

FEDERAL AID IN FISH RESTORATION  
STUDY F-12-75

# ALASKA

## INVESTIGATIONS OF PUBLIC FISHING ACCESS AND RELATED CLASSIFICATIONS

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FISH

**ALASKA DEPARTMENT  
OF FISH AND GAME**

James W. Brooks, Commissioner

**Sport Fish Division**

Support Building  
JUNEAU, ALASKA

STATE OF ALASKA

*Jay S. Hammond, Governor*



Annual Performance Report for

INVESTIGATIONS OF PUBLIC FISHING ACCESS  
AND RELATED CLASSIFICATION  
AND OWNERSHIP

by

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## RESEARCH PROJECT SEGMENT

State: ALASKA

Project No.: F-12-TG

Project Title: Technical Assistance for  
Public Fishing Access and  
Related Land Classifications.

Study Title: Investigations of Public  
Fishing Access and Related  
Classifications and Ownership.

Job No.: F-12-TG-1

Job Title: SAME

Period Covered: July 1, 1975 to June 30, 1976.

## ABSTRACT

Easement nominations were submitted on and across the last eighteen villages out of a total of 218 villages and 4 Native reserves. The second phase of retaining easements was initiated on 23 villages. Patents and interim conveyances have been issued to these villages on about 250,000 acres of land. On February 5, 1976, the Secretary of the Interior finally published criteria for the retention of easements for public access and use sites.

The Alaska Division of Lands classified 571,571 acres of land for resource management, reserved use and public use.

## BACKGROUND

The Alaska Native Claims Settlement Act (also referred to as Public Law 92-203) became law on December 18, 1971. This law provided for an extinguishment of aboriginal titles and claims to lands and submerged lands for money and a special land settlement. A total of 40,000,000 acres was withdrawn from the public domain for the many villages and the twelve regional corporations. Several villages were allowed the option of selecting land around their village with money benefits or retaining all of the land within their reservation boundaries without any money benefits. Four reservations were retained by the resident natives. Consequently, due to the vast sizes of the reservation lands approximately 4,000,000 acres were added to the original 40,000,000. All other villages were allowed to select land adjacent to their individual village and acreages allowed dependent upon the number of natives living in and/or registering for a particular village.

The act provides for identifying and retaining easements on or across lands selected by the villages to public resources and lands. The various field biologists were provided with the village location and the boundary of selectable lands and instructions on submission of recreational easements.

Recreational easements were submitted on most eligible villages by June 30, 1975.

#### RECOMMENDATIONS

1. Continue the project of investigating Alaska's public fishing access requirements.
2. Continue to assist, provide information and submit reports and recommendations on fishery resources, access and public use site requirements to the Joint Federal-State Land Use Planning Commission of the Alaska Native Claims Settlement Act and the Bureau of Land Management.
3. Initiate a program with the Department of Natural Resources, Division of Lands Planning Group, other State agencies and local governments to provide for development and maintenance of public fishing and hunting access sites.
4. Continue to assist and advise boroughs and other local governments concerning public access and water use requirements.
5. Continue the electronic data processing of water, land and limnological information.
6. Budget for stream and lake access acquisition from private land owners.

#### OBJECTIVES

1. To initiate recommendations to land controlling agencies and individuals for recreational use classifications to provide access to streams and lakes as required.
2. To assist in land purchase negotiations, withdrawal actions, and land classifications as required.
3. To provide land status surveys and reports and reviews for specific potential recreational use lands.
4. To assist, provide information, and submit reports on fishery resources and access requirements to the Joint Federal-State Land Use Planning Commission of the Alaska Native Claims Settlement Act, and to the Bureau of Land Management.

## TECHNIQUES USED

Land status information on lands adjacent to lakes and streams was obtained from Borough offices in Anchorage, Soldotna, Fairbanks, Kodiak and Palmer; the State Division of Lands offices in Anchorage and Fairbanks; and the Bureau of Land Management offices in Anchorage and Fairbanks. Land records were inspected periodically to determine changes in land status. Land ownership information was also obtained from private mapping companies.

The water body data file was updated with current data and information. In conjunction with these files, the 1:63,360 township map files were reviewed and kept current with water body number, land classification orders and location of land status maps. Additional pertinent information was recorded in both filing systems.

