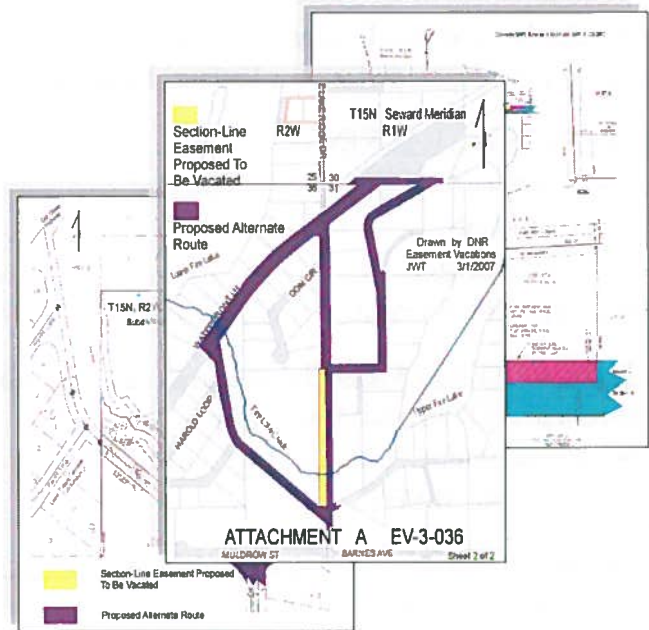




**Survey Section**  
**Section Line Easement Determination Manual**  
**13 February 2025 Edition**



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## **1.0 SECTION LINE EASEMENT DETERMINATION (SLED) OVERVIEW:**

**1.1 Alaska Land Transfer and Survey Background:** Historically worldwide, land title changed hands in many ways, often through the Right of Conquest whereby ownership changed hands via force of arms and conquest, which in parts of the world is still pursued. In Alaska, subsequent to the U.S. Alaskan purchase from Russia August 1, 1867, overall management of the lands of Alaska has been administered by the United States government. The Federal government deeded land to private and public entities for various reasons and through various vehicles.

Today, the State of Alaska is composed of over 586,000 square miles of land, comprised of Federal, State, Corporate, Tribal, and Private lands. The private, corporate, tribal, and state lands have, in one manner or another, been deeded, or granted from federal ownership over time. Some Federal lands have been transferred in title and then returned to the Federal government.

The lands of Alaska have been mapped into public land survey system (PLSS) section, township, and range locations to facilitate general land identification, location, and description and for legal transfer of lands. In the PLSS, sections are approx. 1 mile square and townships are approx. 36 miles square laid out on the ground. Section and township corners were assigned “protracted” latitudinal and longitudinal values on all of the said corners of the uplands and shorelands of Alaska by the BLM in the 1960’s. Protracted values were assigned to some State submerged lands as well in the 1960’s, by the State, primarily to facilitate natural resource extraction.

Large segments of lands have been surveyed “on the ground” and PLSS monuments set by Surveyors, who ascertained the location of the corners using several methods including: transit and chain surveys, total station and electronic distance meter surveys, positional surveys which set corners using helicopter inertial guidance systems known as Airborne Control or ABC, surveys using GPS technology, and surveys using a combination of these methods, over the past century or more.

**1.2 Alaska Section Line Easement (SLE) Background:** The Federal Government made an offer of a right of way “for the construction of highways over public lands, not reserved for public uses” in an 1866 mining law AKA RS-2477. The Territory of Alaska first accepted this right of way offer and attached it to section lines in 1923. For SLE’s to arise on federal public lands the offer by the Federal government and acceptance by the Territory or State through legislation was required. Acceptance could also be demonstrated by historic use of a section line easement. Territorial & State laws regarding section line easements changed over time, affecting the existence and attachment of SLE’s to section lines depending on the laws in effect at the time.

The 586,000 sections of land are bounded by upwards of two million miles of section lines, surveyed and monumented, as well as un-monumented protracted section lines, for which the determination of the existence or non-existence of adjoining SLE's could be required, some of which have already been accomplished.

Regional Offices of Department of Natural Resources (DNR) & Department of Transportation and Public Facilities (DOT) are jointly responsible for management of the SLE's. DOT is primarily responsible for management of SLE's on DOT-managed highways & thoroughfares. Approval by DNR & DOT is required to vacate SLE's in Alaska. The process to apply to vacate SLE's is managed by DNR Survey Section & outlined in the Survey Section "Section Line Easement Vacation" (SLEV) Manual.

Section line easement determinations (SLED's) of the existence or non-existence and width of SLE's adjoining Section Lines is best accomplished by people versed in applicable laws and associated practices. The people accomplishing these determinations are preferably trained and/or certified in land law and/or by organizations, such as Professional Land Surveyor (PLS) licensure or the International Right of Way Association (IRWA). Land Surveyors are professionally tested in the subject as part of their licensure. The IRWA offers training and certification in related subjects.

SLED's are needed and requested for many reasons including: the desire to utilize an SLE for access to private property or public lands or waters; the desire to vacate an SLE or segment of an SLE to eliminate or minimize public access on a property and/or to properly accomplish a vacation and be reflected in land title for use of, sale, refinance, or purchase of a property; to verify the right of the public to use an existing roadway or access crossing a particular piece of land; and other reasons.

This manual references statutes, regulations, case laws, and legal opinions that influence establishment of public access including SLE's crossing lands and waters of the said lands and specifies the current DNR Survey Section process for accomplishing SLED's. The SLED process was developed and used over time primarily by Land Surveyors, Alaska DOT and DNR specialists, and other ROW specialists.

