THE STATE of ALASKA
GOVERNOR BILL WALKER

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DIVISION OF MINING, LAND & WATER
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December 28, 2017

Ms. Karen Mouritsen
Acting State Director
Bureau of Land Management
222 West 7th Avenue, # 13
Anchorage, Alaska 99513-7504

Subject: (AK AA- 092956) Amended Final Recordable Disclaimer of Interest Application for the Goodnews River System: Including the Goodnews River, [aka the North Fork] including Goodnews Lake, Slate Creek, and the Igmiumanik River; the South Fork Goodnews River, Tivyagak Creek, Unnamed Tributary of Tivyagik Creek, the Middle Fork Goodnews River and Middle Fork Lake, Kukaktlik River and Kukaktlim Lake.

Dear Ms. Mouritsen:

Pursuant to 43 CFR §1864, the State of Alaska (State) files this application for a recordable disclaimer of interest **(RDI)** for the lands underlying the herein-described portions of the Goodnews River System (as described above).

I. Description of Waterway

This application is submitted for the submerged lands as follows:

1) Goodnews River, including Goodnews Lake: All submerged lands between the ordinary high water lines of the left and right banks of the Goodnews River, starting at the confluence of an unnamed creek near river mile 78 within Sec. 3, T. 7 S., R. 66 W, SM including Goodnews Lake, downstream to the location where the river enters T. 10 S., R. 71 W., S.M., Alaska.

2) Igmiumanik River: All submerged lands between the ordinary high water lines of the left and right banks of the Igmiumanik River, starting at the confluence of the Igmiumanik River and an unnamed stream near river mile 1.5 within Sec. 19, T. 7 S., R. 65 W., S.M. downstream to its confluence with the Goodnews River in Sec. 35, T. 7 S., R. 66 W., S.M., Alaska.

3) South Fork Goodnews River: All submerged lands between the ordinary high water lines of the left and right banks of the South Fork Goodnews River, starting at the confluence of the South Fork Goodnews River and an unnamed stream

near river mile 25.7 within Sec. 3, T. 12 S., R. 70 W., S.M. downstream through Sec. 22, T. 12 S., R. 72 W. S.M., Alaska.

4) Tivyagik Creek: All submerged lands between the ordinary high water lines of the left and right banks of the Tivyagik Creek, starting at the confluence of Tivyakik Creek and the "unnamed tributary" near river mile 8.25 within Sec. 28, T. 12 S., R. 71 W., S.M. downstream to its confluence with the South Fork Goodnews River in Sec. 7, T. 12 S., R. 71 W., S.M., Alaska.

5) Unnamed Tributary of Tivyagik Creek: All submerged lands between the ordinary high water lines of the left and right banks of the Unnamed Tributary of Tivyagik Creek, starting at the confluence of the unnamed tributary and an unnamed creek near river mile 3 within Sec. 32, T. 12 S., R. 71 W., S.M. downstream to its confluence with the Tivyagik Creek in Sec. 28, T. 12 S., R. 71 W., S.M., Alaska.

6) Middle Fork Goodnews River and Middle Fork Lake: All submerged lands between the ordinary high water lines of the left and right banks of the Middle Fork Goodnews River, starting at the confluence of the Middle Fork Goodnews River and the confluence of an unnamed creek at river mile 53 within the Sec. 10, T. 9 S., R. 67 W., S.M. downstream and including Middle Fork Lake, to the location the river enters T. 11 S., R. 71 W., S.M., Alaska.

7) Kukaktlik River and Kukaktlim Lake: All submerged lands between the ordinary high water lines of the Kukaktlim Lake and between the left and right banks of the Kukaktik River, starting at the outlet of Kukaktlim Lake within Sec. 1, T. 10 S., R. 67 W., S.M. downstream to its confluence with the Middle Fork Goodnews River in Sec. 23, T. 10 S., R. 69 W., S.M., Alaska.

This includes the submerged lands and beds of all anabranches, braids and channels that carry water from the navigable rivers and thus are a part of the navigable river and all lands within the river system permanently or periodically covered by tidal waters up to the line of mean high tide. Those submerged lands adjacent to uplands not owned by the United States are excluded from this application. Maps highlighting the rivers and lakes of the Goodnews River (and lake) System with a legal description of the townships and ranges underlying each river and lake are enclosed as Exhibit 1.

II. Waiver Requests

A. Survey Requirements

The State requests that the Bureau of Land Management (BLM) approve the State's request for a waiver of any survey requirements. As previously discussed with the BLM Alaska State Director, the State requests a waiver under §1864. l-2(d) of the requirement of 43 CFR §1864.1-2 (c)(l) for a description based on a public land survey or certified metes and bounds survey. The map and legal description submitted with this RDI application sufficiently identify the land

subject to this application, but if not the recordable disclaimer can be worded appropriately to fit the circumstances without requiring a public land survey. The submerged lands for which this RDI is sought are identified by name or, if unnamed, readily identified as the Goodnews River, [aka the North Fork] including Goodnews Lake, Slate Creek and the Igmiumanik River; the Middle Fork Goodnews River and Middle Fork Lake, Kukaktlik River and Kukaktlim Lake; the South Fork Goodnews River, Tivyagak Creek, and Unnamed Tributary of Tivyagik Creek including interconnected channels and other portions of the Goodnews River system. Navigable waterways, such as these rivers, are typically ambulatory, thus making a public survey of them problematic and unnecessary. The Department of the Interior (DOI) has issued RDis to the State for the beds of navigable rivers in the past without requiring a public land survey of the river system or any part of it, and judgments, decisions, and decrees of the U.S. District Court, Ninth Circuit Court of Appeals, and U.S. Supreme Court finding title in the State to the beds of navigable waters have not required a public land survey. [1]

II. Basis of the State's Request for a Recordable Disclaimer of Interest

A. Navigable Waterway

The State's RDI application to the bed of the navigable rivers and lakes in the Goodnews River system is supported by the Equal Footing Doctrine, the Submerged Lands Act of 1953, the Alaska Statehood Act, the Alaska Right of Way Act of 1898, and other title navigability law. BLM may disclaim interest in the submerged lands on any or all of those grounds.

