

R.S. 2477

What it is, Why it is Important to Alaska
& Recent Developments

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What is R.S. 2477?

- Section 8, Mining Law of 1866
 - Later re-designated as Section 2477 of Revised Statutes of 1878, a/k/a R.S. 2477
- “The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.”



How is an R.S. 2477 created?

- Grant is self-executing
- All right of ways existing on the date of repeal of R.S. 2477 in 1977 were expressly preserved
- Arises automatically when a public highway is established across public lands in accordance with the law of the State



Highways

- Historically, highways included foot trails, pack trails, sled dog trails, crudely built wagon roads and other corridors of transportation
- AS 19.45.001(9): includes a highway, road, street, trail, walk, bridge, tunnel, drainage structure and other similar or related structure or facility

Breadth of R.S. 2477

- Includes historic routes which exist not only on Federal lands (including present day B.L.M., Park Service and Forest Service lands), but also on former Federal lands which are now held by the State, or owned by private parties, including Native corporations



The R.S. 2477 Controversy

- The Federal Agency Perspective
- The Environmentalist Perspective
- Utah's Current Efforts on R.S. 2477



Examples of R.S. 2477 Routes



Dalton Highway – Livengood to Prudhoe Bay



Farmers Loop Road - Fairbanks



DeBarr Road - Anchorage

Debarr Road / Muldoon Road



Exit Street Vie



Debarr Road

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Klutina Lake Road – Copper Center



