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**2001 REPORT TO THE LEGISLATURE**

**Report on Identified RS 2477 Rights-of-Way**

**Notification of Annual Mining Report**

**Land Disposal Bank  
Land Disposal Income Fund**

**Notification of Annual Report on  
Water Removals and Exports**

**January 2001**

**Robert Loeffler**  
Director  
Division of Mining, Land and Water

**Tony Knowles**  
Governor  
State of Alaska

**Pat Pourchot**  
Commissioner  
Department of Natural Resources

# REPORT ON IDENTIFIED RS 2477 RIGHTS-OF-WAY

## INTRODUCTION

This report fulfills the requirement under AS 19.30.400(b) for DNR to report its identification, research, and adjudication of RS 2477 rights-of-way.

## RESEARCH UPDATE

Additional historic routes were researched and adjudicated in 2000, resulting in three more routes added to the qualified list (Attachment A). This effort brings the list of qualifying RS 2477 routes to 659. In response to the specific requirements of AS 19.30.400(b), this year's report also includes routes previously reported but not listed in the statute.

## IMPLEMENTATION OF AS 19.30.400

*Recording Requirement.* DNR recommends that the Legislature amend AS 19.30.400 to provide for the recording of surveyed RS 2477 routes and unsurveyed routes crossing parcels greater than 160 acres in size. The reporting requirement would be permanent law, and would apply to routes reported to the Legislature as well as those listed in AS 19.30.400. The Governor's Office has forwarded draft legislation to this effect.

*Maintenance of List of Qualifying Routes.* DNR also proposes alternative language for AS 19.30.400 that would direct it to maintain a master archive of RS 2477 routes, including those shown in DNR's annual reports to the Legislature as well as routes listed in AS 19.30.400. The statutory list was enacted in 1998. Although the law could be amended each year to add newly reported routes, that would be cumbersome and costly. Yet allowing the list to become obsolete would also be problematical. DNR's proposed legislation would solve this dilemma, requiring DNR to maintain the "authorized" list drawing data from both sources.

*Easement Regulations.* Last year, DNR invited public review on its proposed public easement regulations. Public comments were extensive. They came from private landowners (especially agricultural landowners), individual access users, utility companies, Native organizations, municipalities, other government agencies, and special-interest groups. In response to these comments, DNR divided its proposed easement package into two parts. DNR has adopted the first part (presently undergoing review by the Department of Law before filing by the Lieutenant Governor) and has set the rest aside for a new round of public review. The first set of regulations

- Explains what public easements are;
- Lists the types and widths of easement DNR deals with, including section-line easements;
- Sets out DNR's process for identifying RS 2477 rights-of-way;

- Repeals the existing RS 2477 "certification" process and associated fees;
- Provides standards for vacating easements;
- Ensures that landowners as well as easement users will have the right to appeal an easement decision that affects them;
- Seeks to protect landowners against legal liability for accidents;
- Defines terms.

The second group of regulations will tackle more contentious issues, such as which agency manages use of section-line easements, management of utility easements established by DNR in its subdivisions, what level of trail maintenance can occur without a permit, and other management details.

A copy of the adopted regulations can be found on DNR's website at [www.dnr.state.ak.us/land/11aac51.htm](http://www.dnr.state.ak.us/land/11aac51.htm)

*Public Access to Easement Records.* Access to DNR's computerized land records, including case files on RS 2477 rights-of-way, is now available to the public via the department's website. For RS 2477 rights-of-way, it is necessary to know the trail's "RST" number, which in many cases can be found in AS 19.30.400 or in DNR's annual RS 2477 report. From [www.dnr.state.ak.us/landrecords](http://www.dnr.state.ak.us/landrecords) the user chooses "Case File Research (LAS)," then selects the file type "RST" and enters the number.

## **LITIGATION UPDATE**

On November 21, 2000, the State of Alaska and the U. S. Department of the Interior entered into a court-approved settlement agreement resolving the state's quiet title action for the Harrison Creek-Portage Creek RS 2477 right-of-way, RST 8 (*Alaska v. United States and Bruce Babbitt*, U.S. District Court No. F97-0009-CV). After a field investigation by DNR and DOTPF, the parties agreed to a route that the state deemed constructible and a 60-foot width for the portion of the route that traverses the Steese National Conservation Area.

**ATTACHMENT A**  
**Routes First Reported to the Legislature in January 2001**

*Interior*

|          |   |          |   |
|----------|---|----------|---|
| RST 1801 | Lost Chicken - Wall Street Creek                | RST 1968 | Davidson Ditch Access<br>Roads: Camp Creek -<br>Ptarmigan Creek |
| RST 1967 | Davidson Ditch Access Roads:<br>Elliott Highway |          |   |

**Routes First Reported to the Legislature in January 2000**

*Interior*

*Northwest*

|                      |   |          |   |
|----------------------|---|----------|---|
| RST 625 <sup>1</sup> | Cantwell Small Tracts Road<br>(Lovers Lane) | RST 732  | Rennies Landing – Cripple<br>Landing (South) – Bear Creek |
| RST 695              | Donnelly Dome: Old Valdez Trail<br>Segment  |          | <i>Southcentral</i>                                       |
| RST 815              | Birch Creek Trail                           |          |   |
| RST 1604             | Frying Pan Creek Trail                      | RST 1359 | Keystone Canyon –<br>Thompson Pass                        |
| RST 1926             | Fairbanks Creek – Fish Creek                |          |   |
| RST 1959             | Dictator Creek Trail                        |          |   |
| RST 1966             | Caro-Coldfoot – West Fork Route             |          |   |

**Routes First Reported to the Legislature in March 1999**

*Interior*

|         |  |          |   |
|---------|--|----------|---|
| RST 99  | Illinois Creek – Moran Creek                                       | RST 1832 | Chicken – Fish/McKinley<br>Creeks                 |
| RST 278 | Fairbanks – Chena Hot Springs                                      | RST 1844 | Little Melozitna Hot Springs<br>Trail             |
| RST 464 | Richardson Highway (Birch Lake)<br>– Caribou Creek Trail           | RST 1846 | Melozitna Hot Springs Trail                       |
| RST 465 | Fortymile Dome – Boundary<br>Creek                                 | RST 1849 | Horner Hot Springs Trail                          |
| RST 644 | Cleary Summit – Gilmore Dome<br>Trail                              | RST 1856 | Mastodon Creek – Eagle<br>Creek Trail             |
| RST 656 | Dennison Fork Trail  | RST 1864 | Silver Fox Road                                   |
| RST 686 | Ober Creek Trail   | RST 1865 | Last Tetlin (Nandell’s<br>Village) – Tetlin Trail |
| RST 781 | Richardson Telegraph Station –<br>Ridge (a/k/a Banner Creek Trail) | RST 1883 | Walker Fork – Davis Creek –<br>Border             |

