

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES
OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

- ☐ 400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FAX: (907) 465-3886
- ☐ 550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

March 10, 2006

Henri Bisson
Director, Alaska State Office
Bureau of Land Management
222 W. 7th Avenue, #13
Anchorage, Alaska 99513-7599

BLM AK S0 954
ANCHORAGE, AK
2006 MAR 10 PM 2:54

Re: Recordable Disclaimer of Interest Application for George River

Dear Mr. Bisson:

Pursuant to 43 CFR §1864, the State of Alaska files this application for a recordable disclaimer of interest for lands underlying George River.

I. DESCRIPTION OF WATERWAY

This application is submitted for all submerged lands lying within the bed of George River, between the ordinary high water lines of the left and right banks beginning at its source in Section 27 of Township 29 North, Range 42 West, Seward Meridian, Alaska, southerly to its confluence with the Kuskokwim River in Section 21 of Township 21 North, Range 46 West, Seward Meridian, Alaska. As a general rule, any sloughs, braids or channels which carry water from a navigable river are an integral part of the river and thus, are navigable as well. Maps highlighting the river and a legal description of the townships and ranges underlying the river are enclosed.

II. WAIVER REQUEST

As previously discussed with the BLM Alaska State Director, the State requests a waiver under §1864.1-2(d) of the requirement of 43 CFR §1864.1-2(c)(1) for a description based on a public land survey or certified metes and bounds survey because the map and legal description included here clearly identify the land subject to this application.

“Develop, Conserve, and Enhance Natural Resources for Present and Future Alaskans”

Re: Recordable Disclaimer of Interest Application for George River

March 10, 2006

Page 2 of 5

III. BASIS FOR THE STATE'S REQUEST FOR A RECORDABLE DISCLAIMER OF INTEREST

Navigability of the waterway - The State's application for a Recordable Disclaimer of Interest is based on the Equal Footing Doctrine; the Submerged Lands Act of 1953; the Submerged Lands Act of 1988; the Alaska Statehood Act; or any other legally cognizable reason. BLM may disclaim interest in the submerged lands on any of the grounds that apply.

Because George River is navigable, Alaska owns the submerged lands underlying the river by virtue of the Equal Footing Doctrine and the Submerged Lands Acts. Under the Equal Footing Doctrine, new states created from federal territories are admitted to the Union with all the powers of sovereignty and jurisdiction that pertain to the original states. Upon admission of a state to the Union, the title to lands underlying navigable waters within its boundaries automatically passes to the state as a matter of constitutional grace.

The State as the upland owner - Generally, where the State is the owner of the uplands adjacent to George River, the State owns the bed of the river even in the absence of a navigability determination. In such circumstance, the State took title under the Equal Footing Doctrine if the water is navigable, or if it is non-navigable, the state gained title to the beds of waterways as a result of the intent of the grantor and state law governing riparian rights. In Alaska, where the land bordering a non-navigable body of water is ceded, title to the submerged lands passes to the shoreland owner unless the intent of the grantor is expressly stated to the contrary.

IV. REASON FOR THE STATE'S REQUEST FOR RECORDABLE DISCLAIMER OF INTEREST

The lack of any title document or judgment creates a cloud on the state's title. A recordable disclaimer of interest for this land will help lift the cloud on its title stemming from the lack of any permanent determination of ownership.

V. EVIDENCE OF THE NAVIGABILITY OF GEORGE RIVER

In 1983 the Bureau compiled a regional report detailing historical information and documents related to the Kuskokwim Region (hereinafter referred to as the "Regional Report"). This 800 page report provides an extensive description and summary of historic use of the waterways in the region, including George River, providing information regarding the use of waterways in the region and details about the historic communities and activities such as exploration, mining, hunting, fishing, trapping, water transport and road and trail use.

Re: Recordable Disclaimer of Interest Application for George River

March 10, 2006

Page 3 of 5

Subsequent to the Regional Report, on November 8, 1984, the Bureau published a report entitled Navigable Waters of the Kuskokwim Region, Alaska (hereinafter referred to as "1984 Report"). This report provided further information related to the region and made navigability determinations for a number of waterbodies previously identified in the Regional Report, including George River, stating that:

Since the 1910s mining properties on George River were supplied by river and trail. In 1935 Stephen R. Capps of the U.S. Geological Survey reported that miners transported supplies up George River to Julian Creek in poling boats with outboard motors. Forty years later a BLM official observed that sixty-foot barges twenty feet wide loaded with fuel were used on the river as far as Julian Creek where the river was forty feet wide and four to six feet deep.