## **2.0 SURVEY SECTION EASEMENT UNIT (SSEU) SLED PRIORITY & PROCEDURES:**

**2.1 Overview:** This section defines priorities of SLED requests to be accomplished by the Survey Section, content of SLED Reports created for each priority, who will create the report, and fees required, if any, to pay for reports. The process itself is defined and addressed in this SLED Guideline. All requests for SLED's which are not a priority 1, as defined below, are initiated by completion of a SLED application form. See page 23.

## **2.2 SLED Process Priorities:**

**Priority 1:** Applications to the Survey Section Easement Unit (SSEU) to vacate Section Line Easements (SLE's), for which the application fees have been paid. The fee covers the SLED for the SLE segment proposed to be vacated to verify existence and character of the SLE. These SLED's are accomplished in the order the paid-for EV application is received.

1. Applicant applies for a vacation of a DNR managed or owned easement, fills out the easement vacation application petition completely, and pays the fee as per 11AAC 05.070(d)(1)(H) to the NRT II or to the DNR Public Information Center (PIC). The receipt is placed in the case file.
2. A SLED is researched and a report created by the Easement Vacation Specialist, (Specialist) and it is added to the EV Case File.
3. If the vacation application is for an SLE in the Unorganized Borough (UB), the UB Platting Officer (PO) will verify the SLED report. If outside UB, the Land Surveyor Advisor (Advisor) will verify the report. The report form has signature lines for the author and verifier.
4. Additional research and reports on other section lines, requested by said Applicant in association with the EV application, fall under Priority 3.
5. When a UB Platting Authority (PA), subdivision plat is impacted by a section line the PO will prepare a SLED on the section line(s) to determine if an SLE exists and should be depicted and/or addressed on the plat. The PO report will be verified by the Advisor if needed. This research is a separate function from the Easement Vacation Unit's process and is a Priority 1 for the UB PO.

**Priority 2:** Another State of Alaska Agency requests a SLED from Survey Section. Often this is a DNR Adjudicator needing verification of an SLE for use, restriction, or management of an SLE or a potential Section Line Easement Vacation (SLEV) application. Priority 2 SLED applications are processed on a first-come-first served basis by the Advisor and verified by the Land Survey Specialist II (LSS), (Specialist).

1. Applicant fills out a SLED application form and submits to the Advisor. The Advisor may require some research items to be included with the form.
2. SLED is produced by the Advisor and verified by the LSS.

**Priority 3:** Private or other party requesting a SLED for their use of, or information pertaining to an SLE. These are SLED's issued for parties outside of DNR ML&W. Priority 3 requests are processed on a first-come, first-served basis by the LSS and verified by the Advisor. In these cases, the requesting party is first advised to contact private Surveyors and Land Specialists to advise them, if time is of the essence.

1. Applicant fills out a SLED application form and submits to the Specialist. Specified research items should be included with the form.
2. For Priority 3 a SLED is produced by the LSS and verified by the Advisor.

**2.3 Procedure for DNR Survey Section** to follow if queried by public concerning use of an SLE or restriction of an SLE managed by the Alaska DNR:

- A. If the caller needs advice pertaining to an SLE management issue have them call the appropriate DNR Regional Manager regarding questions concerning:
  1. Problems with an SLE.
  2. Wish to develop something on an SLE. Note the Survey Section Standards for Survey of an SLE for Construction and/or Use for Access Handout.
  3. Wish to restrict an SLE in some way.
- B. If the caller is not sure if an SLE exists and needs to know:
  1. Advise them to hire a private Surveyor or specialist knowledgeable in SLEDs, or
  2. Advise them to fill out and submit a SLED application form to DNR to produce a SLED, as time and personnel allow (Priority 3).
- C. For questions pertaining to the Unorganized Borough (UB) the caller is directed to the UB Platting Officer. Request for SLED report is directed to the Specialist.

\* Note that when an Applicant files a petition to vacate a DNR managed SLE the applicant is advised to hire a licensed Alaskan Surveyor to answer questions concerning the existence and character of the SLE, and to assist with the completion of the application and plat. They are informed that if the application is approved a Surveyor will be required to create an Easement Vacation Plat.

\*\* Basic knowledge pertaining to SLED's is required for licensure of Alaska Professional Land Surveyors. Accomplishment of SLED's, not unlike other professional disciplines, requires practice to be up-to-date & competent in the discipline and knowledge.

### **3.0 SECTION LINE EASEMENT DETERMINATION (SLED) PROCESS**

#### **3.1 SLED Process Background:**

A. The SLED Process utilized by Surveyors in general and the DNR Survey Section specifically was originally charted and refined by John Bennett in his 1993 and updated 2013 Alaska Survey Conference presentations entitled *Highway Rights-of-Way in Alaska*. Mr. Bennett's chart is shown in Section 3.2 of this manual. The process is based on statute, as interpreted in the 1969 Opinions of the Attorney General No. 7, which is still the current

State opinion with regards to SLE's. The chart specifies the time periods SLE legislation was in effect, and conditions under which SLE's attached onto surveyed section lines on unreserved federal lands, and onto surveyed, or un-surveyed state and territorial lands. The chart(s) also specified the width of the said section line easements (SLE's).

B. There are two types of section line easements that can attach to a surveyed section line: 1) RS 2477 section line easements; and 2) State section line easements. Both types of section line easements are a State interest in the land for a public right-of-way. "RS 2477 section line easements" have previously been described as "Federal section line easements" because they attach on unreserved federal lands. However, they are a State interest, managed by the State on behalf of the public.

C. RS 2477 "Federal" Section Line Easements: The 1866 Mining Law offered "the right of way for the construction of highways over public lands, not reserved for public uses." Under Ch. 19 SLA 1923, the Territory dedicated "a tract four rods wide between each section of land in the Territory of Alaska...for use as public highways, the section line being the center of said highway." This has been interpreted as the acceptance of the federal offer, and it was the first time 33'-wide RS 2477 SLE's could attach to section lines on unreserved Federal lands. In 1949, a compilation of Alaska laws omitted this law and repealed it with a repeal clause (ie. "All acts, which have not been incorporated ...are hereby expressly repealed"). Ch 123 SLA 1951 dedicated section line easements on state lands but omitted the dedication on unreserved Federal lands. AIHan The applicable SLED research concerning these section lines and adjoining lands is addressed in detail under Section 3.3, below.