<sup>1</sup> A subsequent Superior Court ruling, *Gilbertson v. Shively* (Feb. 14, 2000), held that DNR could not research, identify, and report this trail under AS 19.30.400 without first nominating, identifying, and certifying it under administrative regulations in 11 AAC 51 that were adopted in 1992. However, DNR had already identified and reported the trail to the legislature, and in DNR’s opinion the route clearly qualifies as an RS 2477 right-of-way. On Dec. 18, 2000, DNR Commissioner Pat Pourchot signed an order to repeal the administrative certification regulations. The repealer and associated amendments are currently being reviewed by the Department of Law.

|          |  |          |   |
|----------|--|----------|---|
| RST 782  | Redmond Creek – Banner Creek Trail                                 | RST 1888 | Hogatza Road  |
| RST 783  | Shaw Creek Lodge – Tenderfoot Creek Trail                          | RST 1903 | Poker Creek Trail   |
| RST 787  | Teddy’s Fork Trail   | RST 1908 | Chena Hot Springs – Olympia Creek Trail   |
| RST 797  | Napoleon Creek Trail   | RST 1921 | Washington Creek Trail  |
| RST 841  | Fish Lake – American Creek   | RST 1921 | Smallwood Creek – Nugget Creek Loop   |
| RST 1477 | Mastodon Creek – Mastodon Dome – Deadwood Creek Trail              | RST 1924 | Bear Creek Trail (Livengood quad)   |
| RST 1572 | Tuck Creek Trail   | RST 1925 | Solo Creek Trail  |
| RST 1602 | Ester Dome – Nugget Creek Trail                                    | RST 1927 | Walnut Creek Trail  |
| RST 1611 | Bergman – Cathedral Mountain Trail                                 | RST 1929 | Old Chatanika – Cleary – Fairbanks Creek  |
| RST 1642 | Franklin – Chicken/Lilliwig Creek Trail via South Fork River Trail | RST 1930 | Pedro Dome Road   |
| RST 1644 | Caro – Ft. Yukon Trail   | RST 1931 | Gilmore Hill Road   |
| RST 1824 | Alder Creek Trail (Ester)  | RST 1932 | Little Eldorado Road and Spurs  |
| RST 1826 | Chena – Ester  | RST 1958 | Davidson Ditch Access Roads: Belle Creek, McKay Creek, Boston Creek, Long Creek |

*Northwest*

|          |                              |          |  |
|----------|------------------------------|----------|--|
| RST 1719 | Wesley Creek Trail           | RST 1915 | Kobuk – Alatna River Portage: Northern Route |
| RST 1744 | Kobuk River – Junction Trail | RST 1913 | Pah River Portage: Kobuk – Hogatza River     |

*Southcentral*

|          |                                     |
|----------|-------------------------------------|
| RST 1323 | Quartz Creek Trail (Seward quad)    |
| RST 1506 | Goose Creek Road                    |
| RST 1509 | Curry Landing Strip – Lookout Tower |
| RST 1562 | Trail Creek Trail                   |
| RST 1678 | Greyling Creek Trail                |
| RST 1819 | Chisna – Slate Creek                |
| RST 1862 | Beluga Indian Trail                 |

*Southeast*

|          |                |
|----------|----------------|
| RST 1851 | Keystone Trail |
|----------|----------------|

*Southwest*

|          |  |
|----------|--|
| RST 502  | Boulder Creek – Flat Road                  |
| RST 1211 | Egegik – Pilot Point – Ugashik             |
| RST 1215 | Coffee Creek Channel – Kvichak River Trail |

**Non-Qualifying Routes in AS 19.30.400**  
 (originally reported to the Legislature in March 1999)

Based on subsequent evidence and research, DNR believes the following 12 trails listed in AS 19.30.400 do not qualify as RS 2477 rights-of-way:

|          |  |          |   |
|----------|--|----------|---|
|          | <i>Interior</i>                                |          | <i>Southcentral</i>                             |
| RST 881  | Alexanders Village - Veh -<br>Tenjerlow Lakes  | RST 1345 | Long Lake - Chitina River                       |
|          | <i>North Slope</i>                             |          | <i>Southwest</i>                                |
| RST 914  | Poker (Pokok) Lagoon Southeast                 | RST 507  | Stuyahok – Cabin                                |
| RST 916  | Tarnayariak River - Camden Bay                 |          | <i>Northwest</i>                                |
| RST 1042 | Anderson Point East                            | RST 457  | Beeson Slough - Second<br>Creek (Winter)        |
| RST 912  | Gordon - U.S. Border Tractor<br>Trail          | RST 635  | Beeson Slough – Shaktoolik<br>Roadhse – Ungalik |
| RST 913  | Nuvagapak Pt Landing Strip -<br>Kogatpak River | RST 752  | Shaktoolik River - Junction<br>Creek            |
|          |  | RST 738  | Gambell – Boxer Bay                             |

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**2000 REPORT TO THE LEGISLATURE**

**Report on Identified RS 2477 Rights-of-Way**

**Notification of Annual Mining Report**

**Notification of Land Disposal Income Account Report**

**Notification of Interim Mineral Closing Order**

**Notification of Annual Report on  
Water Removals and Exports**

**January 2000**

**Robert M. Loeffler**

Director

Division of Mining, Land and Water

**Tony Knowles**  
Governor  
State of Alaska

**John Shively**  
Commissioner  
Department of Natural Resources

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# REPORT ON IDENTIFIED RS 2477 RIGHTS-OF-WAY

## INTRODUCTION

This report fulfills the requirement under A.S. 19.30.400(b) for DNR to report its identification, research, and adjudication of RS 2477 rights-of-way.

## UPDATE

Historic routes have been researched and adjudicated, resulting in 9 routes added to the qualified list (Attachment A). This effort brings the list of qualifying RS 2477 routes to 656. Attachment B lists RS 2477 routes that were recorded in August 1999.

