

CAREY C. MILLS
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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA**

Carey Mills)

Plaintiffs,)

Vs.)

UNITED STATES OF AMERICA,)

Ken Salazar, in his capacity as)

Secretary of the Department of Interior,)

Julia Dougan, in her capacity as)

Acting State Director, Alaska State Office,)

Mark Fullmer, in his capacity as)

Supervisor Land Transfer Specialist, Division of)

Alaska Land, Alaska State Office)

Robert W. Schneider, in his capacity as)

District Manager, Fairbanks District Office,)

Lenore Hepler, in her capacity as)

Field Manager, Eastern Interior Field Office,)

Scott Wood,)

Doyon Limited, and)

Hungwitchin Corporation)

Defendants,)

Case No. 4:10-cv-00033-RRB

**PLAINTIFFS' THIRD AMENDED
COMPLAINT UNITED STATES AS**

DEFENDANTS (28 U.S.C. § 1346)

and

**THIRD AMENDED COMPLAINT
TO ENFORCE RIGHTS-OF-WAY**

ACCESS PURSUANT TO

(30 U.S.C. CHAPTER 2 § 41 & 35)

1
2
3 **COMPLAINT**

4 The Plaintiff, Carey C. Mills in his complaint and cause of action against the Defendants
5 allege:

6 **COUNT ONE**

7 **NATURE OF ACTION**

- 8
- 9 **1.**The (First Claim for Relief) is an action for declaratory relief, adjudicating an Act of Congress
10 and to recognize and validate the RS 2477 rights-of-way commonly called the “Fortymile
11 Station-Eagle Trail” (known as “RST 1594” in the state case file system), (hereinafter
12 referred to as the “Fortymile Station-Eagle Trail”). Plaintiff and the Defendants all claim
13 variously conflicting interests with the rights-of-way.
14
- 15 **2.**The (Second Claim for Relief) is a Quiet Title action over the “Fortymile Station-Eagle Trail”
16 (RST 1594) as a public rights-of way granted by the United States of America and accepted
17 by public use, pursuant to the Act of July 26, 1866, ch.262, § 8, 14 Stat. 251,253 which was
18 codified as Revised Stature 2477 and subsequently recodified as 43 U.S.C. § 932 (repealed
19 in 1976 with saving provisions). Plaintiff and the Defendants all claim variously conflicting
20 interests with the rights-of-way.
21
- 22 **3.**The (Third Claim for Relief) is a Quiet Title action over the “Fortymile Station-Eagle Trail”
23 (RST 1594) as a public rights-of way granted by the United States of America and accepted
24 by State of Alaska, pursuant to the Act of July 26, 1866, ch.262, § 8, 14 Stat. 251,253
25 which was codified as Revised Stature 2477 and subsequently recodified as 43 U.S.C. §
26 932 (repealed in 1976 with saving provisions). Plaintiff and the Defendants all claim
27 variously conflicting interests with the rights-of-way.
28
- 29 **4.**The (Fourth Claim for Relief) is an action for declaratory relief, adjudicating the recognition
30 and validity of the Fortymile Station-Eagle Trail RS 2477 rights-of-way as a public rights-of
31 way granted by the United States of America and accepted by public use and the State of
32 Alaska. Plaintiff and the Defendants all claim variously conflicting interests with the rights-
33 of-way.
34
- 35 **5.**The (Fifth Claim for Relief) is a Quiet Title action pursuant to Alaska Statue AS 19.30.400 and
36 AS 09.45.010 adjudicating the recognition and validity of the Fortymile Station-Eagle Trail
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1 RS 2477 rights-of-way as a public rights-of way granted by the United States of America and
2 accepted by public use and the State of Alaska. Plaintiff and the Defendants all claim various
3 conflicting interests with the rights-of-way.
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5 **6.**The (Sixth Claim for Relief) is an Action for Recovery of Real Property pursuant to Alaska
6 Statue AS 19.30.400 and AS 09.45.630 adjudicating the real property known as the
7 Fortymile Station-Eagle Trail RS 2477 as public rights-of-way granted by the United States
8 of America and accepted public use and the State of Alaska. Plaintiff and the Defendants all
9 claim various conflicting interests with the rights-of-way.
10

11 **JURISDICTION AND VENUE**

12 **7.**This court has jurisdiction over this action pursuant to 28 U.S.C. § 1346 (a) (2), (United States
13 as Defendant), 28 U.S.C. § 2201, (Creation of Remedy), 28 U.S.C. § 2409a, (Real Property
14 Quiet Title actions), (a), (g), 28 U.S.C. § 1331 (Federal Questions) and which present
15 Federal questions.
16

17 **8.**The real property that is the subject of this action is located within the boundaries of the
18 District of Alaska and venue of the claims stated herein is proper pursuant to 28 U.S.C. §
19 1391 (b), (e) (Venue Generally) and 28 U.S.C. § 81A (Alaska).
20

21 **9.**This court has jurisdiction with respect to the plaintiff and defendant Scott Wood in
22 accordance with 28 U.S.C. Section 1332 because of diversity of citizenship.
23

24 **10.** This court has supplemental jurisdiction over the pendant state law claims pursuant 28
25 U.S.C. § 1367 (a), (Supplemental Jurisdiction).
26

27 **PARTIES**

28 **11.**Plaintiff, Carey C. Mills is a citizen of the United States of America, a resident of the State of
29 Alaska who resides at 1591 Gillam Way, Fairbanks, Alaska 99701 and holds real property
30 interests in State of Alaska Mining Claims ADL 611494 – 611496 and ADL 611578 –
31 611581.
32

33 **12.** Defendant, United States of America is a sovereign nation and holds title to real property
34 traversed by the rights-of-way that are subject of this action.
35

1 **13.**Defendant, Ken Salazar is the Secretary of the Department of Interior, located at 1849 C.
2 Street N.W., Washington, DC 20240 and is responsible in this capacity for administering
3 certain federal laws, including R.S. 2477, that relate to public lands in Alaska. Defendant,
4 Salazar is responsible for the administration of the lands and federal unpatented mining
5 claims (AKFF-40559 thru AKFF-40567) that are crossed by the Fortymile Station-Eagle
6 Trail (RST 1594).
7

8 **14.**Defendant, Julia Dougan is the acting State Director of the Alaska State Office, Bureau of
9 Land Management, and Department of Interior, located at 222 W. 7th Avenue #13,
10 Anchorage, Alaska 99513 and is responsible in this capacity for administering certain
11 federal laws, including R.S. 2477, that relate to public lands in Alaska. Defendant, Dougan
12 is responsible for the administration of the lands and federal unpatented mining claims
13 (AKFF-40559 thru AKFF-40567) that are crossed by the Fortymile Station-Eagle Trail
14 (RST 1594).
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17 **15.**Defendant, Robert W. Schneider is the District Manager of the Fairbanks District Office,
18 Bureau of Land Management, and Department of Interior, located at 1150 University
19 Avenue, Fairbanks, Alaska 99709-3844 and is responsible in this capacity for administering
20 certain federal laws, including R.S. 2477, that relate to public lands in Alaska. Defendant,
21 Schneider is responsible for the administration of the lands and federal unpatented mining
22 claims (AKFF-40559 thru AKFF-40567) that are crossed by the Fortymile Station-Eagle
23 Trail (RST 1594).
24

25 **16.**Defendant, Lenore Heppler is the Field Manager of the Eastern Interior Field Office, Bureau
26 of Land Management, and Department of Interior, located at 1150 University Avenue,
27 Fairbanks, Alaska 99709-3844 and is responsible in this capacity for administering certain
28 federal laws, including R.S. 2477, that relate to public lands in Alaska. Defendant, Heppler
29 is responsible for the administration of the lands and federal unpatented mining claims
30 (AKFF-40559 thru AKFF-40567) that are crossed by the Fortymile Station-Eagle Trail
31 (RST 1594).
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34 **17.**Defendant, Scott Wood is an individual who presently resides at Post Office Box 31,
35 McKenna, Washington 98558 and or 11825 Fillman Rd. SE, Rainer, Washington 98576 and
36 holds the following federal unpatented mining claims (AKFF-40559 thru AKFF-40567) that
37 is subject to conflict with the Fortymile Station-Eagle Trail (RST 1594).
38

1 **18.**Defendant, Doyon Limited is an Alaska Native Regional Corporation, located at 1 Doyon
2 Place, Suite 300, Fairbanks, Alaska 99701-294 and which holds Patent # 50-2008-0374 and
3 Patent # 50-89-0696 encompassing land located within the State of Alaska that is subject to
4 conflict with the Fortymile Station-Eagle Trail (RST 1594).
5

6 **19.**Defendant, Hungwitchin Corporation is an Alaska Native Village Corporation, located at 315
7 Breeze Rd., Fairbanks, Alaska 99712 and or P.O. Box 84594, Fairbanks, Alaska 99708 and
8 which holds Patent # 50-2008-0373 encompassing land located within the State of Alaska
9 that is subject to conflict with the Fortymile Station-Eagle Trail (RST 1594).
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14 **FACTS**

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18 **20.**The Plaintiff's State of Alaska Mining Claims ADL 611494 – 611496 and ADL 611578 –
19 611581 intersect, cross and overlap the Fortymile Station-Eagle Trail and the Federal
20 unpatented mining claims owned by Scott Wood. (See copy of Maps attached hereto as
21 (Plaintiffs' Exhibit 001, 002 and 003) and made apart hereof by reference.)
22

23 **21.**The R.S. 2477 rights-of-way, Fortymile Station-Eagle Trail (RST 1594) is the only
24 economically feasible and environmental-friendly transportation route, for the plaintiff to
25 reach State of Alaska Mining Claims ADL 611494 – 611496 and ADL 611578 – 611581.
26 (See Photograph of the Plaintiff's pickup on the Fortymile Station-Eagle Trail attached
27 hereto as (Plaintiff's Exhibit 004) and made a part hereof by reference.)
28

29 **22.**A portion the Fortymile Station-Eagle Trail route is located on the USGS 1:63,360 Eagle C-1
30 map, and is approximately 50 miles long. (See copy of Eagle C-1, quadrangle maps attached
31 hereto as (Plaintiff's Exhibit 005,006 and 007) and made a part hereof by reference.)
32

33 **23.**The USGS 1:63,360 Eagle C-1 map (Plaintiff's Exhibit 004) complies with the State of
34 Alaska 11 AAC 51.055. (b) (1). Identification of R.S. 2477 rights-of-way.
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36 **24.**The existence of an RS 2477 rights-of-way is determined in accordance of the laws of the
37 State.
38

1 **25.A** “DECISION” by the Bureau of Land Management dated November 28, 2001 titled, “State
2 Selection Rejected in Part, Native Allotment, Parcel D, Subject to Forty Mile Station-Eagle
3 Trail” states: “According to the information in the case file, public use of the Forty Mile
4 Station-Eagle Trail began in 1904”. Additionally, the Native Allotment Parcel D shall be
5 subject to: “The continued right of public access along the non-exclusive use Fortymile
6 Station-Eagle Trail not to exceed on hundred (100) feet in width”. (See copy of the
7 DECISION by the BLM dated November 28, 2001 attached hereto as (Plaintiffs’ Exhibit
8 008) and made apart hereof by reference.)
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10

