

STATE OF ALASKA

DEPARTMENT OF NATURAL RESOURCES OFFICE OF THE COMMISSIONER

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RECEIVED
SEP 28 2005
BY: BC

September 21, 2005

AK-930

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

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BLM AK SO 952
ANCHORAGE, AK

Re: Recordable Disclaimer of Interest Application for Jim Lake

Dear Mr. Bisson:

The State of Alaska files this application for a recordable disclaimer of interest for the lands underlying Jim Lake, pursuant to 43 CFR §1864.

This application is submitted for all submerged lands encompassed by the ordinary high water line of Jim Lake within Township 11 South, Ranges 25, 24 West, and Township 12 South, Range 25 West, Fairbanks Meridian, Alaska. A map highlighting the lake and a legal description of the townships and ranges underlying the lake are enclosed.

As previously discussed with the Bureau of Land Management 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.

A recordable disclaimer for this land will help lift the cloud on its title stemming from the lack of any permanent determination of ownership. Because Jim Lake is navigable, Alaska owns the submerged lands by virtue of the Equal Footing Doctrine. 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

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automatically passes to the state as a matter of constitutional grace. The lack of any title document or judgment creates a cloud on the state's title.

Where the state is the owner of the uplands adjacent to Jim Lake, the state owns the bed of Jim Lake 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 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.

The State's application for a Recordable Disclaimer of Interest is based on the Equal Footing Doctrine; the Submerged Land Act of May 22, 1953; the Alaska Statehood Act; the Submerged Lands Act of 1988; or any other legally cognizable reason. The Bureau may disclaim interest in the submerged lands on any of the grounds that may apply.

The Bureau's formal determinations confirm the navigability of Jim Lake. A summary of the navigability determinations and copies of the documents are attached as supporting documentation to this application. A bibliography of sources summarizing historical navigability information on Jim Lake compiled for the Bureau of Land Management is also provided. A 1917 publication, "*In the Alaska Wilderness*" by George Byron Gordon, refers to a canoe trip across Lake Minchumina and Jim Lake, continuing across the portage to the Kuskokwim River.

As evidenced by navigability determinations and the available historic information, the State of Alaska determines there is sufficient information to conclude that Jim Lake is a navigable waterway and ownership of its submerged lands should be confirmed in the State.

Because the Bureau of Land Management has found Jim Lake to be navigable, it has meandered it in conveyances of the adjacent uplands and thus eliminated any possibility that others might claim an interest in the bed of the lake. In any event, the state is not aware of any adverse claimant or occupant of these lands.

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 Robert Loeffler, (907) 269-8600. The State

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hereby authorizes the Bureau to bill the State's account \$100 for the application fee required by regulation.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Irwin', followed by a horizontal line extending to the right.

↳ Thomas E. Irwin
Commissioner

Enclosures

cc: David Marquez, Attorney General, State of Alaska
Michael Menge, Special Staff Assistant, Office of the Governor
McKie Campbell, Commissioner, Alaska Dept. of Fish and Game
Cam Toohey, Special Assistant to the Secretary for Alaska
Robert Loeffler, DNR, Division of Mining, Land and Water
Senator Gene Therriault, Chair, Legislative Budget & Audit Joint Comm.
Public Information Center, Department of Natural Resources
Chris Milles, Acting Regional Manager, Northern Region, DNR
Doyon, Limited
Harold Brown, Tanana Chiefs Conference

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Legal Description

Jim Lake within the State of Alaska, more particularly described as follows:

All submerged lands encompassed by the ordinary high water line of Jim Lake, within the following townships and ranges as determined from USGS 1:63 360 series topographic map Mt. McKinley (D-5) 1953 (minor revision 1987); the precise location may be within other townships due to the ambulatory nature of water bodies:

Township 11 South, Range 25, 24 West;
Township 12 South, Range 25 West.