

January 27, 2014

Representative Neal Foster  
District 39  
State Capitol Room 434  
Juneau, Alaska 99801

Re: HB194/SB94 - Propose State vacate RS 2477 Klutina Lake Road

Dear Representative Foster:

In April/2013 our local newspaper, Copper River Record, posted an article in which Senator Olson and yourself sponsored proposed legislation HB194/SB94 on behalf of Ahtna, Inc. that proposes the State of Alaska vacate its RS 2477 right of way easement that provides public access along the popular Klutina Lake Road.

This was fantastic news for all of the private property owners who have been greatly concerned since the State DOT began its push for the RS 2477 designation. However, the article stated "the state would only vacate its easement in places where it overlaps a Federal 17(b) Right of Way public access easement." We want our voices to be heard so that the proposed RS 2477 is vacated from the Klutina Lake road and from our private properties.

The newspaper article nor the legislation mentioned the 20+ private landowners at the outlet of the Klutina, that will be seriously affected should this road be designated an RS 2477. A 100 ft right of way directly through private pristine river front property. This would put public access literally at our cabin doors. We have to ask "for what purpose" is the State DOT pushing this? There is already more than adequate access to the public.

As you read the enclosed documents in regards to the State of Alaska vs. Ahtna, Inc., records will show that the current 17(b) easement stops way before private property begins and that there was never a right-of-way easement through this original native allotment. The State DOT also had no legal right to make private property owners remove the gate.

In closing, the only way for anyone to get a good picture of what is going on at Klutina, is to travel the road and see for yourself. The beauty, the wildlife, the river, the lake, the accesses, private property and how we will all be affected.

Sincerely,



Debbie M. Townsend

Enclosures: Written Response to Complaints - Case #3AN-08-6337-CI  
Public Access Information - BLM

cc: Governor Sean Parnell  
Senator Donny Olson, Alaska State Legislature - SB94

January 27, 2014

Howard S. Trickey  
Jermaln, Dunnagan & Owen, PC  
3000 A Street, Ste 100  
Anchorage, Alaska 99503

Re: Case No. 3AN-08-6337-CI

Dear Mr. Trickey:

We are in receipt of a 'copy' of a summons to the above mentioned case number, which list Ahtna, Inc. as the Plaintiffs and the Department of Transportation as the Defendants. Along with DOT, there is also a list of private landowners at the outlet of Klutina Lake, listed as "Defendants" against Ahtna, Inc.

This summons did not have a few landowners listed, including ourselves, and our name is not listed on this current summons as "Defendants". However, we have been landowners at the outlet of Klutina Lake since 2001.

The State of Alaska, Department of Transportation is 'proposing' an RS 2477 on the Klutina Lake Road, without regard to our rights as landowners, the DOT would force a 100 ft easement through our pristine riverside properties.

The 20+ landowners should actually not be listed as 'Defendants' in this matter. Though we can't speak for them, we know that they oppose an RS 2477.

Terry and I, side with Ahtna, Inc., on the majority of the complaints mentioned in this case. Please see our enclosed response to those complaints.

We also pray that the State Legislature will pass HB194/SB94, vacating the RS 2477.

Sincerely,



Debbie M. Townsend

Date: 1-27-14



Terry J. Townsend

Date: 1-27-14

Enclosures: Written Response to Complaints - Case #3AN-08-6337-CI  
Public Access Information - BLM

cc: Klutina Landowners  
Governor Sean Parnell  
Senator Donny Olson, Alaska State Legislature - SB94  
Representative Neal Foster, Alaska State Legislature - HB194

Written Response to Complaints listed in Summons, Case # 3AN-08-6337-CI

As private land owners at the outlet of Klutina Lake, we are writing in reference to the court case with Ahtna Incorporated and the State of Alaska, Dept of Transportation & PF, concerning the state's proposed RS 2477 on the Klutina Lake or Brenwick Craig road.

The purpose of a RS 2477 as defined by Congress... "to facilitate the construction of highways across public lands."

There has always been access to "public lands" utilizing the Klutina Lake road. The "public lands" in this court case is the "Klutina River and Klutina Lake". The Klutina Lake road has an existing 17(b) easement, which provides access. There has been no problems with the public accessing the Klutina River or the Lake, at any number of areas or spurs along the way.

We disagree with the State of Alaska and we side with Ahtna, Incorporated on a number of the complaints. We offer the following to the 'complaints' in the above mentioned case number:

**PARTIES**

1. We agree with this statement regarding Plaintiff Ahtna, Inc., is an organized regional corporation.
2. We agree with this statement regarding Defendant State of Alaska, and DOT.
3. We agree that the individuals listed have an interest as private landowners in certain said parcels.