11 **26.A** Supplemental Native Allotment Certificate No.50-2002-0125, recorded on April 9, 2002,
12 specifically making the Allotment subject to “the continued right of public access along the
13 non-exclusive use Forty mile Station-Eagle Trail” (See copy of the Supplemental Native
14 Allotment Certificate No.50-2002-0125, recorded on April 9, 2002 attached hereto as
15 (Plaintiffs’ Exhibit 009) and made apart hereof by reference.)
16

17 **27.**During the patenting of private real property, the Bureau of Land Management on November
18 28, 2001 and April 9, 2002 acknowledged and recognized the existence of the Fortymile
19 Station-Eagle Trail. (See Plaintiffs Exhibit 008 and 009)
20

21 **28.**During the patenting of private real property, the Bureau of Land Management on November
22 28, 2001 and April 9, 2002 acknowledged and recognized the existence of “the continued
23 right of public access along the non-exclusive use Forty mile Station-Eagle Trail”. (See
24 Plaintiffs Exhibit 008 and 009)
25

26 **29.**During the patenting of private real property to the Hungwitchin Corporation (Patent # 50-
27 2008-0373), the Bureau of Land Management intentionally or unintentionally failed to
28 acknowledged and recognized the existence of “the continued right of public access along
29 the non-exclusive use Forty mile Station-Eagle Trail”.
30

31 **30.**During the patenting of private real property to Doyon Limited (Patent # 50-2008-0374 and
32 Patent # 50-89-0696 and Patent # 50-2008-0373), the Bureau of Land Management
33 intentionally or unintentionally failed to acknowledged and recognized the existence of “the
34 continued right of public access along the non-exclusive use Forty mile Station-Eagle Trail”.
35

36 **31.**During the patenting of private real property to the State of Alaska, the Bureau of Land
37 Management on March 10,2009 intentionally or unintentionally failed to acknowledged and
38

1 recognized the existence of “the continued right of public access along the non-exclusive use
2 Forty mile Station-Eagle Trail”.

3
4 **32.**The Fortymile Station-Eagle Trail (RST 1594) is part of the Washington- Alaska Military
5 Cable and Telegraph System (WAMCATS). It begins approximately eight miles south of
6 Eagle, Alaska, originating on the West side of the Taylor Highway near the Mouth of
7 Teddy’s Fork in section 4, T. 3S., R. 32E., Fairbanks Meridian. (See copy State of Alaska,
8 Department of Natural Resources, Public Access Assertion & Defense Unit letter, dated
9 April 29, 2010 attached hereto as (Plaintiffs Exhibit 010) and made apart hereof by
10 reference.)
11

12 **33.**The trail, originally blazed in 1885 by Lt. Henry Allen, has a strongly documented history of
13 continuous use by the military, freight hauling pack trains, and the general public for
14 transportation and access purposes. (See copy State of Alaska, Department of Natural
15 Resources, Public Access Assertion & Defense Unit letter, dated April 29, 2010 attached
16 hereto as (Plaintiffs Exhibit 010) and made apart hereof by reference.)
17

18 **34.**The Bureau OF Land Management Master Title Plat for Fairbanks Meridian T. 3S. R.32 E.
19 Dated December 12, 1975 depicts the Washington- Alaska Military Cable and Telegraph
20 System (WAMCATS) rights-of-way and references Bureau OF Land Management file
21 number F19336. (See copy Bureau OF Land Management Master Title Plat for Fairbanks
22 Meridian T. 3S. R.32 E. Dated December 12, 1975 attached hereto as (Plaintiffs Exhibit
23 011) and made apart hereof by reference.)
24

25 **35.**The Act of April 27, 1904 (P.L. 188 - 33 Stat. 391) provided for mandatory service of the
26 male population in the construction and maintenance of public roads. Specifically, it
27 required that "all male persons between eighteen and fifty years of age who have resided
28 thirty days in the district of Alaska, who are capable for performing labor on roads or
29 trails...to perform two days' work of eight hours each in locating, constructing, or repairing
30 public roads or trails...or furnish a substitute,...or pay the sum of four dollars per day for two
31 days' labor."
32
33

34 **36.**Public funds were used in the development, construction and maintenance of the
35 Washington- Alaska Military Cable and Telegraph System (WAMCATS) rights-of-way.
36
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1 **37.**The grant of R.S. 2477 rights-of-way, Fortymile Station-Eagle Trail (RST 1594) was
2 accepted and asserted as a result of its construction and use by the general public and,
3 military alike.
4

5
6 **FIRST CLAIM FOR RELIEF**

7 (Adjudication of an Act of Congress- as against defendants United States,
8 Ken Salazar in his capacity as Secretary of the Interior,
9 Julia Dougan in her capacity as the acting State Director,
10 Robert W. Schneider in his capacity as the District Manager,
11 And Lenore Heppler in her capacity as Field Manager)
12

13 **38.**Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 1-16 above.

14 **39.**Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 20-37 above.

15 **40.**This court has original jurisdiction over this action due to an Act of Congress 28 U.S.C. §
16 1346 (a) (2), (United States as Defendant).
17

18 **41.**On or about Sept. 30, 1996 the United States Congress, revoked and denied the authority and
19 jurisdiction of the Bureau of Land Management to recognize, manage or determine the
20 validity of a right-of-way pursuant to Revised Statute 2477 (43 U.S.C. 932):
21

22 “No final rule or regulation of any agency of the Federal Government pertaining to the
23 recognition, management, or validity of a right-of-way pursuant to Revised Statute 2477
24 (43 U.S.C. 932) shall take effect unless expressly authorized by an Act of Congress
subsequent to the date of enactment of this Act.”).

25 (Department of the Interior and Related Agencies Appropriations Act, § 108, enacted by the
26 Omnibus Consolidated Appropriations Act, 1997, Pub L., No. 104-208, 110 Stat. 3009
27 (1996))

28 **42.**On or about February 20, 2009, Ron Wenker, Acting Director of the Bureau of Land
29 Management, issued a Memorandum to all State Directors ordering and mandating the State
30 Directors not to process or review any claims under RS 2477 rights-of-way. (See copy of
31 Memorandum attached hereto as (Plaintiffs Exhibit 012) and made a part hereof by
32 reference.)
33

34 **43.**On or about March 19, 2010 Mark Fullmer, Chief, Branch of Resolution. Acting Chief,
35 Lands and Realty Division of Alaska Lands of the Bureau of Land Management, sent an e-
36 mail to the Plaintiff stating:
37
38

1 “RS 2477 rights-of-way arise by operation of law, entirely outside the adjudicative authority and
2 jurisdiction of the BLM. Any RS 2477 rights-of-way that is determined to be valid is already
3 included in the general reservation of “valid existing rights” which appears in every
4 conveyance document we issue. Only the courts can adjudicate an RS 2477 rights-of-way.”
5 (See copy of Mark Fullmer’s e-mail attached hereto as (Plaintiffs Exhibit 013) and made a
6 part hereof by reference.)

7 **44.** On or about May 6, 2010 Mark Fullmer, Chief, Branch of Resolution. Acting Chief, Lands
8 and Realty Division of Alaska Lands of the Bureau of Land Management, sent an e-mail to
9 the Larry P. Jackson, Resource Branch Supervisor, BLM-Eastern Interior Field Office
10 stating:

11 “Our conveyance documents, including the Patent involved in Mr. Mills’ issue, DO reserve
12 and protect any valid existing right under RS 2477.
13 Our position is that we do not have authority to adjudicate (make a final determination) as to
14 whether an asserted RS 2477 is valid or not, that is up to the courts. We have no authority to
15 recognize, or reject, an asserted RS 2477.”
16 (See copy of Mark Fullmer’s e-mail attached hereto as (Plaintiffs Exhibit 014) and made a
17 part hereof by reference.)

18
19 **45.** On or about May 6, 2010 Mark Fullmer, Chief, Branch of Resolution. Acting Chief, Lands
20 and Realty Division of Alaska Lands of the Bureau of Land Management, sent an e-mail to
21 the Larry P. Jackson, Resource Branch Supervisor, BLM-Eastern Interior Field Office
22 stating:

23 “BLM modified its approach to RS 2477 claims after losing: Southern Utah Wilderness
24 Alliance v. Bureau of Land Management, 425 F.3d 735 (10th Circuit, 2005).”
25 “The court made it clear that determining the validity of a claim under RS 2477 was a
26 judicial, not an executive branch, function.”
27 See copy of Mark Fullmer’s e-mail attached hereto as (Plaintiffs Exhibit 015) and made a
28 part hereof by reference.)

29
30 **46.** The Federal Defendants, through the Interior Board of Land Appeal, refuses to recognize
31 Fortymile Station-Eagle Trail (RST 1594) as a valid RS 2477 rights-of way. And have
32 stated: “An R.S. 2477 ROW arise by operation of the law as a result of public usage or other
33 means, and its existence is determined as a matter of the State law.” (See copy of Interior
34 Board of Land Appeal Order dated September 9, 2010, Page 8, attached hereto as (Plaintiffs
35 Exhibit 016) and made a part hereof by reference.)
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1 **47.**The Federal Defendants through the Interior Board of Land Appeal acknowledge that no
2 federal agency can determine the Fortymile Station-Eagle Trail (RST 1594) to be a valid RS
3 2477 rights-of way. And further stated: "...but ultimately the matter must be resolved in
4 court, where what is at issue is whether the State has, by some means, accepted the grant."
5 (See copy of Interior Board of Land Appeal Order dated September 9, 2010, Page 8 and 9,
6 attached hereto as (Plaintiffs Exhibit 016) and made a part hereof by reference.)
7

8 **48.**Due to an Act of Congress a case or controversy has been created between the Plaintiff and
9 the Federal Defendants because the Federal Defendants lack the authority and jurisdiction to
10 recognize, manage, or determine the validity of a right-of-way pursuant to Revised Statute
11 2477 (43 U.S.C. 932).
12

13 **49.**The Alaska Judicial District Court is the only governmental authority that currently has the
14 jurisdiction and authority to recognize and determine the validity of the Fortymile Station-
15 Eagle Trail (RST 1594) to be a valid RS 2477 rights-of way.
16

17 **50.**The Federal Defendants have specifically denied lawful and reasonable mechanical access
18 rights to the Plaintiff's mining claims, resulting in material and substantial damages
19 including valuable rents and profits.
20

21 **51.**The Federal Defendants claims property interests that are in conflict with the State of Alaska
22 and the Plaintiff's interests in the rights-of-way.
23

24 **52.**An actual controversy exists between the Plaintiff and the Federal Defendants arising out of
25 the various real property interests.
26

27 **53.** Pursuant to 28 U.S.C. § 1346 (a) (2), (United States as Defendant) and 28 U.S.C. § 2201,
28 (Creation of Remedy), the Plaintiffs are entitled to a declaration that the property interests
29 claimed by the Federal defendants are subject to the State of Alaska rights-of way listed in
30 Alaska Statue AS 19.30.400 and the Plaintiffs public usage interest for the Fortymile
31 Station-Eagle Trail (RST 1594) where they conflict.
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SECOND CLAIM FOR RELIEF

(Quiet Title Act Acceptance by Public Use - as against defendants United States,
Ken Salazar in his capacity as Secretary of the Interior,
Julia Dougan in her capacity as the acting State Director,
Robert W. Schneider in his capacity as the District Manager,
And Lenore Heppler in her capacity as Field Manager)

54. Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 38-53 above.