## IMPLEMENTATION OF AS 19.30.400 AND CHAPTER 26, SLA 1998

**RECORDATION OF QUALIFYING ROUTES:** DNR is implementing the recording requirement of Section 3, Chapter 26, SLA, 1998, in three ways. *First*, DNR recorded 10 RS 2477 routes that cross small parcels (subdivisions, etc.) that have been located on the ground through a GPS, cadastral or similar survey. By this method, we encumbered only the land titles of those private property landowners affected by surveyed routes. *Secondly*, DNR recorded 72 unsurveyed routes that cross parcels held by, federal, state, or borough governments, and privately-owned parcels larger than 160 acres. DNR is identifying those routes that cross University of Alaska and Alaska Mental Health Trust lands for future recording. *Thirdly*, DNR will record the balance of the routes as they become surveyed.

### AMENDMENTS TO AS 19.30.400:

*Recording Requirement.* DNR wants to work with the Legislature to amend this law to provide for the recording of RS 2477 routes as they become surveyed or for those unsurveyed routes that cross large parcels (greater than 160 acres in size). The Governor's Office will forward draft legislation to this effect.

*Maintenance of Qualifying Routes Listing.* DNR is also suggesting alternative language to remove non-qualifying routes from the statute. To keep statutory changes to a minimum, DNR's legislation would also call for DNR to maintain the "authorized" list, to include those routes that were in the original legislation together with those that it reports to the legislature on an annual basis.

## ATTACHMENT A

### Routes First Reported to the Legislature in March 1999

#### *Interior*

|          |  |          |   |
|----------|--|----------|---|
| RST 99   | Illinois Creek – Moran Creek                                       | RST 1826 | Chena – Ester   |
| RST 278  | Fairbanks – Chena Hot Springs                                      | RST 1832 | Chicken – Fish/McKinley Creeks  |
| RST 464  | Richardson Highway (Birch Lake) – Caribou Creek Trail              | RST 1844 | Little Melozitna Hot Springs Trail  |
| RST 465  | Fortymile Dome – Boundary Creek                                    | RST 1846 | Melozitna Hot Springs Trail   |
| RST 644  | Cleary Summit – Gilmore Dome Trail                                 | RST 1849 | Horner Hot Springs Trail  |
| RST 656  | Dennison Fork Trail  | RST 1856 | Mastodon Creek – Eagle Creek Trail  |
| RST 686  | Ober Creek Trail   | RST 1864 | Silver Fox Road   |
| RST 781  | Richardson Telegraph Station – Ridge (a/k/a Banner Creek Trail)    | RST 1865 | Last Tetlin (Nandell’s Village) – Tetlin Trail                                  |
| RST 782  | Redmond Creek – Banner Creek Trail                                 | RST 1883 | Walker Fork – Davis Creek – Border  |
| RST 783  | Shaw Creek Lodge – Tenderfoot Creek Trail                          | RST 1888 | Hogatza Road  |
| RST 787  | Teddy’s Fork Trail   | RST 1903 | Poker Creek Trail   |
| RST 797  | Napoleon Creek Trail   | RST 1908 | Chena Hot Springs – Olympia Creek Trail   |
| RST 841  | Fish Lake – American Creek   | RST 1921 | Washington Creek Trail  |
| RST 1477 | Mastodon Creek – Mastodon Dome – Deadwood Creek Trail              | RST 1921 | Smallwood Creek – Nugget Creek Loop   |
| RST 1572 | Tuck Creek Trail   | RST 1924 | Bear Creek Trail (Livengood quad)   |
| RST 1602 | Ester Dome – Nugget Creek Trail                                    | RST 1925 | Solo Creek Trail  |
| RST 1611 | Bergman – Cathedral Mountain Trail                                 | RST 1927 | Walnut Creek Trail  |
| RST 1642 | Franklin – Chicken/Lilliwig Creek Trail via South Fork River Trail | RST 1929 | Old Chatanika – Cleary – Fairbanks Creek  |
| RST 1644 | Caro – Ft. Yukon Trail   | RST 1930 | Pedro Dome Road   |
| RST 1824 | Alder Creek Trail (Ester)  | RST 1931 | Gilmore Hill Road   |
|          |  | RST 1932 | Little Eldorado Road and Spurs  |
|          |  | RST 1958 | Davidson Ditch Access Roads: Belle Creek, McKay Creek, Boston Creek, Long Creek |

#### *Northwest*

|          |  |
|----------|--|
| RST 1719 | Wesley Creek Trail                           |
| RST 1744 | Kobuk River – Junction Trail                 |
| RST 1915 | Kobuk – Alatna River Portage: Northern Route |
| RST 1913 | Pah River Portage: Kobuk – Hogatza River     |

*Southcentral*

RST 1323 Quartz Creek Trail (Seward  
quad)  
RST 1506 Goose Creek Road  
RST 1509 Curry Landing Strip – Lookout  
Tower  
RST 1562 Trail Creek Trail  
RST 1678 Greyling Creek Trail  
RST 1819 Chisna – Slate Creek  
RST 1862 Beluga Indian Trail

*Southeast*

RST 1851 Keystone Trail

*Southwest*

RST 502 Boulder Creek – Flat Road  
RST 1211 Egegik – Pilot Point – Ugashik  
RST 1215 Coffee Creek Channel –  
Kvichik River Trail

**Routes Recommended to be Removed from  
Alaska Statute 19.30.400  
(as reported to the Legislature in March 1999)**

Based on new evidence, DNR believes the following 12 trails do not qualify as RS 2477 rights-of-way:

*Interior*

RST 881 Alexanders Village - Veh -  
Tenjerlow Lakes

*North Slope*

RST 914 Poker (Pokok) Lagoon  
Southeast  
RST 916 Tarnayariak River - Camden  
Bay  
RST 1042 Anderson Point East  
RST 912 Gordon - U.S. Border Tractor  
Trail  
RST 913 Nuvagapak Pt Landing Strip -  
Kogatpak River

*Northwest*

RST 457 Beeson Slough - Second Creek  
(Winter)  
RST 635 Beeson Slough – Shaktoolik  
Roadhse – Ungalik  
RST 752 Shaktoolik River - Junction  
Creek  
RST 738 Gambell – Boxer Bay

*Southcentral*

RST 1345 Long Lake - Chitina River

*Southwest*

RST 507 Stuyahok – Cabin

Routes First Reported to the Legislature in January 2000

*Interior*

RST 625 Cantwell Small Tracts Road  
(Lovers Lane)  
RST 695 Donnelly Dome: Old Valdez Trail  
Segment  
RST 815 Birch Creek Trail  
RST 1604 Frying Pan Creek Trail  
RST 1926 Fairbanks Creek – Fish Creek  
RST 1959 Dictator Creek Trail  
RST 1966 Caro-Coldfoot – West Fork  
Route

