

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

4410 STRA SCR 22 - SJR 10

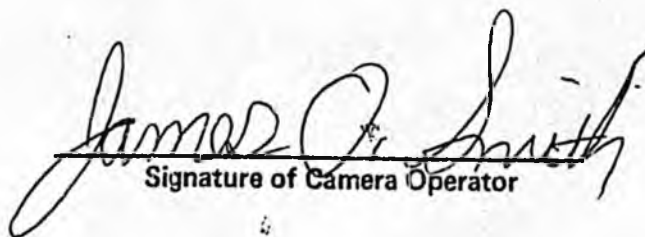
289

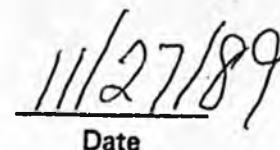


RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

SCR

22



Dept. of Transportation & Public Facilities

Position Paper

BILL NO: SCR 22

TITLE: Alternative Road System in Denali
National Park

APPROVED: *[Signature]*
R. J. Knapp

DATE: 5/1/85
Commissioner

The Department of Transportation and Public Facilities supports SCR22 to initiate and complete environmental and location studies for three alternative routes to construct a road to Kantishna.

These routes may qualify under RS2477 and could be useful in providing a basic route for a road to Kantishna. However, the projected traffic volume on such a road is so high (5,000 vehicles a day during the summer) that a road built to required design standards may vary somewhat from the RS2477 right-of-way.

This road would provide a useful service by providing access for tourists into the park as well as for mining into the Kantishna area.

Relating to alternative road systems in Denali National Park

SCR 27

DATE INTRODUCED

4-29-85

RELATED BILLS PENDING

SB 49

REFERRALS

None

SPONSOR(S)

Coghill

ADMINISTRATION

INITIAL SUMMARY COMPLETED

LEGAL DIVISION SUMMARY

Requested 4-29-85

DEPT OF LAW SUMMARY

SPONSOR CONTACTED FOR BACKUP MATERIALS

FISCAL NOTE

N/A

AGENCY RESPONSE

OTHER INTERESTED LEGISLATORS NOTIFIED

Dick Schultz 4-30-85

INITIAL RESEARCH

SIMILAR BILLS INTRODUCED IN PREVIOUS LEGISLATURES

OTHER STATE OR FEDERAL PRECEDENTS, REGULATIONS, ETC

RESPONSES FROM INTERESTED PERSONS AND/OR GROUPS

BACKGROUND RESEARCH

CHAIRMAN BRIEFED

DATE & PLACE SET

STAFF MEMO TO COMMITTEE

TELECONFERENCE

BACKGROUND MATERIAL DISTRIBUTED

PSA/PRESS RELEASE

LIST OF WITNESSES

SUGGESTED AMENDMENTS/CS DRAFTED

HEARING PREPARATION

Alaska State Legislature

SENATOR
JOHN B. "JACK" COGHILL
Chairman

Senator Jan Faiks—Vice Chairman
Senator Mitch Abood
Senator Paul Fischer
Senator Joe Josephson



POUCH V
JUNEAU, ALASKA 99811
(907) 465-4921

Senate Committee on Transportation

MEMORANDUM

TO: Committee Members
FROM: Committee Staff *AL*
DATE: 5-1-85
RE: SCR 22

SCR 22, relating to alternative access in the Denali National Park, will be in front of the committee today. This resolve requests that the Governor direct the commissioner of DOT/PF to study alternative access routes to Denali National Park.

Included in your packet you will find position papers from the divisions of Tourism and Minerals, the departments of Transportation and Fish and Game, and the National Park Service. Also included is part of the Fairbanks Chamber of Commerce's Interior Transportation Needs report. Finally there is a letter from Senator Coghill to members of the Alaska Congressional Delegation asking that they explore the problem of lack of access into the park.

KANTISHNA ACCESS

Warrants

A highway to the Kantishna area can be justified on the following basis:

Tourism is Alaska's second largest industry and Mt. McKinley is the State's number one tourist attraction. The park road is inadequate to serve this industry for the following reasons:

- a. Geometrics, the road is substandard in width, alignment and grade. The road is hazardous as demonstrated by the rash of serious bus accidents that have occurred during the past few years.
- b. Access is too restrictive, visitors must travel by bus (shuttle school buses or buses operated by park concessionaires). This ride can last up to six hours and is a source of discomfort, especially to senior citizens and young children.
- c. Capacity, the demand has increased dramatically during the past decade as has the growth of tourism. The Interior Alaska Transportation Study estimated nearly 5000 vehicles by the year 2005.
- d. Because time at vantage viewpoints is extremely limited, over 50% of those seeking a view of Mt. McKinley are disappointed.
- e. The increase of traffic on this road has degraded the wildlife viewing aspect of this route.

Mining is also an important industry in Alaska and the Kantishna area is an important mining area. Recent assessments conducted by governmental officials documented the existence of commercial ore deposits. The existing road is inadequate to serve this industry because of slow moving tour bus traffic, and it is substandard.

FBKS. CHAMBER OF COMMERCE

Enhance the State's ability to assure our visitors and residents a quality experience. Mt McKinley is Alaska's crown jewel. Access and vantage viewing are at the sole discretion of the U.S. Park Service. However Alaska's entire tourist industry and the State's reputation suffer when visitors ride an uncomfortable bus for six hours and still do not get to see the main attraction.

Give opportunity for the private sector to provide tourist facilities that are now being provided by the government sector or not being provided at all. Mining claims in the Kantishna area are patented and can be used by the private developer to locate hotels, lodges, camping parks, hostels and other visitors facilities. The area provides an unsurpassed view of Mt. McKinley and visitors would have the opportunity to remain in the area for longer periods increasing their chances of seeing the mountain. (note, the cyclic type weather that occurs during the dry interior summer virtually assures all visitors a view of the mountain if they can remain there for a day or so.

The private sector is more sensitive to visitor satisfaction thus when this sector caters to our visitors the results are happier, longer and more return visits.

An alternate access to the Kantishna area would make it possible for the park service to redirect the park road traffic toward wildlife viewing. This is more compatible to that portion of the park's classification, (wilderness). It also provides a more focused and quality wildlife viewing concession.

A northern access, currently economically viable as far as the Kantishna area, can be extended toward the McGrath area to serve that area as the need warrants.

A northern access would tie into the existing park road, making it

possible to provide a loop system, a limited loop system or limited to wildlife tours. Note this would be a popular concession and with some imagination could be worked in two directions.

There is less precipitation on the north side of the Alaska Range than on the south. This can be documented through weather records but is clearly evident by the lack of glaciers on the north side when compared with the south side. Since viewing of the mountain is of paramount importance, this aspect cannot be overlooked when establishing park facilities, nor should the North or South facilities be exclusive, both offer differing experiences making improvements not an either/or decision but rather one of establishing priorities.

It should also be recognized that the Park is such a major attraction that constructing additional facilities will not provide a proportional increase in capacity as visitors will elect to extend their stay to experience all that is offered.

Issues and Strategy

Establishing a northern access will require careful planning and is subject to stipulations established in the National Interest Lands Act as well as the National Environmental Protection Act of 1969. It will be subject to critical review, organized environmental and philosophical opposition.

Provision has been made in the National Interest Lands Act to mandate access decision on a timely basis. When the environmental document is officially started a time frame also starts. This is an advantage, if the State has the project well in order. However, it can be a detriment if the State is unprepared to deal with all the issues that may surface, resulting in a decision that may not be in the best interest of the State. If that should occur, the ability to appeal is limited and the State may be required to begin the process all over. Because of this, it is important that the DOTPF ensure that

all interested entities are involved, all issues identified and all decision making agencies be as much in accord as possible prior to starting the clock.

This can be accomplished by adding a preliminary phase to the normal location phase of a project. Generally the location report and environmental document are prepared at the same time. In this case it is recommended that the DOTPF prepare a draft location report and in so doing identify and resolve all issues with decision making agencies to gain as much of a consensus as possible, then begin the environmental document. The location report would be finalized concurrent with developing the environmental document.

Project description

Access to Kantishna via the north has three major alternatives, they are:

1. Via the Stampede trail to Stampede then through foot hills to Kantishna.
2. Via the old sled trail leaving the Parks Highway near Rex.
3. Via the proposed Nenana Agriculture access road to the Kantishna River then upriver to Kantishna (note, the route to the Kantishna River is already designed).

It is premature to speculate on which alternate is the most attractive. All have attractive aspects. Some have already been investigated to some degree and some aerial photographs are available. It is conceivable that the final routing will be a combination of these.

The road itself will be a major highway and probably have to be widened to four lanes by the year 2020. Initially it should be paved with two 12' lanes and 8' shoulders. Alignment and grade should be designed for 55 mph and should take advantage of the scenic opportunities. The road should be designed and classified as a State

Scenic Route.

Funding

Immediate funding needs are for the location phase. During that phase the merits of the project will be documented, standards adopted, alignment chosen and preliminary costs developed. The project will have location approval with authority to design and construct or it will be determined to be in the best interest of the State or Nation not to proceed.

Because of the sensitive nature of the project the DOTPF should allow ample lead time and funding to ensure that location documents will stand up to close scrutiny. At this time the cost to accomplish this is estimated at \$500,000 with a time frame of three years.

This work entails field surveys aerial photography, research, conceptual design, economic analysis, comparison of alternatives, in-depth agency coordination and public involvement. The completed product will include:

- approved environmental impact statement with 4(f) determination
- approved location study report
- certified location public hearing documents
- draft soils report
- location approval.



IN REPLY REFER TO:

United States Department of the Interior
NATIONAL PARK SERVICE

ALASKA REGIONAL OFFICE
2525 Gambell Street, Room 107
Anchorage, Alaska 99503-2892

A22(ARO-SA)

February 13, 1985

FEB 19 1985

Honorable Jack Coghill
Alaska State Senate
Pouch V
Anchorage, Alaska 99811

Dear Senator Coghill:

We appreciate your request for our review and comments on Senate Bill 49 and the accompanying report and route map.

As you recognize, Denali National Park and Preserve is a major resource and asset to both the State of Alaska and the nation. I believe it is incumbent upon all of us at the state and federal levels to work together to assure that the experience for the visitor is enjoyable and that the wildlife and other resources of the park are preserved.

We agree with and support the goal of improving the visitor's experience. However, it would be inappropriate for the National Park Service to take a position on the proposed bill to appropriate \$500,000 for a state feasibility study of a northern access route. As your study recognizes, the Alaska National Interest Lands Conservation Act (ANILCA) and the National Environmental Policy Act set forth procedures for analysis and consideration which must be followed before any decision to allow access across a national park. Title XI of ANILCA sets forth the process for reviewing and permitting construction of a new access route.

