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UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

ROBERT HALE, et al.,)
)
 Plaintiffs,)
)
 v.)
)
GALE NORTON, Secretary of the Interior, et al.,)
)
 Defendants.)
)

)
NATIONAL PARK CONSERVATION)
ASSOCIATION, et al.,)
)

)
 Defendant-Intervenors.)

No. A03-0257-CV (RRB)

**DECLARATION OF
NEIL MACKINNON IN
SUPPORT OF MOTION FOR
RECONSIDERATION**

I, Neil MacKinnon, declare as follows:

1. The facts set forth in this declaration are based on my personal knowledge and, if called as a witness, I could and would competently testify thereto under oath. As to those matters which reflect a matter of opinion, they reflect my personal opinion and judgment upon the matter. The following is gathered from a journal I kept during the first week I worked in and around McCarthy, Alaska.

2. I currently reside in Juneau, Alaska.

3. I became familiar with the McCarthy-Green Butte Road while working for Phil Holdsworth and Inexco Oil Company. I performed assessment work on the Nikolai group of mining claims and regional exploration for copper. The Nikolai group was located on the next tributary downstream from the Green Butte, so I became very familiar with that immediate area and the McCarthy-Green Butte Road.

4. I arrived in McCarthy on June 19, 1970. My first day on the Nikolai claims, June 20, 1970, I noted the following: "While checking a line of posts I heard a group of three shots from the valley floor below and then what sounded like a call for help. I climbed down to the valley floor where Anaconda has a small camp and found out that they were shooting at ground squirrels." The Anaconda camp was just off the road on the opposite side of McCarthy Creek from where Nikolai Creek enters.

5. On another occasion, I made a stream sampling traverse down Nikolai Creek and was picked up by a helicopter. During that traverse, I walked down the road for a short ways until I found a suitable pickup point.

6. A third occasion of use of the road near Nikolai Creek occurred when my helper and I were socked in with fog and the helicopter could not fly in to pick us up. According to plan, we made our way down the Nikolai trail and down the road. We made it several miles down the McCarthy-Green Butte Road before the helicopter came along and took us back to McCarthy. The upper part of the road was easily passable for vehicles at that time. No brush or alders in the center,

or sides, for that matter. The only problem points came where the creek had meandered to cut into the road and one had to either cross to the other side or wade the creek.

7. On two other occasions in July of 1970, I traveled up the McCarthy-Green Butte Road. One trip was in a Jeep and a second time in an old military ambulance. Both had four-wheel drive and we had to at times drive through and across McCarthy Creek. Other than at those points, it was a good road and easily passable. We were checking our bad weather escape route from the Nikolai claims and seeing how far we could get with the vehicles.

8. During this time, there was a man named Gordon Burdick who owned or leased the Green Butte mine. He had an old military four-wheel drive vehicle. The truck was similar to a Chevrolet Suburban but had large tires and a high wheel base. Mr. Burdick would come to McCarthy from the Green Butte for the weekly mail plane or when the water in McCarthy Creek was low enough for him to cross. Mr. Burdick also had a bulldozer that he was working at getting running so he could work on the creek crossings.

I declare under penalty of perjury that the foregoing is true and correct and that this declaration was executed this ____ day of November, 2003, at _____, Alaska.

NEIL MACKINNON