D. State Section Line Easements: 33'-wide and 50'-wide State section line easements attach to the section lines on State or Territorial owned lands by dedication under Ch. 19 SLA 1923, Ch. 123 SLA 1951, and AS 19.10.010 (See 3.2 Reference Chart). These Territorial and State laws created section line easements through dedication. No "offer and acceptance" of a federal law was necessary in this case, since the SLE's attach to state owned lands. State SLE's attach to section lines on state owned lands during those windows of time during which the State legislation was in effect as shown in the said chart and addressed in detail under Section 3.4, below.

E. According to footnote 15 of the 1969 Opinions of the Attorney General No. 7, section line easements attach to protracted section lines where protracted surveys have been approved, the effective date of the protraction diagram is published in the Federal Register, and the lands are unreserved. In this case, the SLE is "subject to subsequent conformation with the official public land surveys." It is DNR policy that protracted section line easements cannot be actively managed until the subject section line has been surveyed and it conforms with the official public land surveys. The SLED process currently utilized on these protracted section lines on adjoining federal lands is discussed in Section 3.5, below.

**3.2 SLED Reference Chart from John Bennett 2013 Presentation:**

**Highway Rights-of-Way in Alaska - Section Line Easement Determinations:**

In order for SLE's to exist, the survey establishing the section lines must have been approved or filed prior to entry on Federal lands or disposal of State or Territorial lands. The Federal lands must have been unreserved at some time subsequent to survey and prior to entry.

Surveyed Federal lands that were unreserved at any time during the indicated time period.	Effective Dates	Surveyed lands that were under State or Territorial ownership at any time during the indicated time period. (Note: includes un-surveyed lands after July 1, 1960)
none	April 5, 1923	None
66'	April 6, 1923 To January 17, 1949	66'
none	January 18, 1949 To March 25, 1951	none
	March 26, 1951 to March 20, 1953	100'
66'	March 21, 1953  to December 14, 1968	
none	December 14, 1968  to Present	

Note: This table assumes the same land status on both sides of the section line. A review of the land status can result in total easement widths of 0', 33', 50', 66', 83', and 100'. A section line easement, once created by survey and accepted by the State, will remain in existence unless vacated by the proper authority.



### 3.3 RS 2477 (FEDERAL) SECTION-LINE EASEMENT RESEARCH (G Horton 2022)

#### A. Requirements for RS 2477 SLE research:

1. Surveyed Section Line: Acceptance or approval date of US Rectangular Survey (USRS) Plat.
2. For Un-Surveyed (Protracted) Section Line: Date of Approval of the Official Protraction Diagram and Date of Filing in Federal Register.
3. Date of Entry: DNR uses the date an application was filed with the BLM that leads to patent. In Native Allotment cases, DNR uses the Date of Occupancy for the Date of Entry<sup>1</sup>.
4. If necessary, verify that subject Federal lands were surveyed, and unappropriated & unreserved at a time when the legislative acceptance of the RS 2477 SLE was in effect (as shown in said chart).

#### B. To Satisfy the Requirements:

1. Ascertain Date of USRS Plat acceptance or approval or Protraction approval date.
  - a. Obtain a copy of the USRS plat that surveyed the section line in question at <http://dnr.alaska.gov/landrecords/> or <http://sdms.ak.blm.gov/sdms/> and obtain the date the Plat was approved or accepted. Some plats may have both a date of approval of the field notes and survey and a date of acceptance of the Plat.
  - b. Protracted Section Lines: Obtain the date the protraction diagram was published in the Federal Register. Protraction Diagrams are not currently available on a public web site. If possible, obtain the protraction diagram "Grid" number off an old State Status Plat or BLM MTP. To obtain a copy of the Official Protraction Diagram (*the approval date*) you need to contact BLM or DNR Survey Section for help. The protraction diagram "Grid" number will be helpful, if known. Search the Federal Register at [www.govinfo.gov](http://www.govinfo.gov) to determine the date of publication of the subject protraction diagram. Also, DNR has copies of some applicable Federal Register notices.
2. To ascertain Date of Entry: On Homesteads use Date the Application was Filed or Accepted leading to patent. On Native Allotments, use Date of Occupancy.
  - a. Review the BLM Master Title Plat (MTP) to obtain the federal patent number for lands that affect the section line in question (*example patent number*

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<sup>1</sup> John Bennett background information: "A number of years ago DOT was going to contest in Federal court that the date of application held over the date of occupancy. The Feds elected to not permit the issue into court likely concerned that they might not prevail. In reality the issue has not been resolved." Note that the DNR has generally taken the earlier date.

*format e.g. 1182455 or 50-94-0094*). The MTP can be found at <http://sdms.ak.blm.gov/sdms/>.