55. The lack of the authority and jurisdiction to recognize, manage, or determine the validity of a right-of-way pursuant to Revised Statute 2477 (43 U.S.C. 932) by any Federal Administrative Agency precludes any judicial review under the Administrative Procedures Act.

56. Pursuant to 28 U.S.C. section 2409a (the "Quiet Title Act"), the Federal Defendants are subject to suit in order to quiet title to real property in which, the Plaintiff and the United States claim an interest.

57. Revised Statute 2477 (43 U.S.C. 932) states: "The right-of-way for the construction of highways across public lands not otherwise reserved for public purposes is hereby granted."

58. Revised Statute 2477 (43 U.S.C. 932) was a Federal Statute creating legal rights.

59. Revised Statute 2477 (43 U.S.C. 932) was a Federal Statute creating legal rights for the general public.

60. Revised Statute 2477 granted to the public the rights-of-way for the construction of highways over unreserved public land.

61. In the District Organic Act of May 17, 1884, Ch. 53, section 8, 23 Stat.24, Congress made R.S. 2477 applicable to the Territory of Alaska.

62. The R.S. 2477 grant created legal rights for the general public and constituted a standing offer of unreserved federal lands for public rights-of-way prior to its repeal in 1976.

63. The R.S. 2477 was repealed by FLPMA on October 21, 1976, with a savings provision for rights-of-way established prior to the repeal.

64. The R.S. 2477 grant was a self-executing offer in the State of Alaska and could be accepted by public use under such conditions so as to demonstrate acceptance of the grant.

1 **65.** On or before May 17, 1905 the land where the Fortymile Station-Eagle Trail (RST 1594) is
2 located, was accepted by public use and documented in the Presidential Executive Order
3 dated May 24, 1905, which states in part:
4

5 “...the settlers and temporary stampeders have already commenced to abridge the rights of
6 the Signal Corps: to claim its right-of-way...”

7 (See copy of Executive Order dated May 24, 1905 Page 3, attached hereto as (Plaintiffs
8 Exhibit 017) and made a part hereof by reference.)

9 **66.** At the time the R.S. 2477 grant was accepted, by public use, the Fortymile Station-Eagle
10 Trail (RST 1594) was located on unreserved public land within the meaning of R.S. 2477.

11 **67.** The Fortymile Station-Eagle Trail (RST 1594) was constructed, accepted by public use and
12 constitutes a highway within the meaning of R.S. 2477.
13

14 **68.** The Fortymile Station-Eagle Trail (RST 1594) came into existence automatically when the
15 highway was established across public land in accordance with the law of the State of
16 Alaska.
17

18 **69.** On May 24, 1905 the Fortymile Station-Eagle Trail (RST 1594) was reserved by Presidential
19 Executive Order for the United States Army with the reservation subject to valid existing
20 rights. (See Plaintiffs Exhibit 017)

21 **70.** On or about March 10, 2009, the United States Department of Interior, Bureau of Land
22 Management excluded title to the land under the federal unpatented mining claims as well as
23 the mining claims F-40559 through F-40567 from transfer to the State of Alaska. (See copy
24 of Tentatively Approval No. 2009-0031 dated May 24, 1905 Page 3, attached hereto as
25 (Plaintiffs Exhibit 018) and made a part hereof by reference.)
26

27 **71.** The United States Department of Interior, Bureau of Land Management retained title to the
28 land that was excluded from transfer by Tentatively Approval No. 2009-0031.
29

30 **72.** The Fortymile Station-Eagle Trail (RST 1594) crosses the land and the federal unpatented
31 mining claims F-40559 through F-40567 that were excluded from transfer by Tentatively
32 Approval No. 2009-0031. (See map marked Plaintiff’s Exhibit 001)
33

34 **73.** The plaintiff’s real property, State mining claims ADL 611494 – 611495 and ADL 611580 –
35 611581 abut and overlap the land and the federal unpatented mining claims F-40559 through
36 F-40567 that were excluded from transfer by Tentatively Approval No. 2009-0031. (See
37 map marked Plaintiff’s Exhibit 001)
38

1 **74.**The Plaintiff has “continued right of public access along the non-exclusive” RS 2477 rights-
2 of-way known as Fortymile Station-Eagle Trail (RST 1594). (See Plaintiff’s Exhibit 008)

3
4 **75.**The publicly recorded Supplemental Native Allotment Certificate No.50-2002-0125,
5 recorded on April 9, 2002 corroborates the existence and the non-exclusive use of the RS
6 2477 rights-of-way known as Fortymile Station-Eagle Trail (RST 1594). (See Plaintiff’s
7 Exhibit 009)

8
9 **76.**The Plaintiff again reasserts his title to an RS 2477 easement, and easements by “necessity”
10 and “prescription” created by operation of law.

11 **77.**On or about March 24, 2010 The State of Alaska informed the Plaintiff that any mining
12 activity had to be suspended because “...the BLM does not (sic) recognize the RS 2477...”
13 (See copy of e-mail from Patty Burns dated March 24, 2010 attached hereto as (Plaintiff’s
14 Exhibit 019) and made a part hereof by reference.)

15
16 **78.**On or about October 28, 2009, Larry P. Jackson, an employee of the Federal Defendants
17 denied the Plaintiff the right to use the Fortymile Station-Eagle Trail (RST 1594) rights-of-
18 way.

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20 **79.**On or about October 28, 2009, Larry P. Jackson, an employee of the Federal Defendants
21 denied the Plaintiff the right to use the Fortymile Station-Eagle Trail (RST 1594) rights-of-
22 way and stated the BLM does not recognize RS 2477 rights-of-way and only way for the
23 Plaintiff to access his mining claims was to file a ROW Rights-of-Way permit.

24
25 **80.**On or about September 9, 2010, the Federal Defendants through the Interior Board of Land
26 Appeal denied the ROW Rights-of-Way permit and acknowledge that: “An R.S. 2477 ROW
27 arises by operation of the law as the result of public usage or other means, and its existence
28 is determined as a matter of State law.” (See Plaintiffs Exhibit 016)

29
30 **81.**On or about June 15, 2010, Larry P. Jackson, an employee of the Federal Defendants denied
31 the Plaintiff the right to use the Fortymile Station-Eagle Trail (RST 1594) rights-of-way.

32 **82.**The Alaska Judicial District Court is the only governmental authority that currently has the
33 jurisdiction and authority to recognize and determine the validity of the Fortymile Station-
34 Eagle Trail (RST 1594) to be a valid RS 2477 rights-of way.
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1 **83.**The Federal Defendants have specifically denied lawful and reasonable mechanical access
2 rights to the Plaintiff’s mining claims, resulting in material and substantial damages
3 including valuable rents and profits.
4

5 **84.**The Federal Defendants claims property interests that are in conflict with the State of Alaska
6 and the Plaintiff’s interests in the rights-of-way.
7

8 **85.**An actual controversy exists between the Plaintiff and the Federal Defendants arising out of
9 the various real property interests.

10 **86.** Pursuant to 28 U.S.C. § 1346 (a) (2), (United States as Defendant), 28 U.S.C. section 2409a
11 (the “Quiet Title Act”) and 28 U.S.C. § 2201, (Creation of Remedy), the Plaintiffs are
12 entitled to a declaration that the property interests claimed by the Federal defendants are
13 subject to the State of Alaska rights-of way listed in Alaska Statue AS 19.30.400 and the
14 Plaintiffs public usage interest for the Fortymile Station-Eagle Trail (RST 1594) where they
15 conflict.
16

17
18 **THIRD CLAIM FOR RELIEF**
19

20 (Quiet Title Act Acceptance by State Actions - as against defendants United States,
21 Ken Salazar in his capacity as Secretary of the Interior,
22 Julia Dougan in her capacity as the acting State Director,
23 Robert W. Schneider in his capacity as the District Manager,
24 And Lenore Heppler in her capacity as Field Manager)
25

26 **87.**Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 38-86 above.

27 **88.**The Plaintiff has an easement by “necessity” and/or by “implication” over the R.S. 2477
28 rights-of-way, Fortymile Station-Eagle Trail (RST 1594), because the only access to
29 Plaintiff’s State claims is over this trail. The conveyance of the land, from which Plaintiff
30 possess this mining claims in chain of title is from the United States to the public and the
31 State of Alaska, necessarily requires use of the Fortymile Station-Eagle Trail for the
32 enjoyment of the original conveyance and those holding possessory interests.
33

34 **89.**On or about March 14, 2011 The State of Alaska informed the Federal District Court as well
35 as all parties, that the State was unwilling to assert and defend the public’s rights to use the
36 Fortymile Station-Eagle Trail (RST 1594) rights-of-way at this time. (See copy of letter to
37
38

1 the Court from John Burns dated March 24, 2010 attached hereto as (Plaintiff's Exhibit 020)
2 and made a part hereof by reference.)

3 **90.** Since the State of Alaska is unwilling to assert and defend the ownership in and the public's
4 right to use the Fortymile Station-Eagle Trail (RST 1594) rights-of-way. The Plaintiff
5 asserts the "Private Attorney General" provisions provided for by law.

6 **91.** Under the laws of the State of Alaska, a single plaintiff may sue to enforce RS 2477 rights-
7 of-way.
8

9 **92.** Under the laws of the State of Alaska, a single plaintiff has standing to enforce the rights of
10 the public at large.
11

12 **93.** Title of the Fortymile Station-Eagle Trail (RST 1594) rights-of-way to the State of Alaska
13 began with the land where the Fortymile Station-Eagle Trail (RST 1594) is located, being
14 reserved and documented in the Presidential Executive Order dated May 24, 1905, which
15 states in part:
16

17 "I have the honor to recommend the reservation...for the use of the Signal Corp, United
18 States Army...the following described lands in the District of Alaska viz: A strip of land
19 100 feet wide (50 feet on either side of center of telegraph line), along the United States
20 Military Telegraph line from Valdez to Fort Egbert...". (See Plaintiffs Exhibit 017)

21 **94.** Title of the Fortymile Station-Eagle Trail (RST 1594) rights-of-way transfers from the Signal
22 Corp, United State Army to the Alaska Road Commission by the Act of January 27, 1905
23 (P.L. 26 - 33 Stat. 391) which established the Alaska Road Commission under the direction
24 of the Secretary of War.
25

26 "The said board (of road commissioners) shall have the power, and it shall be their duty,
27 upon their own motion or upon petition, to locate, lay out, construct, and maintain wagon
28 roads and pack trails from any point on the navigable waters of said district to any town,
29 mining or other industrial camp or settlement, or between any such towns, camps, or
30 settlements therein."

31 **95.** The Alaska Road Commission maintained the Fortymile Station-Eagle Trail (RST 1594)
32 rights-of-way.
33

34 **96.** Title of the Fortymile Station-Eagle Trail (RST 1594) rights-of-way transfers from the
35 Alaska Road Commission to the Department of the Interior pursuant to the Act of June 30,
36 1932 (P.L. 218 - 47 Stat. 446)(48 USC 321a).
37
38

1 **97.**Title of the Fortymile Station-Eagle Trail (RST 1594) rights-of-way transfers from the
2 Department of the Interior's jurisdiction to the Department of Commerce which was
3 reiterated on August 27, 1958, when Congress revised, codified, and reenacted the laws
4 relating to highways as Title 23 of the U. S. Code. (P.L. 85-767, Sect. 119 - 72 Stat. 898).

