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NEWS RELEASE



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Governor Looks to Federal Law to Make Case for Alaska Inholders:
ANILCA provisions provide good direction to open road access

(Juneau) – Relying on federal law tailored specifically to address Alaska land issues, Governor Frank H. Murkowski is taking his case to the Department of the Interior and to the court to protect rights of access across federal lands for Alaskan inholders.

“A number of Alaskan residents have inholdings in the Wrangell-St. Elias National Park, which is administered by the National Park Service,” said the Governor. “Unfortunately, inholder access has been hindered by the NPS through arbitrary enforcement policies, permitting delays and the absence of reasonable procedures that could remedy the existing situation.”

In April the Governor wrote a letter to Gale Norton, Secretary of the Department of the Interior, which oversees the NPS. The letter advised Secretary Norton of a documented pattern of conduct reported by residents and users within the Wrangell-St. Elias area. In the letter the Governor outlines a number of steps that could be employed under sections 1110(a) and (b) of the Alaska National Interest Lands Conservation Act (ANILCA) that would provide for reasonable access through the park without compromising the NPS’ stewardship obligations. Some of these steps include:

- Identifying when and how access must be authorized for permitting purposes
- Creating a timeline for processing access permits; and
- Creating a streamlined appeal process to resolve permitting conflicts

“ANILCA provides the legal framework for the park service to work with inholders to ensure their access rights,” said Attorney General Gregg Renkes. “Section 1110(a) obligates the Secretary of the Interior to permit motorized and non-motorized travel to and from villages and homesites. Section 1110(b) goes further and specifically requires the Secretary to provide inholders the necessary rights to assure adequate and feasible access’ subject to reasonable regulations.”

In addition to writing Secretary Norton, the state argued the NPS should be required to adhere to the requirements of ANILCA in an amicus (friend of the court) brief filed by the state in a Ninth Circuit Court of Appeals case involving Robert Hale and the Department of Interior. The Hale litigation focuses specifically on the McCarthy-Green Butte Road, which has gained notoriety in the ongoing controversy between the Pilgrim family and the NPS.

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In its brief the state advances two reasons for providing access on the McCarthy-Green Butte Road. One of those theories comes from the access provisions previously outlined under ANILCA. The other argument is based on the road's status as a reserved state right-of-way under R.S. 2477.

There are hundreds, if not thousands of R.S. 2477 rights-of-way across Alaska and their status needs to be resolved for Alaska to obtain the full fruits of its rights as a state," said Renkes. "By weighing in on this current appeal we not only work to protect Alaska inholders, we advance another significant controversy that has overly complicated Alaska's ongoing relationship with the federal government on land issues. R.S. 2477 is a key issue for our statehood defense."

Revised Statute ("R.S.") 2477 was enacted to guarantee miners and settlers access rights as they moved and expanded outward into our western states and Alaska. The statute grants a right-of-way over federal land that is not otherwise reserved for a public use. R.S. 2477 was repealed in 1976 but existing rights-of-way created under this measure were preserved.

"The McCarthy-Green Butte Road has been used since 1901 and has been upgraded with tunnels and bridges to allow vehicle access," said Renkes. "Because reasonable access on this road is required under ANILCA and R.S. 2477, this case is a good test for resolving some of the road blocks that hinder responsible development within our state."

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