

Memorandum

Yung H4.21

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TO DM-A

DATE: April 24, 1973

FROM SD

APR 25 1973

In reply refer to:
2800 (932)

SUBJECT: Superior Court Opinion - Gibbs versus Campbell

Director of Land Management

Your reference:
(100)

Your April 17 memo raised some questions concerning the interpretation of this opinion. Following are the answers to the questions you raised based on our interpretation of the opinion:

1. Basically, lands that have been patented in Alaska since April 6, 1923, are subject to "section line" rights-of-way for public highways. This dedicated area is 100 feet wide on lands owned or acquired from the State, and four rods wide on other lands in Alaska. The act of July 26, 1866, granted rights for highways over public lands. This grant was not effective until it was accepted by a state or territory. In 1923 the territory accepted this grant by enacting Chapter 19, SLA 1923. This acceptance called for a tract four rods wide along section lines. The 1949 compilation of Alaska laws in effect repealed the 1923 acceptance. In 1951 the Alaska legislature dedicated rights-of-way for public highways 100 feet in width along section lines. This dedication, however, was restricted to lands owned by the territory or acquired from the territory. In 1953 this dedication was amended to include rights-of-way four rods in width along all other section lines in Alaska. In summary, the dedication for highways has progressed as follows.

- a. April 6, 1923, to January, 1949 - A tract four rods in width along section lines.
- b. January, 1949-1951 - No dedication.
- c. 1951-1953 - A dedication of tracts 100 feet in width along section lines on lands owned or acquired from the territory.
- d. 1953 to present - A dedication of tracts 100 feet wide between each section owned by the territory or acquired from the territory, and tracts four rods in width between all other sections in the territory.

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Comments

This dedication applies to patented lands and for use as public highways.



2. Since the dedication applies to section lines, it can only be utilized for highways when the particular area has been surveyed according to the rectangular system. The dedication is automatically in effect when public lands go to patent, but the dedication cannot be utilized until the rectangular survey is extended to the lands in point.
3. Since utilization of this type of dedication only applies in areas of rectangular survey, it is applicable to only a small portion of the State at this time. Unsurveyed sections within a township which has monuments at two-mile intervals are not subject to the exercise of this dedication.
4. Once an area has been surveyed according to the rectangular system, the State can exercise its dedication along the section lines if the lands involved were subject to the dedication at the time of patent. Lands that were described and patented by special surveys are generally not susceptible to this reservation because they do not become part of the rectangular grid when the rectangular system is extended to the area involved.

This automatic section line grant or dedication is something we should consider when we are making our recommendations for public access. In some cases specific public access reservations may not be necessary if the "section line" right-of-way is considered adequate.