The Iditarod Trail – Interior Alaska



The Iditarod Trail – Interior Alaska



RST 592 Chilkoot Trail - Skagway



RST 592 Chilkoot Trail - Skagway



R.S. 2477s Vary



RST 10 Chicken to Franklin – Fortymile Region



RST 10 Chicken to Franklin – Fortymile Region



RST 410 Jack Wade to Steel Creek – Fortymile Region



RST 1642 Franklin to Chicken/Lilliwig Creek – Fortymile Region



RST 379 Hutchinson Creek - Fortymile Region



RST 1974 Chitina Cemetery Road - Chitina



RST 421 Chicken Ridge - Fortymile Region

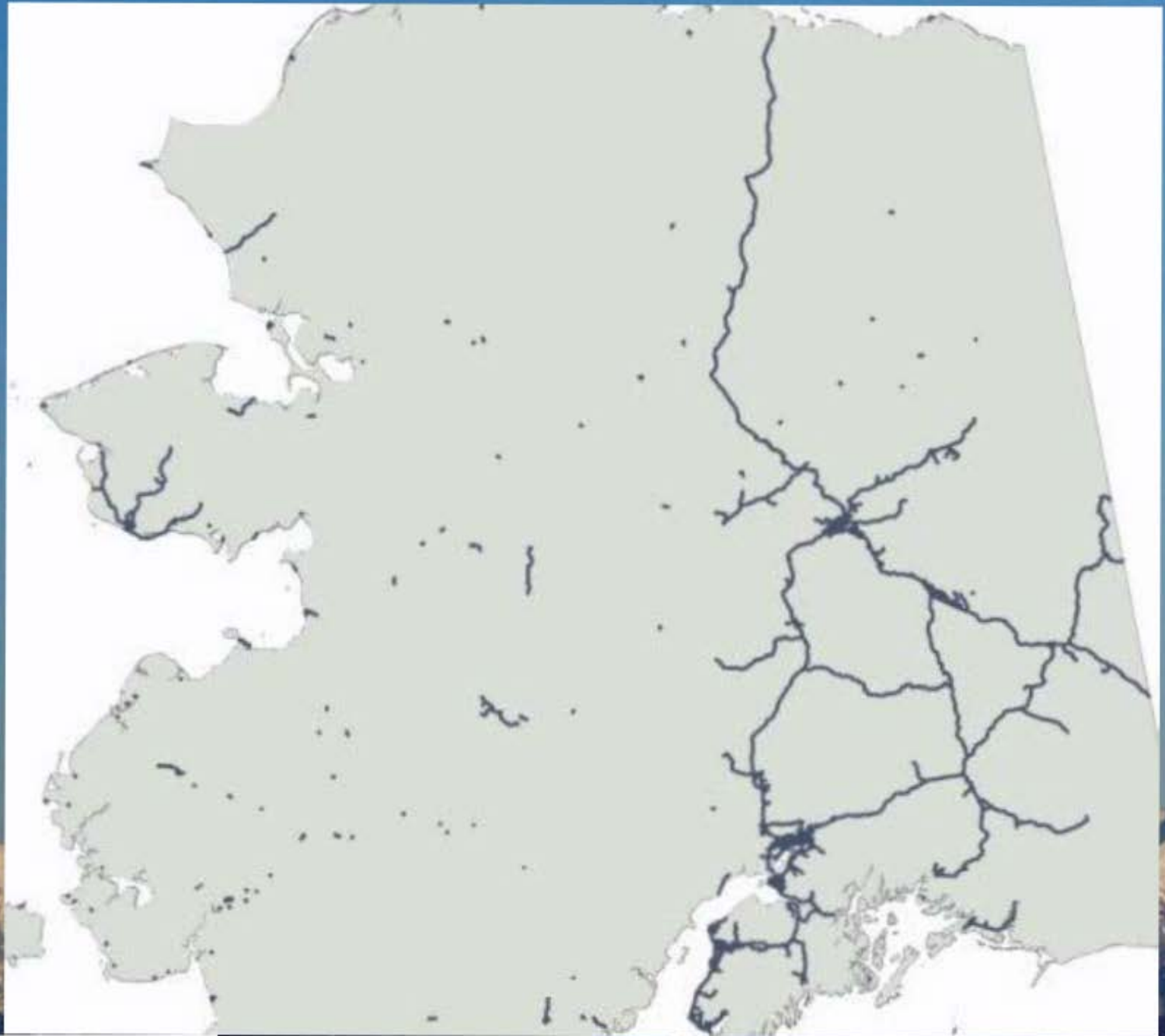


Why are R.S. 2477s important?

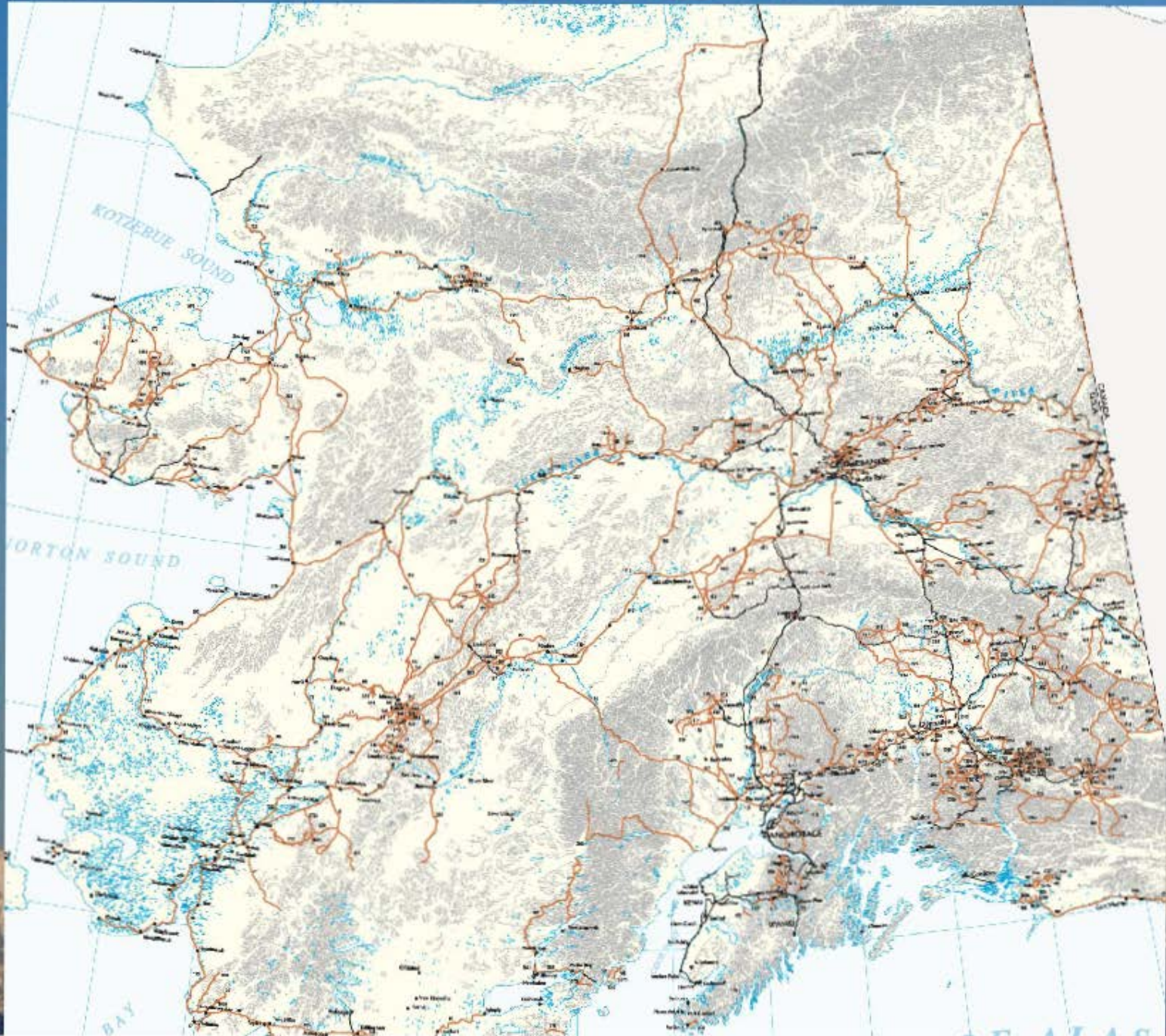
- Alaska – The largest state in the country, actually has fewer public roads than Connecticut, the third smallest state in the country
 - Alaska – 16,302 miles
 - Connecticut – 21,020 miles