6 **98.**Title of the Fortymile Station-Eagle Trail (RST 1594) rights-of-way transfers from the
7 jurisdiction to the Department of Commerce to State of Alaska by: The Alaska Omnibus
8 Act, enacted on June 25, 1959 (P.L. 86-70 - 73 Stat. 141), which directed the Secretary of
9 Commerce to convey to the State of Alaska all lands or interests in lands "owned, held,
10 administered by, or used by the Secretary in connection with the activities of the Bureau of
11 Public Roads in Alaska."

13 **99.**On or about January 29, 1962, the Department of the Interior revoked any and all
14 reservations regarding the public's rights to use the Fortymile Station-Eagle Trail (RST
15 1594) rights-of-way. (See copy of public notice dated January 29, 1962 attached hereto as
16 (Plaintiff's Exhibit 021) and made a part hereof by reference.)

18 **100.**On or about April 8, 1974 The State of Alaska provided the Bureau of Land Management a
19 detailed "Existing Trail System".

21 **101.**The Fortymile Station-Eagle Trail (RST 1594) rights-of-way is listed in the "Existing Trail
22 System".

23 **102.**On or about April 8, 1974 The State of Alaska specifically asserted and maintained
24 ownership over the trails listed in the "Existing Trail System".

26 **103.**During 1993-1995 The State of Alaska, Department of Natural Recourses researched more
27 than one thousands (1000) RS 2477 routes.

28 **104.** During 1993-1995 The State of Alaska, Department of Natural Recourses, "R.S. 2477
29 Project" determined that some six hundred (600) of these routes qualified as RS 2477 rights-
30 of way under state standards.

32 **105.** The State of Alaska by legislative enactment stated in Alaska Statute, AS 19.30.400.(c):
33 "The rights-of-way listed in (d) of this have been accepted by public users".

34 **106.** The Fortymile Station-Eagle Trail (RST 1594) is listed in Alaska Statute, AS 19.30.400
35 (d).
36
37
38

1 **107.** The State of Alaska, by legislative enactment identified and accepted Fortymile Station-
2 Eagle Trail (RST 1594) as a valid RS 2477 rights-of way in Alaska Statute AS 19.30.400
3 (d).
4

5 **108.** On or about September 9, 2010, the Federal Defendants through the Interior Board of Land
6 Appeal denied the ROW Rights-of-Way permit and acknowledge that: “An R.S. 2477 ROW
7 arises by operation of the law as the result of public usage or other means, and its existence
8 is determined as a matter of State law.” (See Plaintiffs Exhibit 016)
9

10 **109.** On or about June 15, 2010, Larry P. Jackson, an employee of the Federal Defendants denied
11 the Plaintiff the right to use the Fortymile Station-Eagle Trail (RST 1594) rights-of-way.

12 **110.** The Alaska Judicial District Court is the only governmental authority that currently has the
13 jurisdiction and authority to recognize and determine the validity of the Fortymile Station-
14 Eagle Trail (RST 1594) to be a valid RS 2477 rights-of way.
15

16 **111.** The Federal Defendants have specifically denied lawful and reasonable mechanical access
17 rights to the Plaintiff’s mining claims, resulting in material and substantial damages
18 including valuable rents and profits.
19

20 **112.** The Federal Defendants claims property interests that are in conflict with the State of
21 Alaska and the Plaintiff’s interests in the rights-of-way.

22 **113.** An actual controversy exists between the Plaintiff and the Federal Defendants arising out of
23 the various real property interests.
24

25 **114.** Pursuant to 28 U.S.C. § 1346 (a) (2), (United States as Defendant), 28 U.S.C. section
26 2409a (the “Quiet Title Act”) and 28 U.S.C. § 2201, (Creation of Remedy), the Plaintiff is
27 entitled to a declaration that the property interests claimed by the Federal defendants are
28 subject to the State of Alaska rights-of way listed in Alaska Statute AS 19.30.400 and the
29 Plaintiff’s public usage interest for the Fortymile Station-Eagle Trail (RST 1594) where they
30 conflict.
31

32
33 **FOURTH CLAIM FOR RELIEF**

34 (R.S. 2477 – as against the non-federal Defendants)
35

36 **115.** Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 1-11 above.
37

38 **116.** Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 17-114 above.

1 **117.** Since the State of Alaska is unwilling to assert and defend the ownership in and the public's
2 right to use the Fortymile Station-Eagle Trail (RST 1594) rights-of-way. The Plaintiff
3 asserts the "Private Attorney General" provisions provide for by law.
4

5 **118.** Under the laws of the State of Alaska, a single plaintiff may sue to enforce RS 2477 rights-
6 of-way.
7

8 **119.** Under the laws of the State of Alaska, a single plaintiff has standing to enforce the rights of
9 the public at large.
10

11 **120.** The non-federal defendants hold interests in certain federal unpatented mining claims or
12 patented interests in the land that encompass portions of the Fortymile Station-Eagle Trail
13 (RST 1594).
14

15 **121.** The State of Alaska is the owner of rights-of-way for the Fortymile Station-Eagle Trail
16 (RST 1594) pursuant to R.S. 2477 and Alaska Statue AS 19.30.400 and the DECISION by
17 the Bureau of Land Management dated November 28, 2001 validating and authenticating
18 the "continued right of public access along the non-exclusive" RS 2477 rights-of-way
19 known as Fortymile Station-Eagle Trail (RST 1594).
20

21 **122.** The Plaintiff as a resident of the State of Alaska and as a citizen of the United States is
22 entitled to the continued right of public access along the non-exclusive rights-of way that the
23 State of Alaska law allows.
24

25 **123.** The Defendants have denied the existence of the Fortymile Station-Eagle Trail (RST 1594)
26

27 **124.** The Defendants have denied lawful and reasonable access rights to Plaintiff's mining
28 claims, resulting in material and substantial damages including valuable rents and profits.
29

30 **125.** The non-federal Defendants claims property interests that are in conflict with the State of
31 Alaska and the Plaintiff's interests in the rights-of-way.
32

33 **126.** An actual controversy exists between the Plaintiff and the non-federal Defendants arising
34 out of the various real property interests.
35

36 **127.** Pursuant to 28 U.S.C. § 2201, (Creation of Remedy) and 28 U.S.C. § 1367, (Supplemental
37 Jurisdiction) the Plaintiff is entitled to a declaration that the property interests claimed by the
38 non-federal defendants are subject to the State of Alaska rights-of way listed in Alaska
Statue AS 19.30.400 and the Plaintiff's public usage interest for the Fortymile Station-Eagle
Trail (RST 1594) where they conflict.

1
2
3
4 **FIFTH CLAIM FOR RELIEF**

5 (AS 09.45.010 State Actions to Quiet Title – as against the non-federal Defendants)

6
7 **128.**Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 115-127 above.

8 **129.**Since the State of Alaska is unwilling to assert and defend the ownership in and the public’s
9 right to use the Fortymile Station-Eagle Trail (RST 1594) rights-of-way. The Plaintiff
10 asserts the “Private Attorney General” provisions provide for by law.

11
12 **130.**Under the laws of the State of Alaska, a single plaintiff may sue to enforce RS 2477 rights-
13 of-way.

14 **131.**Under the laws of the State of Alaska, a single plaintiff has standing to enforce the rights of
15 the public at large.

16
17 **132.**Defendant, Doyon Limited is an Alaska Native Regional Corporation, formed under the
18 laws of the State of Alaska.

19 **133.**Defendant, Hungwitchin Corporation is an Alaska Native Village Corporation, formed
20 under the laws of the State of Alaska.

21
22 **134.**Defendant, Scott Wood is a citizen of the United States and a resident of the State of
23 Washington.

24 **135.**Defendant, Doyon Limited is subject to the laws of the State of Alaska.

25 **136.**Defendant, Hungwitchin Corporation is subject to the laws of the State of Alaska.

26 **137.**Defendant, Scott Wood is subject to the laws of the State of Alaska.

27
28 **138.**The State of Alaska is in possession of the Fortymile Station-Eagle Trail (RST 1594) rights-
29 of-way within the meaning of Alaska Statue AS 19.30.400 and AS 09.45.010.

30
31 **139.**The non-federal Defendants claims property interests that are in conflict with the Fortymile
32 Station-Eagle Trail (RST 1594) rights-of-way.

33
34 **140.**By virtue of their interests in certain real property that encompass some portion of the
35 Fortymile Station-Eagle Trail (RST 1594), the non-federal Defendants claim an interest in
36 the rights-of-way adverse to the State of Alaska and the Plaintiff’s continued right of public
37 access along the non-exclusive rights-of way within the meaning of AS 09.45.010.
38

1 **141.**In each instance where the Fortymile Station-Eagle Trail (RST 1594) rights-of-way crosses
2 land in which the non-federal defendants claim an interest, the Fortymile Station-Eagle Trail
3 rights-of-way is a superior interest to that of the non-federal defendants.
4

5 **142.**The State of Alaska is the owner of rights-of-way for the Fortymile Station-Eagle Trail
6 (RST 1594) pursuant to R.S. 2477 and Alaska Statue AS 19.30.400 and the DECISION by
7 the Bureau of Land Management dated November 28, 2001 validating and authenticating
8 the “continued right of public access along the non-exclusive” RS 2477 rights-of-way
9 known as Fortymile Station-Eagle Trail (RST 1594).
10

11 **143.**The Plaintiff as a resident of the State of Alaska and as a citizen of the United States is
12 entitled to the continued right of public access along the non-exclusive Fortymile Station-
13 Eagle Trail (RST 1594) rights-of way that the State of Alaska law allows.
14

15 **144.**The Defendants have denied the existence of the Fortymile Station-Eagle Trail (RST 1594)

16 **145.**The Defendants have denied lawful and reasonable access rights to Plaintiff’s mining
17 claims, resulting in material and substantial damages including valuable rents and profits.
18

19 **146.**Pursuant to 28 U.S.C. § 2201, (Creation of Remedy) and 28 U.S.C. § 1367, (Supplemental
20 Jurisdiction) the Plaintiffs is entitled to a declaration that the property interests claimed by
21 the non-federal defendants are subject to the State of Alaska rights-of way listed in Alaska
22 Statue AS 19.30.400 and the Plaintiff’s public usage interest for the Fortymile Station-Eagle
23 Trail (RST 1594) where they conflict.
24

25
26 **SIXTH CLAIM FOR RELIEF**

27 (AS 09.45.630 – Pleading in the alternative as against the non-federal Defendants)
28

29 **147.**Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 128-146 above.

