



Division of Mining, Land & Water

Alaska Department of Natural Resources

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FREQUENTLY ASKED QUESTIONS ABOUT THE RS 2477 PROJECT

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1. Why does RS 2477 matter anymore?

Since Alaska achieved statehood in 1959, the pattern of land ownership has become complicated. The federal government is still conveying land to the State, and Native corporations are receiving land as part of the Alaska Native Claims Settlement Act of 1971. Since the passage of the Alaska National Interest Lands Act (ANILCA) in 1980, Alaska's federal parks, refuges, preserves and wilderness areas have expanded greatly. Courts have ruled that the RS 2477 right-of-way is transferred along with the title and must still be honored. Land ownership may have changed, but the access needs of many residents have not. These recent land acts included some provisions for access, but they are often difficult to implement. The State of Alaska believes it is important to preserve historic public access across these lands not only for present needs, but for potential future uses as well. Therefore, RS 2477 is an important access tool towards this goal.

2. How does the recording requirement affect me?

Over the last five years, the Department of Natural Resources has been funded to identify those RS 2477 rights-of-way that do exist. Currently, the DNR has identified over 600 such routes that qualify under the requirements of 43 USC 932 (Revised Statute 2477).

Under Chapter 26, SLA 1998, this information will be recorded in the applicable recording district. The title to property crossed by the recorded RS 2477 would be encumbered by that right-of-way. DNR has begun the recording process by recording across parcels along the ten surveyed rights-of-way and across owners of large parcels through which a route runs in its entirety. DNR has served notice of its intent to record over the properties of persons located within the Fairbanks North Star and Matanuska-Susitna Boroughs. Due to the strong public outcry from this notice, DNR has not plans to record over small private parcels this year, and will approach the Legislature next session for a remedy to the existing requirement.

3. What about the landowner's rights?

Many Alaskan landowners, such as Native corporations and private citizens, want assurance that RS 2477 identification and recording will not damage their rights and interests. Federal, state, and local governments must recognize the legitimate concerns of landowners and land managers and the people they may represent. However, RS 2477 routes existed before the property was segregated as a homestead or other private parcel. They represent the "valid existing rights" to which all patents and deeds are subject.

4. What if the state records an unsurveyed RS 2477 route and my property is inaccurately identified as having an RS 2477 encumbrance through it?

In order to clear your title, DNR would need to record a disclaimer of interest once the route is properly located by survey.

5. What if there is a historic route running through my property but it's not on the list included in the statute?

One of the provisions of the statute is that every year the DNR must report to the Legislature any routes it has determined qualify as RS 2477 routes. Ongoing research makes additions to this list probable. If there is a route on your property that existed prior to any federal land withdrawals, it may be a valid RS 2477 and may appear in state statute at a future time. Should this occur, the route would be recorded in the applicable recording district and your property would be subject to it.

6. If I wish to sell a piece of property with an RS 2477 running across it, will I still be able to sell it?

Yes, but the property will be subject to the RS 2477. It is the job of title companies to point out encumbrances to property title to alert buyers and their lending institutions of what they are purchasing. In some instances it may be possible to re-route an RS 2477 trail onto adjacent state land. Because such re-routes benefit the landowner, the re-route would be at his or her expense (and may include bonding, permit fees, platting costs, and construction costs). The alternate route would have to be constructed to the same standards and engineering as the original RS 2477 right-of-way.

7. A route leading to public land crosses my property. What if legal access to that land also exists? Will the RS 2477 still affect me?

It will, although as a matter of policy the state prefers to avoid private property when feasible alternatives exist. The state may vacate RS 2477 rights-of-way when it is in the state's best interest to do so. Vacations can occur where feasible alternate access exists or when the vacation is approved by the Legislature.

8. How does the vacation process work with regard to RS 2477s?

The 1999 Legislature passed a new law, Ch. 94, SLA 1999 (formerly SB 45), that changes the vacation process for RS 2477 rights-of-way. With this amendment, only the state--either DNR and DOTPF or the Legislature itself, rather than local government--can approve such a vacation. Because RS 2477 access rights are owned by the state, a request to relinquish them can be granted only if it serves the state's best interests.

However, a right-of-way vacation also requires a plat amendment, and the local platting authority remains responsible for this part of the process. When an eligible party petitions for the right-of-way vacation, the platting authority will hold a hearing to consider whether that change would eliminate anyone's access. Although local government cannot make the final decision on the RS 2477 right-of-way vacation, this process provides a way for local views to be expressed, and the state will consider those views in determining whether the vacation is in the state's best interests. If the vacation is approved by the state, the party petitioning for the vacation must hire a surveyor to prepare a vacation plat. The vacation will ultimately be recorded, which clears the landowner's title.

9. There is a route near my house that I know has been used for over 30 years, but it does not show up on the list in the statute. Can I nominate it?

An individual may submit information regarding historic access routes to the Department of Natural Resources. At a minimum, DNR requires the submission of a map showing the exact route location and at least one historical reference (such as an old map, a citation in a book, or an affidavit) of the route's existence and use prior to December 14, 1968. As time permits, DNR will review the information and inform you of the outcome of its administrative adjudication.

10. What uses can I expect on RS 2477 routes?

Protecting Alaska's RS 2477 rights does not mean maintenance or improvements will automatically happen. Some rights-of-way may be improved for access to valuable state resources, communities, and land. Others will be used as they have in the past, while some may be developed only as hiking trails or not used at all. The state has management authority over public access on RS 2477 rights-of-way. The state requires permits for significant upgrades of trails, a process that may require public notice.

Rights-of-way acquired under RS 2477 provide an access tool for the state that can help meet public access and trail-user needs. However, RS 2477 management questions remain.

On state land and rights-of-way managed by DNR, "generally allowed" uses do not require a permit. For example, these uses include using up to a four-wheel drive pickup on state land if the root system (vegetative mat) is not disturbed.

Other uses of state land may require a permit. If you would like to use a documented RS 2477 route in a manner that could harm the vegetative mat or cut a trail more than five feet wide, contact DNR and the underlying landowners before proceeding. Contact one of our regional offices if you have any questions about whether you need authorization for certain activities.

If you need more information about RS 2477, the statute changes, or questions about a particular route, contact:

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