



# TANANA CHIEFS CONFERENCE

A consortium of 42 members, working in unity to advance Alaska Native Self-Determination

## **RS-2477 claims to access Native allotments and ANCSA lands**

**Issue:** There is concern that Native entities are blocking access over certain Native allotments and ANCSA lands. **This not the case.** The issue is the State of Alaska's use of RS-2477 in an arbitrary manner on Native-owned lands, including "spur" trails not approved by law.

Extensive damage from unauthorized use on RS-2477 trails beyond the intent of access has resulted, including in the recent Purdy case. The Purdys recognize the trails reserved in their land deeds (certificates of allotments) but not additional "spur" access. In the Klutina case, Ahtna is not blocking access rather they acknowledge access by 17(b) easements reserved by the federal government under ANCSA.

**RS-2477 Background:** Revised Statute 2477 was originally enacted as Section 8 of the Mining Act of 1866 granting right-of-ways for the construction of highways over public lands. The act was repealed in 1976 with enactment of Federal Land Policy and Management Act (FLPMA). Pre-existing RS-2477 claims were not affected by the FLPMA repeal.

**Purdy Case:** Sisters Agnes and Anne Purdy, Native allotment owners in Chicken, were sued by the State of Alaska in 2013. The State wanted to acquire "quiet title" by condemning portions of land where RS-2477 trails crossed the allotment. Previous to the State filing suit, TCC Realty Program placed "No Trespassing" signs at "spur" trail heads, because extra trails are not recognized as legal access. The Federal District Court found that the State could not sue the allottees for the following reasons: the allotments are trust or restricted lands; the United States is an indispensable party to the State's claim against the Native allotment; the U.S. has not waived its sovereign immunity; the Court lacks subject matter jurisdiction; and the claims by the State have been dismissed. The primary trails reserved in their (Purdys) title documents are recognized as valid access, but additional "spur" offshoot trails are not.

**Ahtna-Klutina Case:** Ahtna recognizes and allows public access over their lands through 17(b) easements (60 feet wide) as reserved by the Federal government; however, Ahtna does not recognize the State of Alaska claims for RS-2477 easements (100 feet wide) over the same trails. Ahtna is litigating with the State over 26 miles of undeveloped road that begins at the Richardson Highway and ends at the outlet of Klutina Lake – known as the Brenwick-Craig Road. In 2007, the State widened several miles of the road, cutting trees, and removing one of Ahtna's permit fee stations, as an "unauthorized encroachment" on its claimed easement. There was an attempt at mediation, but the State claimed more area, such as "spur" and secondary easements off of the originally claimed primary trail to Klutina Lake. Ahtna is now sponsoring legislation to vacate, or remove the RS-2477 claim, and recognize the federal 17(b) easement.

**Excessive access claims on Native allotments and damages:** Through the use of RS-2477, the State claims access for a 100 foot wide trail, and asserts uses for future highway development. With the Purdy allotments, the State was claiming 17.5 acres and 6.4 acres in excess of the original RS-2477 trail reservation. The pending settlement for damages by a local miner in the periphery of the RS 2477 trail across the Purdy allotment acknowledges excessive use of primary access trails.