- b. Obtain a copy of the patent at <http://www.glorerecords.blm.gov/> or at <http://sdms.ak.blm.gov/sdms/>.
  - c. In the patent obtain the BLM case file number, located in upper left corner (*example case file number format e.g. AA075173 or F06941*).
  - d. To obtain the Date of Entry:
    - 1) Obtain a copy of the BLM case file abstract at <http://sdms.ak.blm.gov/sdms/> by using the Alaska Case Reporting Enterprise System (ACRES). *Note that the serial page is likely more defensible than an abstract.*
    - 2) Go to BLM's Public Information Room and get a copy of the Serial that is associated with the BLM case file number. If you think the case may be legally tested, order the homestead casefile from National Archives at <https://www.archives.gov/contact>. Otherwise, you are relying on a transcription into the Abstract or Serial file that may not adequately reflect the complexity of the case file.
    - 3) Verify that the legal description on the patent & serial page and/or abstract are the same.
  - e. For additional information on homesteads & allotments see J. Bennett papers; "Alaska Highway Rights-of-Way and Homestead Entries", 2017-2019 and "Title Review-Use & Occupancy, HWY ROW's & AK Native Allotments"
3. Compare the date of survey approval to the date of entry.
- a. If the date of entry is prior to the date of survey approval and patent has been issued; the lands became reserved prior to survey approval and therefore generally, under such circumstances, no RS 2477 SLE attached.
  - b. If the date of survey approval is prior to the date of entry, then verify if the lands were reserved or unreserved using BLM Historical Index research.
4. If necessary, research BLM's Historical Index to determine if the subject lands were unappropriated and unreserved prior to Date of Entry. Pay particular attention to PO's, EO's PLO's, etc. **These documents need to be researched to determine what effect they may have.** This research will extend from the beginning of the Historical Index to the date of entry onto the land.
- a. The Historical Index can be accessed through the ACRES link at <http://sdms.ak.blm.gov/sdms/>.

- b. In-house DNR research: PO's, EO's PLO's, etc. are located on 10<sup>th</sup> floor in the Title Section. Copies of these can also be found under Alaska Public Laws on the SDMS website.
5. Perform an analysis of the dates of USRS plat/official protraction diagram approval & date of entry (and historical index withdrawals if applicable) with the periods of legislative approval. For a RS 2477 SLE to attach, the subject land must be surveyed and unreserved & unappropriated Federal land during a time of legislative acceptance of the RS 2477 SLE's. Use:
- a. The editor's notes under 11 AAC 51.025; or,
  - b. The table on page 52 of 99 of John Bennett's paper titled "Highway Rights-of-Way in Alaska 2013", shown above.

Notes:

Acceptance of the federal grant (1866 mining law – RS 2477) applies only to those lands which were public lands not reserved for public uses, during periods in which the legislative acceptance was in effect: Between April 6, 1923 & January 17, 1949 and between March 21, 1953 and December 14, 1968.

It is DNR's opinion that RS2477 SLE's attach to the surveyed section line when federal lands are unreserved & unappropriated during a period of legislative approval. Along a township line, DNR may use the earlier date of survey between two adjacent townships to assert RS 2477 SLE's on either side of the township line if the lands were unreserved federal lands.

### **3.4 State Section Line Easement Research** (*subject lands owned by the State or Territory*)

A. To determine State SLE existence and width you need:

1. Date of conveyance (Federal Patent or other conveyance) to Territory/State ownership
2. Date of State conveyance (State Patent) to private ownership
3. Surveyed Section Line: Acceptance or approval date of US Rectangular Survey (USRS) Plat.
4. For Un-Surveyed (Protracted) Section Line: Date of Approval of the Official Protraction Diagram and Date of Filing in Federal Register.

B. To satisfy the Requirements for determination of State SLE existence and width:

1. Obtain the date of conveyance to Territory/State ownership:
  - a. Review the BLM Master Title Plat (MTP) to obtain the federal patent number for the lands that affect the section line in question (*example patent number*

*format e.g. 1182455 or 50-94-0094*). The MTP can be found at <http://dnr.alaska.gov/landrecords/> or at <http://sdms.ak.blm.gov/sdms/>.

- b. Obtain a copy of the patent at <http://www.glorerecords.blm.gov/> or at <http://sdms.ak.blm.gov/sdms/>.
  - c. If land was conveyed to the state not through the federal government, obtain a copy of the conveyance document to the state by searching the state recorder's office.
2. Acquire the date of State conveyance to private ownership (if necessary):
- a. Click on the "Alaska Mapper" link located under the "DNR Resources" tab at <http://dnr.alaska.gov/landrecords/>, or directly from the DNR Intranet site <http://int.dnr.alaska.gov/>.
    - 1) Load the "Land Estate Map" and navigate to the subject lands
    - 2) Under the "Layers" tab in the "Layer Name" column check (✓) "Land Disposal – Conveyed".
    - 3) Zoom into subject area until it populates with ADL number (ADL nnnnn) and state patent number (e.g. SPT nnnnn). Write down both numbers.
  - b. With ADL number, return to the DNR Land Records home page at <http://dnr.alaska.gov/landrecords/>. Enter ADL number only (*without the ADL leader*) in the "Enter search text" box and click "Search".
    - 1) In the "Info Links" column click the rectangular shaped icon. This should bring up the case file in LAS. LAS is also directly accessed from the DNR Intranet homepage: <http://int.dnr.alaska.gov/>
    - 2) In the case file abstract search for a "Conveyed" entry. Verify the patent number. If the patent has been recorded, a link to its image may be available in a "Document Recorded" entry that was entered sometime after the "Conveyed" entry.
  - c. With State Patent number (SPT #####) go to DNR Public Information Center (12<sup>th</sup> floor Attwood Bld. 550 W 7<sup>th</sup> Ave, Anchorage, Alaska for a copy, or acquire a copy from the recorder's office.
3. Ascertain Date of USRS Plat acceptance or approval, or Protraction Diagram approval and Federal Register publication date (if applicable).
- a. Obtain a copy of the USRS plat that surveyed the section line in question at <http://dnr.alaska.gov/landrecords/> or <http://sdms.ak.blm.gov/sdms/> and obtain the date the Plat was approved or accepted. Some plats may have both a date of approval of the field notes and survey and a date of acceptance of the Plat.

