

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES

DIVISION OF MINING, LAND AND WATER

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June 17, 2010

The Honorable Kevin Meyer, Chairman
Legislative Budget and Audit Committee
716 W. 4th Ave., Suite 410
Anchorage, AK 99501

Dear Senator Meyer:

For the past several years, a critical portion of the funding for the Department of Natural Resources' (DNR) work on navigable waters and RS 2477 roads and trails has been through a Reimbursable Services Agreement (RSA) from the Legislative Budget and Audit Committee. Similar funding has been provided to the Department of Fish and Game, our partner in this effort. Please consider this letter a request for LB&A to issue the LB&A/DNR RSA for FY 2011.

These funds allow the DNR Division of Mining, Land and Water, Public Access Assertion and Defense (PAAD) unit, to pursue research and applications for Recordable Disclaimers of Interest (RDI) on submerged lands and shorelands, review federal land conveyances to defend state ownership of beds of navigable water bodies, assert RS2477 historical roads and trails, and support related litigation. Following is a description of these efforts and an explanation as to how this additional state funding will be used

Recordable Disclaimer of Interest

The BLM's Recordable Disclaimer of Interest (RDI) regulations create an administrative process to confirm that no federal interest clouds the title to the lands underlying waterways capable of supporting travel trade and commerce. This process is the most cost effective way to clear clouds on the title to sovereign state lands. The state is pursuing RDI's on a number of high profile rivers, and working on additional applications. Each RDI application requires a filing fee and processing cost reimbursement to BLM. The RSA will be used for staff working on RDI applications. The BLM is currently in the final phase of review of the Tanana River, and has started the process for the Kisaralik River RDI application.

BLM Research Agreement for Recordable Disclaimers of Interest

The PAAD manages a Federal-State Assistance Agreement that allows the State to receive and use \$1.7 million in federal funds from the Bureau of Land Management (BLM) to do research on navigable waters. The project gathers historical documentation of use on water bodies and researches past federal decisions that lead to navigability determinations. This research provides information to support RDIs. The federal money, however, cannot be used to pay for the state's preparation of applications for RDIs. In addition, BLM has recently reduced the funding for the management of the Assistance Agreement funded navigable water research project and reallocated the remaining \$700,000 to research staff. The current agreement does not allow DNR to charge administrative costs against the agreement. The RSA would cover some of these costs.

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

BLM Land Conveyances

The RSA will be used to support DNR staff to pro-actively review federal land conveyances to assure that the state's submerged land and shorelands are not being purportedly conveyed by BLM. Defending the State's position in navigability and access requires a mixture of historic and field research.

Litigation Efforts

The state sometimes must engage in litigation to defend ownership of state submerged lands and shorelands and to defend public access. These are expensive and time consuming efforts. The PAAD is currently assisting the Attorney General's Office in two navigability related quiet title actions for DNR and DOT/PF. DNR has already expended a significant amount of FY 10 funds to support such litigation efforts, and the RSA money will continue this work.

RS2477

The PAAD has conducted historic research on several RS2477s to support assertions of public access. Two new RS 2477s are being evaluated for and processed according to our current regulations. This will include submission to the legislature upon completion of the process. Further research is being conducted on other historic road and trail candidates. These right of ways are becoming increasingly important in the State's efforts to protect the public's access to important areas (often where there is no other legal access).

Proposed Budget:

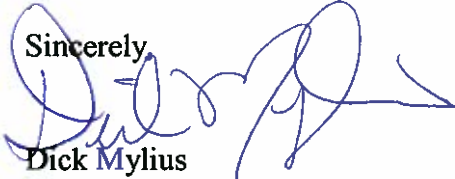
Natural Resource Manager II (range 20)	1 month	\$ 9.0
Manage PAAD Unit		
Litigation Support		
Natural Resource Manager I (range 18)	3.5 months	\$24.0
Manage BLM Assistance Agreement		
RDI Research and Applications		
Litigation Support		
Navigability Determinations		
Natural Resource Specialist II (range 16)	6 months	\$40.0
RDI Research and Applications		
Litigation Support		
Navigability Determinations		

Total Requested		\$73.0
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Please find attached a draft copy of an RSA for FY 11. Please contact me at 269-8625 or dick.mylus@alaska.gov if you or the committee staff need additional information. I am available to brief the Committee at your next meeting if that would be helpful.

Thank you for your consideration and attention to this matter.

Sincerely,

A handwritten signature in blue ink, appearing to read "Dick Mylius", written over the word "Sincerely,".

Dick Mylius

Director, DNR Division of Mining, Land and Water

Cc: Tom Irwin, Commissioner, DNR
Leta Simons, DNR, Director of Support Services Director
Brenda Muller, DMLW Administrative Manager
Scott Ogan, PAAD Manager
Josh Applebee, LB&A Committee Staff

Attachment: Draft RSA