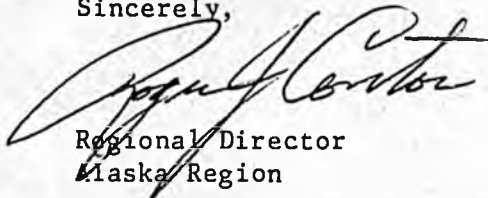
The quality of the visitor's experience in Denali National Park has been a major concern within our organization. As you know, we are currently in the process of designing a new visitor access center near the park headquarters and we will soon be contracting with another local firm for the design of the reconstruction of Denali Park Hotel. Recommended budgeting for these two projects totals \$14.2 million. In addition approximately \$15 million is programmed for improvements on the Denali Park Road.

A draft general management plan for Denali National Park will be released in March for public review and comment. This plan invites public comment on alternative ways of improving the visitor's experience while preserving the wildlife and natural features which they come to see. As soon as it is available we will send copies of this draft plan to you and members of the Senate and House Resources Committees. We would very much appreciate your thoughts and recommendations.

NATIONAL PARK SERVICE

This summer we will also be working with the State Department of Natural Resources and the Department of Transportation and Public Facilities under a cooperative agreement to investigate the possibilities for developing visitor access and facilities on the south side of the Alaska Range. We were pleased to note that your report recognizes that development on the north and south sides is not an either or situation, and that the south side development would offer visitors a different experience in a landscape which is much in contrast to that of the north. Further, it is important to distribute the points of access to the natural resources of the Mt. McKinley massif so that they are readily accessible from both Anchorage and Fairbanks. We will keep you informed of the results of this cooperative study and look forward to your comments.

Sincerely,



Regional Director
Alaska Region

cc:

Commissioner, Department of Natural Resources
Commissioner, Department of Transportation and Public Facilities
Members of Senate and House Resources Committees

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF FISH AND GAME

OFFICE OF THE COMMISSIONER

P.O. BOX 3-2000
JUNEAU, ALASKA 99902
PHONE: 907 / 465-4100

February 26, 1985

Mr. John Manly
Committee Aide
Senate Transportation
Committee
c/o Senator Coghill
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Mr. Manly:

This letter is in response to your request dated February 9, 1985, that the department prepare a brief statement on the fish and wildlife values and potential impacts associated with an extension of the state highway system to Kantishna via three alternative routes from the Parks Highway. It is our understanding that the three alternatives under consideration include access:

1. Via the Stampede Trail to Stampede then through the foothills to Kantishna;
2. Via the Rex Trail to the Kantishna River then upriver to Kantishna;
3. Via the proposed Nenana-Totchaket Agriculture access road to the Kantishna River then upriver to Kantishna.

Our Habitat Division has performed a review of the alternatives. An abbreviated summary of the fish and wildlife values and the department's recommendations relative to the three alternative routes follows.

Alternative #1 - Stampede Trail: Wildlife values adjacent to this route are moderate to high in importance. Black bear, grizzly bear, moose, caribou, and a variety of furbearers are present. Dall sheep are present along the north flank of the Alaska Range to the immediate south. The McKinley Caribou Herd historically utilized this area as prime overwintering and limited calving habitat. Although population abundance is currently low, an expansion of the herd size will necessitate use of this historic range. The

DEPARTMENT OF FISH & GAME

proposed route also transects important moose fall and winter concentration areas. Recreational and subsistence use is moderate and occurs predominately along the Stampede Trail. Trapping intensity is moderate to heavy.

Alternative #2 - Rex Trail: Fish and wildlife values adjacent to this route are moderate to high in importance. Black bear, grizzly bear, moose and a variety of furbearers are present in moderate numbers throughout most of the area. Significant populations of these species, however, are present within the Nenana, Teklanika, Toklat, and Kantishna River riparian corridors. Recreational and subsistence use is moderate to heavy within these river corridors. Human use outside of these corridors is limited.

The portions of the upper Kantishna River and Bearpaw River drainages affected by this route are considered critical waterfowl habitat areas, providing nesting and molting habitat for high concentrations of several species of waterfowl and stopover sites for cranes and other species that utilize the western Interior.

The Toklat River Springs located at the confluence of the Toklat and Sushana Rivers supports the largest known population of fall chum salmon in Alaska and is estimated to contribute 27% of the commercial and subsistence fall chum salmon harvest in the Yukon and Tanana River fisheries downstream from the mouth of the Kantishna River. The spring's area also supports a small population (500-600) of overwintering mallards which is believed to be the northern-most freshwater waterfowl wintering area in North America. The Toklat River Springs' fall chum salmon spawning area is considered critical habitat and has been nominated for legislative designation.

Alternative #3 - Totchaket Agriculture Access Road and Extension: Based upon the limited data presently available, most of the area adjacent to this route appears to have moderate to low fish and wildlife habitat value. Recreational hunting, subsistence use and trapping also appear to very light in the area. There are no critical habitat areas yet identified. From the standpoint of potential impacts, the department's primary concerns are related to those portions of the route which are (1) adjacent to the Kantishna River (which is a designated anadromous fish stream) or (2) require crossings of resident fish streams. Rather than influencing route selection, these concerns are normally addressed by the department, via its AS 16 authorities, through the provision of adequate mitigating measures as a component of route design and construction.

Mr. John Manly

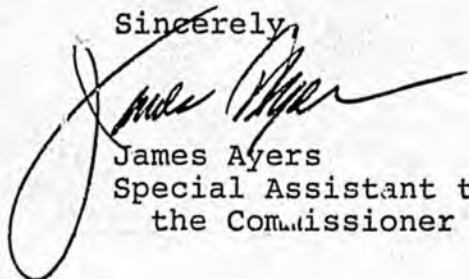
-3-

February 26, 1985

Recommendations: From the sole standpoint of minimizing impacts to fish and wildlife or their habitats, the department prefers that any extension of the state highway system to Kantishna be aligned along the Alternative #3 - Nenana-Totchaket Agriculture Access Road and Extension route.

The department appreciates the Senate Transportation Committee's solicitation of our concerns and recommendations. We remain available to provide additional information as may be needed.

Sincerely,

A handwritten signature in black ink, appearing to read "James Ayers", is written over the typed name. The signature is fluid and cursive, with a large loop at the beginning.

James Ayers
Special Assistant to
the Commissioner



February 26, 1985

MAR 4 1985

Senator Jack Coghill, Chairman
Senate Transportation Committee
ALASKA STATE LEGISLATURE
Pouch V
Juneau, AK 99811

Dear Senator Coghill:

I have read your Senate Bill #49 and agree wholeheartedly that now is the time to aggressively pursue the development of a road to Kantishna. Mt. McKinley is one of Alaska's greatest assets, however, many people have a disappointing experience in the Park because of inadequate facilities and limited viewing opportunities. Although we will never be able to guarantee a view of the mountain, increased access and facilities would provide us with an increased opportunity to satisfy the Alaska visitors.

We greatly appreciate your interest in this vital segment and fully support the efforts to begin this project.

If we can be of any further assistance please let me know.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tom Tougas".

Thomas C. Tougas
Vice President
TRANSPORTATION DIVISION

TCT/ss

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT
OFFICE OF MINERAL DEVELOPMENT

POUCH EE
JUNEAU, ALASKA 99811
PHONE: 465-2023

March 4, 1985

MAR 4 1985

The Honorable Jack Coghill
Chairman
Senate Transportation Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Coghill:

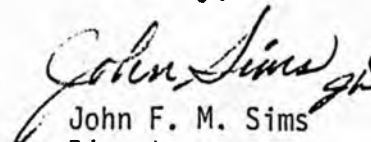
The Office of Mineral Development has reviewed SB 49 calling for a feasibility study on building the Kantishna access highway.

The Kantishna area has long been recognized for its substantial gold resource. Numerous mining claims have been patented. In addition to gold, significant deposits of strategic metals such as tungsten and antimony have been discovered in the area. With access, the region has much enhanced potential to become once again a significant productive mining region.

Currently, traffic on the Denali Park road is restricted by the National Park Service which severely limits mining activity at Kantishna. This restriction also limits Alaska's rapidly growing visitor industry. Access would allow entry to Denali National Park to many more people now unable to visit because of the severe travel restrictions in effect on the Denali Highway. The Kantishna access would enable firms in the travel industry to construct additional hotels and visitor facilities on privately held land at Kantishna. Additionally, it would greatly facilitate the expanded use of the Stampede Mine as a training property for mining students from the University of Alaska.

Of the three alternative routes being considered, this office supports the Old Stampede Road route. This is the shortest of the options being considered. It makes use of a long established trail to Stampede and requires a relatively short extension through the foothills connecting Stampede to Kantishna.

Sincerely,


John F. M. Sims
Director

JFS/cwREGLR3/Coghill
3485a

DIVISION OF MINERALS

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

POUCH Z
JUNEAU, ALASKA 99811
PHONE: (907) 465-3300

OFFICE OF THE COMMISSIONER

January 28, 1985

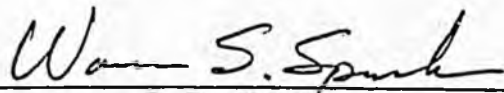
Re: SB 49; Feasibility of
Building a Road to
Kantishna

A road to Kantishna would have two major economic advantages. First, it would provide a northern access for tourists into Denali Park. The Interior Transportation Study estimates that within twenty years such an access could generate 5,000 vehicles a day in the summer months. Secondly, the road would provide access for mining in the Kantishna area, and possible future extension to the Kuskokwim Valley.

The possible benefits to be derived from this project compare favorably with other major system extensions, such as extension of Chena Hot Springs Road to Twin Mountain, construction of a road to the Slate Creek asbestos deposit or a major rail extension.

Provided we receive the cooperation of the National Park Service, the feasibility study through location approval is expected to take about 27 months to complete. Because of this timeframe, we recommend that the lapse date be extended to June 30, 1987.

The amount of \$500,000 for the study is adequate.



R.J. Knapp
for Commissioner

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

POUCH E
JUNEAU, ALASKA 99811
PHONE: 465-2010
TELEX: 45331

DIVISION OF TOURISM

February 25, 1985

The Honorable Jack Coghill
Chairman
Senate Transportation Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Coghill:

Since statehood, Denali National Park and majestic Mt. McKinley have been one of Alaska's major travel attractions. A recent research report released by our Division of Tourism and compiled by the Department of Labor entitled "Alaska Traveler Survey and Visitor Industry Analysis 1983" shows that more than 70 percent of summer highway pleasure visitors indicated they had visited Anchorage and Fairbanks and 60 percent of these visitors reported they had visited Mt. McKinley/Denali.

