

RS2477 Access Development - Advancing State's Rights in Navigability and Revised Statute 2477 **FY2023 Request: \$2,500,000**
Reference No: 63437

AP/AL: Appropriation **Project Type:** Research / Studies / Planning
Category: Development
Location: Utqiagvik **House District:** Arctic (HD 40)
Impact House District: Arctic (HD 40) **Contact:** Jashryn Mendoza
Estimated Project Dates: 07/01/2022 - 06/30/2027 **Contact Phone:** (907)465-2422

Brief Summary and Statement of Need:

The RS2477 Access Development capital project would allow the Department of Natural Resources to pursue additional research, in-depth field work, and, as necessary, litigation to secure upland access to natural resources and for the public. This effort critically assists in fulfilling the State constitutional mandate to make resources “available for maximum use consistent with the public interest.” RS 2477 investigation and confirmation is managed by the Public Access Assertion and Defense (PAAD) Unit within the DNR Division of Mining, Land and Water. RS 2477s are a distinct category of responsibility from the navigability work that the Unit pursues.

Funding:	<u>FY2023</u>	<u>FY2024</u>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>Total</u>
1004 Gen Fund	\$2,500,000						\$2,500,000
Total:	\$2,500,000	\$0	\$0	\$0	\$0	\$0	\$2,500,000

<input type="checkbox"/> State Match Required	<input type="checkbox"/> One-Time Project	<input type="checkbox"/> Phased - new	<input type="checkbox"/> Phased - underway	<input checked="" type="checkbox"/> Ongoing
0% = Minimum State Match % Required		<input type="checkbox"/> Amendment	<input type="checkbox"/> Mental Health Bill	

Operating & Maintenance Costs:

	<u>Amount</u>	<u>Staff</u>
Project Development:	0	0
Ongoing Operating:	0	0
One-Time Startup:	0	0
Totals:	0	0

Prior Funding History / Additional Information:

Sec8 Ch1 SLA2021 P76 L7 HB69 \$2,500,000

An operating amount of \$695K UGF was also put forward in an April 1 amendment and is necessary for the daily/routine work that needs to take place for both Navigability and RS 2477s.

Project Description/Justification:

Historically, federal law provided that public use crossings on federal land established permanent rights-of-way that the public could continue to use. While the federal law allowing for the creation of these rights-of-way was repealed decades ago, the rights in place at the time remain in place for the public to use permanently. Many RS 2477 routes underlie highways and popular trails throughout the state that have long histories of use. There may also be historical uses creating RS 2477 rights in more remote areas of the state. RS 2477s must be identified by research into their historical use, verified with labor intensive on-the-ground investigation, and, as necessary, asserted in litigation when the landowner (often the Federal Government) denies that their property is encumbered by such a route.

These routes are often important access corridors for State lands, and natural resource deposits

across the state. Because of RS 2477 research and litigation is particularly time-consuming and expensive, a major route can take several years and cost well over \$1 million to confirm. These cases have significant evidentiary requirements. This project would allow the State to identify, research, investigate, and pursue litigation over access routes to high profile recreation areas, natural resource deposits, and other public resources. As the federal government is often the opposing party who disputes the existence of the route and denies public access, they vigorously pursue the defense and litigation in these cases despite the potential strength of the State's position. These funds would be used for outside experts to assist in investigation efforts and development of expert materials to be used in litigation, attorney's fees, and additional costs.