



U.S. Department of the Interior  
Bureau of Land Management

# Alaska Native Claims Settlement Act (ANCSA) Sec. 17(b) Easements vs. RS2477



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# What is an Easement?

An Easement is the right to use the land of another for a specific purpose but is not a right of possession in the sense of being able to exclude others.

The landowner has complete control over and use of the land up to the point where such control interferes with the use of the easement.

Easements do effect title to the land.

A group of people riding bikes on an easement near Eklutna Lake while a bush plane takes off from it. Courtesy of Al Clayton, Recreation Aviation Foundation.





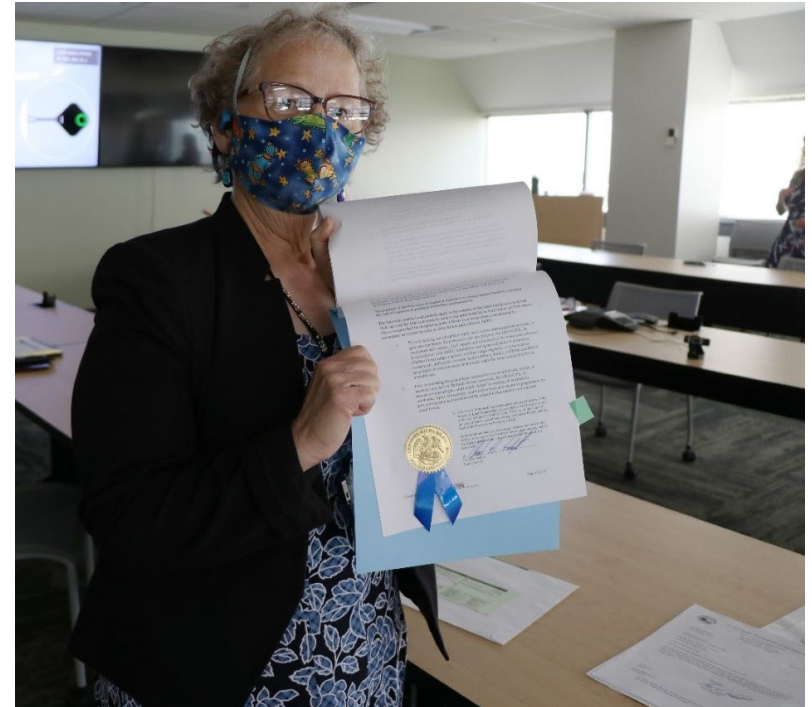
# What is title?

Title is evidence of ownership.

- Fee or Fee Simple
- Interest in lands

Title can be transferred or conveyed through a number of instruments:

- Warranty Deeds
- Quit Claim Deeds
- Easement Deeds
- Patents or Interim Conveyance (IC)
  - used for original transfer out of Federal ownership



A Bureau of Land Management land law examiner holds a signed patent. BLM photo by Melinda Bolton.



# What is an ANCSA 17(b) Easement?



An example of a 17b easement sign that lists the allowed uses of the easement. BLM photo.

Public easement reserved under the **Alaska Native Claims Settlement Act of 1971**, (ANCSA) authority provided by sec. 17(b), in accordance with 43 CFR 2650.4-7.

17(b) easements are identified and reserved in conveyance documents through a public process and an appealable decision.

Provides public **access** across lands conveyed to Native Region and Village Corporations (private lands) to publicly owned lands\* and major waterways as determined reasonably necessary (43 CFR 2650.4-7(a)).

Easements provide specific limitations and allowable uses.





# What is an RS2477?

Revised Statute 2477 (RS-2477), repealed by FLPMA at 43 U.S.C. § 932 (1976), states in its entirety, “The right of way for the construction of highways over public lands, not reserved for public uses, is hereby granted.”

An RS-2477 right of way is “self-executing, meaning that an RS 2477 right-of-way automatically came into existence ‘if a public highway was established across public land in accordance with the law of Alaska.’” *Dickson v. State Dep’t of Nat’l Res.*, 433 P.3d 1075, 1083 (Alaska 2018).

Provided access across federal lands. In Alaska, any claim for acceptance via public use had to initiate the 10 years of use prior to 1969, when the land was withdrawn from entry.

The right of way’s scope is also limited by the established usage before 1969. The State may maintain and modernize the road, but any expansions must be consistent with the usage of the right of way prior to 1969.” *Ahtna, Inc. v. Alaska DNR*, 2021 WL 938371 (Alaska 2021).



# ANCSA 17bs and RS2477s

The Bureau of Land Management does not recognize an RS2477 unless it has been adjudicated through a court of competent jurisdiction (on federal lands this would be US District Court) or through the appropriate administrative procedures.

BLM Interim Conveyances, tentative approvals, or patents are issued subject to valid existing rights.

17(b) easements are reserved to the U.S. while an RS2477, if valid, is granted to the public and administered by the State.

To ensure access across Native Corporations lands 17(b) easements were often nominated and reserved on top of a state proposed RS 2477

In Alaska, an RS 2477, if valid, would be a superior right in time to a 17(b) easement but it may have greater or lessor rights than a 17(b) easement.

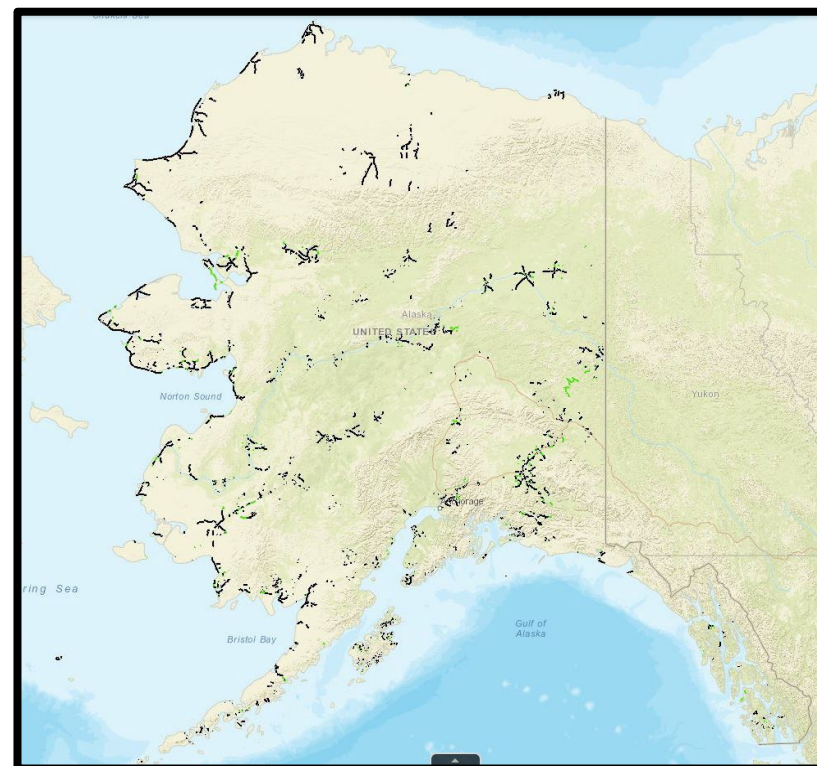
If an RS2477 is determined to be valid and provides equal or superior access, the BLM may terminate the 17(b) easement.



# Proposed Alaska RS 2477 Routes and ANCSA 17(b) Easements



RS 2477



17(b) Easements