Certainly a growing need for access into and through the park suggests that alternative access be explored. The legislation you have proposed in SB 49 calling for a feasibility study of building the Kantishna Access Highway would be a step in this direction.

Because traffic to the park continues to grow and considering the time needed to conduct a feasibility study, the sooner the necessary engineering and cost information is compiled, the sooner our State can move to have some control over the traffic flow to this unique vacation destination. The more visitors who can view the mountain and enjoy our wildlife, the more who will return home with an unequalled vacation experience.

Best regards,



Don Dickey
Director

DD/wfs1752W
22585a

Senator John B. (Jack) Coghill
Alaska State Legislature

Box A
Juneau Alaska 99811
(907) 465-1715

Box 158
Sitka Alaska 99701
(907) 855-1711

April 3, 1985

The Honorable Frank Murkowski, *Stevens, Young*
317 Hart Building
Washington, D.C. 20510

Dear Frank:

During this legislative session, the Senate Transportation Committee, of which I am chairman, has considered a proposal to construct a Kantishna access road north of the Alaska Range to connect the Kantishna area with the Parks Highway.

Our State's most popular tourist attraction, the viewing of Mt. McKinley, has disappointed many tourists because inclement weather conditions prevent adequate viewing of the mountain. Summer tourists plan well in advance to visit our great state and the continent's highest mountain. According to Denali Park officials over 50% of the visitors do not even get a glimpse of Mt. McKinley because crowded conditions on the park road and at park facilities do not allow them to stay until the weather clears.

The proposed highway will help solve this problem by providing access to many excellent viewpoints of the mountain. The road will also allow access to private property in the area which can be used by individuals for the construction of new hotels and tourist facilities. Tourists can then be assured of a more satisfying visit to the park, and therefore, a more pleasurable trip to Alaska.

I have received correspondence from a variety of interested groups, including private tour groups and the Alaska State Division of Tourism recognizing the need to develop this project.

Tourism is Alaska's second largest industry. In light of the State's declining oil revenues, it seems prudent to me that we invest in this growing sector.

LETTER TO ALASKA DELEGATION

The proposed road to Kantishna would not only have positive effects on the Denali National Park and Alaska's tourist industry, it would also benefit the mining industry.

The Alaska Miners Association and its 2000 members have extended their support. Many rich mineral deposits are being worked - or have been identified - in the Kantishna area, and the existing access road is limited for miners to certain nighttime hours in the summer.

Presently, mining trucks cannot compete with tour buses which use the road all day long. A new highway will solve this problem and should enable further mining development.

The agriculture industry will also share the benefits of construction of a highway. Rich agricultural land exists in the area. Easy access to these lands will be of value.

The Department of Transportation and Public Facilities is in the process of adopting a five-year plan to answer our highway problems. Construction of the Kantishna Highway is part of that answer; particularly when we consider the growing pressure of visitors on Denali and the pivotal role such a road would play. Federal funding will be necessary to study and implement this project. I urge you to consider the construction of the Kantishna Access Highway and look forward to your reply.

Enclosed with this letter is a synopsis of the Kantishna Access Highway and various correspondence in support of this proposal.

Sincerely,

A large, stylized handwritten signature in black ink, appearing to read "Jack". The signature is written over the typed name "Jack" and extends upwards and to the right.

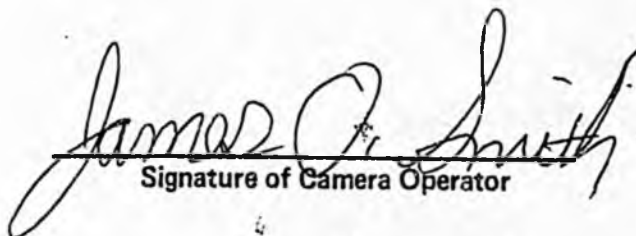
JBC:mcm
Enclosure

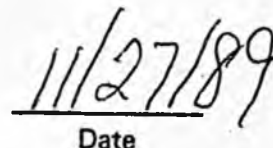


RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

SCR

38

Alaska State Legislature

Senate Transportation Committee



Sen. John B. (Jack) Coghill, Chairman
Sen. Paul Fischer, Vice-chairman
Sen. Mitch Albood
Sen. Jan Finks
Sen. Joe Josephson

Douch V
Juneau, Alaska 99811

April 23, 1986

TO: Committee Members
Senate Transportation
FROM: Committee Staff
RE: SCR 38

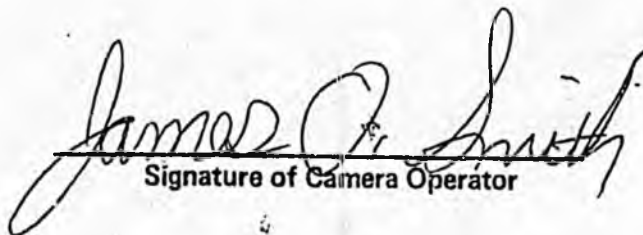
The committee will be taking up SCR 38 today on its calendar. The resolution would ask that the Governor commemorate the centennial of the automobile with appropriate celebrations by persons and groups for which the automobile holds significant meaning.

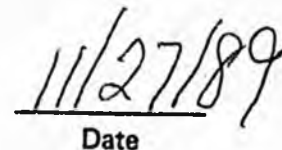


RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.


Signature of Camera Operator


Date

SJR

10

M E M O R A N D U M

To: Committee members
From: Committee staff
Date: March 14, 1985
Re: Background materials for CSSJR 10

On Friday, March 15, the committee will consider CSSJR 10 (Res) which urges DNR and DOT/PF to enter into a memorandum of understanding with BLM regarding identification and establishment of RS 2477 rights-of-way throughout the state. These rights-of-way were created under a federal law which dates back to the 1860s, which said in essence that if a person blazed a trail across unappropriated federal lands, that became a public right-of-way. Now, with federal and state bureaucrats formulating land use plans, many of those public access ways are being threatened with vacation, if the State government does not act to assert its public right to the right-of-way.

The background materials, particularly the memorandum from the Citizens' Advisory Commission, explain the problem fairly well. Along with a highlighted copy of the Resources CS, these materials include:

- A statement prepared by Senator Coghill for presentation to the Resources Committee hearing
- The Citizens' Advisory Commission memo explaining the history of the problem
- The currently-effective M.O.U. between DOT/PF, DNR and BLM regarding the northern portion of the state.
- BLM position statement on RS 2477 rights-of-way
- BLM notation memo describing the procedure and effect of BLM notations of RS 2477 rights-of-way on BLM plats
- BLM memo to the Bureau of Indian Affairs regarding RS 2477 rights-of-way over native allotment parcels
- An inventory of RS 2477 trails compiled for assertion by DNR

Offered: 3/4/85
Referred: Transportation
and Finance

Original sponsors: Coghill, Abood,
Bennett, et al

1 IN THE SENATE

BY THE RESOURCES COMMITTEE

2 CS FOR SENATE JOINT RESOLUTION NO. 10 (Resources)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 Requesting that the Department of Natu-
6 ral Resources and the Department of
7 Transportation and Public Facilities
8 expedite the identification and estab-
9 lishment of rights-of-way for roads and
10 trails on federal Bureau of Land Manage-
11 ment plats which qualify under RS 2477.

12 BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:

13 WHEREAS the Alaska National Interest Lands Conservation Act of 1980
14 placed 124 million acres of land in Alaska into 71 federal conservation
15 units, and outlined specific use requirements and restrictions for those
16 units; and

17 WHEREAS, contrary to the provisions of the Alaska National Interest
18 Lands Conservation Act of 1980, there was no provision for establishing or
19 protecting a transportation system in the development of comprehensive
20 management plans for each conservation unit by the responsible federal
21 management agency; and

22 WHEREAS several of the comprehensive management plans have been com-
23 pleted without recognition of existing roads and trails, preventing public
24 access through these units to state and private lands and to state waters;
25 and

26 WHEREAS comprehensive management plans for a minimum of nine national
27 park and preserve units and five fish and wildlife refuge units are to be
28 completed during calendar year 1985; and

29 WHEREAS the federal statutory authority for the establishment of

ADDED IN RESOURCES

1 recognized rights-of-way for roads and trails is contained in RS 2477 (43
2 U.S.C. sec. 932); and

3 WHEREAS the Department of Natural Resources and the Department of
4 Transportation and Public Facilities on September 28, 1984, signed a Memo-
5 randum of Understanding with the federal Bureau of Land Management involv-
6 ing the northern region of Alaska only, establishing the procedure under
7 which the rights-of-way could be recognized on Bureau of Land Management
8 plats and in comprehensive plans for conservation units;

9 BE IT RESOLVED by the Alaska State Legislature that the Department of
10 Natural Resources and the Department of Transportation and Public Facil-
11 ities immediately develop, in consultation with other affected land owners
12 and managers, and propose a Memorandum of Understanding with the Bureau of
13 Land Management relative to the remainder of the state; and be it

14 FURTHER RESOLVED that the state agencies involved affirmatively soli-
15 cit information from miners, engineers, land surveyors, environmentalists,
16 outdoor groups, landholders, or other persons or organizations that may
17 have knowledge of the historic use of roads and trails to assist the
18 departments in the identification of those roads and trails that could
19 qualify under the provisions of RS 2477 (43 U.S.C. sec. 932) for addition
20 to the state transportation system, and that may be useful to the federal
21 agencies developing comprehensive management plans for the various Alaska
22 National Interest Lands Conservation units; and be it

23 FURTHER RESOLVED that the involved state agencies develop draft pol-
24 icies regarding management, maintenance, liability, vacation, categories,
25 widths, and other relevant concerns related to RS 2477 roads and trails,
26 and that the agencies review these draft policies with affected landowners
27 and managers, and then present these draft policies to the legislature
28 during the second session of the Fourteenth Alaska State Legislature.

29 COPIES of this resolution shall be sent to the Honorable Bill Shef-

1 field, Governor of the State of Alaska, to the Honorable Esther Wunnicke,
2 Commissioner of Natural Resources, to the Honorable Richard J. Knapp,
3 Commissioner of Transportation and Public Facilities, and to Michael J.
4 Penfold, State Director of the Bureau of Land Management.