*Northwest*

RST 732 Rennies Landing – Cripple  
Landing (South) – Bear Creek

*Southcentral*

RST 1359 Keystone Canyon – Thompson  
Pass

## ATTACHMENT B

### Routes Recorded in August 1999 by DNR

\* denotes survey exists<sup>1</sup>

|          | <i>Interior</i>                                 | <i>North Slope</i>                                 |
|----------|---|--|
| RST 119  | Kobi-Bonnifield Trail to Tatlanika Crk *        | RST 560 Rampart House-Demarcation Point            |
| RST 144  | Gilmore Trail Branch-Smallwood Creek *          | <i>Northwest</i>                                   |
| RST 251  | O'Connor Creek Trail *                          |  |
| RST 278  | Fairbanks-Chena Hot Springs *                   | RST 1348 Harris Dome Trail                         |
| RST 304  | Wilson Creek Trail                              |  |
| RST 342  | Roosevelt-Glacier                               | <i>Southeast</i>                                   |
| RST 343  | Kobi-Kantishna *                                |  |
| RST 444  | Healy Creek Trail                               | RST 14 Unuk River Road                             |
| RST 466  | Nation River-Rampart House                      | RST 272 Khayyam Mine Trail                         |
| RST 500  | Michigan Creek Trail                            | RST 521 Sulzer Portage Trail                       |
| RST 644  | Cleary Summit-Gilmore Dome Trail *              | RST 1232 Malaspina Glacier Trails                  |
| RST 650  | Gilmore Trail-Fairbanks Creek Connector Trail * | <i>Southwestern</i>                                |
| RST 686  | Ober Creek Trail                                | RST 206 Takotna-Twin Peaks                         |
| RST 758  | Lake Minchumina-Kuskokwim River                 | RST 28 Bennett's Cutoff                            |
| RST 803  | Trout Creek Trail                               | RST 397 Fosters Camp-Grass Valley                  |
| RST 824  | Alfred Creek Trail                              | RST 431 Marvel Creek Trail-Beaver Creek            |
| RST 890  | Middle Fork-Chandalar Trail                     | RST 542 Little Creek Trail                         |
| RST 1584 | Lick Creek Spur                                 | RST 543 Murray Creek Trail                         |
| RST 1596 | Eldorado Creek Trail *                          | RST 548 Dome Creek-Anaconda-Bell Creek             |
| RST 1598 | Chena Lakes Trail                               | RST 549 Dome Creek--Bell Creek Ridge Top Trail     |
| RST 1639 | Tamarack Spur                                   | RST 551 Big Yetna River-Winter Ridge-Little Yetna  |
| RST 1722 | Fielding Lake Trail, North Shore                | RST 555 First Chance Creek-Bonanza Creek Loop      |
| RST 1843 | Hudson Camp Trail                               | RST 556 First Chance Creek across Glacier-Horsefly |
| RST 1891 | Mission Creek Trail                             | RST 557 Dikeman-First Chance Creek Tr.             |
| RST 1898 | Lost Creek Trail (Yukon Flats)                  | RST 609 One Mile Trail                             |
| RST 1931 | Gilmore Hill Road *                             |  |

<sup>1</sup> The survey may not contain the entire RS 2477 route. Only that portion that is surveyed, including portions that traverse major landowners, will be recorded.

*Southcentral*

|          |                                   |          |  |
|----------|-----------------------------------|----------|--|
| RST 142  | Johnson Pass                      | RST 1539 | Mae West Lake Trail                      |
| RST 155  | Nizina - Bremner Sled Road        | RST 1555 | Canyon Creek Trail                       |
| RST 160  | Nuka Bay                          | RST 1660 | Tokun Lake Trail                         |
| RST 179  | Kiagna River Trail                | RST 1661 | Shepherd Creek-Lake<br>Charlotte Trail   |
| RST 274  | Monashka Mountain Trail           | RST 1662 | Carbon Creek-Kuskutaka<br>Lake Tr.       |
| RST 282  | Island Bay-Salmon Creek<br>Trail  | RST 1675 | Buck Creek Trail                         |
| RST 300  | Windy Bay-Port Chatham<br>Portage | RST 1684 | Slatka Creek Trail                       |
| RST 363  | Tana River Trail                  | RST 1696 | Dixie Pass Trail                         |
| RST 375  | Paint River Trail                 | RST 1717 | Richardson Highway-Fish<br>Lakes Trail   |
| RST 405  | King's County Trail               | RST 1785 | Canoe Landing-Kushtaka<br>Lake Tr.       |
| RST 428  | Styx River Trail                  | RST 1787 | Trout Creek-Clear Creek<br>Trail         |
| RST 529  | Iniskin Bay-Oil Bay Trail         | RST 1788 | Stillwater Creek Spur Trail              |
| RST 564  | Chickaloon-Knik-Nelchina *        | RST 1791 | Bellum's Crossing - Kotsina<br>R. Tr.    |
| RST 634  | Explorers Kenai River Trail       | RST 1804 | Willow Creek-Elliot Creek<br>Trail       |
| RST 680  | Moore's Lake Trail                | RST 1814 | Sevenmile Lake Trail<br>(Denali Highway) |
| RST 1343 | Nizina River-Dan Creek Road       |          |  |
| RST 1380 | Hudson Lake Trail                 |          |  |
| RST 1396 | Bence Mountain Loop Trail         |          |  |
| RST 1416 | Chitina-Elliot Trail              |          |  |
| RST 1419 | Eklutna Lake Spur                 |          |  |
| RST 1533 | Crater Lake Access Trail          |          |  |
| RST 1534 | Jerky (Gergle) Lake Trail         |          |  |

# NOTIFICATION OF ANNUAL MINING REPORT

## INTRODUCTION

This notification fulfills the requirement of AS 27.05.060 that the Department of Natural Resources prepare an annual report on mining in the state and notify the legislature that the report is available.

## ANNUAL MINING REPORT

The most recent annual report on mining in Alaska, *Alaska Minerals Industry Report 1998*, has been published jointly by the Department of Natural Resources' Division of Mining, Land and Water and the Department of Community and Economic Development's Division of Trade and Development. The report is available as the Division of Geological and Geophysical Surveys' Special Report 53.

# **NOTIFICATION OF LAND DISPOSAL INCOME ACCOUNT REPORT**

## **INTRODUCTION**

This notification fulfills the requirement of AS 38.04.022(b) that the Department of Natural Resources prepare a report reflecting all money deposited in the State Land Disposal Income Account during the prior fiscal year and notify the legislature that the report is available. As the report is short, it is set out in full below.