30 **148.** The State of Alaska holds a legal estate in Fortymile Station-Eagle Trail (RST 1594)
31 rights-of-way through legislative enactment of Alaska Statue AS 19.30.400.
32

33 **149.**The non-federal Defendants purport to be in possession of portions of the Fortymile
34 Station-Eagle Trail (RST 1594) rights-of-way that cross the property in which the
35 Defendants hold an interest.
36
37
38

1 **150.**The State of Alaska has the present right of possession of the rights-of-way and is entitled
2 to recover possession of the same from the non-federal Defendants pursuant to AS
3 09.45.630.
4

5 **151.**The Plaintiffs and the general public, has the continued right of public access along the non-
6 exclusive rights-of way that the State of Alaska possess and is entitled to recover from the
7 non-federal Defendants pursuant to AS 09.45.630.
8

9
10 **COUNT TWO**

11 (Denied Access violating United States Laws – as against Defendant Scott Wood)
12

13 **NATURE OF ACTION**

14 **152.**The (First Claim for Relief) is an action for declaratory relief and for compensatory and
15 punitive damages against Defendant Scott Wood adjudicating that the Plaintiff is entitled to
16 a right-of-way through the space of intersection of the Defendant’s Federal unpatented
17 mining claims for the purposes of the convenient working of the Plaintiff’s mining claims.
18 Defendant Scott Wood has specifically denied the lawful rights-of-way across the
19 Defendant’s Federal unpatented mining claims.
20
21

22 **153.**The (Second Claim for Relief) is an action for compensatory, punitive damages and for
23 declaratory relief that the Defendant Scott Wood’s Federal unpatented mining claims were
24 located unlawfully and on land that was reserved for public use and after the Surface Act of
25 1955. Defendant Scott Wood has specifically claimed that the mining claims were located
26 lawfully, prior to the Surface Act of 1955 and entitle the Defendant to “exclusive surface
27 rights”.
28

29 **154.**The (Third Claim for Relief) is an action for compensatory, punitive damages and
30 declaratory relief that the Defendant Scott Wood’s Federal unpatented mining claims are
31 invalid, void of any valuable mineral deposit that may have been discovered and have “lost”
32 the legitimate distinction as valid mining claims due to the exhaustion of the valuable
33 mineral deposit. Defendant Scott Wood has specifically claimed that the mining claims have
34 been reclaimed and are used for access purposes only to other mining claims.
35
36
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JURISDICTION AND VENUE

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13
155.This court has jurisdiction over this action pursuant to 30 U.S.C Chapter 2 Section 41, 30 U.S.C Chapter 2 Section 26, 30 U.S.C Chapter 2 Section 35, 30 U.S.C Chapter 2 Section 49b and 30 U.S.C Chapter 2 Section 53.

14
15
16
17
156.This court has jurisdiction with respect to the plaintiff and defendant Scott Wood in accordance with 28 U.S.C. Section 1332 because of diversity of citizenship.

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23
PARTIES

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27
157.Plaintiff re-alleges the aforementioned allegations set forth in COUNT ONE paragraphs 11 and 17.

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33
FACTS

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37
158.Plaintiff re-alleges the aforementioned allegations set forth in COUNT ONE paragraphs 20-37.

38
159.The Plaintiff’s State of Alaska Mining Claims ADL 611494 – 611496 and ADL 611578 – 611581 intersect, cross and overlap the Fortymile Station-Eagle Trail and the Federal unpatented mining claims owned by Scott Wood. (See Plaintiffs’ Exhibit 001, 002 and 003.)

160.30 U.S.C Chapter 2 Section 49b states: “The general mining laws of the United States so far as they are applicable to placer-mining claims, as prior to May 4, 1934, extended to the Territory of Alaska, are declared to be in full force and effect in said Territory:”.

161.On or about January 29, 1962 the land reserved by Executive order dated May 24, 1905(Plaintiff’s Exhibit 017) was revoked by Executive Order No. 10355. (See copy of Public Land Order 2599 dated January 29, 1962 , attached hereto as (Plaintiffs Exhibit 021) and made a part hereof by reference.)

162.On or about August 6, 1906, Federal unpatented mining claim (No. (8) Eight Above Discover, (9) Nine Above Discovery and (10) Ten Above Discovery) located by Evergreen Hydraulic Mining Company, currently owned by Defendant Scott Wood, which were located on land reserved by Executive order dated May 24, 1905(Plaintiff’s Exhibit 017); resulting in the Federal unpatented mining claim (No. (8) Eight Above Discover, (9) Nine Above Discovery and (10) Ten Above Discovery) being void and illegitimate. (See copy of Quitclaim Deed, attached hereto as (Plaintiffs Exhibit 022) and made a part hereof by reference.)

1 **163.** On or about August 20, 1960, Wyman Fitch filed the “Affidavit of Annual Labor” as
2 required by law on Federal unpatented mining claim (No. (2) Above Discovery, No. (8)
3 Eight Above Discover, (9) Nine Above Discovery and (10) Ten Above Discovery),
4 currently owned by Defendant Scott Wood, which were located on land reserved by
5 Executive order dated May 24, 1905(Plaintiff’s Exhibit 017); resulting in the Federal
6 unpatented mining claim (No. (2) Above Discovery, No. (8) Eight Above Discover, (9) Nine
7 Above Discovery and (10) Ten Above Discovery) being void and illegitimate. (See copy of
8 “Affidavit of Annual Labor” attached hereto as (Plaintiffs Exhibit 023) and made a part
9 hereof by reference.)
10

11
12 **164.** On or about September 30, 1960, Federal unpatented mining claim (No. (2) Two Below
13 Discovery), currently owned by Defendant Scott Wood, was located on land reserved by
14 Executive order dated May 24, 1905(Plaintiff’s Exhibit 017); resulting in the Federal
15 unpatented mining claim (No.(2) Two Below Discovery) being void and illegitimate. (See
16 copy of Notice of Location of Placer Mining Claim, attached hereto as (Plaintiffs Exhibit
17 024) and made a part hereof by reference.)
18

19
20 **165.** On or about September 30, 1960, Federal unpatented mining claim (No. (2) Two Below
21 Discovery), currently owned by Defendant Scott Wood, was located on land reserved by
22 Executive order dated May 24, 1905(Plaintiff’s Exhibit 017); resulting in the Federal
23 unpatented mining claim (No.(2) Two Below Discovery) being void and illegitimate. (See
24 copy of Notice of Location of Placer Mining Claim, attached hereto as (Plaintiffs Exhibit
25 024) and made a part hereof by reference.)
26

27 **166.** On or about September 30, 1960, Federal unpatented mining claim (No. (3) Three Below
28 Discovery), currently owned by Defendant Scott Wood, was located on land reserved by
29 Executive order dated May 24, 1905(Plaintiff’s Exhibit 017); resulting in the Federal
30 unpatented mining claim (No.(3) Three Below Discovery) being void and illegitimate. (See
31 copy of Notice of Location of Placer Mining Claim, attached hereto as (Plaintiffs Exhibit
32 025) and made a part hereof by reference.)
33

34 **167.** On or about September 28, 1960, Federal unpatented mining claim (No. (11) Eleven Above
35 Discovery), currently owned by Defendant Scott Wood, was located on land reserved by
36 Executive order dated May 24, 1905(Plaintiff’s Exhibit 017); resulting in the Federal
37 unpatented mining claim (No.(11) Eleven Above Discovery) being void and illegitimate.
38

1 (See copy of Notice of Location of Placer Mining Claim, attached hereto as (Plaintiffs
2 Exhibit 026) and made a part hereof by reference.)
3

4 **168.**On or about September 29, 1960, Federal unpatented mining claim (No. (12) Twelve Above
5 Discovery), currently owned by Defendant Scott Wood, was located on land reserved by
6 Executive order dated May 24, 1905(Plaintiff's Exhibit 017); resulting in the Federal
7 unpatented mining claim (No.(12) Twelve Above Discovery) being void and illegitimate.
8 (See copy of Notice of Location of Placer Mining Claim, attached hereto as (Plaintiffs
9 Exhibit 027) and made a part hereof by reference.)
10

11 **169.**On or about October 1, 1960, Federal unpatented mining claim (No. (13) Thirteen Above
12 Discovery), currently owned by Defendant Scott Wood, was located on land reserved by
13 Executive order dated May 24, 1905(Plaintiff's Exhibit 017); resulting in the Federal
14 unpatented mining claim (No.(13) Thirteen Above Discovery) being void and illegitimate.
15 (See copy of Notice of Location of Placer Mining Claim, attached hereto as (Plaintiffs
16 Exhibit 028) and made a part hereof by reference.)
17

18 **170.**On or about October 2, 1960, Federal unpatented mining claim (No. (14) Fourteen Above
19 Discovery), currently owned by Defendant Scott Wood, was located on land reserved by
20 Executive order dated May 24, 1905(Plaintiff's Exhibit 017); resulting in the Federal
21 unpatented mining claim (No.(14) Fourteen Above Discovery) being void and illegitimate.
22 (See copy of Notice of Location of Placer Mining Claim, attached hereto as (Plaintiffs
23 Exhibit 029) and made a part hereof by reference.)
24

25 **171.**On or about October 1, 1960, Federal unpatented mining claim (No. (15) Fifteen Above
26 Discovery), currently owned by Defendant Scott Wood, was located on land reserved by
27 Executive order dated May 24, 1905(Plaintiff's Exhibit 017); resulting in the Federal
28 unpatented mining claim (No.(15) Fifteen Above Discovery) being void and illegitimate.
29 (See copy of Notice of Location of Placer Mining Claim, attached hereto as (Plaintiffs
30 Exhibit 030) and made a part hereof by reference.)
31

32 **172.**On or about October 1, 1960, Federal unpatented mining claim (No. (16) Sixteen Above
33 Discovery), currently owned by Defendant Scott Wood, was located on land reserved by
34 Executive order dated May 24, 1905(Plaintiff's Exhibit 017); resulting in the Federal
35 unpatented mining claim (No.(16) Sixteen Above Discovery) being void and illegitimate.
36
37
38

1 (See copy of Notice of Location of Placer Mining Claim, attached hereto as (Plaintiffs
2 Exhibit 031) and made a part hereof by reference.)

3
4 **173.** On or about September 2, 1961, Federal unpatented mining claim (No. (4) Below),
5 currently owned by Defendant Scott Wood, was located on land reserved by Executive order
6 dated May 24, 1905 (Plaintiff's Exhibit 017); resulting in the Federal unpatented mining
7 claim (No. (4) Below) being void and illegitimate. (See copy of Notice of Location of Placer
8 Mining Claim, attached hereto as (Plaintiffs Exhibit 032) and made a part hereof by
9 reference.)

10
11 **174.** On or about September 4, 1963, Federal unpatented mining claim (No. (3) Above),
12 currently owned by Defendant Scott Wood, was legitimately recorded on unreserved land
13 but is not entitled to the Pre-1955 determination of "exclusive surface rights". (See copy of
14 Notice of Location of Placer Mining Claim, attached hereto as (Plaintiffs Exhibit 033) and
15 made a part hereof by reference.)

16
17 **175.** On or about April 29, 1965, Federal unpatented mining claim (No. (4) Four Above
18 Discovery), currently owned by Defendant Scott Wood, was legitimately recorded on
19 unreserved land but is not entitled to the Pre-1955 determination of "exclusive surface
20 rights". (See copy of Notice of Location of Placer Mining Claim, attached hereto as
21 (Plaintiffs Exhibit 034) and made a part hereof by reference.)

22
23 **176.** On or about April 29, 1965, Federal unpatented mining claim (No. (5) Five Above
24 Discovery), currently owned by Defendant Scott Wood, was legitimately recorded on
25 unreserved land but is not entitled to the Pre-1955 determination of "exclusive surface
26 rights". (See copy of Notice of Location of Placer Mining Claim, attached hereto as
27 (Plaintiffs Exhibit 035) and made a part hereof by reference.)