Citizens' Advisory Commission on Federal Areas

515 Seventh Avenue
Suite 310
Fairbanks, Alaska 99701
(907) 456-2012

TO: ALASKA LAND USE COUNCIL MEMBERS

FROM: CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS

RE: ~~RS 2477 RIGHTS OF WAY~~

DATE: SEPTEMBER 13, 1984

In 1866 the U.S. Congress passed a law entitled "An Act granting the right of way to Ditch and Canal Owners over the Public Lands, and for other Purposes." Section 8 of this act, which generally dealt with mining activities on the public lands, read as follows: "And be it further enacted, That the right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted."

This grant, more commonly known as Revised Statute (RS) 2477 (43 USC §932), was a standing offer by the Federal government until it was repealed with the passage of the Federal Land Policy and Management Act (FLPMA) of 1976. While RS 2477 is no longer the legal basis for the construction of new public highways, valid existing rights granted to the Territory, State and public of Alaska during the period of the act's efficacy are protected by FLPMA Section 701 and reaffirmed by ANILCA Section 1109.

There are perhaps 150 or more RS 2477 rights of way in Alaska, concentrated primarily in the interior, which were accepted directly by the public of the State and the Territory through actual construction and use. This is exclusive of the Section-line right of way dedicated by the State in AS 19.10.010, which legislation acts as formal acceptance of the grant offered. Informal acceptance, that which is accepted directly by the public through actual use, is an equally valid right recognized in case law on the subject.

On State owned lands, authority for the management of these public rights of way is vested in both the Department of Natural Resources (DNR) and the Department of Transportation and Public Facilities (DOT/PF). On Federal and private lands, DOT/PF has primary authority as the managing agency. This authority would extend to those ANILCA lands which were vacant and unreserved public lands during the period of time when the grant was in effect in the Territory and State. The Alaska Organic Act of 1884 was the legislation which brought United States law to Alaska, including RS 2477, and can be regarded as the date at which the grant became effective in the Territory.

In 1923 the Territorial legislature formally accepted the grant by dedicating all Section lines to be public highways with an

CITIZEN'S ADVISORY COMMISSION

private or non-federal public land inholdings within the conservation system units, and to such lands adjacent to conservation system units, and are thus unaffected by the passage of this bill."

The State officials responsible for asserting the State's claims and managing these rights of way on behalf of the Alaskan public have been reluctant to do so. Perhaps this is due to a desire to de-polemize the relations between the State and Federal governments since the passage of ANILCA. However, an absence of both a clear policy and the political will to follow through on such a policy is tantamount to a "de facto" abandonment of these rights of way. This Commission is implacable in its opposition to such an abandonment.

The Yukon-Charley National Preserve case involves more than the issue of access by RS 2477 and will be settled in a court of law. One thing is clear however, according to personnel in both the Alaska Department of Transportation and the Department of Natural Resources, the trail used in this instance is a valid, documented RS 2477.

The Citizens' Advisory Commission on Federal Areas proposes the formation of a work group or task force which will establish a procedure to confirm the State's RS 2477 claims. The Commission requests that the member agencies of the ALUC cooperate fully in the implementation of this proposal. Such cooperation would include agency acknowledgement of identified RS 2477 rights of way in the planning efforts of the CSUs, as well as adequate personnel and funding for the necessary research.

The Commission recommends that the Alaska Department of Transportation and Public Facilities and the Department of Natural Resources act as the co-lead agencies on behalf of the State in the task force. We recommend the Bureau of Land Management as the lead agency for the Federal government.

This matter is in urgent need of attention. Access to legitimate inholdings on the CSUs is not being adequately addressed despite the guarantees of ANILCA Section 1110. In the absence of a clear initiative on the part of the State, there is little the land management agencies of the Federal government are able or willing to do on the issue of RS 2477 while plans for the CSUs are being prepared. Timely action by the appropriate State agencies is necessary to ensure federal and private recognition of RS 2477 rights of way.

The Citizens' Advisory Commission on Federal Areas believes the ALUC is the proper channel through which this problem may be addressed. Formation of an intergovernmental task force will clear up some of the unanswered questions faced by private and public land managers.

easement of either 66 feet or 100 feet depending on the land status at the time of the dedication. Informal acceptance of the grant has occurred every time men cut their way through the wilderness during the gold rush in effect constructing public highways for all to use. Many years of use by succeeding fortune seekers, trappers, traders, subsistence users and recreationists along these routes has reinforced this legacy. Once granted and accepted, the vacant, unreserved public lands over which the right of way lies are severed from ownership by the federal government and pass to the Territory, the State or the public of those political entities.

The Alaska National Interest Lands Conservation Act (ANILCA) mandated the preparation of management plans for the lands added to the Conservation System Units (CSUs) created by that act. Unfortunately, both the Federal and State agencies have for the most part not adequately considered these public highways in the planning efforts now underway. Failure to confront the issue of RS 2477 has and will continue to do harm to the interests of the State, the Federal government and the Alaskan public.

Recently, a miner was arrested by Park Service personnel within the bounds of the Yukon-Charley National Preserve while moving a bulldozer along the Buleberg Trail which both he and State officials claim is a valid RS 2477 right of way. The miner has patented and unpatented mining claims in the National Preserve to which he is guaranteed access by Section 1110 of ANILCA. These "guarantees" are honored by requiring miners and other traditional users of the lands in question to contend with considerable amounts of paperwork to receive permits providing access to these lands. This Commission believes that this system of permitting is contrary to the spirit and the letter of the law where legitimate RS 2477s are involved. Formal recognition of valid RS 2477 rights of way by the various Federal agencies would simplify the problem of access and allow the use of a transportation system that has been in existence for over eighty years. The use of valid rights of way belonging to the State of Alaska should not be subject to the issuance of permits by Federal land managers.

This is clearly the intent of the Congress as evidenced by the report of the Senate Energy and Natural Resources Committee (Report #96-413; November 14, 1979; page 303): "Those private lands, and those lands owned by the State of Alaska or a subordinate political entity, are not to be construed as subject to the management regulations which may be adopted to manage and administer any national conservation system unit which is adjacent to, or surrounds, the private or non-federal public lands. Federal laws and regulations of general applicability to both private and public lands, such as the Clean Air Act, the Water Pollution Control Act, U.S. Army Corps of Engineers wetlands regulations, and other Federal statutes and regulations of general applicability would be applicable to

RS 2477 REGIONAL TRAILS

ASSERTION INVENTORY

Compiled By

Dale Stirling
Historian I

February 1985

RS 2477 TRAIL INVENTORY

4

NORTHERN REGIONAL TRAILS

Trail Name	Trail #	Quad #	Known Use	Suspected Use	SUPPORTING	
					Documents	Maps
Nome-Shishmareff	100	94	X		X	
Penny River	100a	94		X		
Cape Woolley	100b	94		X		
Nome River	104	94		X	X	
Golovin	97	95		X	X	
Council	101	95	X		X	
Solomon	109	95		X		
Norton Bay	112	95		X	X	
Pilgrim Springs	119	95		X		
Kaltag-Nome	156	95	X		X	
Topok-Candle	158	95	X		X	
Norton Sound-Goloum	115	95		X		
Ungalik-Candle	118	96	X		X	
Koyuk-Norton Bay	264	96		X		
Kaltag-Holy Cross	116	97		X		
Lewis Landing-Dishkaket	148	97		Y		

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Ft. Gibson-Keltag	155	97	X		X	X
Poorman-Ophir	145	98	X		X	X
Poorman-Cripple	146	98	X		X	X
Telida-Novokaket	219	98		X		
Kantisha River Area	64d	99	X		X	X
Toklat-Lake Minchumina	89	99	X		X	
Kantishna	172	99	X			X
Fairbanks-Ft. Gibbon	191	99	X		X	X
Manley Hot Springs	194	99		X		
Cosjacket-Rampart	233	99		X		
Rex-Kantishna	237	99	X		X	X
Nenana-Kantishna	67	100	X			X
Nenana-Ft. Gibbon	68	100	X		X	X
Rex-Nenana	69	100		X		
Olnes Area	73d	100	X		X	X
Ester Area	73e	100		X		
Bonnifield Trail	188	100	X		X	
Goldstream-O'Conner Creek	189	100		X		

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Dunbar-Livengood	197	100	X		X	X
Fairbanks-						
Chena Hot Springs	193	100	X		X	X
Gilmore Ski	302	100		X		X
North Fork Fortymile						
-Big Delta	52	101		X		
Goodpaster-Black Mtn	53	101		X		
Donnelly-Washburn	169	101			X	X
Redmond Cr.-Banner Cr.	184b	101		X		
Salcha-Caribou	185	101	X		X	
Chena Hot Springs	193a,b	101	X		X	
Kechumstuk Winter	77	102		X		
Chistochina-Eagle	167	102	X		X	X
Canyon Cr.-Walkers Fork	174	102	X		X	X
Liberty Cabin-Steel Cr.	175	102	X		X	X
Gravel Gulch-Liberty	176	102	X		X	X
Eagle-North Fort	178a,b	102		X		
Fortymile						
Yukon R.-Tatonduk R.	180	102		X		
Fortymile R.-Franklin	181	102	X		X	X
Franklin-Chicken	182	102	X		X	X

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Eagle-Circle Mail	183	102	X		X	X
Cherry Cr.	295	102		X		
Napoleon Cr	296	102		X		
Atwater Cr.	299	102		X		
Fortymile R.-Misquito Fork	300	102	X		X	
Eagle-Alder Cr.	45	103		X		
Nation R-Rampart	196	103	X		X	
4th July Cr.-Nation R.	197	103	X		X	X
Woodchopper Cr.	198	103	X		X	X
Fairbanks Cr.	73c	104		X		
Birch Cr.-Portage Cr.	199	104		X		
Circle-Ft. Yukon	202	104	X		X	X
Fairbanks-Circle	204	104	X		X	X
Central-Circle	231	104	X		X	
Circle-Steese Hwy.	261	104		X		
Birch Cr.	270	104	X			
Bonanza Cr.	276	104	X			
Porcupine Cr.	278	104		X		

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Independence Cr.						
-Harrison Cr.	279	104		X		
Circle Hot Springs	281	104	X		X	X
Deadwood Cr.	284	104		X		
Moose Cr.	286	104		X		
Chatanika Freight	303	104		X		
Bettles-Stevens Village	49	105	X		X	X
Livengood-Ft. Hamlin	64	105	X		X	X
Dunbar-Livengood	192	105	X		X	X
Chatanika-Yukon	205	105		X		
Beaver Cr.	255	102	X		X	X
Wickersham Dome						
-Tolovana R.	267	105	X		X	
Hickel Highway	289	105	X		X	X
Ft. Gibbon-Koyukuk	55	106	X			X
Kewalik-Candle	103	109		X		
Ungalik-Candle	118	109		X		
Topkuk-Candle	158	109	X		X	X