State of Alaska Highway Syst. w/o R.S. 2477 (except Dalton Hwy.)



Alaska with R.S. 2477



R.S. 2477 rights-of-way are critical to:

- preserve public access to lands & resources
- enable the State to reasonably manage, maintain & develop the lands, resources & opportunities it owns & holds for the public
- maintain State sovereignty & preserve State's rights

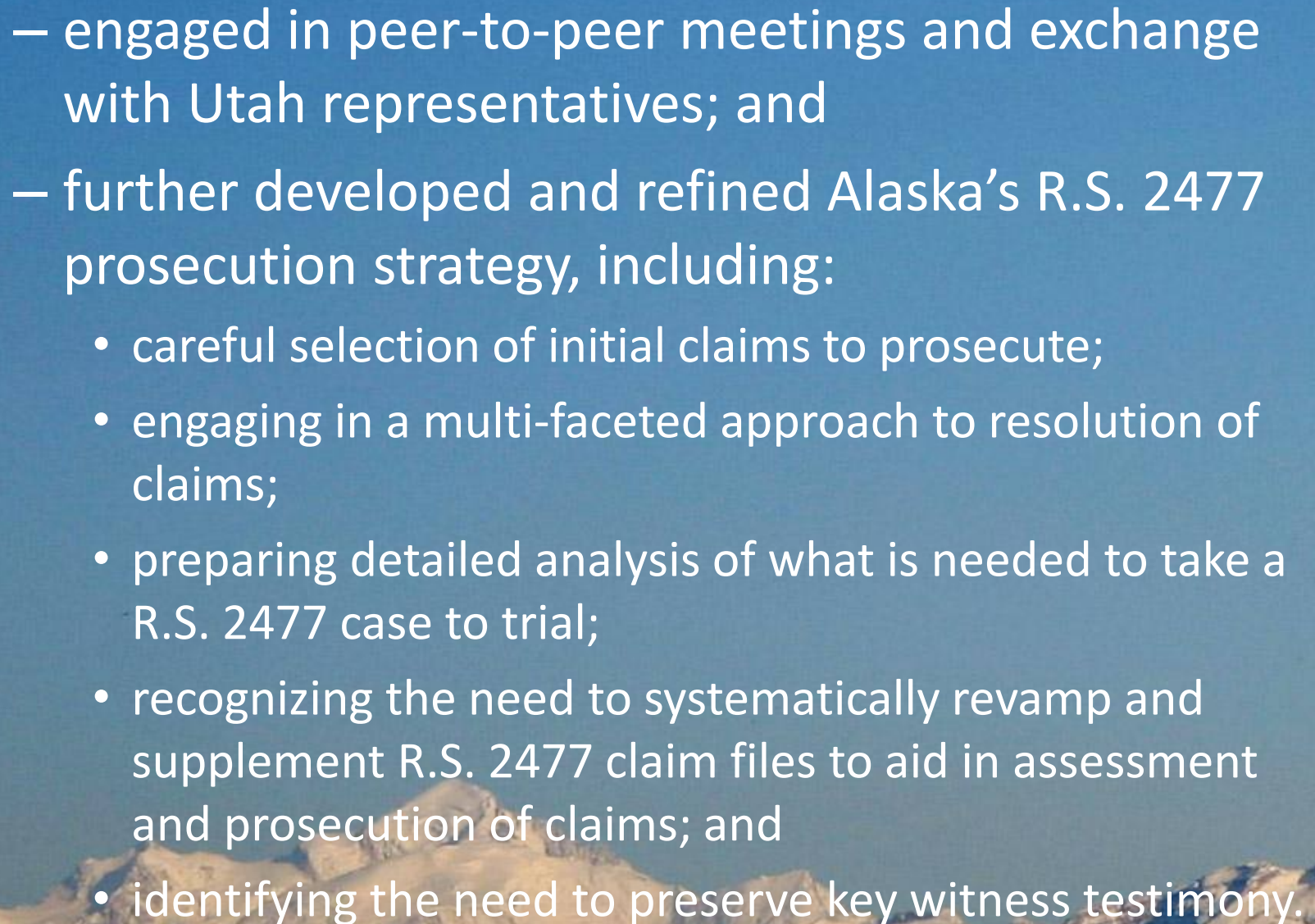


Previous R.S. 2477 Research, Investigation & Legislative Codification

- Began early 1990s
- Intensive research effort by DNR to identify routes via:
 - Alaska Road Commission reports
 - USGS maps, field notes, etc.
 - Postal Service contracts & other records
- Effort culminated in Alaska's legislative codification & recognition of more than 600 routes as set forth in AS 19.30.400

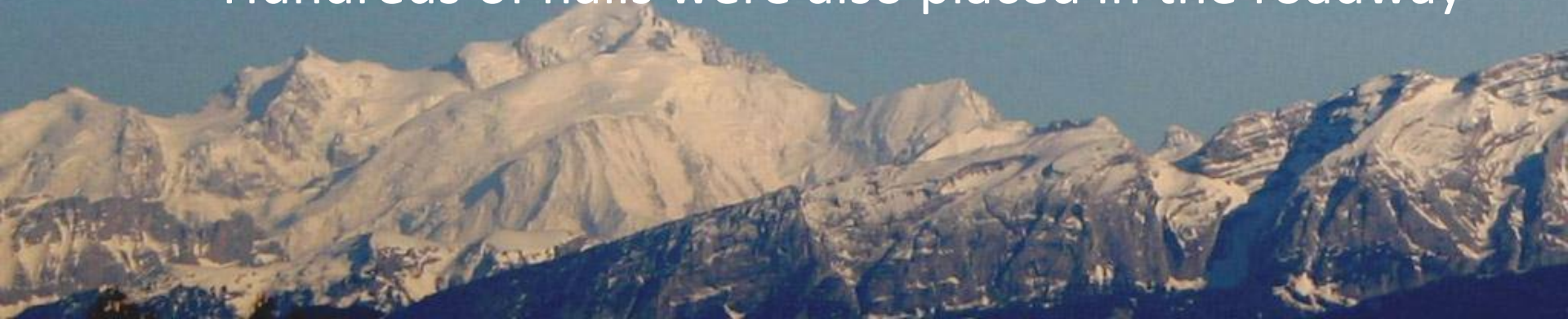
Recent R.S. 2477 Developments

- In 2011, the Legislature authorized a \$599,000 increment to DNR for FY 2012 to clear clouds to State title related to R.S. 2477
- Utilizing that increment increase, among other things, DNR and Law have:
 - conducted extensive field work and historical research related to R.S. 2477 investigation;
 - recruited and hired an assistant attorney general dedicated almost exclusively to R.S. 2477 work;

