260 for the answer...

Where is Misc. File No. 1877260?

Q: In 1942, who had the authority to order the 44 LD 513 notation on Anchorage District Records?

A: The Commissioner of the General Land Office in Washington, D.C.

As the order had originated in Washington, D.C., the search turns to GLO records at one of the NARA locations in the area.

After several failed attempts to find the file at NARA through phone and email requests, I hired a researcher specializing in DOI records.

Misc. File No. 1877260 – Finally...

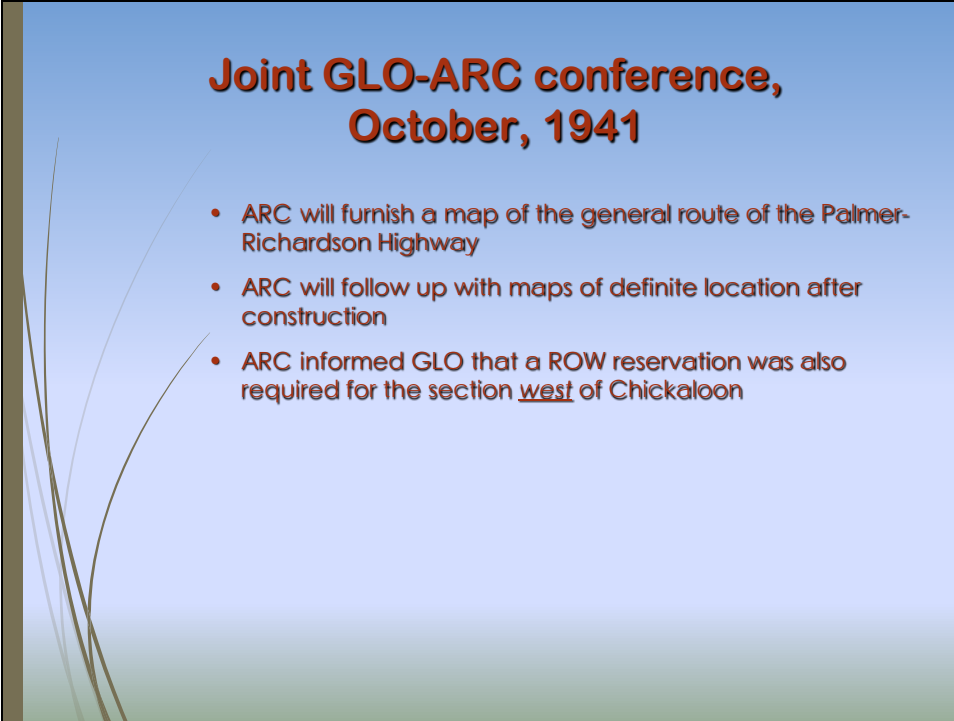
National Archives, Washington, D.C.
RG 49, Records of the Bureau of Land Management
Miscellaneous Letters Received, 1910-46
Entry A1, 2009
File 1877260, Correspondence, June 11, 1941-July 26, 1944

- ❖ Contains a complete record of the establishment of the ROW of the Palmer-Richardson Highway as well as the map of March 14, 1942

Misc. File No. 1877260 – what's in it?

- DC versions of letters found in RG 30 records in NARA Anch
- transmittals for maps prepared by ARC
- Memorandum from CGLO detailing a joint GLO/ARC conference held in October, 1941, discussing the Palmer-Richardson ROW and the status of the Matanuska Branch of the Alaska Railroad