The various field biologists were contacted to obtain information on location and purpose of easements and research sites on lands reserved for selection by Native villages under Public Law 92-203, 92rd Congress, H.R. 10367, December 18, 1971, commonly referred to as the "Alaska Native Claims Settlement Act" (ANCSA). Since there was a deadline on the submission of recreational easement nominations, close coordination was maintained with both the Game Division and Sport Fish Division and their field biologists.

## FINDINGS

### Federal Lands

A review of the Habitat Protection Sections report of 1975-76 will provide the legal fundamentals on recreational easement requests. Recreational easement nominations were submitted on selectable lands of eighteen villages. On the Alaska Peninsula and the Aleutian Islands, village deficiency lands of six villages were reviewed and recreational easement requests to the Bureau of Land Management for lands adjacent to the villages. (Deficiency lands are lands that are needed to fullfill the villages' quota of land where individual villages are more or less surrounded by water, State lands, U.S. Forest Service lands or USF&WS Refuge lands.) There will be a large amount of deficiency lands to review for easements.

While the Department of Fish and Game was still in the progress of nominating recreational easements, the BLM started to review all easements submitted by the various interested parties. In the BLM notice of easement nominations, that agency was recommending and rejecting the proposed easements according to an unofficial, undated, unsigned list of criteria. Interim conveyances and patents have been issued to the Native Corporations using the distressing criteria.

Between June 1 and December 26, 1975 the BLM had published easement recommendations and rejections on 24 villages for varying amounts of land.

The Secretary of the Interior issued a list of criteria for recreational easements on February 5, 1976 (Appendix A), and ended the confusion.

After the various agencies have commented on the BLM's suggested recommended and rejected recreation easement a "decision" is published listing the lands to be conveyed and the easements that are to be reserved. This is the last chance the Department has to appeal the BLM's recommendations and the agencies are allowed thirty days to make an appeal to the Alaska Native Claims Appeal Board. No action has been taken on the State's easement appeals even though over six months have passed since the initial petition.

### State Lands

Forty Land Classification Orders were issued by the Department of Natural Resources at the end of the report period (Table 1). However, due to the large amount of acreage and the time frame, the total number of streams, lakes and amount of beaches involved is not possible to ascertain for this report. The acreage however is impressive. A total of 571,571 acres were classified as resource management, reserved use on public recreation. This is broken down into 249,972 acres for resource management, 319,132 acres for reserved use and 2,467 acres for public recreation. In addition, 5.5 miles of tidelands were classified for resource management.

### Private Lands

A right-of-way and a small camp site was surveyed along a dry weather road to the mouth of Sheep Creek. Action on acquisition is pending.

Table 1. State Division of Lands' Classifications Providing Public Access, 1975-1976

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| <u>Classification Order Number</u> | <u>Date</u> | <u>Acreage</u> | <u>Classification</u> |
|------------------------------------|-------------|----------------|-----------------------|
| 962                                | 4/25/75     | 38,173         | Resource Management   |
| 985                                | 9/19/75     | 117,392        | Resource Management   |
| 884-1                              | 9/19/75     | 15             | Resource Management   |
| 428-5                              | 9/19/75     | 48,435         | Resource Management   |
| 289-2                              | 9/19/75     | 120            | Resource Management   |
| 544-1                              | 9/19/75     | 20             | Resource Management   |

(Con't.)

Table 1. State Division of Lands' Classifications Providing  
Public Access, 1975-1976

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|        |         |                        |                                   |
|--------|---------|------------------------|-----------------------------------|
| 739-1  | 9/19/75 | 64                     | Resource Management               |
| 30-1   | 9/19/75 | (3.2 miles tidelands)  | " "                               |
| 28-1   | 9/19/75 | (0.9 mile, tidelands)  | " "                               |
| 29-1   | 9/19/75 | (1.4 miles, tidelands) | " "                               |
| 995    | 12/3/75 | 40                     | Resource Management               |
| 998    | 1/20/76 | 18,967                 | Resource Management               |
| 1004   | 1/26/76 | 18,133                 | Resource Management               |
| 1001   | 1/26/76 | 29,571                 | Reserved Use                      |
| 1003   | 1/26/76 | 8,400<br>2,467         | Resource Management<br>Public Use |
| 577-38 | 1/26/76 | 65,213                 | Reserved Use                      |
| 606-2  | 1/26/76 | 15                     | Reserved Use                      |
| 758-1  | 1/26/76 | 5                      | Reserved Use                      |
| 577-39 | 1/26/76 | 10,832                 | Reserved Use                      |
| 540-1  | 1/26/76 | 70                     | Reserved Use                      |
| 585-3  | 1/26/76 | 569                    | Reserved Use                      |
| 584-3  | 1/26/76 | 24,295                 | Reserved Use                      |
| 278-9  | 1/26/76 | 1,955                  | Reserved Use                      |
| 329-5  | 1/26/76 | 37,587                 | Reserved Use                      |
| 670-4  | 1/26/76 | 80                     | Reserved Use                      |
| 747-4  | 1/26/76 | 8,587                  | Reserved Use                      |
| 856-1  | 1/26/76 | 30                     | Reserved Use                      |
| 278-8  | 1/26/76 | 520                    | Reserved Use                      |
| 1007   | 1/26/76 | 80                     | Reserved Use                      |

