

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND AND WATER

SEAN PARNELL, GOVERNOR

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ANCHORAGE, ALASKA 99501-3576

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**Subj: RS 2477 Right-of-Way; Section-Line Easement; Platted Rights-of-Way,
and Public Easement Vacations in the Unorganized Borough**

Dear Petitioner:

Your letter of _____ requesting the (*vacation, modification, or relocation*) of an **RS 2477 Right-Of-Way, Section-line Easement, Platted Right-Of-Way, or Public Easement**, located within Section (s) _____, Township _____, Range _____, _____ Meridian has been received by this office. This letter outlines the process to request approval of the vacation by DNR.

I. PETITION:

- A. A petition form completed by the petitioner or his/her representative containing the signatures of the landowners directly affected must be submitted. (One copy of the petition form is enclosed.)
- B. Obtain the names and mailing addresses of all property owners within 500 feet of the petitioned action; all local Utility Companies; Native Corporations; Tribal Organizations; and any other affected agencies.

C. Required Submittal:

In addition to A and B above, obtain or prepare a map or plat of the area showing the following information:

1. The petitioned vacation action clearly indicated.
2. Current property boundaries, existing and dedicated rights-of-way and easements within 500 feet.
3. All vacated section-line easements on the property and within 500 feet.
4. Existing roads, trails, utilities, structures, and driveways located on the property within the area proposed for vacation.
5. Topographical maps covering the area proposed for vacation and the alternate access.
6. It is not required, but it may also help the decision process if the petitioner specifically addresses, in writing, the following points concerning the existing easement **and** the alternate route:

Underlying Land Ownership
Current Public Use Patterns
Practicality of Use
Land Management Policies

"Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans."

D. An RS 2477 or section-line easement vacation, must comply with Chapter 26 SLA 98, AS 19.30.410. It states that agencies 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.”**

Alternate Means of Access

Before the vacation of a RS 2477 or section-line easement is approved, the petitioner **must** satisfy the department that equal or better access is available. “Equal or better access” means access protected by an easement of record that is adequately wide for the purpose, and at least equally usable considering length, type of terrain, and level of improvement, as the easement to be vacated.

The vacation of a public right-of-way involves giving up of a public right in favor of the landowner. DNR will not approve a vacation unless it determines that the action is in the state’s interest.

RS 2477 right-of-way and section-line easement vacations must be approved by the Department of Natural Resources (DNR) and the Department of Transportation and Public Facilities (DOT/PF).

E. Mail the above information, including a check for the application filing fee to the Survey Section; Division of Mining, Land, & Water; 550 W 7th Ave, Suit 650; Anchorage, Alaska 99501-3576.

II. APPLICATION FEE AND ADVERTISING COST:

The petitioner must pay the application fee and the cost of advertising the public notice. The petition must be accompanied by a check for \$750 for the application fee made payable to the Alaska Department of Natural Resources. After the department verifies the cost to advertise the public notice in a newspaper, you will be notified and must then submit to this office a check made payable to the Alaska Department of Natural Resources.

III. STATE ACTION:

The DNR Survey Unit will review the petition for completeness and verify the state’s jurisdiction under AS 40.15.305(e), AS 19.30.410 or AS 29.35.090 for this area, and that fees and costs have been paid.

Prior to issuance of the Preliminary Finding and Decision the department requests comments from interested State agencies, including Department of Transportation & Public Facilities (DOT/PF), Department of Fish and Game (DFG), DNR Division of Mining, Land & Water (DMLW), DNR Division of Parks and Outdoor Recreation (DPOR), and Alaska Mental Health Trust Land Office (TLO). Before a “Public Notice of Preliminary Finding” is published in a newspaper of statewide circulation it will be the applicant’s responsibility to address their concerns and/or requirements.

Then public notice will be published. After the close of the 30-day written comment period, the Director of the Division of Mining, Land & Water will approve or disapprove the petition. This

written Final Finding and Decision will be subject to a 20 day appeal period. If no appeal is filed, this decision goes into effect as a final order and decision on the 31st day after issuance; and only then will the vacation plat or document be signed.