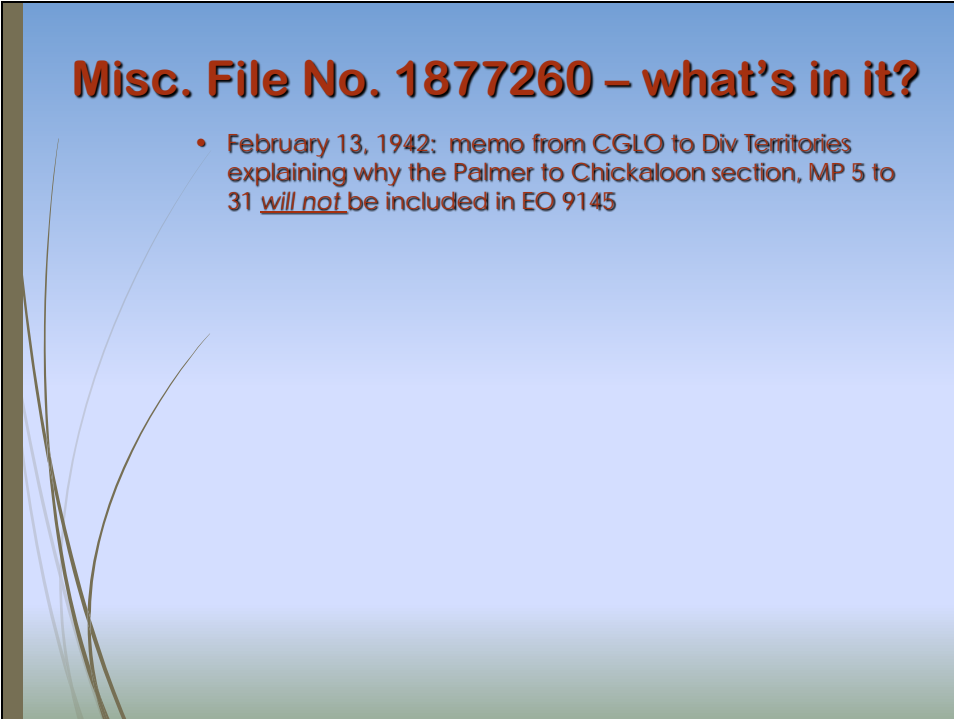
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Joint GLO-ARC conference, October, 1941

- ARC will furnish a map of the general route of the Palmer-Richardson Highway
- ARC will follow up with maps of definite location after construction
- ARC informed GLO that a ROW reservation was also required for the section west of Chickaloon

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Misc. File No. 1877260 – what's in it?

- February 13, 1942: memo from CGLO to Div Territories explaining why the Palmer to Chickaloon section, MP 5 to 31 will not be included in EO 9145

CGLO: reservation of that portion of the highway west of Chickaloon not "practicable or necessary"

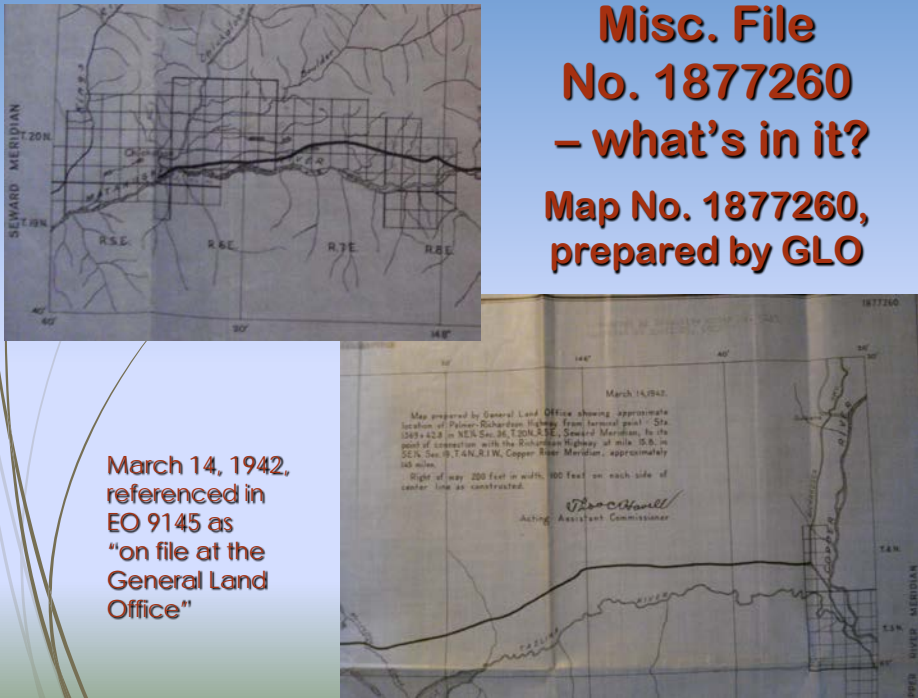
February 13, 1942:

"Inasmuch as that portion of the highway from its terminal point in Sec. 9, T. 18 N, R. 2 E., to Chickaloon is located entirely in surveyed lands and can be definitely identified on the ground as shown by the copy of map of survey of the highway above mentioned, a reservation of the right-of-way under an executive order for this portion of the highway is not believed to be practicable or necessary...