Table 1. (Con't.) State Division of Lands' Classifications Providing Public Access, 1975-1976

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|        |         |         |                     |
|--------|---------|---------|---------------------|
| 1002   | 1/26/76 | 640     | Reserved Use        |
| 329    | 2/11/76 | 21,650  | Reserved Use        |
| 584-4  | 2/11/76 | 480     | Reserved Use        |
| 585-4  | 2/11/76 | 481     | Reserved Use        |
| 577-40 | 2/11/76 | 82,009  | Reserved Use        |
| 577-41 | 2/11/76 | 34,172  | Reserved Use        |
| 845-1  | 2/11/76 | 120     | Reserved Use        |
| 678-1  | 2/11/76 | 5       | Reserved Use        |
| 613-1  | 2/11/76 | 15      | Reserved Use        |
| 765-5  | 2/11/76 | 151     | Reserved Use        |
| 998-1  | 2/17/76 | 53      | Resource Management |
| Total  |         | 441,411 |                     |

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#### DISCUSSION

The Alaska Native Claims Settlement Act was amended on January 2, 1976. This extended the life of the Land Use Planning Commission to June 30, 1979. It also provided for a complicated three-way trade of land amongst the Cook Inlet Region, Inc., the U.S. Government and the State of Alaska. At this time it appears that only the perpetuators of the amendment have full knowledge of the land trade.

This report period was a difficult time for the various agencies nominating easements for public use. The Department of the Interior was reluctant to publish an official list of criteria relating to public use and access until a new Secretary of the Interior was appointed. Finally, on February 5, 1976, Order No. 2982 called "Reservations of Local Easements Pursuant to Section 17(b) of the Alaska Native Claims Settlement Act (ANCSA) was signed by the courageous Thomas S. Kleppe (Appendix I). This order was much improved over the undated, unsigned potpourri used until December of 1975 for the justification of the retention of public use sites and easements. Approximately 250,000 acres of land have been transferred to the Native villages either by patent or interim conveyance. Interim conveyances are issued where the lands have not been surveyed.

The Easement Task Force of the BLM which decides which easements should be retained or rejected according to the criteria has had only one State representative. Since the official criteria has been published, the Department of Fish and Game has a representative on the team. This appears to be a much more balanced team as over half of the easement requests on selected village lands originate with the Department of Fish and Game.

Although the public easement picture of ANCSA is not ideal, the future possibilities can be viewed optimistically.

#### LITERATURE CITED

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\_\_\_\_\_. 1976. An Act. Investigations of Alaska's Public  
Fishing Access Requirements. Alaska Department of Fish and Game.  
Habitat Protection Report No. 1. 1974-1975. 18 pp.

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## APPENDIX I

ORDER No. 2982

Subject: Reservation of Local easements Pursuant to Section 17(b)  
of the Alaska Native Claims Settlement Act (ANCSA)

Section 1. Purpose. The purpose of this order is (a) to establish policy, guidelines and procedures for reserving local public easements in the State of Alaska pursuant to section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708), and (b) to delegate to the State Director, Bureau of Land Management, Alaska the authority of the Secretary of the Interior to determine which local public easements are necessary and to reserve such easements for public use.

Section 2. Delegation of Authority. The State Director, Bureau of Land Management, Alaska is hereby delegated the authority to determine which local public easements are necessary and to reserve such easements for public use, pursuant to the policy, guidelines, procedures, and limitations within this order.

Section 3. Scope. This order deals with local public easements. Local public easements include all public easements other than easements to be used in interregional or interstate commerce for the transportation of energy, fuels, or natural resources, or for interregional or interstate communications systems.

