

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

Sean Parnell, Governor

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March 28, 2012

The Honorable Paul Seaton
Co-Chairman, House Resources Committee
State Capitol, Room 102
Juneau, Alaska 99801-1182

The Honorable Eric Feige
Co-Chairman, House Resources Committee
State Capitol, Room 126
Juneau, Alaska 99801-1182

Re: HJR 40

Dear Representatives Seaton and Feige:

On Monday the House Resources Committee heard HJR 40, addressing RS 2477 rights-of-way and other matters. Included in the resolution is language encouraging the Governor to re-establish federalism sections within the Departments of Law, Natural Resources, and Fish and Game. I am informed that the Committee would like to know whether the Department of Law supports creation of a federalism sub-section.

While the Department welcomes the Legislature's strong support and encouragement to defend State title to RS 2477 rights-of-way and to pursue other challenges to federal overreach, creation of a federalism section is unnecessary.

The Department established a statehood defense subunit within its Natural Resources Section during the Hickel administration to initiate several state's rights cases against the federal government. Although the functions of this subunit were later integrated into other sections, the focus of the former subunit has continued. The Department emphasizes federalism issues, which pervade many of the areas in which our sections work, including Natural Resources, Environmental, and Oil, Gas & Mining Sections. The attorneys in these sections have the specialized backgrounds necessary to address the issues that arise from state/federal jurisdictional disputes. Maintaining the Department's existing administrative structure gives the flexibility to assign federalism matters to the attorneys with the most expertise in the particular contexts in which they

arise. It is a priority of mine to continually coordinate Law's staff so that each of the issues raised in our cases are addressed by the most capable and experienced attorneys.

Under the Parnell administration, Law and all State agencies are closely monitoring federal actions that could impact the State. Law is working with other agencies to pointedly comment on federal land management plans, environmental impact statements, and regulatory proposals; to assure the State is proactively conducting scientific studies; and to litigate where necessary to enforce the State's right to access and develop natural resources. We also actively team with other Western states to oppose unnecessary federal action. For example, nine other states joined an amicus brief that Alaska drafted for the recent *Sackett v. EPA* case in U.S. Supreme Court, to urge the Court to overturn an EPA action that threatened the property rights of an Idaho couple. We have dedicated an attorney to RS 2477 cases and assigned others to assert the State's navigability claims, challenge the application of the Forest Service 2001 Roadless Area Conservation Rule to the Tongass and Chugach National Forests, resist unwarranted listings under the Endangered Species Act, oppose the EPA's extraordinary assertions of federal jurisdiction under the Clean Water Act, and pursue the development of oil and gas resources on the Outer Continental Shelf.

I assure you that the Department's focus on defending Alaska's statehood rights will continue under my leadership.

Sincerely,



Michael C. Geraghty
Attorney General