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Candle-Kewalik	159	109	X		X	X
Dahl Cr.-Candle	160	109	X		X	X
Haylock-Candle	228	109		X		
Council-Flat Cr.	101	110		X		
Kougarok River	122	110		X		
Davidsons Landing	161	110	X		X	X
Teller-Pilgrim						
Hot Springs	162	110	X		X	X
Noatak Coast	22	113		X		
Kotzebue-Kiwalik	99	113		X		
Kotzebue-Shungnak	165	113		X		
Noorvik-Kiwalik	98	114	X		X	X
Elephant Point	98b	114	X		X	X
Shungnak River	95	115		X		
Alatna-Shungnak	164	115	X		X	X
Hughes	163	116	X		X	X
Bettles-Allakaket	54	117	X		X	X
Bettles-S.F. Koyukuk R.	62	117	X		X	X

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Ft. Yukon-Beaver	37	118	X		X	X
Yukon-Chandalar	208	118	X		X	X
Circle-Ft. Yukon	202	119	X		X	X
Venetie-Christian	35	122		X		
Coldfoot-Venetie	41	122	X		X	
Caro-Chandalar	36	123	X		X	X
Chandalar-Chandalar L.	40a	123	X		X	
Myrtle Cr.-Bettles	47	123		X		
Wiseman-Chandalar R.	51	123	X		X	X
Nolan-Mascot Cr.	56A	124		X		
Kotzebue-Pt. Barrow	268	128	X		X	X
Corwinn Bluff-Naokak Pass	17	130		X		
Christian-Willow House	33	136		X		
Rampart-Beaufort Sea	211	137		X	X	
Canning River	25f	139		X	X	
Kuparkuk R.	31	140		X	X	
Itkillik R.	31a	141		X	X	
Colville R.	31c	141		X		

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Qunalik R.	9	142		X		
Ikpikpuk R.	14e	142		X		
Kiliqua R.-Awuna R.	15	143		X		
Irisaruk R.-Kaolak R.	37	144		X		
Meade R.	4c	147		X		
Chipp R.	6f	148		X		
Harrison Bay	27	149		X		
Anderson Pt.	25e	151		X		
Canning R.-Simpson Cape	25f	151	X		X	X
Poker Lagoon	25c	152		X		
Okpalik R.-Kaktovik	25d	152	X		X	X

SOUTHCENTRAL REGIONAL TRAILS

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
McCord Bay	1	34		X		
Quzinkie	2	34		X		
Neva Cove	3	34		X		
Kodiak-Miller Pt.	4	34		X		
Larsen Bay-Karluq R.	1	35	X		X	X
Egegik-Portage Bay	1	36	X		X	
Egegik-Pilot Pt.	2	36	X		X	
St. Paul-Webster L.	1	38		X		
Zapadni Bay-St. George	2	38		X		
Nushagak R.	1	40	X		X	
Dillingham-Naknek	1	41	X		X	X
Katmai-Savenski	1	42		X		
Kulik Lodge	2	42	X		X	
Laughtan Glacier	1	45		X		
Dewey Lakes	2	45		X		
Dalton	3	45	X		X	X

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Chilkoot	4	45	X		X	X
White Pass	5	45		X		
Situk R.	2	46		X		
Katalla-Takataga	1	47	X		X	X
Humpy Cr.	10	50		X		
Bear Cove	17	50		X		
Nuka Bay	20	50	X		X	X
Iniskin Bay	1	51		X		
Nondalton-Newhalen R.	2	51		X		
Nondalton-Iliamna	3	51		X		
Iliamna-Pile Bay	4	51		X		
Portage Cr.	6	51		X		
Nondalton-Telaquana	7	51		X		
Manakotak-Dillingham	1	52		X		
Dillingham-Naknek	2	52		X		
Nakeen-Igiugig	3	52		X		
Bethel-Goodnews Bay	1	53	X		X	X
Goodnews-Platinum	3	53	X		X	X

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Goodnews-Fogiak	6	53	X		X	X
Nightmute-Bethel	1	54		X		
Tanunak-Toksook	1	57		X		
Toksook-Nightmute	2	57		X		
Nightmute-Newtok	2	58		X		
Chefornak-Tuntutuliak	4	58	X		X	X
Kasigluk-Bethel	5	58	X		X	X
Tuntutuliak-Bethel	1	59	X		X	X
Bethel Kasigluk	2	59		X		
Bethel-Tuluksak	4	59	X		X	X
Tuluksak-Bear Cr.	5	59	X		X	X
Marvel Cr.	7	59	X		X	X
Akiak	8	59	X		X	X
Akiak-Russian Mission	10	59	X		X	X
Sleetmute-Taylor Mtns.	1	60		X		
Ninilchik	1	62		X		
7-Lake	2	62		X		
Chickaloon Bay	6	62		X		

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Kenai-Moose Pass	9	62	X		X	X
Kenai Spurr	10	62	X		X	
Salamatof Beach	14	62		X		
Cottonwood Cr.	18	62		X		
Surprise Mtn.	19	62		X		
Fuller L.	20	62		X		
Skilak L.-Lookout	24	62		X		
Bear Mtn.	25	62		X		
Seward-Mt. Marathon	2	63	X		X	
Lost Lake	3	63		X		
Paradise Valley	63	5	X		X	X
Crescent L.	7	63		X		
Grant L.	8	63		X		
Porcupine Cr.	10	63		X		
Juneau Cr.	11	63		X		
Russian R.	13	63	X		X	X
Cooper L.	15	63		X		
Bench Cr.-Johnson Cr.	17	63		X		

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Summit L.	19	63	X		X	X
Moose Pass-Upper Trail L.	22	63	X		X	
Devils Cr.	23	63		X		
Indian Cr.	26	63	X		X	X
Bird Cr.	27	63	X		X	X
Marathon Mtn.	30	63	X		X	X
Carter-Crescent L.	31	63		X		
Grayline L.	33	63		X		
Crown Pt. Mine	34	63		X		X
Wibel Mine	35	63		X		X
Summit Cr.	36	63		X		
Resurrection Cr.	39	63		X		X
Quartz Cr.	44	63		X		
Cannonball Cr.	46	63		X		
Swetmann Mine	47	63	X		X	X
Bear Cr.-Wagon Road	48	63	X		X	X
Palmer Cr.-Wagon Road	49	63	X		X	X
Katalla-Yakataga	1	64	X		X	X

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Eyak-Cordova	2	64	X		X	X
Carter L.	6	64	X		X	X
Milton L.	7	64		X		
McKinley L.	8	64	X		X	X
Cordova-Shepherd Pt.	16	64		X		
Cordova-Mt. Eyak	17	64		X		
Kattala Sled Road	20	64	X		X	X
Tana R.	4	65		X		
Dan Cr.	3	67	X		X	X
McCarthy--May Cr. Road	6	67	X		X	X
McCarthy-Kennecott Road	9	67	X		X	X
Chisana-Horsveldt	25	67	X		X	X
Hanagita	26	67	X		X	X
Kotsina	28	67	X		X	X
Nizina-Chisana	34	67	X		X	X
Nizina-Chitina R.	37	67	X		X	X
White R.	38	67	X		X	X
Strelna L.	5	68		X		

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Tonsina L.	6	68	X			
Bernard Cr.	14	68		X		
Chitina-McCarthy	18	68	X		X	X
Wortmann's Road	19	68	X			
Valdez Glacier Road	20	68		X		
Robe L.	21	68		X		
Squaw Cr.	26	68		X		
Klutina	33	68		X		
Willow L.	34	68		X		
Copper R. Bluff	35	68		X		
Hudson L.	41	68		X		
Cash Mine	46	68		X		
Hercules Mine	47	68		X		
Tasnuna	79	68	X		X	
Valdez-Fairbanks	81	68	X		X	X
Rabbit Cr.	1	69	X		X	X
Sutton	4	69		X		
Wolverine L.	5	69		X		

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Jonesville Premier Mine	6	69	X		X	X
Tim Cr.	7	69		X		
Lazy Mtn.	8	69	X			
Crow Cr.	9	69	X		X	X
Tahneta Pass	13	69		X		
White Alice Road	17	69	X		X	X
Eureka Cr.	18	69	X		X	X
Alfred Cr.	19	69		X		
Caribou Cr.	20	69		X		
Jackass Canyon Cr.	21	69		X		
Squaw Cr.	22	69		X		
Hicks Cr.	28	69	X		X	X
Glacier Cr.	29	69		X		
Matanuska R.	30	69	X		X	X
Chicaloon R.	31	69	X		X	X
Fish L. Road	33	69	X		X	X
Bonnie L.	36	69	X			
Kings R.	38	69	X			

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Fern Mine	40	69		X		
Lonesome Mine	41	69		X		
Eureka Roadhouse	48	69	X			
Meekins	50	69	X			
Knik-Susitna	52	69	X		X	X
Kern-Iditarod	53	69	X		X	X
Indian	54	69		X		
Eagle R.	57	69	X			
Knik-Talkeetna	63	69	X		X	X
Gold Bullion Mine	64	69	X			
Susitna-Tyonek	2	70	X		X	X
Susitna-McDougall	8	70	X		X	X
Susitna-Rainy Pass	13	70	X		X	X
McDougall-Cache Cr.	20	70	X		X	X
Nancy-Susitna	22	70	X		X	X
Flat-Crooked Cr.	1	72		X		
Sleetmute-Taylor Mtns.	4	72		X		
Flat-Aniak	5	72		X		

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Sparravohn-Sleetmute	7	72		X		
Bethel-Tuluksak	1	73	X		X	X
Aniak-Tuluksak	2	73	X		X	X
Yukon-Kuskokwim	3	73	X		X	X
Crooked Cr.-Aniak	4	73	X		X	X
Tuluksak-Bear Cr.	5	73	X		X	X
Akiak-Russian Mission	8	73	X		X	X
Holly Cross-Kattshak	16	73	X		X	X
Paimut-Marshall	18	73	X		X	X
Pilot Station-Kotlik	1	74	X		X	X
Scammon Bay-Hooper Bay	1	75		X		
Flat-Holy Cross-Anvik	4	78	X		X	X
Anvik-Kaltag	5	78	X		X	X
Shageluk-Holikachuk	7	78		X		
Takotna-Flat	2	79	X		X	X
Iditarod-Dishkakat	5	79	X		X	X
Rainy Pass-Big R.	1	80	X		X	X
McGrath-Candle	2	80	X		X	X

