

State of Alaska FY2002 Governor's Operating Budget

Department of Natural Resources
RS 2477/Navigability Assertions and Litigation Support
BRU/Component

Component: RS 2477/Navigability Assertions and Litigation Support

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Component Mission

To defend and assert the State's rights under RS2477 and navigable and public waters thereby allowing access for economic development and use of the state's land and resources.

Component Services Provided

RS2477

This component provides the funding for ongoing activities associated with RS2477 research management and litigation. Since 1992, the Department has researched more than 1900 routes, identified approximately 585 routes as routes qualifying as RS2477s, and certified 12 routes through the regulatory process in place prior to enactment of AS 19.30.400. Examples of tasks are:

1. Routes in litigation:
 - * Provide litigation support to Department of Law, including further research for select number of routes.
 - * Do initial identification of landowners and title search at Recorder's Office, Bureau of Land Management, and through other means, as necessary.
2. Continue to complete quality control on files:
 - * Standardize casefile summaries and LAS input.
 - * Compare file contents with casefile summaries to verify information is complete in files.
3. Public Information:
 - * Respond to public or Web page inquiries received,
 - * Maintain website with up-to-date information, and
 - * Attend public meetings and speak to interested organizations.
4. Record RS2477 routes as they become surveyed, if they meet minimum standards established by DNR.
5. Research identified and potential RS2477s for easement vacation requests; prepare annual legislative report regarding research efforts, and give annual public notice of new routes identified in current fiscal year.

NAVIGABILITY

This component provides funding for on-going activities associated with the Navigability program that provides information to the public and agencies on the location and rights to navigable and public waters; does research and other work to support state litigation asserting state ownership; and reviews all federal decisions and plans to assure that state ownership and public use are protected. Examples of tasks are:

1. Public/agency information:
 - * Respond to public and agency requests for navigability determinations or information.
 - * Maintain/update database and web site that provides information on navigability status.
 - * Develop and distribute maps and public informational brochures for specific waterbodies.
2. Research in support of on-going or new litigation, including litigation with both US Department of Interior and US Forest Service. Includes research into public use, historical use, and possibly hydrology of specific waterbodies. Research done in coordination with Departments of Law and Fish and Game.
3. Review all BLM administrative decisions and all federal land use plans and regulations that may affect state ownership or public use. Provide comments and file appeals as necessary.

Component Goals and Strategies

The Division of Land has two primary responsibilities under this component:

1. RS 2477 Rights-of-way.
2. Navigability.

The goals of this component are:

- Assert and defend the state's rights under RS 2477 to protect public access to state land and resources.
- Assert and defend state ownership of and public rights to navigable and public waters.

Includes support of litigation, review of all federal administrative actions affecting RS 2477s and navigable waters, and providing agencies and the public with information on RS 2477s and navigable and public waters.

Key Component Issues for FY2001 – 2002

The state must continue its efforts to defend its rights associated with RS2477 access and pursuit of the state's rights to navigable and public waters. Otherwise, public access and use will be curtailed in certain areas by adjacent landowners or the federal government.

This component provides the funding for ongoing activities associated with RS2477 research, management and litigation. Most of the efforts by the Division has been focused on easement management. With the listing of the 602 routes in statute, conflicts with users and landowners is ever-increasing, leaving little time for new research. For more information see the discussion within the Claims, Permits and Leases component.

Major Component Accomplishments for FY2000

RS 2477

1. Reviewed all land conveyances for RS2477 conflicts.
2. Assisted the Attorney General's Office in research related to RS2477 litigation and final settlement agreement for Harrison Creek-Portage Creek RST 8.
3. Responded to requests submitted by phone, e-mail, RS2477 Web site, letters, etc.
4. Prepared January 2000 annual legislative report showing 12 new trails researched and found to meet RS 2477 criteria. Made the information available to the public by newspaper and on the DNR RS 2477 website prior to the report to the legislature.
5. Updated mapped and tabular data. Made data available for public and agency use.
6. Reviewed requests for easement vacations to ensure viable alternative access is provided.

Navigability

1. Issued navigability determinations and reviewed navigability determinations prepared by ADF&G.
2. Responded to all BLM navigability decisions and reviewed BLM land conveyances.
3. Assisted the Attorney General's Office in research related to administrative appeals and litigation regarding navigable waters.
4. Provided information to agencies and the public on the navigability of waterbodies. Respond to requests submitted by phone, e-mail, navigability website, letters, etc.
5. Prepared public information brochures for three more waterbodies. Brochures provide the public with information about land ownership and public access to specific waterways where conflicts/problems have been occurring.
6. Updated mapped and tabular statewide navigability data. Made data available for public and agency use.

Statutory and Regulatory Authority

AS 19.30.400

AS 38.05

11 AAC 51

Key Performance Measures for FY2002

Measure: RS 2477 Case file summaries completed.
(Not yet addressed by Legislature.)

Benchmark:

In FY00, the division completed 2 case file summaries and responded to requests for information and further research to the Department of Fish and Game.

Background and Strategies:

Continue to conduct research and respond to public requests as information becomes available. In FY02, expect to complete two RS 2477s for report to the legislature in January 2003.

Measure: Number of actions taken for RS 2477 Assertion/Litigation Support.
(Not yet addressed by Legislature.)

Benchmark:

In FY00, the division responded to 3 litigation actions, including the proposed settlement for Harrison Creek-Portage Creek litigation between the State and the Federal government.

Background and Strategies:

Continue to provide litigation support as necessary and begin one new case in federal court.

Measure: Number of actions taken for Navigability Assertion/Litigation Support.
(Not yet addressed by Legislature.)

Benchmark:

In FY00, the division completed 70 actions in response to litigation, assertions, and review of federal actions.

Background and Strategies:

Continue to conduct research and respond to public requests as information becomes available. In FY02, expect to complete 75 actions.

Status of FY2001 Performance Measures

	<i>Achieved</i>	<i>On track</i>	<i>Too soon to tell</i>	<i>Not likely to achieve</i>	<i>Needs modification</i>
• RS 2477 Case file summaries completed			X		
• Number of actions taken for RS 2477 Assertion/Litigation Support		X			
• Number of actions taken for Navigability Assertion/Litigation Support.		X			

RS 2477/Navigability Assertions and Litigation Support

Component Financial Summary

All dollars in thousands

	FY2000 Actuals	FY2001 Authorized	FY2002 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	0.0	0.0	0.0
72000 Travel	0.0	0.0	0.0
73000 Contractual	80.1	115.0	115.0
74000 Supplies	0.0	0.0	0.0
75000 Equipment	0.0	0.0	0.0
76000 Land/Buildings	0.0	0.0	0.0
77000 Grants, Claims	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	80.1	115.0	115.0
Funding Sources:			
1004 General Fund Receipts	80.1	115.0	115.0
Funding Totals	80.1	115.0	115.0

RS 2477/Navigability Assertions and Litigation Support

Proposed Changes in Levels of Service for FY2002

No service changes anticipated.

Summary of Component Budget Changes

From FY2001 Authorized to FY2002 Governor

All dollars in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2001 Authorized	115.0	0.0	0.0	115.0
FY2002 Governor	115.0	0.0	0.0	115.0