The department's decision of whether to vacate is based on consideration of the comments received by mail and E-mail, the recommendation of the local platting board, DOT/PF, and research by DNR staff. In addition to the comments received, DNR staff will also consider the existing easement and the possible alternate access in terms of underlying land ownership, land management policies, current public use patterns, and practicality of use. These factors establish the scope of the department's administrative review and finding.

Occasionally, the department may require a field investigation to be conducted by DNR staff. This inspection is to determine the current existing use and condition of the area proposed for vacation, and the adequacy of the proposed alternate route.

IV. VACATION DOCUMENT:

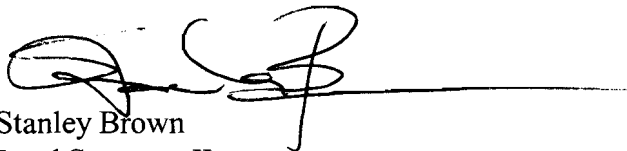
- A. If the petition is approved, at the petitioner's expense, a survey plat must be prepared by an Alaska Registered Land Surveyor and submitted for review and approval. These submittals are subject to a review fee of \$200.00.
- B. The petition approval becomes null and void if a survey plat is not submitted and recorded within 18 months of the platting resolution approval date.
- C. DOT/PF approval of the final vacation document is required.

V. ALTERNATIVE:

Option other than vacating: An owner of land affected by an unplatted RS 2477 right-of-way may request the department's approval to relocate the right-of-way elsewhere on that owner's land. The department will approve the realignment if the realignment provides access reasonably comparable to the original, does not affect land in other ownership, and connects to the original route where it enters and exits the landowner's land. Such a realignment of an RS 2477 right-of-way within a parcel of land does not constitute a vacation under this section.

Should you have any questions, please contact Joe Poydack at (907) 375-7733, George Horton at (907) 269-8610, or myself at (907) 269-8521.

Sincerely,



Stanley Brown
Land Surveyor II

Enclosure
Petition Form

TO: State of Alaska
Department of Natural Resources
Realty Services/ Survey Unit
550 W 7th Ave, Suite 650
Anchorage, AK 99501-3576

EV No: _____

PETITION FOR

I (We) the undersigned petitioner (petitioners), being the owner (owners) of a majority of the property (abutting) (lying within)

request the (vacation) (replat) (amendment) (change of basic configuration) of

depicted in said survey.

The reasons for this request are:

The petitioner (petitioners) file this petition under the authority of A.S. 40.15.305(e).

The undersigned petitioner (petitioners) by their signature (signatures) certify that I am the owner (they are the owners) of and have possessory rights in the property described next to my (their) signature (signatures).

Submitted this _____ day of _____, 20_____

PETITIONERS:

Name (clearly printed) and Signature	Legal Description	Mailing Address/ Phone Number	Date
1. _____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
2. _____	_____	_____	_____

PETITIONERS (cont.):

Name (clearly printed) and Signature	Legal Description	Mailing Address/ Phone Number	Date
3. _____ _____ _____	_____ _____ _____	_____ _____ _____	_____ _____ _____
4. _____ _____ _____	_____ _____ _____	_____ _____ _____	_____ _____ _____
5. _____ _____ _____	_____ _____ _____	_____ _____ _____	_____ _____ _____

Petitioner or attorney for the petitioner designated to receive service by mail.

Name _____ Address _____

SURROUNDING LANDOWNERS and AFFECTED AGENCIES:

Name	Legal Description	Mailing Address/ Phone Number	Date
1. _____ _____ _____	_____ _____ _____	_____ _____ _____	_____ _____ _____
2. _____ _____ _____	_____ _____ _____	_____ _____ _____	_____ _____ _____
3. _____ _____ _____	_____ _____ _____	_____ _____ _____	_____ _____ _____

4. _____

SURROUNDING LANDOWNERS and AFFECTED AGENCIES (cont.):

Name	Legal Description	Mailing Address/ Phone Number	Date
5. _____ _____ _____	_____	_____	_____
6. _____ _____ _____	_____	_____	_____
7. _____ _____ _____	_____	_____	_____
8. _____ _____ _____	_____	_____	_____
9. _____ _____ _____	_____	_____	_____
10. _____ _____ _____	_____	_____	_____