## **LAND DISPOSAL INCOME ACCOUNT**

The revenue from the sale of state land is deposited in a special state Land Disposal Income Account within the state General Fund. The legislature may appropriate money for implementation of state land disposal programs from this account. During fiscal year 1999, approximately \$2.36 million dollars were deposited in this account. Of this, \$1.75 million was principal and \$610,000 was interest.



# TRANSMISSION OF INTERIM MINERAL CLOSING ORDER

## INTRODUCTION

This notification fulfills the requirement of AS 38.05.300(c) that the Department of Natural Resources transmit to the legislature for consideration all interim mineral closing orders issued under that subsection during 1999. For the reasons set out below, the department does not seek legislative approval to extend this mineral closing order.

## INTERIM MINERAL CLOSING ORDER

Effective June 11, 1999, Commissioner of Natural Resources John Shively issued an interim mineral closing order under AS 38.05.185 and AS 38.05.300(c) closing two upland mining leaseholds to new mineral entry. The interim mineral closing order affected a total of 62,479.75 acres in two lease areas, described on the following pages. The closure was based on the following finding of the commissioner:

USMX of Alaska is the owner of two Upland Mining Leases and the Illinois Creek Gold Mine 50 miles southwest of Galena. The State of Alaska, Division of Mining and Water Management has determined that USMX of Alaska is in violation of the lease terms. Consistent with state law and the provisions of the leases, the Division may terminate the leases. There remains a reclamation obligation held by USMC Corporation at Illinois Creek Mine for failure to perform under the requirements defined in the upland mining leases and in the approved operating and reclamation plans.

Staking of mineral interest would interfere with required reclamation and operation of the facilities which are necessary to protect the environment and to accomplish further reclamation. Staking of additional mineral interest is incompatible with the surface reclamation required for the area. The Temporary Mineral Closing Order No. 746 is necessary either to allow the state to accomplish the required reclamation, or to allow the Division to determine whether a new lease should be solicited for the purpose of commencing mining and completion of reclamation.

This Temporary Mineral Closing Order will be in effect until a new Upland Mining Lease is issued or reclamation is completed. The Division may also re-open the area to mineral staking if a new lease is not issued. In addition, the Division may re-open part of the area if it is not needed by a new lessee for reclamation. This order will apply to Illinois Creek Upland Mining Lease ADL 534703, and the Round Top Upland Mining Lease ADL 534670.

Effective September 8, 1999, the Department of Natural Resources issued a new Upland Mining Lease ADL 672124 to Viceroy-Alaska LLC for a portion of the acreage (1,920 acres) that had been closed by the mineral closing order. The new leasehold included the area for which surface reclamation was pending. Issuance of the new lease released the affected acreage from the mineral closing order. It also removed the need for the

remainder of the mineral closing order, as the new lessee has assumed the obligation to complete the surface reclamation. **Therefore the Department of Natural Resources does not seek legislative approval of the interim mineral closing order.** Instead, the interim mineral closing order **should be allowed to expire** on the 90<sup>th</sup> day of the current legislative session (April 9, 2000) or upon adjournment of the session, whichever comes first.

The interim mineral closing order was issued effective June 11, 1999 for state land within the following two lease areas, ADL 534703 and ADL 534670:

## Upland Mining Lease ADL 534703

Within Kateel River Meridian

### Township 16 South, Range 4 East

Sec. 34: E1/2  
Sec. 35: All  
Sec. 36: All

### Township 16 South, Range 5 East

Sec. 31: All  
Sec. 32: All  
Sec. 33: All  
Sec. 34: All  
Sec. 35: S1/2N1/2S1/2  
Sec. 36: S1/2N1/2, SW1/4, N1/2SE1/4,  
SW1/4SE1/4

### Township 16 South, Range 6 East

Sec. 31: SW1/4NW1/4

### Township 17 South, Range 4 East

Sec. 1: All  
Sec. 2: All  
Sec. 11: All  
Sec. 12: All  
Sec. 13: N1/2  
Sec. 14: N1/2

### Township 17 South, Range 5 East

Sec. 1-12: All\*  
Sec. 13: NW1/4  
Sec. 14: N1/2  
Sec. 15: N1/2  
Sec. 16: N1/2  
Sec. 17: N1/2  
Sec. 18: N1/2

Containing approximately 17,647.75 acres, more or less

\*Effective September 8, 1999, the following acreage (1,920 acres) was released from the interim mineral closing order by issuance of a new upland mining lease: Kateel River Meridian, Township 17 South, Range 5 East, Sec. 4: S1/2; Sec. 5: S1/2; Sec. 6: All; Sec. 7: All.

## Upland Mining Lease ADL 534670

Within Kateel River Meridian:

### Township 15 South, Range 4 East

Sec. 13: S1/2NE1/4, SE1/4  
Sec. 24: NE1/4, SE1/4, SW1/4  
Sec. 25: All  
Sec. 26: E1/2, E1/2W1/2  
Sec. 35: E1/2, E1/2 W1/2  
Sec. 36: All

### Township 15 South, Range 5 East

Sec. 3: S1/2SW1/4  
Sec. 4: S1/2S1/2  
Sec. 8: SE1/4, SE1/4NE1/4  
Sec. 9: All  
Sec. 10: W1/2  
Sec. 15: W1/2  
Sec. 16: All  
Sec. 17: All  
Sec. 18: S1/2N1/2, S1/2  
Sec. 19: All  
Sec. 20: All  
Sec. 21: N1/2, N1/2S1/2, SW1/4SW1/4  
Sec. 22: NW1/4, N1/2SW1/4  
Sec. 29: NW1/4, N1/2NE1/4, SW1/4NE1/4,  
N1/2SW1/4, SW1/4SW1/4  
Sec. 30: All  
Sec. 31: W1/2, W1/2E1/2, NE1/4NE1/4  
Sec. 32: NW1/4NW1/4

### Township 15 South, Range 6 East

Sec. 11: S1/2SE1/4, SE1/4SW1/4  
Sec. 12: S1/2S1/2  
Sec. 13: All  
Sec. 14: All  
Sec. 22: E1/2E1/2  
Sec. 23: All  
Sec. 24: All  
Sec. 25: All

### Township 15 South, Range 6 East

(Continued from left-hand column)  
Sec. 26: All  
Sec. 27: E1/2E1/2  
Sec. 34: E1/2E1/2  
Sec. 35: All  
Sec. 36: All

