

**From:** [John Kerr](#)  
**To:** [John Bennett](#)  
**Subject:** Re: Protraction Diagram Federal Register Publication Date  
**Date:** Thursday, August 28, 2014 7:00:57 AM

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Thanks much John.

I'll review and keep you posted. I'll be talking to George Horton about this... Hopefully today (he's been out of town).

It's gonna be great to get out on the boat... It's beautiful even when it's cold and rainy.

John Kerr  
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On Aug 27, 2014, at 8:29 PM, "John Bennett" <[JBennett@rmconsult.com](mailto:JBennett@rmconsult.com)> wrote:

John, the issue isn't the billable hours, it's that we are halfway through an office move this week and to cope with the chaos I'm getting in my truck tomorrow morning and hauling my boat down to Valdez so I can freeze in the rain and not catch any fish. But having said that the first thing I can tell you is that I have made a practice of avoiding the "protraction" question for most of my career. The fact that you have written the text below now makes you the leading expert on the subject.

I've attached two files based on a search for protraction diagrams. The commresp.pdf were DNR responses to comments to a rewrite of the 11 AAC 51 regs for SLE's. You will find some comments on protractions and SLEs there. The second is a huge (80+ pages) AGO opinion from 1985 regarding SLE's with a section on protractions. Note that it is stamped as "draft" and my recollection is that it was never officially issued. Likely because DNR or someone in management didn't like the results. I haven't read it in years but I don't think it was very supportive of protracted SLEs. I have a vague recollection that I have seen a site (maybe DNR's intranet) where there was a listing of federal register publications of the protractions but I can't think of it right now. I do know that if you want to look up and download old federal register publications you can do so for a fee (daily subscriptions) to Hein Online. I believe the effective date is the publishing date and if not they would typically list the effective date in the publication. I do not know enough about the protraction publications to know whether they were republished if they were changed but given the requirement to publish them in the first place, my guess would be that they are republished. Without regard to the status of the protractions I believe the state has the authority to reserve any kind of easement they want as a part of a conveyance. So if the language is clear on the reconveyance to USA, I believe the subsequent conveyance would carry the easements intact. But as you say, I should look at your entire file before reaching conclusions.

I will take a closer look at this when I get back but I hope there might be some enlightenment hiding within the attachments that might hold you over. Also I didn't download your files yet because I'm at home and my connection is slow as molasses. Hope this isn't a super rush job. JohnB

**John F. Bennett, PLS, SR/WA** Senior Land Surveyor – Right of Way Services

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**From:** John Kerr [<mailto:john.kerr@survbase.com>]

**Sent:** Wednesday, August 27, 2014 4:06 PM

**To:** John Bennett

**Subject:** SLE: Protraction Diagram Federal Register Publication Date

Hi John,

I'm trying to determine the status of a couple of probable SLEs based on AS 19.10.010. I hate to bother you as I realize that you've got billable projects with tight schedules... but this one is complex as I believe that I need to rely on elements of the protraction diagram that were added after approval.

**Abbreviated Background** (additional info attached)

The subject land was patented to the State as Tract A lands in 1966 (the protraction diagram at that time showed the lands as sections) and then transferred back to the USA in 1979 (reserving the dedicated section line easements) so that it could be transferred to CIRI the following month. The protraction diagram was first published in 1959 without the sections but they were added in 1965 (after approval).

The 1969 AG opinion No. 7 states:

"Note, however, that the Alaska statutes apply to each section line in the state. Thus, where protracted surveys have been approved, and the effective date thereof published in the Federal Register, then a section right-of-way attaches to the protracted section line subject to subsequent conformation with the official public land surveys."

My questions to you are:

1. Does the State still assert that the effective date published in the Federal Register is a required element for protracted sections?
2. What is the State's position on elements of the protraction diagram that were added after approval?
  - a. Are the effective dates republished after there are revisions to the diagram?
3. Does the State keep a list of these publication dates for AK protraction diagrams?
4. How does one determine when/if the effective date was published?

Thanks,

John

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