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- engaged in peer-to-peer meetings and exchange with Utah representatives; and
 - further developed and refined Alaska’s R.S. 2477 prosecution strategy, including:
 - careful selection of initial claims to prosecute;
 - engaging in a multi-faceted approach to resolution of claims;
 - preparing detailed analysis of what is needed to take a R.S. 2477 case to trial;
 - recognizing the need to systematically revamp and supplement R.S. 2477 claim files to aid in assessment and prosecution of claims; and
 - identifying the need to preserve key witness testimony.

Recent Legal Developments

- *State v. Lonewolf*
 - Private landowner attempted to block R.S. 2477 right-of-way near Chickaloon
 - Blocked the right-of-way with vehicles and also by felling trees across the roadway
 - Hundreds of nails were also placed in the roadway





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- We succeeded in getting the Court to issue both a temporary restraining order and preliminary injunction preventing the landowner's continued interference with the roadway



- *Dickson v. State*

- Private landowner sued the State seeking to prevent use of a portion of the historic Iditarod Trail near Knik
- This matter continues to be actively litigated



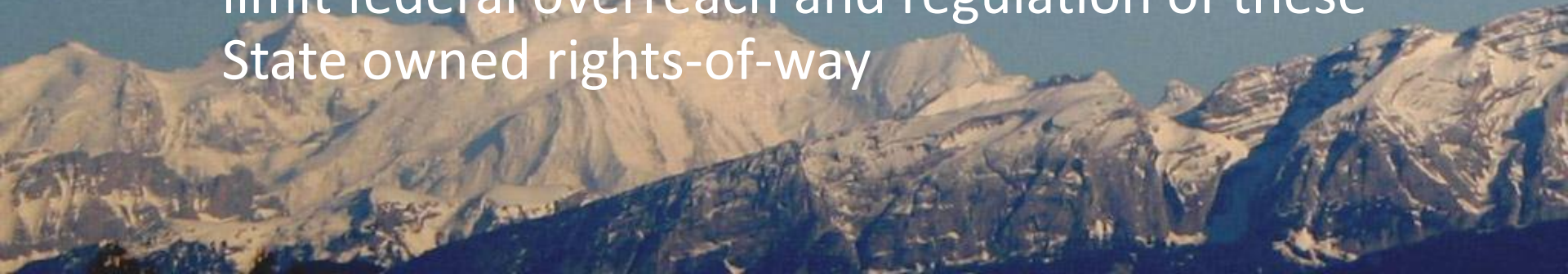
- *Ahtna, Inc. v. State*

- Ahtna sued the State attempting to claim that the Klutina Lake Road near Copper Center is not a valid R.S. 2477 right-of-way
- Klutina Lake Road is a portion of the historic Valdez to Copper Center Trail, one of Alaska's most historically rich R.S. 2477 rights-of-way
- This case continues to be actively litigated



- *State v. United States*

- Law is in the process of finalizing a complaint which will likely be filed against the United States and others in the Fortymile Region
- Involves approximately seven separate R.S. 2477 routes near Chicken, Alaska
- These routes are located over a very large geographical area and are used extensively by miners, hunters, trappers and other recreationalists
- Among other things, this litigation will seek to limit federal overreach and regulation of these State owned rights-of-way



Assistance in the Effort

- We are losing living witnesses with pre – 1969 knowledge (relevant period to prove acceptance of R.S. 2477 grant)
- Need to locate and interview these witnesses
- Need to identify and inventory additional R.S. 2477 routes

Persons With Witness or R.S. 2477 Route Information May Contact

- <http://dnr.alaska.gov/mlw/trails/paad/index.cfm> for online submittal of information concerning your knowledge of a witness who DNR should contact or of a potential R.S. 2477 route



Questions?