**Add - Debbie & Terry Townsend (per proof of land ownership provided to Jermain, Dunnagan Ownen, PC in previous correspondence - Nov/2013)**

4. We agree the court has jurisdiction.
5. We agree the venue is the 3rd Judicial District.

**FACTS**

6. We do not agree that the Klutina Lake road runs approximately 25 miles.

**The Klutina Lake road runs approximately 23 miles in length and ends at a one acre site easement located at the end of the airstrip easement closest to the lake.**

Ahtna, Inc. owns the land adjacent to and underlying much of the road (except for the private landowners).

Ahtna recognizing the road as being supported by a 60 ft wide easement, for public access to the Klutina River, Klutina Lake, and a one acre-site. Ahtna further recognizes a 25 ft wide 17(b) easement that goes from the one-acre site to State land on Klutina Lake and private property.

**We don't agree that the 25 ft wide 17(b) easement runs through the parcels where private property is located. This is further validated by the following attached "Public Access Information" from the Bureau of Land Management - "The 17(b) easement or 25 ft wide trail begins at the one-**



***acre site easement and ends at private property just before the lake. Access beyond this point is allowable by foot traffic only under the permission of the private land owner.***

**Ahtna, Inc. and the BLM have respected the rights of private land owners and have had no issues with the private gate (35+yrs). Two summers ago the State of Alaska threatened private landowners with legal action if they did not remove the gate through their private recreational property.**

**The State of Alaska began asserting an RS 2477, even before the courts have decided. With totally disregard to private landowners rights, they opened up our properties and cabins to theft and vandalism.**

9. We agree that private landowners utilize the road to access their property at Klutina Lake.
10. We agree with Ahtna's contention that the 17(b) easement(s) provides the Private landowners and members of the public with a transportation corridor for legal access to the Klutina River, Klutina Lake, and private property near the outlet of Klutina Lake.
11. We agree with the States contention that the road itself is interrupted in various locations due to landslides, and erosion, etc.

**We do not agree that these locations have interrupted the actual 17(b) easement, which allows for public access to Klutina River and Klutina Lake.**

**The road was rerouted and the 17(b) easement follows along the new route. The BLM, Ahtna, Inc. and the State of Alaska, DOT, have a 'Memorandum of Understanding' in place. The state's statement that "discontinuous easement" that does not provide a complete route of legal public access to Klutina Lake or the private land holdings at the Klutina Lake outlet" is untrue.**

**We have traveled the Klutina Lake road since 1977, where we use to camp with our family at the airstrip. There has always been public access to the river and lake.**

12. We do not agree that "the road and the 17(b) easement are subject to a superior and pre-existing 100-foot wide easement pursuant to Revised Statute 2477, .....and runs Impeded from Copper Center to Valdez through public and private property, including Ahtna's and the Private Landowners property along Klutina River and Klutina Lake."

**The parcels of land now owned by private landowners, was originally a native allotment, Makee Mildred Truitt (BLM Case #AKAA 007337A). No easement or right-of-way is depicted in any documents or plats, in relation to this 120 acre parcel. Even the BLM 17(b) easement does not run through the parcels of private property. The BLM recognizes it was previously a native allotment parcel, and is now privately owned.**

13. We disagree with the states assumption that an RS 2477 would open up public access to the Klutina River through the use of numerous spurs and arterials.

**There is already public access to the Klutina River and Lake. There has been public access since**

1962, when Leonard Brenwick joined by Walter Charley and Jack Craig, walked a cat tractor along the trail, used by Ahtna natives for thousands of years.

Today, the BLM 17(b) easement provides the public access with sites for limited parking and camping. Both river, float and hunting guides use the road and these access sites every year. Ahtna also provides access and camping sites at numerous locations for a fee.

14. We agree with Ahtna, Inc. and we do not recognize the State's asserted RS 2477 right-of-way or the claimed spurs and arterials.

#### **FIRST CAUSE OF ACTION**

15. N/A

16. We agree, Ahtna's property, over which the Road traverses, was never public lands for purposes of accepting a public highway pursuant to RS 2477.
17. We agree with this statement that Ahtna Athabascans held an un-extinguished claim of aboriginal title to the Klutina River, etc.
18. We agree with this statement that the Ahtna people have used and occupied the Klutina River drainage for hundreds and likely thousands of years, etc.
19. With agree with this statement that Ahtna had a comprehensive foot trail system throughout the entire Klutina River drainage, etc.
20. We agree that the Ahtna people camped, hunted, fished, trapped, picked berries, etc.
21. We agree with this statement that the Ahtna people defended their territory against intrusion by others.
22. We agree with this statement, that the Ahtna Athabascans, claimed the lands and said lands were held in trust for them by the United States.
23. We agree with this statement that the land at issue in this dispute was never public land for purposes of RS 2477, the State could not and did not accept the RS 2477 right-of-way offer prior to Congress repealing the law in 1976.
24. We agree with this statement that the Road was constructed in the 1960s by private individuals (Leonard Brenwick and Oscar Craig), using private equipment, in order to access private land at Klutina Lake, which is located in wild, unenclosed, and uncultivated wilderness.
25. We agree with this statement that the State did not construct the Road.
26. We agree with this statement that the right-of-way was not accepted by public use.