Under departmental instructions of January 13, 1916 (44 L.D. 513) a reservation may be made of rights-of-way for the protection of roads and trails constructed by the Forest Service over public land in connection with the administration of National Forests...The instructions are, therefore, considered likewise applicable to roads or highways constructed by the Alaska Road Commission and an excepting clause similar to that quoted in the instructions may be inserted in any final certificate or patent which may be subsequently issued for the public lands affected."

Misc. File No. 1877260 – what's in it?

Map No. 1877260, prepared by GLO



March 14, 1942, referenced in EO 9145 as "on file at the General Land Office"

Misc. File No. 1877260 – what's in it?

- April 10, 1942 memo from CGLO to Register, Anchorage Alaska, ordering notation of the ROW of the Glenn Highway, 200 feet wide, according to the map provided by ARC.

Memorandum of April 10, 1942

UNITED STATES
DEPARTMENT OF THE INTERIOR
GENERAL LAND OFFICE
WASHINGTON

1877260 "T"

APR 10 1942

Transmitting Copy of Map
with Instructions.

THE GENERAL LAND OFFICE
FILE COPY
Surname:

*Richard
Stewart
Gronwall*

MEMORANDUM for the Register,
Anchorage, Alaska.

There is transmitted herewith a copy of a map showing the survey and location of the right-of-way for the Glenn Highway under construction by the Alaska Road Commission from Mile No. 5, a point in the SE¹/₄, sec. 9, T. 18 N., R. 2 E., to Mile No. 31, a point in the NE¹/₄, sec. 36, T. 20 N., R. 5 E., S. M., at or near the town of Chickaloon, Alaska.

from CGLO to Register, Anchorage Alaska, ordering notation of the ROW of the Glenn Highway, 200 feet wide, according to the map provided by ARC.

Accordingly, you are directed to make appropriate notations on your records of the road right-of-way 200 feet in width shown on the enclosed map and insert in any final certificate which may issue for the unpatented lands affected an excepting clause similar to that quoted in the instructions of January 13, 1916 (44 L.D. 513).

The Division of Territories and Island Possessions has been advised by this office of the action taken.

Fred W. Johnson
Commissioner.

Enclosure (1)

44 LD 513 notation – the rest of the story

- The instructions were expanded to apply to many types of federal improvements
- Some improvements constructed on public lands (such as public highways) carried the authority to appropriate ROW under other laws, such as R.S. 2477
- GLO used the 44 LD 513 instructions to note the existence of the Glenn Highway ROW on the land records and in patents
- Misc. File No. 1877260, along with the ARC mapping, confirmed a ROW width of 200 feet

What does 1877260 “F” mean?

Comments from D.C. researcher:

“When a letter arrived at the GLO Central Office in Washington, a Division D, Mails and Files clerk would stamp it with a file number, read it for substance and then forward it to the appropriate division, in this case Division F (Railroads, Rights of Way, and Reclamation), which would determine what action if any would be taken, i.e., sent to the Commissioner of the General Land Office or to others for review and action. Then, the letter and any subsequent related correspondence would be compiled into a file under the original assigned letter back in Division D...”

Miscellaneous Letters Received...is a difficult record series to work in because there is no subject index. The series contains way more than a million letters and unless you have reference to a letter file number it is virtually impossible to locate anything within the entry...In most cases the “file” consists of no more than one or two letters. However, at times significant files were created which fortunately was the case in this instance.”

Lessons Learned:

- ❖ ARC's authority to establish ROW under RS 2477 was well-accepted by GLO and DOI administrators – the ROW for the Glenn Highway west of Chickaloon was appropriated at construction.
- ❖ GLO required maps of definite location in order to note the ROW to the public records. A large project like the Glenn Highway had the budget to do this kind of work – many other ARC projects did not.
- ❖ Decisions on ROW matters were made in Washington, D.C. prior to establishment of BLM Region VII (Alaska) in 1947; even then the authority was not given to Region VII administrator until 1949.
- ❖ 44 LD 513 notations were used liberally by GLO and BLM for many purposes – some facilities noted may have had authority to appropriate an interest in land – check the history of the facility noted and talk to BLM staff.
- ❖ Historic letters and files are accessible if clues and references can be found. Now that NARA, Pacific Region (Anchorage) is closed – this could be much more difficult.
- ❖ A good researcher in the Washington, D.C. area is essential.