- b. Protracted Section Lines: If necessary, obtain the notice date the protraction diagram was published in the Federal Register. Protraction Diagrams are not currently available on a public web site. If possible, obtain the protraction diagram “Grid” number (folio number) from an old State Status Plat or BLM MTP. To obtain a copy of the Official Protraction Diagram (*the approval date*) contact BLM or DNR Survey Section for help. The protraction diagram folio number is required. Search the Federal Register ([www.govinfo.gov](http://www.govinfo.gov)) to determine the publication date of the official filing of the approved protraction diagram. DNR has copies of some Federal Register notices.
4. Perform an analysis of the date the State acquired title and date State conveyed the subject lands into private ownership. Using the Bennett 2013 table, determine if the State owned the subject land during one of the windows of legislative dedication of State SLE’s. If both dates fall between January 18, 1949 and March 25, 1951 there are no section-line easements. After July 1, 1960, the State lands do not need to be surveyed for a State SLE to attach.

C. Special Cases:

1. Mental Health Trust Land Office Lands: See Section 5.0: On Mental Health Trust Land Office lands SLEDs will generally be accomplished in accordance with the MHTLO Concurrence Agreement shown in Section 5.1.
2. University Lands: See Section 6.0.
3. Alaska Railroad Lands: See Section 7.0:

### 3.5 SLE’s Adjoining Protracted Section Lines (PSLE’s) on Federal Lands

A. Background;

Beginning in late 1950’s through the 1960’s the federal government published Notices of Filing of official protraction diagrams in the Federal Register. The Protraction Diagrams show township corner latitude, longitude for the uplands and shorelands of Alaska in 16-township grids, between standard parallels and guide meridians. The State of Alaska computed and published official protraction diagrams for submerged lands to support mineral exploration offshore. All were based on standard townships, with non-standard section measurements pushed to the west tier.

- B. Footnote 15 of the 1969 AG Opinion No. 7 states that “where protracted surveys have been approved, and the effective date thereof published in the Federal Register, then a section line right-of-way attaches to the protracted section line subject to subsequent conformation with the official public land surveys.” Although a section line easement may attach with a protraction diagram, it cannot be actively managed until the section line has been surveyed by “the official public land surveys” and it conforms with said survey. According to DNR Survey Section interpretation, an “official public lands survey” can be conducted by or directed and instructed by BLM

or the State of Alaska, for the public. Reference the 1969 Opinions of the Attorney General No. 7 and *Highway Rights of Way in Alaska 2013* for more details on the SLED process with regards to Protracted Section Lines.

C. Applicable considerations:

1. Notices of Filing of official protraction diagrams in the Federal Register occurred between 1959 and the late 1960's. Hence, SLE's attaching via protraction diagram could not be asserted prior to 1959.
2. In 1969 (FLPMA) nearly all remaining unreserved Federal land in Alaska was reserved. For an SLE to attach to a protracted section line on unrestricted Federal land it would have had to happen from 1959 to 1969 on a section encompassed by an official protraction diagram published in the official Federal Register. Protraction Diagram notices were published in the Federal Register prior to land freeze.
3. If the BLM or State conducts a "Tract A" survey in which only the exterior township line(s) are surveyed and monumented, the surveyed lines may have an attached SLE if they meet the criteria, while the adjacent un-surveyed, un-monumented protracted section lines may or may not have an adjoining SLE, depending on all factors.

D. Survey Section Operating Assumptions concerning Protracted Section Line Easements:

1. PSLE's on State Owned Lands: Protracted Section Line Easements (PSLE's) exist on all land that was and/or is State-owned if the applicable protraction diagram is published in the Federal Register, with the following conditions:
  - a. The SLE is in compliance with the Bennett table.
  - b. To be actively managed and/or utilized the section line must be ascertained by official survey and marked by monumentation.
  - c. SLED's on University, Mental Health Trust, and Alaska Railroad land will adhere to the associated considerations noted in the SLED Manual.
  - d. Beginning July 1, 1960, Alaska Statute 19.10.010 was adopted. The 1969 AG opinion applied these section line easements to protracted as well as surveyed section lines.
2. PSLE's on Lands that are Non-State Owned:
  - a. If all criterion for a "Federal" land RS 2477 SLE are met, are in accordance with the dates of legislative acceptance in the Bennett Table, and for which the applicable protraction diagram is published in the Federal Register an SLE

adjoins the protracted section line, however, the adjoining PSLE is not completely dedicated and accepted until and unless it is conformed by an official public land survey which ascertains the section line by monumentation.

- b. If the criterion, above, are met, UB Plats, which are impacted by the said section line and adjoining SLE will show the section line and SLE, with a note explaining the applicable caveat(s)
- c. DNR cannot issue use permits or approval to use, or actively manage the said SLE until and unless the section line has been ascertained by official survey.

#### **4.0 SLED DOCUMENTATION & TRACKING:**

##### **4.1 SLED Report Format:**

- A. SLED naming convention: SLED-20235012 The 20235012 is the assigned SURV (Survey Project) # in LAS.
- B. Background Information:
  - 1. Dates of Research and Publishing
  - 2. Requester (Applicant) and/or Company
  - 3. Location MTRS of subject section lines
  - 4. EV case association, State business inquiry, or other (private).
  - 5. Note: "This Section Line Easement Summary of Research was prepared following DNR procedures outlined in the current Section Line Easement Determination Guideline using documents researched as of the date of report."
- C. Summary of Research:
- D. SLE Exhibit(s)
- E. Research Items:
  - 1. USRS Plat Acceptance and Plat Approval date
  - 2. Date(s) of Entry
  - 3. Date(s) of Patent(s)
  - 4. BLM Historical Index Research (if necessary)
- F. Conclusion Summary

##### **4.2 SLED Tracking (LAS Process):**

- A. Enter: Tech\New\Logs\LAS Case Type 360 Number Assignment

- B. Complete the entry for the next available case number (calendar year and sequential number starting with 5000, ex: 20235036). This is SURV case number to be used when entering the SLED into LAS. See above.
- C. In LAS confirm if the customer has a CID; if not create new customer.
- D. Initiate a new case using the CID and “Survey Project” 360 case type. Subtype is 1007 “Section Line Easement Determination.” Complete the required information including MTRS on the “case initiate” information page.
- E. Once case is created add additional transactions such as “Add Legal Text” where the complete legal description of the SLED is entered.
- F. Add “file” for an associated case if there is one. Complete LAS entries as necessary.
- G. When the determination is approved and distributed, close the case file.