28
29 **177.** On or about May 4, 1965, Federal unpatented mining claim (No. (6) Six Above Discovery),
30 currently owned by Defendant Scott Wood, was legitimately recorded on unreserved land
31 but is not entitled to the Pre-1955 determination of "exclusive surface rights". (See copy of
32 Notice of Location of Placer Mining Claim, attached hereto as (Plaintiffs Exhibit 036) and
33 made a part hereof by reference.)

34
35 **178.** On or about May 4, 1965, Federal unpatented mining claim (No. (7) Seven Above
36 Discovery), currently owned by Defendant Scott Wood, was legitimately recorded on
37 unreserved land but is not entitled to the Pre-1955 determination of "exclusive surface
38

1 rights". (See copy of Notice of Location of Placer Mining Claim, attached hereto as
2 (Plaintiffs Exhibit 037) and made a part hereof by reference.)
3

4 **FIRST CLAIM FOR RELIEF**

5 (30 U.S.C Chapter 2 Section 41- against the non-federal Defendant Scott Wood)
6

7 **179.**Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 152-178 above.
8

9 **180.**30 U.S.C Chapter 2 Section 41states: "...Where two or more veins intersect or cross each
10 other ...the subsequent location shall have the right-of-way through the space of intersection
11 for the purposes of the convenient working of the mine."
12

13 **181.**30 U.S.C Chapter 2 Section 35 states: "Claims usually called "placers," including all forms
14 of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and
15 patent, under like circumstances and conditions, and upon similar proceedings, as are
16 provided for vein or lode claims;...".
17

18 **182.**Pursuant to 30 U.S.C Chapter 2 Section 41the Plaintiff is entitled to "...rights-of-way
19 through the space of intersection for the purposes of the convenient working of the mine."
20

21 **183.**30 U.S.C Chapter 2 Section 41is a grant of an easement only, to the Plaintiff through the
22 Defendant Scott Wood's Federal unpatented mining claims in order to access the
23 intersecting State mining claims.
24

25 **184.**The Plaintiff, an adjacent mining claim owner, is entitled to rights-of way through
26 Defendant Scott Wood's Federal unpatented mining claims in order to access the
27 intersecting State mining claims.

28 **185.**On or about July 7, 2007, the Defendant, Scott Wood, has specifically denied lawful and
29 reasonable mechanical access rights to the Plaintiff's mining claims by parking a bulldozer
30 in the R.S. 2477 rights-of-way, Fortymile Station-Eagle Trail (RST 1594), resulting in
31 material and substantial damages to the Plaintiff including valuable rents and profits. (See
32 copy of Photo taken on July 7, 2007, attached hereto as (Plaintiffs Exhibit 038) and made a
33 part hereof by reference.)
34

35 **186.**On or about September 2, 2007, the Defendant, Scott Wood, has specifically denied lawful
36 and reasonable mechanical access rights to the Plaintiff's mining claims by constructing an
37
38

1 earthen berm in the R.S. 2477 rights-of-way, Fortymile Station-Eagle Trail (RST 1594),
2 resulting in material and substantial damages to the Plaintiff including valuable rents and
3 profits. (See copy of Photo taken on September 2, 2007, attached hereto as (Plaintiffs
4 Exhibit 039) and made a part hereof by reference.)
5

6 **187.**On or about July 29, 2010, the Defendant, Scott Wood, has specifically denied lawful
7 and reasonable mechanical access rights to the Plaintiff's mining claims, resulting in
8 material and substantial damages including valuable rents and profits. (See copy of E-mails
9 from Larry Jackson, attached hereto as (Plaintiffs Exhibit 40, 41 and 42) and made a part
10 hereof by reference.)
11

12 **188.**On or about October 21, 2010, the Plaintiff through the Administrative Procedures made a
13 formal access complaint to the Bureau of Land Management. (See copy of Plaintiff's cover
14 letter dated October 21, 2010 attached hereto as (Plaintiffs Exhibit 043) and made a part
15 hereof by reference.)
16

17 **189.**On or about November 12, 2010 the Bureau of Land Management denied the Plaintiff's
18 formal access complaint. (See copy of Bureau of Land Management letter dated October 21,
19 2010 attached hereto as (Plaintiffs Exhibit 044) and made a part hereof by reference.)
20

21 **SECOND CLAIM FOR RELIEF**

22 (30U.S.C Chapter 2 Section 26- against the non-federal Defendant Scott Wood)
23

24
25 **190.**Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 179-189 above.
26

27 **191.**30U.S.C Chapter 2 Section 26 states: "...The locators of all mining locations made on any
28 mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no
29 adverse claim existed on the 10th day of May 1872 so long as they comply with the laws of
30 the United States, and with State, territorial, and local regulations not in conflict with the
31 laws of the United States governing their possessory title..."
32

33 **192.**30 U.S.C Chapter 2 Section 35 states: "Claims usually called "placers," including all forms
34 of deposit, excepting veins of quartz, or other rock in place, shall be subject to entry and
35 patent, under like circumstances and conditions, and upon similar proceedings, as are
36 provided for vein or lode claims;..."
37
38

1 **193.**30 U.S.C Chapter 2 Section 49B states: “The general mining laws of the United States so
2 far as they are applicable to placer-mining claims, as prior to May 4, 1934, extended to the
3 Territory of Alaska, are declared to be in full force and effect in said Territory:..”
4

5 **194.**On or before May 17, 1905 the land where the Fortymile Station-Eagle Trail (RST 1594) is
6 located, was accepted by public use and documented in the Presidential Executive Order
7 dated May 24, 1905, which states in part:
8

9 “...the settlers and temporary stampeders have already commenced to abridge the rights of
10 the Signal Corps: to claim its right-of-way...”

11 (See copy of Executive Order dated May 24, 1905 Page 3, attached hereto as (Plaintiffs
12 Exhibit 017.)

13 **195.**At the time the R.S. 2477 grant was accepted, by public use, the Fortymile Station-Eagle
14 Trail (RST 1594) was located on unreserved public land within the meaning of R.S. 2477.

15 **196.**On May 24, 1905 the land where the Fortymile Station-Eagle Trail (RST 1594) is located
16 was reserved by Presidential Executive Order for the United States Army with the
17 reservation subject to valid existing rights. (See Plaintiffs Exhibit 017).
18

19 **197.**Defendant, Scott Wood’s federal unpatented mining claims (No. 2, 8, 9, and 10 above
20 Discovery) were located on reserved federal land; where the Fortymile Station-Eagle Trail
21 (RST 1594) is located, which was accepted by public use, also reserved for public use and
22 documented in the Presidential Executive Order dated May 24, 1905 (See Plaintiffs Exhibit
23 017).
24

25 **198.**Defendant, Scott Wood’s federal unpatented mining claims (No. 2, 8, 9, and 10 Above
26 Discovery) were located on federal land that was reserved for the United States Army with
27 the reservation by Presidential Executive Order. (See Plaintiffs Exhibit 017).
28

29 **199.**Defendant, Scott Wood’s federal unpatented mining claims (No. 2, 8, 9, and 10 Above
30 Discovery) are void and illegitimate since the mining claims were located on federal land
31 reserved for public use.

32 **200.**Defendant, Scott Wood’s federal unpatented mining claims (No. 2, 8, 9, and 10 Above
33 Discovery) are void and illegitimate since the mining claims were located on federal land
34 reserved for the United States Army.
35
36
37
38

1 **201.**Defendant, Scott Wood’s federal unpatented mining claims (No. 11, 12, 13, 14, 15 and 16
2 Above Discovery) are void and illegitimate since the mining claims were located on federal
3 land reserved for public use and were located after the Surface Resources Act of 1955.
4

5 **202.**Defendant, Scott Wood’s federal unpatented mining claims (No. 3, 4, 5, 6, and 7 Above
6 Discovery) were located after the Surface Resources Act of 1955 on federal land that was
7 not reserved for public use.
8

9 **203.**Defendant, Scott Wood’s federal unpatented mining claims (No. 2, 8, 9, 10, 11, 12, 13, 14,
10 15 and 16 Above Discovery) do not comply with the laws of the United States, and with
11 State, territorial, and local regulations.
12

13 **204.**On or about July 7, 2007, the Defendant, Scott Wood claiming exclusive surface rights and
14 has specifically denied lawful and reasonable mechanical access rights to the Plaintiff’s
15 mining claims by parking a bulldozer in the R.S. 2477 rights-of-way, Fortymile Station-
16 Eagle Trail (RST 1594), resulting in material and substantial damages to the Plaintiff
17 including valuable rents and profits. (See Plaintiffs Exhibit 038)
18

19 **205.**On or about September 2, 2007, the Defendant, Scott Wood claiming exclusive surface
20 rights and has specifically denied lawful and reasonable mechanical access rights to the
21 Plaintiff’s mining claims by constructing an earthen berm in the R.S. 2477 rights-of-way,
22 Fortymile Station-Eagle Trail (RST 1594), resulting in material and substantial damages to
23 the Plaintiff including valuable rents and profits. (See Plaintiffs Exhibit 039)
24

25 **206.**On or about July 29, 2010, the Defendant, Scott Wood, claiming exclusive surface rights
26 and has specifically denied lawful and reasonable mechanical access rights to the Plaintiff’s
27 mining claims, resulting in material and substantial damages to the Plaintiff including
28 valuable rents and profits. (See Plaintiffs Exhibit 40, 41 and 42)
29

30 **207.**On or about October 21, 2010, the Plaintiff through the Administrative Procedures made a
31 formal access complaint to the Bureau of Land Management. (See Plaintiffs Exhibit 043)
32

33 **208.**On or about November 12, 2010 the Bureau of Land Management denied the Plaintiff’s
34 formal access complaint. (See Plaintiffs Exhibit 044)
35
36
37
38

1 **THIRD CLAIM FOR RELIEF**

2 (30U.S.C Chapter 2 Section 26- against the non-federal Defendant Scott Wood)

3
4
5 **209.**Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 190-208 above.

6 **210.**30U.S.C Chapter 2 Section 26 states: "...The locators of all mining locations made on any
7 mineral vein, lode, or ledge, situated on the public domain, their heirs and assigns, where no
8 adverse claim existed on the 10th day of May 1872 so long as they comply with the laws of
9 the United States, and with State, territorial, and local regulations not in conflict with the
10 laws of the United States governing their possessory title..."

11
12 **211.**Discovery of minerals is the one absolute necessary prerequisite to the initiation of title to
13 the mineral lands on the public domain.

14 **212.**Discovery of a valuable mineral deposit and nothing else gives a location life. Its existence
15 as a mining claim commences with the date of discovery.

16 **213.**A mining claim can only be validated by the discovery of a valuable mineral deposit.

17 **214.**The validity of a mining claim is determined by a validity examination which incorporates
18 the "Prudent Man Test" and the "Marketability Test".

19 **215.**The "prudent man test" is described as: the best evidence of what a prudent man would do
20 is what a prudent man has done.

21 **216.** Any mining claims previously supported by a valid discovery; may be "lost" due to the
22 exhaustion of the deposit.

23 **217.**The absence of mining production over an extended period of time may in and of itself,
24 establish a prima facie case of the invalidity of a mining claim.

25 **218.**Federal unpatented mining claims (No. (8) Eight Above Discover, (9) Nine Above
26 Discovery and (10) Ten Above Discovery) have been mined on since at least 1906 by some
27 (5) five different miners.

28 **219.**On or about May 11, 2007 the Defendant, Scott Wood filed a State of Alaska Annual Placer
29 Mining Application. (See copy of State of Alaska Annual Placer Mining Application dated
30 May 11, 2008 attached hereto as (Plaintiffs Exhibit 045) and made a part hereof by
31 reference.)