### Township 15 South, Range 7 East

Sec. 7: S1/2S1/2  
Sec. 8: S1/2S1/2  
Sec. 9: SW1/4SW1/4  
Sec. 16: W1/2W1/2  
Sec. 17: All  
Sec. 18: All  
Sec. 19: All  
Sec. 20: All  
Sec. 21: W1/2W1/2  
Sec. 28: W1/2W1/2  
Sec. 29: All  
Sec. 30: All  
Sec. 31: All  
Sec. 32: N1/2, N1/2S1/2, SW1/4SW  
Sec. 33: W1/2NW1/4, NW1/4SW1/4

### Township 16 South, Range 4 East

Sec. 1: All  
Sec. 2: E1/2  
Sec. 11: E1/2  
Sec. 12: All  
Sec. 13: N1/2  
Sec. 14: NE1/4

### Township 16 South, Range 5 East

Sec. 2: S1/2SW1/4, SW1/4SE1/4  
Sec. 3: S1/2S1/2  
Sec. 4: S1/2S1/2

Township 16 South, Range 5 East  
 (Continued from previous page, right-hand column)

Sec. 5: S1/2S1/2  
 Sec. 6: W1/2, W1/2E1/2, SE1/4SE 1/4  
 Sec. 7: All  
 Sec. 8: All  
 Sec. 9: All  
 Sec. 10: All  
 Sec. 11: W1/2, W1/2E1/2  
 Sec. 14: W1/2, W1/2E1/2  
 Sec. 15: All  
 Sec. 16: All  
 Sec. 17: All  
 Sec. 18: All  
 Sec. 19: E1/2E1/2  
 Sec. 20: All

Sec. 21: All  
 Sec. 22: All  
 Sec. 23: W1/2, W1/2E 1/2,  
 SE1/4NE1/4, E1/2SE1/4  
 Sec. 24: S1/2N1/2, S1/2  
 Sec. 25: All  
 Sec. 26: All  
 Sec. 27: All  
 Sec. 28: All  
 Sec. 29: All

Township 16 South Range 5 East  
 (Continued from left-hand column)

Sec. 30: E1/2E1/2  
 Sec. 35: N1/2N1/2  
 Sec. 36: N1/2N1/2

Township 16 South, Range 6 East

Sec. 1: All  
 Sec. 2: All  
 Sec. 3: All  
 Sec. 9: All  
 Sec. 10: N1/2, W1/2SE1/4,  
 NE1/4SE1/4  
 Sec. 11: NW1/4, W1/2NE1/4  
 Sec. 16: N1/2,SW1/4, W1/2SE1/4  
 Sec. 17: NE1/4SE1/4, SE1/4SW1/4,  
 S1/2SE1/4  
 Sec. 19: S1/2N1/2, S1/2  
 Sec. 20: All  
 Sec. 21: NW1/4, W1/2SW1/4  
 Sec. 29: N1/2N1/2, SW1/4NW1/4  
 Sec. 30: N1/2, SW1/4, NW1/4SE1/4  
 Sec. 31: NW1/4NW1/4

Township 16 South, Range 7 East

Sec. 5: W1/2NW1/4  
 Sec. 6: N1/2

Containing approximately 44,832 acres, more or less

# NOTIFICATION OF ANNUAL REPORT ON WATER REMOVALS AND EXPORTS

## INTRODUCTION

AS 46.15.020(b)(5) requires the Department of Natural Resources to prepare an annual report regarding activities of the commissioner under AS 46.15.035 and 46.15.037 and to notify the legislature that the report is available. As the report is short, it is set out in full below.

## WATER REMOVALS AND EXPORTS

The annual report under AS 46.15.020(b)(5) is required to cover the following:

(A) The number of applications and appropriations for the removal of water from a hydrologic unit to another that were requested and that were granted, and the amount of water involved:

There were no applications filed for the removal of water in FY99.

(B) Information on the number and location of sales of water conducted by the commissioner, and on the volume of water sold:

The State has not sold any water and no actions are pending.

(C) Recommendations of the commissioner for changes in state water law:

The Department of Natural Resources anticipates that local government or the private sector may request changes to AS 46.15.035 related to the use of municipally provided water, and other changes to the current requirements regarding a determination that water to be removed is surplus to the needs of the hydrologic unit, that a reserve of water for fish and their habitat be established, and that the person removing water pay a water conservation fee.

(D) A description of state revenue and expenses related to activities under AS 46.15.035 and AS 46.15.037:

Expenses: From February 1, 1999 through January 31, 2000, no funds were spent directly related to this statute.

Revenue Collected: No revenue was collected in FY99. In FY00 DNR anticipates collecting a small amount of revenue from businesses involved in removing water from one hydrologic unit to another hydrologic unit or out of the state.

**Subject: RS 2477 from BLM Perspective**

**Date: Thu, 16 Nov 2000 09:38:54 -0900**

**From: Betsy\_Bonnell@ak.blm.gov**

**To: Joe\_Sullivan@dnr.state.ak.us, jackk@dnr.state.ak.us, stevem@dnr.state.ak.us**

FYI - thought you might like to see the latest from BLM perspective. In short it is as follows:

Those making claims of the existence of valid RS 2477 right-of-way continue to have the option of seeking to establish the validity of their claims in court. Nevertheless, it is possible that the Department may be asked, in advance of final rules taking effect, to make such determinations on the basis that such a demonstrated, compelling, and immediate need is claimed to exist. If so, until final rules are published and take effect, determinations regarding RS 2477 rights-of-way will be made by the Secretary of the Interior, in consultation with the appropriate Interior agency,

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Background information from the BLM Web Site: RS 2477

Overview

Revised Statutes (RS) 2477, part of the 1866 Mining Law, stated, in its entirety: "The right of way for the construction of highways across public lands, not reserved for public uses, is hereby granted." Congress repealed the statute in FLPMA in 1976. The repeal did not, however, terminate already existing highway rights of way created under RS 2477. Two decades after its repeal, the profusion of unresolved claims presents a planning and management problem for federal land managers and other landowners, and uncertainty for potential right of way holders and users of public lands.

BLM/DOI Position

The DOI opposed the bills introduced in the 104th Congress. There are vast differences between the Administration policy and the legislation proposed. The legislation would have both intended and unintended consequences that would be a problem for Federal land managers. The proposed legislation (HR 2081) would have reversed the burden of proof that has for many decades applied to public land law, by putting it on the government on "all questions," and by requiring the government to institute a lawsuit each and every time it determines that an RS 2477 claim does not meet applicable legal standards. The bill would have allowed state law to control all questions, even when the law is inconsistent with RS 2477, and even when the state law was passed after the repeal of RS 2477. The bill would have reenacted RS 2477 two decades after its repeal. HR 2081 also would have authorized the creation of new "highways" where none currently exist. The new highways could spread across federal lands (including parks and wilderness), tribal lands, and private lands. The bill would have rendered the government powerless to prevent the conversion of footpaths, dog sled trails, jeep tracks, ice roads, and other primitive transportation routes into paved highways. The result would have fatally undermined the principles of modern statutes, such as public land retention, comprehensive land planning, public involvement in land use decisions, compliance with environmental laws, and mitigation of negative environmental impacts.