#### **4.3 SLED Electronic Storage:**

- A. Enter: Tech\New\EV\SLE Determinations. In this directory, SLEDs are split into Private and State Agency Requests, then by MTRS. Under the MTRS folder, the SLED report will be saved in its file format name, as referred to above (e.g. *SLED\_SURV 20235012*).
- B. All SLED reports generated by Survey Section will be stored in this address; however, SLED’s associated with EV and PA cases will be stored in those directories as well.

#### **4.4 SLED Hard Copy Storage:**

- A. The Advisor will maintain a hard copy file of all SLED reports that they generate, as well as research used for the report. If report is completed by someone other than the Advisor, a report copy and research will be in the EV or PA file.
- B. A copy of each SLED report generated as a part of an EV file will be placed in appropriate EV file.
- C. A copy of each SLED report generated as part of a PA file will be placed in the appropriate PA file.

### **5.0 MENTAL HEALTH TRUST LAND OFFICE:**

#### **5.1 SLED Process on MHTLO lands Overview:**

- A. July 28, 1956: The Mental Health Enabling Act of 1956 provided for the State of Alaska to select 1,000,000 acres of Territorial land for the State of Alaska to generate



funding to provide for mental health resources. The State did not manage the lands specifically for funding of mental health and by 1982 65% of the said lands had been disposed out of State ownership. In 1982 in the *Weiss v State of Alaska* class action suit, the State Supreme Court ordered that the original trust be restored. By 1994 500,000 acres of Original Trust Land and 500,000 acres of new "Replacement Lands" were placed under the management of the Trust Land Office within the Alaska DNR.

- B. On the said MHTLO managed lands the general SLED process described in Sections 3.0 and 4.0, above will be followed as described in this guideline and determinations made in accordance with the guideline and the following concurrence document. In cases of conflict the concurrence document will hold precedence where the process is clearly specified for the case and conditions.
- C. In September 2022, TLO Executive Director, DOT&PF Commissioner, and DNR Dep. Commissioner all signed a "Concurrence on Applicability of Section Line Easements on Alaska Mental Health Trust Land" (2022 MHTL Concurrence), which lays out the applicability of section line easements in five situations. This document is referenced to determine the applicability of section line easements on the subject MHT lands. See document below.

## **5.2 CONCURRENCE DOCUMENT Mental Health Trust Land Office (MHTLO):**

### **Concurrence on Applicability of Section Line Easements on Alaska Mental Health Trust Land Updated September 2022**

The Alaska Department of Natural Resources ("DNR") and the Alaska Mental Health Trust Authority ("AMHTA"), through the Division of Mining, Land and Water ("DMLW") and the Mental Health Trust Land Office ("TLO"), respectively, and the Alaska Department of Transportation and Public Facilities (DOT&PF), have agreed on the existence and applicability of statutory section line easements under AS 19.10.010 and its predecessors, and related plat issues, as set forth below. While this agreement may not address every possible scenario and may require some parcel by parcel analysis under particular facts, the parties believe that it covers the majority of situations.

1. A statutory section line easement exists on trust land that was unreserved, surveyed, federal land prior to the time of its selection under the Alaska Mental Health Enabling Act of 1956 ("AMHEA").<sup>1</sup> Such a section line easement is referred to herein as an RS2477 section line easement and is 33 feet wide on each side of the center line of the surveyed section line.<sup>2</sup>

2. A statutory section line easement exists on trust land that was surveyed, state-owned land at the time it was designated as replacement trust land by sec. 40(a)(2), ch. 5 1994 FSSLA, as amended by ch. 1, SSSLA 1994 ("HB 201"). Such a section easement is referred to as a state section line easement and is 50 feet wide on each side of the center line of the surveyed section line.
3. There are no statutory section line easements on trust land that was selected by and conveyed to the State under the AMHEA ("original trust land"), except as provided in Paragraph 1. No state statutory section line easement arose on original trust land because the 1978 legislation that designated original trust lands as general grant lands was deemed void. *State v. Weiss*, 706 P.2d 681 (Alaska 1985).
4. For certainty of title and because the public may have relied on them, the TLO intends to honor plats that were finalized and approved by appropriate State signature before HB 201 (as amended) became effective in 1994 and that show a section line easement on original trust land that did not arise as described above. The cost of correcting and potentially litigating over such plats likely would vastly outweigh the diminishment in value of the lands erroneously encumbered. However, the TLO may challenge or seek compensation for any plats not approved by the AMHTA or the TLO that were finalized after HB 201 (as amended) became effective in 1994 that erroneously show a section line easement on original trust land.
5. For certainty of legal public access and because the public may have relied on them, the TLO will not challenge or charge for any public roads that were constructed by a state or local governmental entity or private party, with required approvals and authorizations, within a valid section line easement on trust land prior to the date HB 201 (as amended) became effective in 1994, whether the road is platted or not. This agreement does not include any road or portion of road that is not within a valid section line easement and does not grant or imply permission to expand or move such road, whether within the section line easement or not, which permission is expressly denied. Any expansion or change in location must be approved by the TLO and may require compensation to the AMHTA. For purposes of this agreement, "road" includes associated facilities necessary for a road, including signs, bike paths, turnouts and rest areas, drainage, and slopes. It does not include utilities unless state-owned and operated.

