

# STATE OF ALASKA

## CITIZENS' ADVISORY COMMISSION ON FEDERAL AREAS

*SARAH PALIN,*  
*Governor*

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February 13, 2009

Richard Svobodny  
Acting Attorney General  
State of Alaska  
Department of Law  
P.O. Box 110300  
Juneau, Alaska 99811-0300

Dear Mr. Svobodny:

The Citizens' Advisory Commission on Federal Areas is requesting the Department of Law initiate a Quiet Title action on the Mosquito Fork of the Fortymile Wild and Scenic River. This portion of the Fortymile River has been determined to be non-navigable by the Bureau of Land Management. According to the Department of Natural Resources, there is sufficient information to support a determination of navigable under acceptable criteria.

The Fortymile River was added to the National Wild and Scenic River System by the Alaska National Interest Lands Conservation Act. This was done despite the long history of mining in the Fortymile area and the existence of hundreds of Federal and State mining claims. Conflict between miners and the Bureau of Land Management began at designation and continues today. The conflict is the result of differing claims ownership and management authority within the river corridor. Scores of mining claims remain in the Fortymile drainage. In 2008, there were 7 Annual Placer Mining Applications (APMA) filed on the Mosquito Fork.

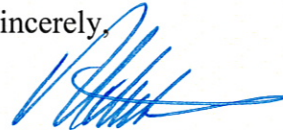
The BLM has determined that the Fortymile is navigable from its mouth upstream to the confluence of the North and South Forks; the South Fork from the North Fork upstream to Chicken; and the North Fork from the South Fork upstream to the Kink. The submerged lands beneath these river segments are excluded from the boundaries of the river corridor and miners are able to operate under State regulations.

The BLM non-navigable determination for the Mosquito Fork means that the submerged lands in this segment are considered by BLM to be part of the river corridor and subject to federal management authority. Consequently, those people holding an APMA on the Mosquito Fork have been told by the BLM that they cannot operate suction dredges in this segment and are threatened with citations if they do so.

This Commission is aware that consideration has been given to using the Recordable Disclaimer of Interest (RDI) process to resolve the title issue on the Mosquito Fork. We respectfully submit that this would be a waste of time and resources. The RDI process is applicable where the State and BLM are in general agreement that the lands in question are not federally owned and the United States does not hold a valid interest in the lands. This is not the case here as the BLM clearly makes the claim for federal ownership. It would be unfortunate to pursue the RDI process unsuccessfully and still have to go to court to quiet title.

The Commission is aware of the costs, both in funding and staff resources, of pursuing this in the courts. However, we believe that it is important to resolve this issue. We are available to provide any support we can in this effort.

Sincerely,



Rick Schikora  
Chairman

Cc: Gov. Palin  
Sen. Gary Stevens  
Rep. Mike Chenault  
Rep. Mike Kelly  
Comm. Tom Irwin  
Comm. Denby Lloyd