1 **220.**On or about May 11, 2007 the Defendant, Scott Wood stated in the State of Alaska Annual
2 Placer Mining Application that Federal unpatented mining claims (No. 7 and 8 Above
3 Discovery) are going to be reclaimed. (See Plaintiffs Exhibit 045)
4

5 **221.**On or about May 11, 2007 the Defendant, Scott Wood stated in the State of Alaska Annual
6 Placer Mining Application that Federal unpatented mining claims (No. 9, 10, 11, 12, 13, 14,
7 15, and 16 Above Discovery) are going to be explored and used for access. (See Plaintiffs
8 Exhibit 045)
9

10 **222.**On or about February 12, 2008 the Defendant, Scott Wood filed a five (5) year State of
11 Alaska Annual Placer Mining Application. (See copy of State of Alaska Annual Placer
12 Mining Application dated February 12, 2008 attached hereto as (Plaintiffs Exhibit 046) and
13 made a part hereof by reference.)
14

15 **223.**On or about February 12, 2008 the Defendant, Scott Wood stated in the State of Alaska
16 Annual Placer Mining Application that Federal unpatented mining claims (No. 7 and 8
17 Above Discovery) are going to be reclaimed. (See Plaintiffs Exhibit 046)
18

19 **224.**On or about February 12, 2008 the Defendant, Scott Wood stated in the State of Alaska
20 Annual Placer Mining Application that Federal unpatented mining claims (No. 9, 10, 11 and
21 12 Above Discovery) are going to be used for access to the actual mining operation located
22 on federal unpatented mining claims (No.14 Above Discovery). (See Plaintiffs Exhibit 046)
23

24 **225.**On or about February 12, 2008 the Defendant, Scott Wood being a prudent miner admitted
25 in the State of Alaska Annual Placer Mining Application that Federal unpatented mining
26 claims (No. 7, 8, 9, 10, 11 and 12 Above Discovery) are void of an valuable mineral deposit
27 by reclaiming and using those mining claims for access to the actual mining operation
28 located on federal unpatented mining claims (No.14 Above Discovery). (See Plaintiffs
29 Exhibit 046)
30

31 **226.**The absence of mining production by the Defendant Scott Wood on Federal unpatented
32 mining claims (No. 2, 3, and 4 Below Discovery and 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12
33 Above Discovery) establish a prima facie case of the invalidity of those mining claims.
34

35 **227.**The Bureau of Land Management accepted the reclamation work on Federal unpatented
36 mining claims (No. 2, 3, and 4 Below Discovery and 2, 3, 4, 5, 6, 7, and 8 Above
37 Discovery).
38

1 **228.**The prima facie evidence demonstrated by the absence of mining production by the
2 Defendant Scott Wood on Federal unpatented mining claims (No. 2, 3, and 4 Below
3 Discovery and 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 Above Discovery) devolves the burden to
4 the Defendant to prove by a preponderance of evidence that the Defendant Scott Wood's
5 Federal unpatented mining claims (No. 2, 3, and 4 Below Discovery and 2, 3, 4, 5, 6, 7, 8, 9,
6 10, 11, and 12 Above Discovery) are in fact valid.
7

8 **229.**Defendant, Scott Wood's Federal unpatented mining claims (No. 2, 3, and 4 Below
9 Discovery and 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 Above Discovery) are void of any
10 valuable mineral deposit that may have been discovered and have "lost" the legitimate
11 distinction as valid mining claims due to the exhaustion of the valuable mineral deposit.
12

13 **230.**Defendant, Scott Wood's Federal unpatented mining claims (No. 2, 3, and 4 Below
14 Discovery and 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 Above Discovery) are void of any
15 valuable mineral deposit and do not comply with the laws of the United States, and with
16 State, territorial, and local regulations.
17

18 **231.**The United States, acting through the Secretary of the Interior and his or her delegates,
19 retains the authority, under the mining laws, to determine for itself, at any time prior to
20 patent, whether the claimant has, in fact, discovered a valuable mineral deposit.
21

22 **232.**On or about July 7, 2007, the Defendant, Scott Wood claiming exclusive surface rights and
23 has specifically denied lawful and reasonable mechanical access rights to the Plaintiff's
24 mining claims by parking a bulldozer in the R.S. 2477 rights-of-way, Fortymile Station-
25 Eagle Trail (RST 1594), resulting in material and substantial damages to the Plaintiff
26 including valuable rents and profits. (See Plaintiffs Exhibit 038)
27

28 **233.**On or about September 2, 2007, the Defendant, Scott Wood claiming exclusive surface
29 rights and has specifically denied lawful and reasonable mechanical access rights to the
30 Plaintiff's mining claims by constructing an earthen berm in the R.S. 2477 rights-of-way,
31 Fortymile Station-Eagle Trail (RST 1594), resulting in material and substantial damages to
32 the Plaintiff including valuable rents and profits. (See Plaintiffs Exhibit 039)
33

34 **234.**On or about July 29, 2010, the Defendant, Scott Wood, claiming exclusive surface rights
35 and has specifically denied lawful and reasonable mechanical access rights to the Plaintiff's
36 mining claims, resulting in material and substantial damages to the Plaintiff including
37 valuable rents and profits. (See Plaintiffs Exhibit 40, 41 and 42)
38

1 **235.**On or about October 21, 2010, the Plaintiff through the Administrative Procedures made a
2 formal access complaint to the Bureau of Land Management. (See Plaintiffs Exhibit 043)

3
4 **236.**On or about November 12, 2010 the Bureau of Land Management denied the Plaintiff's
5 formal access complaint. (See Plaintiffs Exhibit 044)

6
7
8 **COUNT THREE**

9 **NATURE OF ACTION**

10 **237.**The (First Claim for Relief) is an action for declaratory relief, adjudicating the Rights of the
11 Plaintiff and to recognize and validate the RS 2477 rights-of-way commonly called the
12 "Fortymile Station-Eagle Trail" ("RST 1594). The Defendants have intentionally or
13 unintentionally conspired to deprive the Plaintiff the rights-of-way access provided for under
14 the United States Constitutional Amendments, the United States Laws, the State of Alaska
15 Constitution and State of Alaska Laws.
16

17
18 **JURISDICTION AND VENUE**

19 **238.**This court has jurisdiction over this action pursuant to 42 U.S.C. § 1983 (Civil Action for
20 Deprivation of Rights), 18 U.S.C. § 241 and 242, (Conspiracy Against Rights).

21 **239.**The events or omissions under color of legal authority that are the subject of this action
22 were located within the boundaries of the District of Alaska and venue of the claims stated
23 herein is proper pursuant to 28 U.S.C. § 1391 (e) (2) (Venue Generally) and 28 U.S.C. §
24 81A (Alaska).
25

26 **240.**This court has jurisdiction with respect to the plaintiff and defendant Scott Wood in
27 accordance with 28 U.S.C. Section 1332 because of diversity of citizenship.
28 This court has supplemental jurisdiction over the pendant state law claims pursuant 28 U.S.C.
29 § 1367 (a), (Supplemental Jurisdiction).
30

31
32 **PARTIES**

33
34 **241.**Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 11-19 above.
35
36
37
38

1
2
3 **FIRST CLAIM FOR RELIEF**

4 (Denied Access Rights violating United States Constitutional Amendments and the
5 State of Alaska Constitution – as against all Defendants)

6 **242.**Plaintiff re-alleges the aforementioned allegations set forth in paragraphs 20-236 above.

7
8 **243.**On or about November 17, 1972, the Bureau of Land Management, District Manager
9 requested “that the Land Office records be made to reflect a public right-of-way on federal
10 land as indicated on the attached map.” (See copy of Memorandum dated November 17,
11 1972, attached hereto as (Plaintiffs Exhibit 047) and made a part hereof by reference.)

12
13 **244.**On or about February 4, 1974, the Bureau of Indian Affairs, Realty Officer requested
14 information about “F-19336 Right-of-way 44LD 513, 1000 feet Centerline Eagle-Valdez”
15 reservation. (See copy of Letter dated February 4, 1974, attached hereto as (Plaintiffs
16 Exhibit 048) and made a part hereof by reference.)

17
18 **245.**On or about April 8, 1974, the State of Alaska, Commissioner of Highways transmitted to
19 the Bureau of Land Management “one set of blueline prints and one set of IBM listings”
20 marked as Existing Trail System for the State of Alaska. (See copy of Memorandum dated
21 April 8, 1974, attached hereto as (Plaintiffs Exhibit 049) and made a part hereof by
22 reference.)

23
24 **246.**The set of blueline prints and one set of IBM listings marked as Existing Trail System for
25 the State of Alaska was not marked received until December 13, 1984. (See Plaintiffs
26 Exhibit 049)

27
28 **247.**On or about February 17, 1976, the Bureau of Land Management, District Manager
29 changed the width of the Fortymile Station-Eagle Trail from 1000 feet either side of
30 centerline to 50 feet either side of centerline. The District Manager also stated: “...public
31 access along the Eagle-Valdez and Goodpaster Telegraph lines will be guaranteed by a
32 100’ right-of-way. In accordance with 43 CFR 2862.0-3 (Telephone and Telegraph Lines /
33 Authority).” (See copy of Memorandum dated February 17, 1976, attached hereto as
34 (Plaintiffs Exhibit 050) and made a part hereof by reference.)

35
36 **248.**On or about April 10, 1979, the Bureau of Land Management, District Manager stated:
37 “One of the ANCSA adjudicators has verbally requested that the notation for this
38

1 WAMCATS telegraph line be removed from our records.” (See copy of Memorandum dated
2 April 17, 1979, attached hereto as (Plaintiffs Exhibit 051) and made a part hereof by
3 reference.)
4

5 **249.**On or about April 10, 1979, without public comment, the Bureau of Land Management,
6 District Manager closed the public access RS 2477 Fortymile Station-Eagle Trail rights-of-
7 way by approving: “The 44LD513 notation should be removed from our records and case
8 file F-19336 be closed.” (See Plaintiffs Exhibit 051)
9

10 **250.**Without public comment and under the color of law, the Bureau of Land Management,
11 District Manager closed the public access RS 2477 Fortymile Station-Eagle Trail rights-of-
12 way facilitating the intentional policy of the Defendants to deny access to public lands by
13 selecting public lands that are along reserved roadways, then transferring those selected
14 lands without reserving historical RS 2477 rights-of-way for public access through those
15 lands. (See Plaintiffs Exhibit 051)
16

17 **251.**On or about October 28, 2009, a meeting was held at the Bureau of Land Management,
18 Fairbanks District Office with some of the Federal Defendants under the guise of explaining
19 the Plaintiff’s actions regarding the use of RS 2477 Fortymile Station-Eagle Trail rights-of-
20 way.
21

22 **252.**Under the color of law and during the October 28, 2009 meeting, the Plaintiff’s was
23 subjected to mass interrogation and intimidation tactics also threatened with trespass
24 violation with the intentional purpose of denying the Plaintiff the continued right of public
25 access along the non-exclusive use Forty mile Station-Eagle Trail. (See copy of E-mail
26 correspondence dated October 28, 2009, attached hereto as (Plaintiffs Exhibit 052 and 053)
27 and made a part hereof by reference.)
28

29 **253.**On or about November 29, 2009 the Bureau of Land Management confirmed that the Forty
30 mile Station-Eagle Trail was recommended to be reserved because it is; “...necessary to
31 access isolated public lands in the NW ¼ of the township and allow continued use of EIN 62
32 C5...” (See copy of E-mail correspondence dated November 29, 2009, attached hereto as
33 (Plaintiffs Exhibit 054) and made a part hereof by reference.)
34

35 **254.**On or about November 6, 2009, Larry Jackson, Resources Branch Supervisor of the Bureau
36 of Land Management requested “... a casefile audit of Mr. Woods Federal claims for a
37 written determination of whether they qualify as pre July 23, 1955 claims. (See copy of E-
38

1 mail correspondence dated November 6, 2009, attached hereto as (Plaintiffs Exhibit 055)
2 and made a part hereof by reference.)

