

## GOVERNMENT – FEDERAL

*Lauri Adams*

*Harvard Law School '78*

*Wasserstein Fellow '97-'98*

*Regional Solicitor for Alaska*

*U.S. Department of the Interior*

*Anchorage, Alaska*

*The views expressed here are personal and do not represent the views of the agency or the United States.*

My day usually starts with a flurry of telephone calls and electronic mail messages from the Washington, D.C. headquarters of the Solicitor's Office regarding pressing matters of national attention that must be handled immediately.

For example, the Department is proposing legislation to resolve longstanding claims of highway rights-of-way across the federal public lands under a (now repealed) federal statute enacted in 1866 (known as R.S. 2477) that provided that the right-of-way for the construction of public highways over the public lands "is hereby granted." The law was repealed in 1976, but "vested" rights-of-way were preserved. My job, as part of a team of lawyers and policymakers for the Department, is to figure out the best way to reconcile the intent of the old, repealed statute with the realities of modern day federal public lands management. The State of Alaska has asserted hundreds of R.S. 2477 claims for primitive trails that criss-cross national parks, wildlife refuges and wilderness areas in Alaska. Virtually all are mere rough tracks used by hikers and dogsleds, but the State asserts that each of these trails could be upgraded to modern highway standards in the State's discretion and with no Federal controls. A proliferation of highways on these protected lands would create a major threat to vulnerable wildlife and other resources of the National Parks and Wildlife Refuges in Alaska.

A conference call is scheduled at 9:00 am to discuss with the Solicitor and Secretary's Office in Washington, D.C. our strategy for expanded implementation of the federal subsistence law in rural Alaska. The Department's task has been made infinitely more complicated by a recent Ninth Circuit decision requiring a federal takeover from the State of Alaska of subsistence fisheries management in portions of many river drainages in the state. The Governor's Office in Alaska is attempting to forge compromise legislation which would comply with federal law and allow the state to resume subsistence fish and game management for the whole State. The Alaska Congressional delegation has sent the Secretary a list of written questions that the Department must respond to this week.

The Secretary's Office requests a rush review of draft testimony the Department intends to present at a Congressional hearing scheduled to be held on new proposed Alaska lands legislation next week. I divide the work up among several of the attorneys in our office who have expertise in different areas of public lands law.

I review the latest budget projections with my Administrative Officer at 10:30 am and we discuss ways to hold down travel expenses to ensure we have travel money available to cover a round of administrative law judge evidentiary hearings to be held in small, remote Alaska villages later on in the fiscal year. Our attorneys represent the Department's position at these hearings.

I meet with an attorney at 11:00 am to discuss a complex land exchange agreement we are negotiating with an Alaska Native Corporation in an effort to consolidate important landholdings within the boundaries of a national wildlife refuge and acquire them in exchange for less sensitive public lands elsewhere that the Corporation is interested in acquiring.

At 1:00 pm I begin the research to prepare a legal opinion for a client agency on an interesting question involving wild and Scenic Rivers management. With a few interruptions I am able to work on this matter for a couple of hours this afternoon.

At 2:00 pm a hearing is scheduled before a federal magistrate concerning a criminal misdemeanor violation of the Marine Mammal Protection Act. One of my attorneys handles the trial for the government as an appointed Special Assistant U.S. Attorney.

A Department of Justice attorney comes to the office at 3:00 pm to discuss a particularly difficult water law matter that is currently in litigation with the State of Alaska. Boundary disputes and disagreements over the ownership of submerged lands beneath rivers across the State arise with some regularity and often are litigated. For example, the U.S. just recently won a landmark case in the U.S. Supreme Court in a coastal boundary dispute with the State of Alaska that will ensure that all the barrier islands and sandspits along the northern coast of the Arctic National Wildlife Refuge will remain under federal ownership and management as part of the Arctic Refuge. State oil and gas leasing planned for just offshore the refuge may have adverse impacts on certain refuge resources, however.

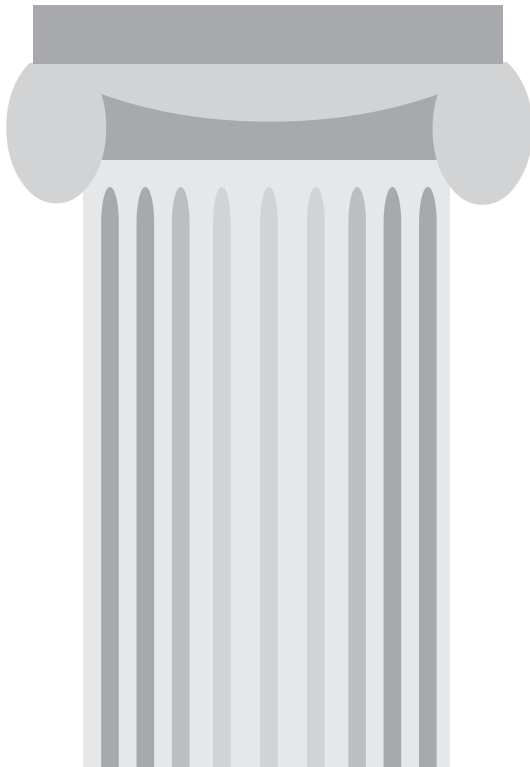
At 4:00 pm I meet with the Fish and Wildlife Service to discuss concerns over the use of jet boats and airboats on sensitive refuge waterways. The noise and wake from these types of watercraft disturb wildfowl and cause the banks to erode into streams. We discuss under what circumstances the Fish and Wildlife Service may take action to regulate or restrict these motorboats in order to protect refuge resources.

At the end of the day, I prepare an brief report for the Solicitor on the status of ongoing litigation between the State of Alaska and an Indian tribal government which has now reached the U.S. Supreme Court on a petition for certiorari that has been accepted for Supreme Court review on the merits. Both sides would like the Interior Department to participate as amicus in the case.



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Alexa Shabecoff, Esq.  
Director

Kiran J. Singh  
OPIA Summer Fellow

Bernard Koteen Office of Public Interest Advising  
Harvard Law School  
Pound 328  
Cambridge, MA 02138  
(617) 495-3108  
Fax: (617) 496-4944