Instructions for the reservation of easements for interregional or interstate transportation of energy, fuels, or natural resources, and for interregional or interstate communication systems shall be promulgated separately.

Section 4. Policy. The local easement policies herein set forth will be applied to protect the public interest in land conveyed to Natives and Native corporations pursuant to the Alaska Native Claims Settlement Act and to meet the requirements of public law.

Local public easements will be reserved for public and governmental uses. Local easements in behalf of the general public for recreation, access, transportation, utilities, airports, and aircraft landing sites will be reserved only on the basis of present existing use with the following exceptions: (1) The reservation of a continuous shoreline easement extending 25 feet above mean high tide along the marine coastline of the State; and (2) the reservation of easements to assure present and future access to all public land and resources. These exceptions describe the only local easements in behalf of the general public to be reserved for other than present existing uses. Scenic easements will not be reserved. Periodic linear and site easements for recreation purposes on rivers and streams and site easements on lakes will be reserved only to the extent necessary to provide continued public use of areas having highly significant present recreational use.

Whenever it is determined that an easement will adequately serve a governmental need in lieu or retention of title to the land pursuant to section 3(e)(1) of the ANCSA, an easement will be reserved to (a) protect existing uses, or (b) protect presently planned uses.

Easements will be precisely located whenever possible except in those instances where this would result in a substantial delay in the issuance of conveyances. Local easements, especially existing transportation and utility easements, will be located in close proximity wherever possible. For this purpose, corridors carefully delineated in accordance with 43 CFR 2650.4-7(b)(4) may be used to permit the subsequent identification of the precise location of each easement. Local easement corridors will be specifically identified as to location, size, and use in terms of the public easements to be contained therein.

Local easement corridors may be delineated by aliquot parts or by other means necessary to accommodate the easements. When the specific identification and definite location of all the easements within a corridor are made, those portions of the corridor reservation not used by the easements will be relinquished.

Easement provisions in interim conveyances and patents will identify uses through commonly accepted terminology, e.g., trail or road. When necessary, additional descriptive terms may be added to further identify uses. All easements shall be reserved to the United States and subject to further regulation thereby.

The term "public easements" will include public use, access, transportation, recreation, communication, and utility easements as may be defined in State or Federal law or through historical usage. The authority granted in ANCSA to reserve public easements will be exercised to protect the public interest, including but not limited to, their right of access to and use of public land and public resources. All conveyances will be made subject to all rights of access preserved under section 17(b)(2) of the ANCSA. Identification and reservation of public easements shall include consideration of the need to assure access to Federal or State lands and resources (including the need to reserve easements for full right of access to the reserved subsurface) or land which is subject to public use.

Special consideration as to the location of such easements will be given to the effect of a proposed easement on Native lifestyle and subsistence needs. The environment and other relevant factors will also be considered. Alternative routes and modes of access will be assessed. All public easements will be periodically reviewed to determine if they continue to be required or if they should be vacated.

It should be noted that the right of the United States to enter lands conveyed to the Natives will be reserved in the patent for cadastral, geodetic, or other survey purposes. Easements reserved for this purpose will be general right of entry for such survey purposes along with the right to do all things necessary in connection therewith.

Determinations of easements to be reserved will be made after review of the recommendations of the Joint Federal-State Land Use Planning Commission, other Federal Agencies, the State, the Natives, and the general public. Consideration will be given to requests for easement reservations which are timely submitted to the Bureau of Land Management accompanied by written justification.

Detailed guidelines follow to further assist the State Director in the proper discharge of the Department's responsibility for easement identification and reservation.

Section 5. Guidelines. (a) In identifying appropriate easements, an assessment must be made of the public use or purpose to be accommodated and the type of easement proposed. This order lists situations which form the basis for identification of specific easements to be reserved. However, it is not intended that such examples are all inclusive.

(b) The size of specific easements will be governed by standards set forth in applicable laws and regulations. In the absence of a controlling statute or regulation, the following standards will be followed as general guidelines, taking into account the purposes for which the easement might be reserved. Standard sizes delineated here may be varied when such a variance is justified by specific conditions.