ALASKA MENTAL HEALTH TRUST LAND OFFICE

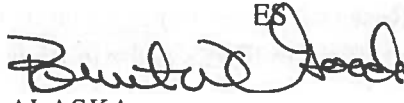
By: Jusdi Warner

Jusdi Warner  
TLO Executive Director

ALASKA DEPARTMENT OF TRANSPORTATION AND  
PUBLIC FACILITIES

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By: t=::  
Ryan Anderson, P.E.  
DOT&PF Commissioner

ES  
  
ALASKA  
DEPARTMENT OF  
NATURAL  
RESOURCES  
Brent Goodrum, DNR Dep. Commissioner

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<sup>1</sup> The term "survey," as used herein, means an actual, on-the-ground survey that has been approved/ approved/accepted by BLM and does not include a protraction diagram. DNR and TLO acknowledge that there have been differing legal positions asserted by different parties over the years regarding whether a section line easement can statutorily attach to a protracted section line.

However, DNR and TLO currently are unaware of any trust land that is or was located only by a protraction and, therefore, it is not necessary at this time to consider this issue with respect to trust land. Should DNR or TLO identify a protracted section line on trust land in the future, they will work though that issue under the facts and circumstances presented at that time.

<sup>2</sup> Some federal land that was conveyed to the state as original trust land under the 2009 Closeout Agreement was land selected under state entitlements other than the AMHEA. Those lands will be reviewed to determine, on a case-by-case basis, whether a federal section line easement arose on them.

**5.3 SLED samples: Mental Health Trust Land Office (MHTLO):**

- A. SLED\_SURV 20245007\_MHT2      See Sheet 24
- B. SLED\_SURV 20245030\_MHT      See Sheet 24

**6.0 UNIVERSITY OF ALASKA LANDS:**

**6.1 University of Alaska lands History: Refer to UA Lands website “History / Land Management (alaska.edu)”.** Currently, the University owns approximately 150,000 land acres consisting primarily of federal grant lands, but also includes other lands acquired from local, state or federal governments for restricted educational purposes, purchased lands, and private lands donated to the University. The 150,000 acres is divided between approximately 12,000 acres for educational uses and 138,000 acres for investment/ revenue.

**6.2 SLED Process on University of Alaska lands:**

- A. The University land system originated from a number of dates and sources. Currently no “concurrence agreement” has been negotiated with University of Alaska. Therefore, each case will need to be researched as defined above, with consideration given to the dates and sources of the grants and survey of the lands.
- B. Latest guidance from legal advisors, lacking definitive legal cases indicates that DNR assertion of 50’ state section line easements on University lands would occur rarely

and if so, may possibly occur on University Research Forest lands, or lands which are granted, gifted, or purchased which are/were subject to SLE's *prior* to transfer.

- C. Alaska Statute 14.40.365(g)(1)(B) suggests that University lands may be subject to AS 19.10.010, the current statute that creates 50' SLE's on State lands. However, AS 14.40.365(g) only applies to University lands conveyed under AS 14.40.365. Land conveyances associated with AS 14.40.365 were largely invalidated due to litigation of *SEACC v. State 2009*. AS 14.40.365 was declared unconstitutional by the Alaska Supreme Court, and the only conveyances allowed under AS 14.50.365 were those that directly related to the mission of the University. These conveyances included the University Research Forest and possibly a parking facility. These lands would be subject to AS 14.40.365(g).
- D. Recent legal guidance suggests that if the University received lands pursuant to a federal special-purpose grant, the language in the federal grant may have created a trust with the State acting as trustee. These trust principles are codified in AS 14.40.291, which states that University land may not be treated as state public domain land. These trust principles may prohibit attachment of 50' State section line easements to this land. However, section line easements that existed *prior* to transfer to the University would still exist until vacated.

### **6.3 SLED samples: University of Alaska Lands:**

- A. To be populated as an example arises

## **7.0 ALASKA RAILROAD LANDS:**

**7.1 Alaska Railroad lands Overview:** See Alaska Railroad Real Estate web site for historic ARR land information.

### **7.2 SLED's on RR lands:**

- A. Currently no "concurrence agreement" has been negotiated with Alaska Railroad Corporation (ARRC). Therefore, each case will need to be researched as defined above, with consideration given to the dates and sources of the grants and survey of the lands.
- B. According to Alaska Statute 42.40.920, AS 19 does not apply to the "operations of the corporation." AS 19 includes AS 19.10.010, the current statute creating 50' State section line easements on state owned lands. It is unclear what effect, if any, AS 42.40.920 would have on the possible attachment of 50' State SLE's to ARRC lands. According to AS 42.40.010, the Alaska Railroad Corporation "has a legal existence independent of and separate from the state." In *Laverty v. Alaska Railroad*, the Supreme Court of Alaska states that "ARRC's lands are state lands." **The question**

of whether ARRC lands are exempt from 50' State SLE's remains unsettled by the courts. However, an RS 2477 SLE or State SLE would still exist on Railroad lands if it attached *prior* to conveyance to ARRC, in accordance with the basic guideline above.

- C. As a matter of practicality, when an SLE crosses a railroad ROW or vice versa, respect for public safety must be paramount with respect to management, schedule, and closure as needed of the RR ROW and/or SLE ROW. Furthermore, where ARRC possesses an "exclusive use easement" on their lands, the exclusive use easement would likely take primacy over any existing SLE's, should a conflict arise. According to ARTA, an "exclusive use easement affords to the easement holder...the right (at the easement holder's discretion) to fence all or part of the lands subject to this easement and to affix track, fixtures, and structures to such lands and to exclude other persons from all or part of such lands.". The exclusive use primacy may preclude the need to vacate SLE's if use of such at any given time, would constitute a safety risk.