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Takotna-Nixon Fork	5	80	X		X	X
McGrath-Telida	7	80	X		X	X
Talkeetna-Iron Cr.	1	81	X		X	X
Montana Cr.	4	81		X		
Peters Cr.-Tentna R.	18	81		X		
Cameron Pass	2	82		X		
Little Nelchina	4	82		X		
McClaren R.	5	82	X		X	X
Tazlina R.	3	83	X			
Ewan L.	7	83	X			
Chistochina	24	83	X		X	X
Old Tok Cutoff Road	29	83	X		X	X
Old Richardson Hwy	30	83	X		X	X
Tolsona Military	36	83		X		
Lake Louise Road	37	83	X		X	X
Mae West L.	48	83	X		X	X
Lost Cabin L.	49	83	X		X	X
White Alice Road	50	83	X		X	X

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Cache Cr.	55	83		X		
Mirror L.	56	83		X		
Indian Cr.	67	83		X		
Canyon Cr.	68	83		X		
Gulkana-Valdez Cr.	70	83	X		X	X
Tanada L.	2	84		X		
Platinum Cr.	5	85		X		
Lost Cr.	6	84		X		
Jack L.	9	84		X		
Suslota Cr.	12	84	X			
Copper R.	14	84	X		X	X
Slana R.	15	84	X			
Porcupine Cr.	16	84	X		X	X
Eagle	19	84	X		X	X
Pass Cr.	22	84		X		
Goat Cr.	23	84		X		
Geohenda	49	84		X		
Chisana-Shushanna	51	84	X		X	X

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Copper R.-Nabesna R.	63	84	X		X	
Mentasta-Tetling	64	84	X		X	
Eagle	1	85	X		X	X
Midway L.	5	85	X			
Dennison Fork	9	85	X		X	
Tanacross-Mansfield	10	85	X		X	X
Old Taylor Highway	16	85	X		X	X
Mentasta-Tetlin	29	85	X		X	X
Eagle-McCarty	31	85	X		X	X
Tanana Crossing-Grundler	32	85	X		X	X
Kechumstuk	77	85	X			
Chistochina-Eagle	167	85	X		X	X
Donnelly-Washburn	169	85	X		X	X
Chistochina-Chisana	5	86	X		X	X
Gulkana-Valdez Cr.	8	86	X		X	X
Paxson-Denali	9	86	X		X	X
Lake George Lodge	19	86	X			
Chisana-Paxson	30	86	X		X	X

SUPPORTING

Trail Name	Trail #	Quad #	Known Use	Suspected Use	Documents	Maps
Delta Jnct.-Jarris Cr.	52e	86		X		
Lignite-Kantishna	1	87	X		X	X
Cantwell-Denali	2	87	X		X	X
Paxson-Valdez Cr.	3	87	X		X	X
Gulkana-Denali	4	87	X		X	X
Bull R.	6	87	X		X	X
Dunkle Mine	7	87	X		X	X
Savage R.	8	87		X		
Windy Cr.	11	87		X		
Healy-Diamond Coal Mine	13	87		X		
Healy Cr.	15	87		X		
Lignite Cr.	16	87		X		
Healy-Rex	170	87	X		X	
Diamond-Bearpaw	13	88	X		X	X
Kantishna-Moose Cr.	84	88	X			
Lake Minchumina-						
North Fork Kuskokwim R.	88	88		X		
Toklet R.-Telida	89	88		X		
Mentasta L.	41	84		X		

SOUTHEASTERN REGIONAL TRAILS

Trail Name	Trail #	Quad #	SUPPORTING			
			Known Use	Suspected Use	Documents	Maps
Spurt L.	1	8		X		
Tracy Arm	2	8		X		
Francis-Farragut L.	3	8		X		
Windham Bay	4	8		X		
Taylor L.	5	8		X		
Deboer L.	6	8		X		
Twin Glacier	1	12		X		
Taku R.	2	12	X			
Dewey L.	2	45		X		
Dalton	3	45	X		X	X
Chilkoot	4	45	X		X	X
White Pass	5	45	X		X	X
Situk R.	2	46		X		

SEMINAR
ON
SURVEYING & TITLE PROBLEMS

Friday, May 3, 1985

Egan Room
Centennial Hall
101 Egan Drive
Juneau, Alaska 99801

Totem Chapter 59 is presenting a program on Surveying and Title Problems. This program is designed to offer information on how the various surveying and title problems affect the private sector, Native organizations, municipal governments, and State and Federal agencies.

This program is intended for appraisers, attorneys, engineers, loan officers, realty brokers, R/W personnel, title examiners, and others concerned with the examination and insuring land titles and with platting, recording and surveying of lands in Alaska.

This program includes speakers from surveying organizations (both government and private) and title insurance agencies.

SEMINAR SCHEDULE

- 2:00-2:10 - Introduction
Thomas P. King, Seminar Coordinator
- 2:10-3:40 - "The Whys and Wherefores of Survey Controls and Evidence and Right of Way Problems with Case Histories"
Thomas G. Keopple, Owner, Keopple Surveys and Robert J. Hungerford, Location Section, Southeast Region, Alaska DOT&PF
- 3:40-3:50 - Break
- 3:50-4:20 - "Procedures for Ordering Title Insurance"
David Hemmerling, Manager, Trans America Title Company
- 4:20-4:50 - "What Title Companies Require from Surveyors"
Glenn Prince, Manager, Title Insurance Agency
- 4:50-5:00 - Seminar Wrap-up
Thomas P. King, Seminar Coordinator

TOTEM CHAPTER 59 MEETING

Friday, May 3, 1985

Lumberjack Room
Cape Fox Sheffield Hotel
51 Egan Drive
Juneau, Alaska 99801

- 6:30-7:00 - Social Adjustment
7:00-8:00 - Dinner
8:00-9:00 - Chapter Meeting
Speaker: Senator Jack Coghill
Chairman, Senate Transportation Committee

NONVERBAL COMMUNICATIONS
COURSE 210

Saturday, May 4, 1985

Egan Room
Centennial Hall
101 Egan Drive
Juneau, Alaska 99801

A high percentage of the meaning you place on a face-to-face interaction is nonverbal. This course shows you how to read the nonverbal signals being sent; it makes the students aware of the signals they are unconsciously sending.

COURSE OUTLINE

Introduction
External Clues to Internal States
Touch Behavior
What Meanings are Conveyed Nonverbally
How Meanings are Conveyed Nonverbally

Facial Expressions and Eye Behavior
How to Interpret
How to Use
How to Assess Impacts

Body Language
Posture
Gestures and Mannerisms
Body Lean, Body Aim

Are You Close-in or Far-out?
Territorially
Human Distances
Spatial Arrangements
Social Networks

Course Length: 1 day - 8:30 - 5:00

SR/WA Credits: 16 in negotiations

Recertification Hours: 8

Instructor: Mike Moorman, Juneau, Alaska. Mike obtained his Ph.D. in Business Administration from The University of Washington. He has taught Management at Cal State(Hayward) and University of Alaska (Juneau). He spent 2 years teaching in Japan. He is now employed by the Office of Management & Budget in the Office of the Governor.

For more information contact Course Coordinator:
Thomas P. King at (907) 789-22536(work)

NOTE: The costs and expenses of attending this seminar and course for purposes of improving your career are deductible for income tax purposes.

REGISTRATION FORM

Seminar on Surveying and Title Problems: \$25.....\$
Nonverbal Communications Course 210: Members - \$60.....\$ Non-members - \$80
Note: Special rate for attending both the Seminar and the Course.....\$
Members - \$75; Non-members - \$90
Totem Chapter Regular Membership Meeting: Reservations - \$20.....\$
TOTAL.....\$

Make Checks Payable and Mail To:

TOTEM CHAPTER 59, IR/WA
P.O. Box 30
Douglas, AK 99824

Phone Reservations:
Call Jane Selvig or Grace Kack
at 364-4222.

RESERVATIONS MUST BE RECEIVED BY:
April 30, 1985.

Name _____
Company Name _____
Address _____
City _____ State _____ Zip _____
Phone _____

INTERNATIONAL
RIGHT OF WAY
ASSOCIATION



PRESENTS A 1 1/2 DAY
PROGRAM

SEMINAR ON
SURVEYING & TITLE PROBLEMS

MAY 3, 1985

* * *

NONVERBAL COMMUNICATIONS
COURSE 210

MAY 4, 1985

CENTENNIAL HALL
101 EGAN DRIVE
JUNEAU, ALASKA

TOTEM CHAPTER 59, IR/WA
P.O. BOX 30
DOUGLAS, AK 99824

HISTORY OF THE ASSOCIATION . . .

The Association was founded in 1934 in Los Angeles by Frank C. Balfour, who was in charge of the right-of-way program for the California Department of Highways. The Association has since grown to 70 chapters with a total membership of over 11,000. Chapters now extend from Puerto Rico to Alaska and Hawaii to Quebec.

During the early years of the Association, representatives from the highway industry made up the major segment of the membership. This has significantly changed, with the Association now representing a wide range of public and private agencies and companies and a corresponding range of real estate activities. As a result, through training and contact, members have the opportunity not only to grow within their own areas of expertise, but also to become better acquainted with related disciplines.

MEMBERSHIP . . .

The International Right of Way Association (IR/WA) is an individual membership Association - there are no corporate memberships. Membership is restricted to individuals who are engaged in the right-of-way field. Right-of-way embraces the variety of specialized disciplines involved in the acquisition, management or disposal of real property for public agencies or investor-owned companies, including:

- Law
- Appraisal
- Property Management
- Engineering
- Relocation Assistance
- Environment
- Acquisition/Negotiation
- Land Titles
- Management

RESOLUTION #2-185

RESOLUTION PERTAINING TO ESTABLISHMENT OF RS 2477 RIGHTS-OF-WAY

WHEREAS, the development and production of natural resources in Interior Alaska is a significant element in the economic base of the Fairbanks community and the welfare of its inhabitants; and

WHEREAS, expansion of resource production is dependent on adequate access to areas in which resources are located; and

WHEREAS, access to a number of resource areas in Interior Alaska may become possible by the use of routes established in the past and which are included in the inventory of trails owned by the State of Alaska as asserted by Memorandum 00-2528, April 8, 1974, to the U.S. Bureau of Land Management; and

WHEREAS, the procedures for the assertion of RS 2477 Rights-of-Way by the State of Alaska has been established in a Memorandum of Understanding between the Alaska Department of Natural Resources (DNR), and the Alaska Department of Transportation and Public Facilities (DOTPF, and Bureau of Land Management (BLM), September 28, 1984, promulgated by the interior regional offices of these three agencies; and

WHEREAS, a coordinating committee comprising a representative of each agency (John Martin, DOTPF; Joseph Sullivan, DNR; Dwight Hempel, BLM) has been established; and

WHEREAS, the historical research, documentation and mapping required for the routes already inventoried and identification of trails not previously inventoried will require a significant effort and John Martin, DOTPF, and Joseph Sullivan, DNR, are investigating the manpower and funding requirements to accomplish this effort.