The Road has been in place for YEARS, there has never been any documentation or paperwork defining the right-of-way as an RS 2477. The 17(b) easement allows access.

27. We agree with this statement that even if a public highway was accepted by public user, the right-of-way was abandoned.

**Again, the state never filed paperwork or acknowledged the right-of-way. It was BLM who established the road as a 17(b) easement years later.**

28. We agree with this statement that the State has refused to recognize Ahtna's ownership rights to land surrounding the Road and has failed and refused to restrict its road maintenance activities to the confines of the federal 60-foot 17(b) easement.

**We would like to add that the State has also refused to recognize the private landowners rights. With totally disregard to private landowners rights, the State would enforce a 100 ft right-of-way directly through our pristine recreational properties.**

**For what purpose? Ahtna, Incorporated, owns the land on both sides of the private landowners properties, and there is already access to the River and the Lake.**

29. We agree that for the purpose of this litigation, Ahtna seeks to confirm that its land is not subject to the State's claimed RS 2477 right-of-way (RST 633) and to have the Court declare the parties' rights and legal interests in relation to the Road and the claimed right-of-way.

## **SECOND CAUSE OF ACTION**

30. N/A

31. We agree that Ahtna owns the land.

- 32., 33., 34., 35. N/A to private landowners issues in regards to RS 2477.

**Except, for #35, we agree that the State refused and continues to refuse to constrain its activities to the confines of the 60-foot 17(b) easement.**

- 36., 37., 38., N/A to private landowners issues in regards to RS 2477.

39. As a private landowner we still take pleasure in the quiet enjoyment of the land, regardless of the existing road widening.

40. As a private landowner we still take pleasure in the scenic and aesthetic values including the wilderness experience sought by recreational users, including Ahtna shareholders, and non-shareholders that pay to use Ahtna land, regardless of the existing road widening.

41. We agree that the State will continue to enter onto Ahtna's lands in regards to asserting the RS 2477.

**The State will continue to enter onto private property in regards to asserting the RS 2477.**

## **PRAYER FOR RELIEF**

We agree with 1., 2., 3., 4., 5., and 6 and hope the courts will side with Ahtna, Incorporated. In doing so, they will have also sided with the private landowners and their prayer for relief in that there will be "NO RS 2477" on the Klutina Lake Road.





## United States Department of the Interior

BUREAU OF LAND MANAGEMENT

GLENNALLEN FIELD OFFICE

P.O. BOX 147

GLENNALLEN, ALASKA 99588-0147

[www.ak.blm.gov/gdo/gdomain.html](http://www.ak.blm.gov/gdo/gdomain.html)

### PUBLIC ACCESS INFORMATION

Prepared by the Bureau of Land Management,  
In cooperation with Ahtna, Inc.

The Klutina River and Lake are considered navigable by the Bureau of Land Management. All lands above the mean high water line along the Klutina River, starting 300' feet south of the power transmission line crossing, to 4 miles along the north shore and 2 miles along the south shore of Klutina Lake are private property owned by Ahtna, Inc. All lands situated below the mean high water line are owned by the State of Alaska. The entire area is primitive in nature and there are no facilities available.

The Klutina Lake road (Brenwick-Craig Road) is a 60' easement for travel across private land, to public lands and water. The easement is approximately 23 miles in length and ends at a one acre site easement located at the end of the airstrip easement closest to the lake. The condition of the road varies and four wheel drive is recommended beyond MP 10. For management purposes the easement is considered to be 30' from either side of the centerline of the existing road surface. Camping and parking are not allowed on this easement. There are several roads and trails branching off along the way, but only those roads or trails posted as public easements are open to the public.

The Klutina Site easement is a one acre site for loading, unloading, parking, and changing modes of transportation. Overnight camping is allowed by regulations but it is limited to 24 hours. The site is adjacent to the Klutina River at MP 23.5 on the Klutina road and provides direct access to the river. It is approximately 280' by 155'. This site easement and allowable uses are posted by the BLM. Please limit all camp fires to the established pits.

The Klutina Trail is a twenty five foot wide trail easement for travel across private land, to public lands and water. Vehicle access is restricted to ATVs with less than 3,000 pound gross vehicle weight. Trucks and automobiles are not allowed beyond this point. Camping and parking are not allowed on this easement. The trail begins at the one acre site easement and ends at private property just before the lake. Access beyond this point is allowable by foot traffic only under the permission of the private land owner.

The Klutina airstrip easement is a bush airstrip located at MP 23.5 on the Klutina road. It is intended for aircraft landing and parking. Camping and motor vehicle parking are not recommended on the airstrip.

\*\*\*\* All other activities on private lands above the mean high water line, including parking, camping, hunting, and fishing, require an authorization from Ahtna, Inc. \*\*\*\*