### 7.3 SLED samples: Alaska Railroad:

- A. To be populated as an example arises

#### CONTRIBUTORS:

##### Original Section Line Easement Guideline Document

John Bennett

##### 2022 SLED Guideline

George Horton

Victoria Braun

Amy Orange-Posma

Ryan Quigley

Joseph Donohue

Stanley Brown

Gwen Gervelis

John Bennett

**2024 ORGANIZATIONAL CHART** (title of position used in guideline)

<u>Natural Resource Technician II (NRT II)</u>	<u>Trish Newman</u>
<u>Natural Resource Specialist II, NRS II, (Specialist)</u>	<u>Victoria Braun</u>
<u>Land Surveyor I, Unorganized Borough, UB, Platting Officer (PO)</u>	<u>Amy Orange-Posma</u>
<u>Land Surveyor I, Land Surveyor Advisor (Advisor)</u>	<u>Joseph Donohue</u>
<u>Land Surveyor II, Advisor Supervisor</u>	<u>Ryan Quigley</u>
<u>Land Surveyor II, UB and Easement Unit Supervisor (Supervisor)</u>	<u>Stanley Brown</u>
<u>Land Survey Specialist I/II, (LSS)</u>	<u>Amy Helkenn</u>
<u>Chief Surveyor, Survey Section (Chief)</u>	<u>Gwen Gervelis</u>

## **DEFINITIONS & ABBREVIATIONS:**

**Actively managed:** An SLE can be actively managed and potentially utilized once the adjoining section line location has been ascertained by survey and monumentation.

**Ascertained:** Surveyed and monumented by or under Federal or State oversight.

**Assert:** To join to, claim, state positively.

**Attached:** RS 2477 SLE attaches when the section line has been ascertained. Once the RS2477 SLE attaches, the SLE may be actively managed or used. In cases of protracted SLE's per FN 15. "Thus where protracted surveys have been approved the effective date therefor published in the Federal Register, then a section line right of way attaches to the protracted section line."

**Conformation:** Completed formation. Regarding DLE;s, when public land survey and monumentation of the subject section or township line is completed the rights of a section line easement are conformed.

**EV:** Easement Vacation

**DOT & PF:** Alaska Department of Transportation and Public Facilities.

**DNR:** Alaska Department of Natural Resources

**EO:** Executive Order

**FLPMA:** Federal Land Policy and Management Act

**IRWA:** International Right of Way Association

**MHTLO:** Alaska Mental Health Trust Land Office

**MLW:** Alaska DNR, Division of Mining, Land and Water

**MTP:** BLM Master Title Plat

**Official Public Lands Survey:** "official cadastral survey" as defined under AS 38.04.910(6).

**PA:** Platting Authority

**PLS:** Alaska Professional Land Surveyor

**Protracted:** Mathematically established position w/no field survey or monuments set.

**Protracted Survey:** Approved protraction diagram published in the Federal Register.

**PLO:** Public Land Order

**PO:** Platting Officer

**SDMS:** BLM's Spatial Data Management System Alaska website

**SLA:** Session Law of Alaska

**Surveyed:** Federally or State approved field survey with corners ascertained by set monuments on the ground.

**SLE:** Section line easement

**SLED:** Section line easement determination (This process determines the existence of or not and if existing, the width of the easement)

**SLEV:** Section line easement vacation

**SSEU:** Survey Section Easement Unit

**UB:** Unorganized Borough

**USRS:** United States Rectangular Survey. **USRSS:** United States Rectangular Survey System

## SLED LEGAL REFERENCES

Reference location: *G/New/EV/EV Manual 2023 Update/EV Manual Document Reference*

### A. Legal

1. 14 Stat. 251 Act Granting Right of Way to Ditch (7/26/1866) – RS2477
2. Ch. 19 SLA 1923 (4/6/1923)
3. Ch. 1 Laws of Alaska, Extraordinary Session 1949 (1/18/1949)
4. Ch. 123 SLA 1951 (3/26/1951)
5. Ch. 35 SLA 1953 (3/21/1953)
6. AS 19.10.010 (7/1/1960)
7. PLO 4582 Land Freeze
8. 1969 Opinions of the Attorney General No 7
9. 1976.10.21 – 43 US Code 932 Repealed
10. 2001.5.3 – 11 AAC 51.025 & Editors Notes
11. 2010.2.12 – Hopewell to Baker letter Protracted Section Line Easements
12. 2014.07.29 Highway ROW & Allotments -Bennett
13. Alaska Highway Rights-of-Way and Homestead Entries, John Bennett 2017-19
14. Highway Rights-of-Way in Alaska 2013-Bennett
15. MHTLO Concurrence Document Sept. 2022
16. Highway-Rights-of-Way in Alaska by John Bennett 1993
17. Title Review, Use & Occupancy, HW ROW & AK Native Allotments-J.B. 2014
18. Alaska R.R. Corp. vs. Flying Crown Subdivision Additions No. 1 & No. 2 Prop. Owners Association, 89 F.4th 792 (9th Cir. 2023)
19. Lavery v. Alaska Railroad Corp. (Supreme Court of Alaska, 2000)
20. Wunnicke Protracted SL Policy 1986
21. Sedwick 1983 Report regarding SLE's
22. RS2477 Michael Frank Draft Opinion 1985
23. Andrew Mack Memo on School trust Lands 22 Sept 2017

## GENERAL REFERENCES

### A. Samples:

1. SLED\_SURV 20245007\_MHT2.
2. SLED\_SURV 20245030\_MHT

### B. Guides:

1. Survey Section SLED Research Process Sheet 17 April 2024
2. Survey Section Handout “Process for Survey of an SLE for Construction and/or use for Access” (To be provided if requested)

### C. Forms: SLED Request Form 17 April 2024

### D. DNR Internal Section Line Easement Training – G. Horton 12/7/2021