- (1) Roads and trails. The usage of roads and trails will be controlled by applicable State or Federal law or regulation. The usages listed in these guidelines will not be listed in the conveyances either as prohibited or permitted usages of the easement but instead will be used for the purpose of determining the width of the easement to be reserved.
  - (A) The width of a trail will be 25 feet if the usages to be accommodated are for travel by foot, dogsleds, horseback, small vehicles, and uses of a similar character.
  - (B) The width of a trail will be 50 feet if the usages to be accommodated are for travel by all-terrain vehicles, track vehicles, 4-wheel drive vehicles, and uses of a similar character in addition to the uses included under (A) above.
  - (C) The width of a road will be 60 feet if the usages to be accommodated are for travel by automobiles or trucks and similar vehicles within a community.
  - (D) Major traffic arteries or roads connecting communities or regions will be 100 feet in width.

- (2) Marine coastline. In order to provide public access to and along the marine coastline and use of such shore for purposes such as the beaching of watercraft or aircraft, travel along the shore, recreation, and other similar uses, a continuous linear easement 25 feet in width upland of and parallel to the mean high tide line shall be reserved, subject to the limitations and conditions contained hereafter in subparagraph (c)(2).
- (3) Recreational rivers and streams. To provide for public use of rivers and streams having highly significant present recreational use, easements 25 feet in width shall be reserved along the bank or banks of such rivers and streams. In addition, such reservations on nonnavigable recreational rivers and streams shall include the river or stream bed.
- (4) Campsites and beaching sites. Easements may be reserved for boat and float plane pullout areas upon a shore. Also, easements may be reserved for temporary camping sites upon a shore or along a linear access route or within a reasonable distance of such shore route. Easements for the beaching of boats and float planes, and temporary campsites shall be one acre, more or less, except where terrain, sanitation, public safety, or intensity of public use require deviation. When appropriate, access routes to and from such beaching or camping sites shall be provided.
- (5) Other easements. Other easements may be identified, the size of which is not controlled by any applicable law or regulation. The size of such easements for any given purpose may vary from place to place depending upon the particular circumstances. When not controlled by applicable law or regulation or this order, size shall not exceed that which is reasonably necessary for the purposes of the identified easement. A nonexclusive list includes easements for railroad sidings, spurs, and stations; electric or electronic transmission or reception; communication systems; local water, gas, or sewer systems; docks; navigational aids for watercraft or aircraft; aircraft landing sites not covered under section 14(c)(4) of the ANCSA; navigation; and weather stations.

(c) This subparagraph includes a nonexclusive series of situations in which easements should be reserved pursuant to the policies enumerated in this order. The right to hunt will not be reserved on any lands conveyed pursuant to ANSCA. However, the availability of hunting on Federal or State lands will be a factor to be considered in reserving other easements hereinafter listed.

- (1) Access. Easements for access by the government and the general public shall be reserved across Native lands to Federal and State facilities, resources, lands, and waters, including the ocean. Easements for access by the government

and the general public may be reserved, when reasonably necessary, across Native lands to provide access to and from communities, airports, docks, boat and float plane beaching sites, reserved aircraft landing sites, campsites, water transportation routes, groups of private holdings, reserved easements for reservations and developments constituting a public use. All easements shall follow existing routes of travel when possible. Easements for rest areas and temporary camping sites will be reserved when reasonably necessary in conjunction with routes of travel. Whenever there is not an existing route of travel, easements should be reserved in topographically suitable locations.

- (2) Marine coastline. (A) The easement along the marine coastline described heretofore in subparagraph (b)(2) will not be reserved if it is determined prior to conveyance that it is impracticable for use by the general public. If it is reserved and is later determined to be impracticable, it will be relinquished.
- (B) In the original reservation, deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction.
- (C) A marine coastline easement shall be reserved subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement reserved. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route at no cost to the United States, prior to the creation of such obstruction.
- (D) Access to the ocean as a public resource will be provided on National Wildlife Refuge System lands in consonance with the rules and regulations of each refuge. Seasonal and/or temporal closures of such access routes may occur when required to protect wildlife values.
- (3) Recreational rivers and streams. The easement described in subparagraph (b)(3) heretofore may be reserved when it is determined that there is highly significant present recreational use of a river or stream for sport fishing, boating, portage, or other water related recreational activities. Highly significant present recreational use on a portion of a river or stream will justify the reservation of linear easements only on that portion where such use actually occurs and not on the entire waterway. When reasonably necessary for general public

use and enjoyment of the recreational easement, additional easements may also be reserved for temporary campsites, sanitation facilities, or access to the recreational area.