The DOI supports our regulatory process, and does not believe it should require approval by Congress. The proposed regulations provide a method for claimants to file RS 2477 claims with the agencies administering the land, and establishes procedures so the claim may be evaluated. Until final rules are effective, we have deferred processing of RS 2477 assertions, except in cases where there is a demonstrated, compelling and immediate need for determination. In those cases, we would process the claim based on the Interim Departmental Policy set out by the Secretary on January 22, 1997, which revoked the 1988 Hodel Policy.

Background

On August 1, 1994, the Department (DOI) published a proposed regulation aimed at settling this longstanding controversy. The proposed regulation would clarify the meaning of important terms in RS 2477 and establish an administrative process for determining how many claims are valid and where they are. The comment period closed on August 1, 1995, after the Department received over 3200 comments. The DOI did not work on the comments or the regulations, since the FY96 Appropriations Act prohibited "developing, promulgating, and thereafter implementing a rule concerning rights\_of\_way under Section 2477." The DOI's Appropriation for FY97 allows the DOI to work on RS 2477 regulations, but mandates that no final rule or regulation pertaining to recognition, management or validity of rights\_of\_way pursuant to RS 2477 shall take effect unless expressly authorized by an Act of Congress.

During the 104th Congress, Representative Hansen (R\_UT) and Senator Murkowski (R\_AK) introduced HR 2081 and S 1425 to "settle" RS 2477 claims. The bills would have imposed the application of state law on the determination of RS 2477 rights\_of\_way, and put the burden of proof solely on the Federal government to disprove the existence of rights\_of\_way.

Contact

Ron Montagna, (202) 452\_7782

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Interim Departmental Policy set out by the Secretary on January 22, 1997, which revoked the 1988 Hodel Policy.

Those making claims of the existence of valid RS 2477 right-of-way continue to have the option of seeking to establish the validity of their claims in court. Nevertheless, it is possible that the Department may be asked, in advance of final rules taking effect, to make such determinations on the basis that such a demonstrated, compelling, and immediate need is claimed to exist. If so, until final rules are published and take effect, determinations regarding RS 2477 rights-of-way will be made by the Secretary of the Interior, in consultation with the appropriate Interior agency, according to the following policy:

1. Claims. An entity wishing the Secretary or any agencies of the Department of the Interior to make a determination whether an RS 2477 right-of-way exists shall file a written request with the Interior agency having jurisdiction over the lands underlying the asserted right-of-way, along with an explanation of why there is a compelling and immediate need for such a determination. The request should be accompanied by documents and maps that the entity wishes the agency to consider in making its recommendation to the Secretary. If, based on the information provided, the agency does not believe a compelling and immediate need for the determination exists, it should without further examination recommend the Secretary defer processing until final rules are effective.
2. Withdrawals and Reservations. The agency shall consult the public land records maintained by the Bureau of Land Management to determine the status of the lands over which the claimed right-of-way passes. If such lands were withdrawn, reserved, or otherwise unavailable pursuant to RS 2477 at the time that the highway giving rise to the claim of an RS 2477 right-of-way was allegedly constructed and remained unavailable through October 21, 1976, the agency will recommend the Secretary deny the claim.
3. Construction. If the lands were not withdrawn, reserved, or otherwise unavailable pursuant to RS 2477, the agency shall examine all available documents and maps and perform an on-site examination to determine whether construction on the alleged right-of-way had occurred prior to the repeal of RS 2477 on October 21, 1976. If the

agency determines that construction did not occur, the agency will recommend the Secretary deny the claim.

4. Highway. The agency shall evaluate whether the alleged right-of-way constitutes a highway. A highway is a thoroughfare used prior to October 21, 1976, by the public for the passage of vehicles carrying people or goods from place to place. If the agency determines that the alleged right-of-way does not constitute a highway, the agency will recommend the Secretary deny the claim.

5. Role of State Law. In making its recommendations, the agency shall apply state law in effect on October 21, 1976, to the extent that it is consistent with federal law. The agency will in no case recommend approval of claims that do not comply with the requirements of applicable state law.

6. Secretary's Determination. The agency will make recommendations on the above-described issues to the Secretary. The Secretary will approve or disapprove those recommendations.

Signed Bruce Babbitt.



## Vacation of RS 2477 Rights-of-Ways in the State of Alaska

Presented by Gerald Jennings,  
DNR, DMLW, Statewide Platting Supervisor

Vacations of RS 2477 rights-of-ways require approval of both the Dept. of Natural Resources (DNR) and the Dept. of Transportation & Public Facilities (DOT/PF). In addition to this, in most cases, the vacation will not be approved unless it is acceptable to the local municipal platting authority, however, AS 29.35.090 amended in 1999 provides that a municipality may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932.

Many different situations cause a person to seek a vacation. Probably the two most compelling are: 1) The sale of the house is in the final stages, a decent interest rate is locked in. The bank wants an as-built and when it is completed, the owner finds that the corner of the house is in a section line easement. These folks want a vacation in a hurry, because their whole life goes on hold until it is resolved. 2) A land owner has a trail or a cut across their property, and never gave it too much thought, until one day, it comes to their attention that there is an easement on that trail which is 100 feet wide and in some cases the property is nearly unusable.

The first example would be a section line easement. Most people are aware of these, but sometimes get into them anyway. The second example is simply a historic trail which became an RS 2477 trail while it was still federal land, but often land owners and even government agencies are unaware of the easement for years, until it becomes an issue and somebody does the research.

In either case, the vacation process is essentially the same. First, let's look at the statute:

*Sec. 19.30.410. Vacation of rights-of-way.*

*Notwithstanding another provision of law, the Department of Natural Resources, the Department of Transportation and Public Facilities, or another agency of the state may not vacate a right-of-way acquired by the state under former 43 U.S.C. 932 unless*

*(1) a reasonably comparable, established alternate right-of-way or means of access exists that is sufficient to satisfy all present and reasonably foreseeable uses;*

*(2) the right-of-way is within a municipality, the municipal assembly or council has requested the vacation, a reasonable alternative means of access is available, and the vacation is in the best interests of the state; or*

*(3) the vacation is approved by the legislature.*

This common sense approach I'm confident has been followed fairly closely for years. In the past, we often haven't been notified of a proposed vacation until very near the end of the process. The plat has been through the borough, and sometimes a land owner would show up

with a mylar with the expectation that we could sign on the spot. In the more recent past, DNR's involvement has been earlier in the process. We often discover a proposal for vacation during in house review of public notices which are sent out by the local borough's in the platting process.