3
4 **255.** On or about December 17, 2009, Melody Smyth, Mineral Law Specialist of the Bureau of
5 Land Management made the determination that Defendant Scott Wood's Federal mining
6 claims (4 thru 12 Above Discovery) qualify as pre July 23, 1955 claims. (See copy of
7 Memo to File dated December 17, 2009, attached hereto as (Plaintiffs Exhibit 055) and
8 made a part hereof by reference.)

9
10 **256.** The determination by Melody Smyth; that Defendant Scott Wood's Federal mining claims
11 (4 thru 12 Above Discovery) qualify as pre July 23, 1955 claims is clearly flawed,
12 inaccurate and erroneous since the mining claims were located on land that was reserved.
13 (See Plaintiffs Exhibit 017)

14
15 **257.** The determination by Melody Smyth; that Defendant Scott Wood's Federal mining claims
16 (4 thru 12 Above Discovery) qualify as pre July 23, 1955 claims is clearly flawed,
17 inaccurate and erroneous since the mining claims were located in some other person's name
18 and a different date . (See Plaintiffs Exhibit 026, 027, 034, 035, 036 and 037)

19
20 **258.** The flawed, inaccurate and erroneous determination by Melody Smyth; that Defendant
21 Scott Wood's Federal mining claims qualify as pre July 23, 1955 has caused the intentional
22 determination that Defendant Scott Wood has "exclusive surface rights".

23
24 **259.** The flawed, inaccurate and erroneous determination by Melody Smyth; that Defendant
25 Scott Wood's Federal mining claims qualify as pre July 23, 1955 has caused the intentional
26 or unintentional denial of the Plaintiff's "continued right of public access along the non-
27 exclusive use Forty mile Station-Eagle Trail".

28
29 **260.** Plaintiff's Exhibits 008-009 clearly set forth the "the continued right of public access along
30 the non-exclusive use Forty mile Station-Eagle Trail".

31
32 **261.** Plaintiff's Exhibits 008-009 clearly set forth the United States' recognition of the Fortymile
33 Station-Eagle Trail as a valid RS 2477 right-of-way.

34
35 **262.** After the Plaintiff acquired his possessory interests in the mining claims, the United States
36 refused to recognize the Fortymile Station-Eagle Trail as a valid RS 2477 Trail.

37
38 **263.** The State of Alaska, as a matter of law, has accepted the Fortymile Station-Eagle Trail
grant, contrary to assertions made by the United States. The assertion by the United States

1 that the State of Alaska has not accepted this grant effectively deprives the Plaintiff's
2 possession and enjoyment of his claims without due process of law in violation the Fourth
3 and Fourteenth amendments to the United States Constitution.
4

5 **264.**The Defendants jointly or severely have intentionally or unintentionally conspired to
6 disregard and deprive the Plaintiffs entitlement to "equal rights" of access along Fortymile
7 Station-Eagle Trail (RST 1594) rights-of-way guaranteed by the State of Alaska
8 Constitution Section 1. (Inherent Rights) and Article V and XIV of the Amended United
9 States Constitution (Due Process and Privileges and Immunities).
10

11 **265.**The Defendants jointly or severely have intentionally or unintentionally conspired to
12 disregard and deprive the Plaintiffs "equal protection under the law" to the right of access
13 along Fortymile Station-Eagle Trail (RST 1594) rights-of-way guaranteed by the State of
14 Alaska Constitution Section 1 (Inherent Rights)) and Article V and XIV of the Amended
15 United States Constitution (Due Process and Privileges and Immunities).
16

17 **266.**The Defendants jointly or severely have intentionally or unintentionally conspired to
18 disregard and negate the Defendants "corresponding obligations to the people and to the
19 State" and the Plaintiffs required by the State of Alaska Constitution Section 1 (Inherent
20 Rights)) and Article V and XIV of the Amended United States Constitution (Due Process
21 and Privileges and Immunities).
22

23 **267.**The Defendants jointly or severely have intentionally or unintentionally conspired to
24 disregard and deprive the Plaintiffs' "property interests" in State of Alaska Mining Claims
25 ADL 611494 – 611496 and ADL 611578 – 611581 by limiting and or prohibiting access
26 along Fortymile Station-Eagle Trail (RST 1594) rights-of-way violating the State of Alaska
27 Constitution Section 7 (Due Process) and Article V and XIV of the Amended United States
28 Constitution (Due Process and Privileges and Immunities)..
29

30 **268.**The Defendants jointly or severely have intentionally or unintentionally conspired to
31 disregard and deprive the Plaintiffs the right to "fair and just treatment in the course of
32 legislative and executive investigations", violating the State of Alaska Constitution Section
33 7 (Due Process) and Article V and XIV of the Amended United States Constitution (Due
34 Process and Privileges and Immunities).
35

36 **269.**The Defendants jointly or severely have intentionally or unintentionally conspired to
37 deprive and divest the Plaintiffs lawful "interests in lands" specifically State of Alaska
38

1 Mining Claims ADL 611494 – 611496 and ADL 611578 – 611581 by obstructing or
2 frustrating reasonable right of access along Fortymile Station-Eagle Trail (RST 1594) rights-
3 of-way to the Plaintiff’s State of Alaska mining claims violating the State of Alaska
4 Constitution Article VIII, Section 16 (Protection of Rights) and Article V and XIV of the
5 Amended United States Constitution (Due Process and Privileges and Immunities).
6

7 **270.**The Defendants have caused the Plaintiffs to suffer material and substantial damages,
8 including valuable rents and profits, by deprive the Plaintiffs lawful and reasonable right of
9 access along Fortymile Station-Eagle Trail (RST 1594) rights-of-way, to the Plaintiff’s
10 mining claims.
11

12
13
14
15 **PRAYER FOR RELIEF**
16

17 NOW AND THEREFORE, the Plaintiffs request a **Jury Trial** on **ALL COUNTS** allowed for
18 by law.
19

20 NOW AND THEREFORE, the Plaintiffs pray for Judgment as to **COUNT ONE**:

- 21 a. A decree against the Defendant, United States of America and Defendants, Ken Salazar
22 in his capacity as the Secretary of the Department of Interior, Julia Dougan in her
23 capacity as the acting State Director of the Alaska State Office, Bureau of Land
24 Management, Department of Interior, Robert W. Schneider in his capacity as the District
25 Manager of the Fairbanks District Office, Bureau of Land Management, Department of
26 Interior and Lenore Heppler in her capacity as Field Manager of the Eastern Interior Field
27 Office, Bureau of Land Management, Department of Interior, quieting title to the
28 Fortymile Station-Eagle Trail (RST 1594) to the State of Alaska as rights-of-way created
29 under R.S.2477 for the benefit of the Plaintiff as well as the general public in accordance
30 with Alaska Statue (AS 19.30.400.).
31
32 b. A declaration that the property interests claimed by the non-federal Defendants are
33 subject to the RS 2477 Fortymile Station-Eagle Trail (RST 1594) rights-of-way where
34 they conflict.
35
36
37
38

- 1 c. A decree against the non-federal Defendants quieting title to the Fortymile Station-Eagle
2 Trail (RST 1594) in the State of Alaska where such rights-of-way crosses land in which a
3 non-federal Defendant claims an interest, pursuant to AS 09.45.010.
4
5 d. An award for loss of Rents and Profits against Defendant United States not to exceed ten
6 thousand dollars (\$10,000.00).
7
8 e. An award for loss of Rents and Profits against the Non-Federal Defendant not to exceed
9 ten thousand dollars (\$10,000.00).
10
11 f. An award of costs incurred by the Plaintiffs and such other fees as may be allowed by
12 applicable law.
13
14 g. Such other relief as the Court deems appropriate.

15 NOW AND THEREFORE, the Plaintiffs pray for Judgment as to **COUNT TWO**:

- 16 h. A declaration that the Federal unpatented mining claims of the Defendant, Scott Wood
17 are subject to the rights-of way through the Defendant's mining claims for access to the
18 Plaintiff's State mining claims.
19
20 i. A declaration that the Defendant Scott Wood's Federal unpatented mining claims of (No.
21 3, 4, 5, 6, and 7 Above Discovery) were located after the Surface Resources Act of 1955
22 and are not given the distinction of "exclusive surface rights".
23
24 j. A declaration that the Defendant Scott Wood's Federal unpatented mining claims (No. 2,
25 8, 9, 10, 11, 12, 13, 14, 15 and 16 Above Discovery) do not comply with the laws of the
26 United States, and with State, territorial, and local regulations due to the fact that the
27 mining claims were located on federal land reserved for public use.
28
29 k. A declaration that the Defendant Scott Wood's Federal unpatented mining claims (No. 2,
30 3, and 4 Below Discovery and 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12 Above Discovery) are
31 void of any valuable mineral deposit that may have been discovered and have "lost" the
32 legitimate distinction as valid mining claims due to the exhaustion of the valuable
33 mineral deposit.
34
35 l. An award of Compensatory Damages for loss of Rents and Profits against defendant
36 Scott Wood exceeding one-hundred thousand dollars (\$100,000.00).
37
38 m. An award of Punitive Damages in excess of one-hundred thousand dollars (\$100,000.00).

- n. An award of costs incurred by the Plaintiffs and such other fees as may be allowed by applicable law.
- o. Such other relief as the Court deems appropriate.

NOW AND THEREFORE, the Plaintiffs pray for Judgment as to **COUNT THREE**:

- p. A decree officially recognizing the Fortymile Station-Eagle Trail (RST 1594) was created under R.S.2477 for the benefit of the Plaintiff as well as the general public in accordance with Alaska Statue (AS 19.30.400.).
- q. A decree requiring the Bureau of Land Management to officially recognize in the Public Records, the RS 2477 Fortymile Station-Eagle Trail (RST 1594) rights-of-way
- r. Compensatory Damages in the amount of one dollar (\$1.00)
- s. Punitive Damages in the Amount of one million dollars (1,000,000.00).
- t. An award of costs incurred by the Plaintiffs and such other fees as may be allowed by applicable law.
- u. Such other relief as the Court deems appropriate.

Respectfully submitted this 2nd day of December, 2011

Carey Mills

CERTIFICATE OF SERVICE

1 I, Carey Mills, hereby certify that on December 2, 2011, a true copy of the PLAINTIFF'S
2 THIRD AMENDED COMPLAINT AND EXHIBITS was served by United States mail, first
3 class, postage paid to the following Defendant and counsel for Defendants.
4

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5 Respectfully submitted this 2nd day of December, 2011 at Fairbanks, Alaska
6
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9

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