The determination of highly significant present recreational use will take into account numerous factors. A river or stream need not meet all criteria to be considered as having highly significant present recreational use. The factors to be considered shall include (a) the volume of use (at least several users each year), (b) the variety of recreational experiences, (c) the uniqueness of the experiences (e.g., where trophy-sized fish or a specific species of fish may be caught), or (d) the overall quality of the experiences (e.g., white water canoeing or inspiring scenery).

- (4) Beaching sites. Site easements may be reserved at suitable locations on the bed and shore of lakes, rivers, streams, bays, and the marine coastline when determined to be reasonably necessary for public travel along water transportation routes or when necessary for use as a boat or floatplane beaching site. Site easements may also be reserved to provide connections from water transportation routes to land transportation routes.
- (5) Lakes. Site easements may be reserved at suitable locations on the bed and shore of lakes for public utilization of the waterbody. Site easements may be reserved on lakes greater than 640 acres in area where reasonably necessary. Site easements will not be reserved where reasonable access can be provided on publicly owned waterfront. Site easements will not be reserved on lakes under 640 acres in area unless such waters have unusual recreational or transportation value for public use.
- (6) Utility, communication, weather, and appurtenant easements. To the extent reasonably necessary, in order to protect present existing uses, easements will be reserved for utility, communication, and weather purposes. Appurtenant easements may also be reserved.
- (7) Aircraft landing sites. Aircraft landing sites which are presently being used but which do not qualify as airports under section 14(c)(4) of the ANCSA may be reserved as are reasonably necessary for public access or safety. Associated space easements may also be reserved.
- (8) Space easements. Space easements may be reserved as needed to insure public safety or to permit proper use of improvements developed for public benefit or use, such as navigational aids or communication sites.

- (9) Agreements. In addition to the foregoing, the State Director is also authorized to reserve any easements necessary to insure protection of international treaty obligations and to implement any agreement entered into between the United States and the Native or Native corporation receiving the conveyance. For example, the agreement of May 14, 1974, related to Naval Petroleum Reserve Number Four, between the United States Department of the Navy and the Arctic Slope Regional Corporation and four Native village corporations, will be incorporated in the appropriate conveyances and the easements necessary to implement said agreement shall be reserved.

Section 6. Procedures. The following administrative procedures are designed to provide an organized method of handling land conveyances and the discretionary aspects of public easement reservations under the Alaska Native Claims Settlement Act (ANCSA). A selection application may be processed in part at any time so that conveyance can be made at the earliest practicable time for those portions having no conflict.

These procedures shall be used as a guide when identifying and reserving public easements and issuing decisions to convey under ANCSA. The identification of public easements to be reserved under section 17(b) of ANCSA shall be conducted concurrently with the processing of other regulatory land selection requirements.

The identification of needed easements will include participation by the Natives, State, Federal agencies, and others having an interest in easements.

The BLM District Manager shall transmit identified easement needs to the BLM State Director. After reviewing the identified easement needs, the State Director shall determine which easements will be reserved.

The State Director will then notify all parties that participated in the development of the easement needs, including the Natives, the State of Alaska, the Joint Federal-State Land Use Planning Commission, and interested Federal agencies, as to the proposed easement reservations. This notice shall direct that all comments be sent to the Commission and the State Director.

It is expected that the Commission and the State of Alaska will furnish their recommendations on the proposed easement reservations within the time prescribed by regulations. If a recommendation is not submitted by the Commission or the State within the time period established by regulations, 43 CFR 2650.4-7(d), the State Director may proceed.

The BLM State Director shall review the Commission's recommendations and the comments from other interests. If there are significant differences between the State Director, the recommendations, and the comments from other interests, he may submit the easement reservation question to

the Director, BLM, for final determination by the Department of the Interior. Otherwise, he will issue a decision to convey that includes easements that will be reserved and all other terms and conditions relating to conveyance of the land.

The decision to convey shall be served on all parties having a property interest in land affected by the determination. The Alaska Native Claims Appeal Board (ANCAB) will review decisions pursuant to section 17(b)(3) of ANCSA only to determine whether the decision to reserve was arbitrary or capricious.

Where no appeal has been timely filed on decisions to convey or where ANCAB has rendered its decision on an appeal, the BLM State Director may issue the conveyance.

Section 7. Limitations. The actions of the State Director under this delegation shall be subject to supervision and review by the Director, Bureau of Land Management.

Section 8. Effective date. This order is effective immediately and shall remain in effect until it is amended, superseded, or revoked.

s/Thomas S. Kleppe  
Secretary of the Interior

Date: February 5, 1976

Prepared for Publication in the Federal Register