NOW THEREFORE, be it resolved by the Greater Fairbanks Chamber of Commerce that the implementation of RS 2477 Memorandum of Understanding dated September 28, 1984, AK-023-MU5-002, be strongly supported; and

BE IT FURTHER RESOLVED, that the State Legislature encourage this project by supporting adequate budget and/or priority assignment of personnel in DOTPF and DNR and similar support by given by the Federal Government to BLM; and

BE IT FURTHER RESOLVED, to encourage all organizations and individuals to develop and submit to DOTPF and DNR a list of priority routes known to them in Interior Alaska which will be of maximum benefit for mineral, agricultural, commercial and recreation and that routes which can support more than one of the above be given particular emphasis; and

BE IT FURTHER RESOLVED; that full consideration be given to the corridor concept, alternate established routes and to existing land rights of others, including private owners and the national interest lands, in identifying RS 2477 Rights-of-Ways; and

BE IT FURTHER RESOLVED, that copies of this Resolution be forwarded to:

DEPARTMENT OF
NATURAL RESOURCES

JAN 31 1984

MANAGER'S OFFICE

FAIRBANKS COFC RESOLUTION

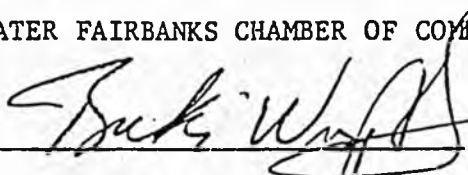
Resolution #2-185
RS 2477 Right-of-Way
Page 2

Governor of Alaska
Commissioner, Department of Natural Resources, Alaska
Commissioner, Department of Transportation and Public
Facilities, Alaska
President of the Senate, Alaska Legislature
Resources and Transportation Committees of the House, Alaska
Legislature
Senator Ted Stevens
Senator Frank Murkowski
Congressman Don Young
Secretary of the Interior
Director, Bureau of Land Management, Washington D.C.
Alaska State Director, Bureau of Land Management, Anchorage,
Alaska
Director, Northern Region, Bureau of Land Management, Fairbanks,
Alaska

DATED THIS 14TH DAY OF JANUARY, 1985.

GREATER FAIRBANKS CHAMBER OF COMMERCE BOARD OF DIRECTORS

By



Title President and Chief Executive Officer

Attachments: Memorandum 00-2528, April 8, 1974
Memorandum AK-023-MU5-002, September 28, 1984



Citizens' Advisory Commission on Federal Areas

515 Seventh Avenue
Suite 310
Fairbanks, Alaska 99701
(907) 456-2012

February 26, 1985

Honorable Bill Sheffield
Governor
State of Alaska
Pouch A
Juneau, Alaska 99811

Re: RS 2477 Rights-of-Way

Dear Governor Sheffield:

You will recall that the Citizens' Advisory Commission on Federal Areas in September proposed formation of a task force sanctioned by the Alaska Land Use Council (ALUC) which would establish a procedure for confirming the State of Alaska's claims to RS 2477 rights-of-way. Our specific proposal was withdrawn when Bureau of Land Management (BLM) State Director Mike Penfold revealed that the Department of Natural Resources (DNR), the Department of Transportation and Public Facilities (DOTPF) and the BLM were negotiating a Memorandum of Understanding (MOU) for the implementation of a procedure similar to the one we were proposing. The MOU was signed September 28, 1984.

Our proposal advised that a necessary element in the success of such an undertaking would be the cooperation of the member agencies of the ALUC in the implementation of any procedure developed. Such cooperation would include adequate funding and manpower for the research needed. At this time we must advise you that it is necessary that adequate funds be allocated to permit the State agencies involved, DNR and DOTPF, to meet their objective of identifying and confirming RS 2477 rights-of-way.

Management authority for RS 2477 rights-of-way which cross non-State lands is vested with the Alaska DOTPF. We recognize that there are legitimate management concerns espoused by Federal land managers, Native and other private landowners and environmental groups. Adequate opportunities for interested parties to plan for State management of these rights-of-way exist and can be expanded if necessary, but only if the State retains its present authority to do so.

You are no doubt aware of the rigorous permitting process that Title XI of ANILCA requires prior to construction of a Transportation and Utilities System (TUS) on or across a Conservation System Unit (CSU). Most knowledgeable people in and out of the State government regard this process as extremely difficult, if not completely unworkable. Because of the difficulties inherent

CITIZEN'S ADVISORY COMMISSION 2-26-85

in the Title XI process, it is critical that the management authority over, and State ownership of, RS 2477 rights-of-way be adequately recognized in the CSU planning efforts of federal agencies. Language recently adopted by the National Park Service (NPS) for inclusion in the General Management Plans that agency is preparing illustrates this:

"The Park Service is aware the State might assert certain claims of rights-of-way under R.S. 2477. The Service intends to cooperate with the State (and any other claimant) in identifying these claims, the nature, extent and validity of which may vary depending on the circumstances under which they were acquired or asserted. Notwithstanding that certain R.S. 2477 rights-of-way may exist, it will still be necessary for users of any right-of-way to comply with applicable Park Service requirements." (emphasis added)

This is so despite the assurances of ANILCA Section 1109 which states:

"Nothing in this title shall be construed to adversely affect any valid existing right of access."

We are painfully aware of the decline in State revenues and the necessity to minimize unessential expenditures. We are also aware that the economy of the State of Alaska is overly dependent upon the oil industry. The need to develop our resources in a rational manner to diversify our economy is more evident every day. The timber, mineral and tourist industries of the State must have access in order to expand. The rights-of-way granted the State through RS 2477 can play a vital role in this effort both as an alternative to Title XI and as leverage in securing more favorable decisions in Title XI and other resource management issues on federal lands.

We believe that it is of the utmost importance that the State of Alaska's ownership and management of these public rights-of-way be forcefully defended. By doing so, we can go a long way towards ensuring that debate over proposals to cross a CSU with a transportation system is managed here in Alaska rather than in Washington, D.C. As governor of our State, your support is necessary for the success of this endeavor.

Senate Joint Resolution #10 (SJR #10), sponsored by a bipartisan group of legislators, requests that DOTPF and DNR expedite the identification and establishment of rights-of-way for roads and trails on federal BLM plats which qualify under RS 2477. The Resolution also calls for the expansion of the current MOU, which presently applies only to the Interior region, into a statewide process. We endorse this resolution and urgently request that you give it your strongest support as well.

Governor Sheffield

RS 2477

Page 3

We also ask that you use the power of your office to insure that DOTPF and DNR receive adequate funding to implement an effective course of action pursuant to the objectives of SJR #10.

We reiterate our earlier acknowledgement that legitimate concerns by federal land managers, Native land owners and environmental groups exist. But these concerns over the management of RS 2477 rights-of-way are separate from the issue of ownership, and are more properly accommodated in the State transportation planning process. To allow management concerns to interfere with confirming ownership of the rights-of-way is to put the cart before the horse; it is analogous to requiring an "acceptable" land use plan to be in place before the State or the Native corporations can be issued a land conveyance.

We hope you will consider these points and see the interests of the State require positive action to preserve the full range of State prerogatives.

Sincerely,



Phil R. Holdsworth
Chairman

cc: E. Wunnicke
R. Knapp

RESOLUTION ADDRESSING PROPOSED PLOTTING OF R.S. 2477 RIGHTS-OF-WAY TO PUBLIC LAND RECORDS

WHEREAS, the State of Alaska and the Bureau of Land Management have entered into a memorandum of understanding to identify and plot RS 2477 rights-of-way to the public land records; and

WHEREAS, the Alaska Native Claims Settlement Act corporations are major land holders which may be severely impacted by this action without an opportunity to participate in the decisions; and

WHEREAS, the notation of the public land records may provide the State of Alaska with added weight, in the case of litigation of an RS 2477 right-of-way, without a factual basis; and

WHEREAS, neither the State nor the Bureau of Land Management propose to adjudicate RS 2477 rights-of-way under the terms of the memorandum of understanding; and

NOW, THEREFORE, BE IT RESOLVED by the Alaska Native Land Managers Association that the Alaska Native Land Managers Association opposes the plotting of RS 2477 rights-of-way to the public land records.

WE FURTHER REQUEST that the following actions be taken:

1. Alaska Native Claims Settlement Act corporations are actively involved in the identification process, and
2. The Bureau of Land Management and the State of Alaska establish clear standards of construction and use against which all RS 2477 rights-of-way are to be considered, and
3. The issue of abandonment is clearly defined and addressed, and
4. Each RS 2477 right-of-way is adjudicated by the Bureau of Land Management, and
5. An accurate centerline description is provided to the Bureau of Land Management prior to plotting, and
6. A case file is established which sets out the history of each RS 2477 right-of-way together with complete documentation of the timing, duration type and amount of use and location.

BE IT FURTHER RESOLVED that this resolution be forwarded to the Alaska Federation of Natives, the Bureau of Land Management, the State Department of Natural Resources, the State Department of Transportation and Public Facilities, Alaska's Congressional Delegation, and to all State legislators.

Duly adopted this 30th day of January, 1985, in Anchorage, Alaska.

Frances E. Zimmerman

Frances E. Zimmerman, Secretary/Treasurer

Tanana Chiefs Conference, Inc.

Doyen Building
201 First Avenue
Fairbanks, Alaska 99701
Phone (907) 452-8251

December 21, 1984

Mr. Mike Penfold
State Director
Bureau of Land Management
Box 13
701 "C" Street
Anchorage, Alaska 99513

Dear Mr. Penfold:

We recently received copies of a Memorandum of Understanding (MOU) between BLM's Fairbanks District, DNR's North Central District, and DOT/PF's Northern Region. The MOU states in its Purpose that federal, state and local officials need to know the locations of RS 2477 rights-of-way assertions in order to manage ~~the~~ respective lands. The MOU goes on to set procedures under which DOT and DNR will submit evidence supporting RS 2477 r/w assertions and BLM's Fairbanks District will plot these assertions on the Master Title Plate (MTP).

