STATE OF ALASKA

SEAN PARNELL, Governor

CITIZENS' ADVISORY COMMISSION
ON FEDERAL AREAS

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December 2, 2010

The Honorable Sean Parnell
Governor
State of Alaska
P.O. Box 110001
Juneau, AK 99811-0001

Dear Governor Parnell:

The Citizens' Advisory Commission on Federal Areas respectfully requests that the State of Alaska move to intervene in a lawsuit filed November 30, 2010 in U.S. District Court. This lawsuit (Case No. 4:10-CV-00033-RRB) seeks to quiet title to a Revised Statute (RS) 2477 right of way. Mr. Carey Mills, a private citizen, has filed the suit to secure use of the right of way to provide access to his State mining claims. The right of way in question, the Fortymile Station – Eagle Trail is listed in Alaska Statute AS 19.30.400(d) as a qualified RS 2477 right of way. The use and construction of this trail was well documented as part of the State's RS2477 project in the early 1990's.

Mr. Mills contacted this Commission about his problem in using this trail at our June 2010 meeting. Commission staff has provided some assistance to Mr. Mills in this issue, but obviously cannot provide any legal counsel or advice. This Commission feels strongly that it is important that the State of Alaska intervene in this case to defend its interests, as well as those of the public. It is essential that access to State lands and resources and the rights of the public to use these rights of way are protected.

We fully appreciate that Department of Law and Department of Natural Resources staffs and budgets already are strained by a heavy case load, but the validity of an RS 2477 can only be adjudicated in federal court. Section 315 of the Federal Land Policy and Management Act [43 U.S.C. 1745] does authorize the Bureau of Land Management to issue a recordable disclaimer of interest recognizing the State of Alaska's interests in this and other RS 2477 rights of way. However, recent court rulings and Department of the Interior policy have made this process unavailable, meaning that only the courts may validate an RS 2477.

Mr. Mills has exhausted all possible administrative solutions, including an unsuccessful appeal to the Interior Board of Land Appeals of a BLM decision denying him access to his State mining claims via this right of way. He now must turn to the court in an effort to secure access to his claims. This Commission believes that it is appropriate for the State of Alaska to intervene to help Mr. Mills secure that access by asking the court to confirm the validity of this right of way.

We appreciate your consideration of this request. Our Commission members and staff are available to provide whatever assistance we can.

Sincerely,

Steve Shephard

for Rick Schikora
Chairman

CC: Attorney General Dan Sullivan - Dept. of Law
Commissioner Tom Irwin - Dept. of Natural Resources