Because of the process currently being implemented by the department, it will be to an applicant's advantage to contact DNR sooner. The main change in our process is that we now issue public notice, provide a 30 day comment period, and make a formal decision, which has a 20 day appeal period. The public notice and 30 day comment period can run concurrently with the borough process. This would save time for the applicant. However, the department will not make a final decision to approve a vacation until the local borough has given their conditions for approval.

After issuing a final decision, there is a 20 day appeal period before DNR can sign the vacation plat or document.

### **The DNR Vacation Process**

**Petition** – (see attachment \_\_\_) Applicant submits petition form to DNR with \$100 fee. DNR directs the applicant to apply with the local platting authority.

**Agency review & preliminary decision** – DNR sends the petition to agencies for comment. Based on in house review and agency comments, a preliminary decision is made. A field inspection at the applicant's expense may be required in some cases.

**Public Notice & Written comment period** – Notice of the preliminary decision is published at the applicant's expense, and 30 day written comment period begins.

**Final Decision** – DNR's public best interest decision is based on consideration of comments received, borough recommendations, input from DOT/PF, Dept. of Fish & Game, and other agencies; applicable statutes and regulations.

The final decision may have "Conditions of Approval" such as a requirement for construction of the proposed alternate route to a standard equal or better to the vacated route.

**Vacation document** – this is normally a survey plat, but in cases where the RS 2477 route has never been surveyed and platted, and the alternate route does not require platting, the vacation document may be other than a plat.

### **DNR's Proposed Easement Regulations**

The proposed regulations have been approved by on December 18, 2000, by Pat Pourchot, Commissioner of DNR and are currently in review at the Attorney General's Office. A copy is attached and they can also be obtained on the web at:  
<http://www.dnr.state.ak.us/land/11aac51.htm>.

## DOT&PF Perspective on RS-2477 (Trails & Section Line easements)

When you think about DOT&PF facilities, you generally think of the primary highways such as the Richardson, Glenn and Parks. However, if you think with a historical perspective, you should consider such roads and trails as the Eureka to Rampart road, Ft. Gibbon to Kaltag trail and other that were constructed or maintained by DOT's federal predecessor agency, the Alaska Road Commission.

- *1983 Alaska Land Title Association case – footnote –*

“Prior to the issuance of Public Land Order No. 601..., nearly all public roads in Alaska were protected only by easements. Right-of-way easements were acquired under section 2477 of the Revised Statutes (43 U.S.C. sec. 932) by the construction of roads. This section granted a right-of-way for the construction of highways over public lands not reserved for public uses.”

- Many active roads during early mining period that were maintained by ARC now see limited use and no public maintenance.
- DOT has a little interest in current RS-2477 issue with respect to highway improvement: Trails created by path of least resistance decades ago no longer best route to invest large sums of money into. – alignment, grades, geology, environmental, old routes no longer be practical as primary transportation corridors. Exception: maybe Eureka to Rampart in certain areas.
- Declined to participate in Schultz case.
- DOT occasionally has some interest:

Chicken airport access road – 2/24/87 submitted assertion of RS-2477 under terms of MOU regarding procedures for assertion of RS-2477 trails signed by BLM (Fairbanks Distr.), DNR and DOT in 9/28/84.

Pioneer Access road program – Klutina lake road: 12/23/64 letter from BLM “This trail...would come under the regulations of RS 2477...which provides for pioneer access roads.”

Assertion may be used as trading stock for new route with certain federal agencies

**DOT&PF Research Resources:** Although DNR had the lead in the RS-2477 trail identification, research and assertion project, DOT&PF records provided significant resources for that work. Occasionally we can provide information to a property owner seeking legal access that results in a successful assertion.

*Field Book archives:*

- “Winter Trail, Fairbanks – Ft. Gibbon, 1908”
- “1929, Abercrombie Trail (Gulkana-Chisana)”

- “1906, Rampart-Glen Wagon Road Survey”
- “1922, Lignite to Kantishna and Kuskokwim”

*Database archives – Naske project 14,000 records*

*Pioneer Access Road files*

*Alaska Road Commission Annual reports and miscellaneous records.*

**RS-2477 Trail Management jurisdiction: regs/statutes**

***11 AAC 51.100 MANAGEMENT OF RS 2477 RIGHTS-OF-WAY.***

*(a) The commissioner has management authority over the use of any RS 2477 right-of-way that is not on the Alaska highway system.*

***Sec. 19.30.400. Identification and acceptance of rights-of-way.***

*(a) The state claims, occupies, and possesses each right-of-way granted under former 43 U.S.C. 932 that was accepted either by the state or the territory of Alaska or by public users. A right-of-way acquired under former 43 U.S.C. 932 is available for use by the public under regulations adopted by the Department of Natural Resources unless the right-of-way has been transferred by the Department of Natural Resources to the Department of Transportation and Public Facilities in which case the right-of-way is available for use by the public under regulations adopted by the Department of Transportation and Public Facilities.*

**Section Line Easements:**

- Check with your Regional DOT ROW Section to see how Section Line vacations are handled in your region. The process differs slightly.
- Section line easements are designated “for highway purposes” therefore DOT&PF has a significant interest in evaluating the effect of a vacation.
- In Northern Region – The review is handled by the Regional Planning office. ROW is only consulted on occasion. Planning is also responsible for all plat reviews in light of their effects on future projects. The approval certificate recommending signature by the DOT Commissioner is signed by the Regional Planning Chief. The Regional Director has authority to sign on behalf of the Commissioner.
- 17 AAC 15.031 APPLICATION FOR UTILITY PERMIT ON SECTION-LINE RIGHTS-OF-WAY.

*(a) Utility permits are required only for section-line rights-of-way presently used or proposed for use by the department. A person seeking to install a utility facility within a section-line right-*

*of-way shall check with the department to determine whether the department presently uses or proposes to use the affected portion of the section-line right-of-way.*

*(b) Before issuing a permit for the installation of a utility facility within a section-line right-of-way, the department must be satisfied that a section-line right-of-way exists at the location where the facility is proposed to be installed by the permit applicant. The permit applicant shall furnish proof of the existence of the section-line right-of-way.*