We believe this is a serious mistake on BLM's part and will only add more confusion to land management in Alaska. RS 2477 r/w carry much more uncertainty than just their location. There continues to be unanswered questions about their width, the allowed uses, degree of public use needed to establish a valid grant; abandonment, and maintenance. By recording the State's asserted claims on MTP's, BLM perpetuates these vagaries and even passes them on to the recipients of lands conveyed by BLM. It is BLM's responsibility to convey clear title to land and it is the State's right to seek legal remedies to whatever argument they have with such title. By placing such nebulous claims as RS 2477's on their records, BLM adds credence to unproved assertions and puts those who receive BLM conveyances in the position of having to defend their titles from the moment they receive them. A government title then becomes a sham since the basic rights of the owner aren't even defined by the agency conveying the title.

Prior to the MOU, DOT/PF prepared a briefing paper on RS 2477 r/w which states in part:

"If the State documents its claims, other parties are put in the position of challenging the State's claim rather than vice versa. Presently, the State would have to prove 'valid existing rights' on conveyed land. If the trails

TANANA CHIEFS OPPOSITION

December 21, 1984

Page 2

were already on the status plats, anyone who disagreed would be in the position of challenging the State's claim. Asserting an RS 2477 claim in this manner is only an administrative determination since BLM does not adjudicate RS 2477 claims. If someone were to challenge the State, the State's claim would still have to be proven in court; however, we certainly would be in a much better position to do this."

Clearly the State's strategy is to cultivate doubt about titles to lands crossed by their asserted rights-of-way and to place the burden of proof on the patentee. BLM is promoting this strategy in your own Instruction Memo, AK-85-72 of November 28, 1984 stating that "the BLM does not need comment or concurrence from Native Corporations to note assertions on lands that it manages (including lands that are merely selected by such corporation)". Furthermore, that, "A Native Corporation is free to challenge the assertion, in court, after it acquires title".

The use of the word 'free' in this context is ludicrous. Native Corporations and individuals should be FREE from receiving clouded titles to their lands after waiting 13 years, and FREE from having to defend their titles from assertions to nonspecific encumbrances.

By putting the State's assertions on MTP's, the BLM invites trespass by third parties such as miners, hunters and recreationalists. We believe that BLM, in effect, is creating the conditions whereby such trespass will certainly result. This would affect not only private lands but national parks, wildlife refuges, and wilderness areas, since the MOU covers "any land within the State of Alaska, ... both state and non-state lands".

Section 4 of the MOU cites a State court decision contrary to BLM Manual 2801 B.l.a., which requires actual construction, rather than mere use to establish a valid grant. We would like to know which interpretation will apply to federal lands? Since the MOU only names the Fairbanks District, we would like to know what the statewide procedures are and what your bureauwide procedures are. We would also like to know what weight these assertions have on lands already patented or IC'd, and on Native Allotments; whether they are pending, approved or certificated. We would also like to know if landowners affected by these RS 2466 claims are being notified by BLM of these assertions and being given an opportunity to submit material for the case files.

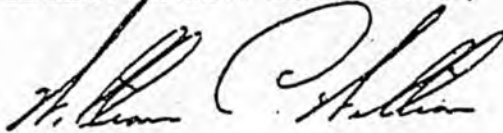
December 21, 1984

Page 3

These right-of-way assertions are going to cloud land titles all over the State and BLM's present course is only passing the problem on to those receiving BLM conveyances. It is BLM's responsibility to convey CLEAR title and to protect the integrity of selected lands under BLM's ~~BLM~~ management. To accomplish this BLM should seek a statute of ~~limitations for asserting rights-of-way~~ under RS 2477. There should be Federal regulations that clearly define the requirements to be met before a valid grant can issue, as well as the width of the right-of-way, the responsibility for maintenance, the allowed uses, seasonal use, cessation of use, notice and appeals. These rights-of-way will greatly affect the management and development of all our lands. Their requirements and rights granted must be no less clear than any other type of right-of-way and cannot be left to interpretation if a Federal land patent is to carry its weight as the beginning in the chain of title. Valid public access certainly needs to be protected, but in the present situation RS 2477 jeopardizes far more than it protects.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.



William C. "Spud" Williams
President

✓ jv
cc: Bill Horn



Northern Alaska Environmental Center

218 DRIVEWAY
FAIRBANKS, ALASKA 99701
(907) 452-5021

TO: Senate Resources Committee
Arliss Sturgulewski, Chair

FROM: Randy R. Rogers, Director, NAEC

SUBJ: SJR 10--R.S. 2477

Date: February 21, 1985

In September the Bureau of Land Management and the Alaska Departments of Transportation and Natural Resources signed a memorandum of understanding, the full implications of which those parties are most likely not even aware. This memorandum establishes a procedure for placing formal assertions of R.S. 2477 rights-of-way by the state on both state and federal master title plats, signifying the legitimization of a state right-of-way.

The process of developing this agreement took place with absolutely no public involvement and, in fact, BLM would not even allow representatives of the Northern Alaska Environmental Center to review copies of the memorandum while in its draft stages. In addition to the lack of public involvement, representatives of the National Park Service, Fish and Wildlife Service, and native corporations, whose lands may be substantially impacted by this agreement, were not included on the committee that drafted the memo.

Revised Statute 2477 was originally established by the U.S. Congress in the Act of July 26, 1866. The entire, original statute provided:

"The right of way for the construction of highways over public lands not reserved for public uses is hereby granted."

This law was established at a time when automobiles and D-9 Cats did not exist and a "highway" referred to a wagon trail at most.

Because the law is so vague most of the parameters defining the actual use of R.S. 2477 have been established through case law. Yet, there have been very few cases in Alaska which define how the law applies within the state. Despite this lack of a conclusive definition, the memorandum of understanding uses what small body of law is available to establish criteria for the BLM to accept the assertions. This will result in placing the burden of legally challenging the application of the law on individual persons who disagree with the shaky BLM definition.

There are literally hundreds of historic trails in Alaska which could possibly be claimed under R.S. 2477. Many of these trails cross portions of conservation units and have the potential to severely compromise the purposes for which the units were established.

An example of one such trail is the Bielenberg Trail where a miner was arrested this fall when he moved mining equipment across the Yukon-Charley National Preserve to his mining claims on Woodchopper Creek. The miner contends that, because the route he was using is a public highway established under the terms of R.S. 2477 (a claim which has not been legally proven), he does not need an access permit from the National Park Service.

This case of trespass on NPS lands is now in court. Meanwhile, the State of Alaska has filed a formal assertion of this right-of-way with BLM under the process defined in the raw memorandum of understanding, an action which jeopardizes NPS' position in court because of the R.S. 2477 policy of BLM. BLM, it should be pointed out, is an agency of the Department of the Interior, as is NPS.

Another controversy with regard to R.S. 2477 which is extremely disturbing involves Gates of the Arctic National Park. In February, 1984, the Department of Natural Resources sent a letter to NPS stating that, because the route of the Coldfoot Classic Sleddog Race lies on state-claimed R.S. 2477 rights-of-way and on navigable waterways, the organization conducting the race need not obtain a special-use permit from the Park Service.

This action regarding a sleddog race may be viewed as an innocent action; however, under the current state policy, or lack of policy, once the right-of-way is established it could be used for unrestricted mining access or other purposes which would be devastating to the wilderness resources of the park. In this instance, NPS responded to the state that the route would not be considered a valid right-of-way until legally proven through the courts.

This example further demonstrates the widely differing interpretations of R.S. 2477 by NPS and BLM. Although the agreement between BLM and the state is not intended to apply to lands not under BLM management, validation of the rights-of-way on BLM lands could establish a precedent that would be detrimental to legal challenges of their validity on NPS, Fish and Wildlife Service, native, or private lands.

In developing its R.S. 2477 policy, BLM has obviously not considered its ramifications to other land managing agencies, nor has it thoroughly considered how it will affect land under its own jurisdiction.

At the November 15, 1984, meeting of the Fairbanks District BLM Advisory Council, a BLM representative indicated that, if the state asserted an R.S. 2477 claim into the primitive portion of the White Mountains National Recreation Area, (which is closed to all off-road vehicle use) and the assertion met the criteria spelled out in the memorandum of understanding thereby ending up on the BLM master title plats, a miner could drive a D-9 Cat through the primitive area with no BLM approval required.

Many potential R.S. 2477 routes are important for their recreational use, but their status as such is unclear because of the confusion surrounding R.S. 2477. Two primary examples are the Chena Hot Springs Winter Trail and the Circle-Fairbanks Historic Trail.

In July, 1982, the state acknowledged that the Chen' Hot Springs Winter Trail has standing as an R.S. 2477 right-of-way yet refused to protect the trail's recreational properties because it is not a "main or significant arterial thoroughfare." When the Fairbanks North Star Borough discussed the establishment of the Circle-Fairbanks Trail as a recreational trail, the Department of Natural Resources indicated that, because the trail is identified as an R.S. 2477, they could do nothing to manage it for recreational purposes.

The importance of clearing up the R.S. 2477 issue is demonstrated by the fact that over 30 percent of recreational trails in the Fairbanks North Star Borough inventory are tentatively identified as R.S. 2477 rights-of-way by the Department of Transportation.

Equally disturbing as the recent developments with the R.S. 2477 issue is that, although the new agreement between the state and BLM defines a procedure for placing R.S. 2477 rights-of-way on land status plats, thereby legitimizing the claims, the involved state agencies are not certain who will be responsible for managing, maintaining or accepting liability for the roads. And questions such as what period of non-use constitutes abandonment of the rights-of-way, if the rights-of-way are restricted to historical types and seasons of use, and what width the rights-of-way are, remain to be answered.

The manner in which this major state and federal action has taken place is highly questionable. It is irresponsible land management on the part of both the BLM and the state to establish an agreement or take action to validate any of these possible rights-of-way before it is known what purpose they will serve, what effects they will have on management of surrounding lands, how they will be managed, and where the legal responsibilities lie. The need to delineate how R.S. 2477 will be dealt with in Alaska is clear, but a procedure to administratively approve the rights-of-way without public involvement, and prior to an adequate understanding of how they will be managed makes a travesty of safeguarding the public interest.

The state and BLM should abolish the existing memorandum of understanding, examine the basic legal, fiscal, and management responsibilities associated with the rights-of-way, and establish a new procedure for solving this dilemma which is accompanied with full public involvement and the participation of all affected land owners and managers.