In this report, the Bureau deems George River navigable to Julian Creek.

The 1984 Report is affixed hereto as support for the State's application. The Regional Report is not affixed to this application due to its voluminous size. It can, however be accessed through the Alaska Resources Library & Information Services (ARLIS).

Kelly Vrem was contacted to comment on the navigability of the George River on March 7th 2006. Mr. Vrem's contact information was given to DNR PAAD by Bob Fithian of the Alaska Professional Hunters Association. Mr. Vrem is a hunting guide who has piloted in the Kuskokwim area for 30 years, and he commented that the George River is navigable up to its headwaters. He said that he's seen guide boats on the George River and that the section of the river between Julian Creek and Eldorado Creek is navigable. He also said that he sees boats on the Cheeneetnuk and Tatlawiksuk Rivers which are both double line water systems on a USGS 1:63K map. Mr. Vrem said that the George River is "substantially wider" than those two rivers. Because this upper portion George River is currently being used by guide boats it is navigable.

VI. OTHER KNOWN INTERESTED PARTIES

The state is not aware of any adverse claimant or occupant of these lands.

VII. CONCLUSION

As evidenced by the Bureau's Kuskokwim Report and Regional Report and the available historic information included therein, the State of Alaska determines there is sufficient information to conclude that George River is a navigable waterway and ownership of its submerged lands should be disclaimed by the Department of Interior.

Re: Recordable Disclaimer of Interest Application for George River

March 10, 2006

Page 4 of 5

The state agency responsible for this application is the Alaska Department of Natural Resources, Division of Mining, Land, and Water, 550 W. 7th Avenue, Anchorage, Alaska 99501, Attention Richard Mylius, (907) 269-8600. The State hereby authorizes BLM to bill the State's account \$100 for the application fee required by regulation.

Sincerely,



Michael L. Menge
Commissioner

Enclosures

cc:* McKie Campbell, Commissioner, Alaska Dept. of Fish & Game
Linda Hay, Special Asst. for Natural Resources, Office of the
Governor
David W. Marquez, Attorney General for the State of Alaska
Special Asst. to the Secretary for Alaska
Dick Mylius, Acting Director, State of Alaska Dept. of Natural
Resources, Division of Mining, Land and Water
Senator Gene Therriault, Chair, Legislative Budget & Audit Joint
Committee
Public Information Center, Department of Natural Resources
Jim Stratton, Alaska Regional Director, National Parks
Conservation Association
Regional Manager of Southcentral Region, Division of Mining Land & Water,
State of Alaska DNR
Georgetown Tribal Council
June McAttee, Calista Corporation
Kuskokwim Native Association
Myron Naneng, President Association of Village Council Presidents
Georgianna Lincoln, Chairwoman, Doyon, Limited
Harold Brown, Tanana Chiefs Conference

* These recipients were provided only with a copy of the application filed with BLM. Copies of map(s) for the waterbodies and any historical documents referenced in support of this application can be obtained via DNR's website (<http://www.dnr.state.ak.us/mlw/nav/rdi/>) or the Bureau's website (<http://www.ak.blm.gov/ak930/rdi/index.html>). If you are unable to access these websites or are unable to download the information, please feel free to contact Scott Ogan at (907) 269-5515 and we will provide you with the information through the mail.

Re: Recordable Disclaimer of Interest Application for George River

March 10, 2006

Page 5 of 5

Legal Description

George River within the State of Alaska, more particularly described as follows:

All submerged lands within the bed of George River between the ordinary high water lines of the left and right banks, beginning at its source in Township 29 North, Range 42 West, Section 27, Seward Meridian, Alaska USGS 1:63,360 series topographic map Iditarod C-3 (1954). Thence southerly to its confluence with the Kuskokwim River in Township 21 North, Range 46 West, Section 21, Seward Meridian, Alaska USGS 1:63,360 series topographic map Sleetmute D-5 (1954, minor revisions 1975). The George River flows through the following Townships and Ranges:

Seward Meridian:

- Township 29 North, Range 42 West
- Township 28 North, Ranges 42-43 West
- Township 27 North, Range 43 West
- Township 26 North, Range 42-43 West
- Township 25 North, Ranges 43-44 West
- Township 24 North, Ranges 44-45 West
- Township 23 North, Ranges 45-46 West
- Township 22 North, Ranges 45-46 West
- Township 21 North, Range 46

The precise location may be within other townships due to the ambulatory nature of water bodies.