Because these rivers and lakes were navigable on January 3, 1959, when Alaska became a state, the State of Alaska owns the river and lake beds by virtue of the Equal Footing Doctrine and the Submerged Lands Act. *State of Alaska v. Ahtna, Inc. & United States,* 891 F.2d 1401, 1404 (9th Cir. 1989), *cert. denied,* 495 U.S. 919 (1990). The constitutional Equal Footing Doctrine "guarantees to newly-admitted States [like Alaska] the same rights enjoyed by the original thirteen States and other previously-admitted States." *Ibid.,* citing *Utah v. United States,* 482 U.S. 193, 196 (1987). "One of these rights is title ownership to the lands underlying navigable rivers." *Ibid.* The Submerged Lands Act of 1953 confirmed and extended "title to and ownership of the lands beneath navigable waters within the boundaries of the respective States." *Ibid.,* citing 43 U.S.C. § 131 l(a). "Congress explicitly provided for this rule to apply to Alaska when Alaska became a State in 1959. 48 U.S.C. Chapter 2 ("the Statehood Act") note 6(m) prec. sec. 21 (1982)." *Ibid.* The rule includes state ownership of tidelands and the beds of marine waters up to three miles seaward of Alaska's coastline. *Ibid;* 43 U.S.C. §§ 1301(a), 131 l(a); *United States v. California,* 436 U.S. 32, 35 n.7, 37 (1978). In addition, in the Alaska Right of Way Act of May 14, 1898, 30 Stat. 409, 43 U.S.C. §§ 942-1 to 942-9, Congress recognized application of the equal footing doctrine

[1] See, e.g., Alaska v. United States, 546 U>S> 413, 415-17 (2006): Sate of Alaska v. Ahtna, Inc. & United States, 891 F.2d 1401 (9th Cir. 1989); State of Alaska v. United States, 662 F. Supp. 455 (D. Alaska 1987).

to Alaska. It expressly reserved, as a matter of federal law: "the title of any State that may hereafter be erected out of the Territory of Alaska, or any part thereof, to tidelands and beds of any of its navigable waters, ... it being declared that all such rights shall continue to be held by the United States in trust for the people of any State or States which may hereafter be erected out of said Territory."

IV. Reason for the State's Request for a Recordable Disclaimer of Interest

The lack of any title document or judgment creates a cloud on the State's title to submerged or submersible lands beneath navigable waters. A recordable disclaimer of interest for this land will help lift the cloud on the State's title stemming from the lack of any permanent determination of ownership and correct any conflict and uncertainty in the public's understanding of title and use, without the time, expense and trouble of engaging in quiet title litigation.

V. Determining Navigability of Water Bodies under Current Law

The question of navigability for the purpose of state ownership is decided according to federal law. *Ahtna, Inc.,* 891 F.2d at 1404 (citing *Holt State Bank,* 270 U.S. 49, 55-56 (1926)). The Supreme Court expressed the basic test for navigability in *The Daniel Ball,* 77 U.S. (19 Wall) 557, 563 (1870), as follows:

> Those rivers must be regarded as public navigable rivers in law which are navigable in fact. And they are navigable in fact when they are used, or are susceptible of being used, in their ordinary condition, as highways for commerce, over which trade and travel are or may be conducted in the customary modes of trade and travel on water.

Id. This test is applied in multiple situations, including when answering questions of title to river or streambeds under the equal footing doctrine. *See PPL Montana, LLC v. Montana,* 132 S. Ct. 1215, 1228 (2012).

Case law subsequent to *The Daniel Ball,* including *Ahtna, Inc.* and the U.S. Department of the Interior's decision in *Appeal of Doyon, Ltd.,* 86 Interior Dec. 692, 698 (ANCAB 1979), explained the meaning of that basic test. The physical character of the waterway, and in particular its capacity to be navigated, is an important factor when considering navigability for title. In the Supreme Court's most recent decision regarding navigability for title, *PPL Montana, LLC v. Montana,* it again emphasized that rivers and streams are not only navigable if they were *used* for commerce, but also if they were *susceptible* of being used as highways of commerce at the time of statehood. 132 S. Ct. at 1233. And, as previously stated by the Ninth Circuit in *Ahtna, Inc.:* "Although the river must be navigable at the time of statehood, . . . *this only means* that, at the time of statehood, *regardless of the actual use of the river,* the river must have been *susceptible* to use as a highway of commerce. * * * [I]t is not even necessary that commerce be in fact conducted . . . 'The extent of existing commerce is not the

test."' 891 F.2d at 1404 (quoting *United States v. Utah,* 283 U.S. 64, 75, 82-83 (1931) (emphasis added)). Rather, it is enough to show:

> the capacity of the rivers in their ordinary condition to meet the needs of commerce as they may arise in connection with the growth of the population, the multiplication of activities, and the development of natural resources. And this capacity may be shown by physical characteristics and experimentation as well as by the uses to which the streams have been put.

Utah, 283 U.S. at 83. Present-day recreational use is relevant to determining whether a river was susceptible to commercial use at the time of statehood if: "(l) the watercraft are meaningfully similar to those in customary use for trade and travel at the time of statehood; and (2) the river's post-statehood condition is not materially different from its physical condition at statehood." *PPL Montana, LLC,* 132 S. Ct. at 1233.

Although portages - or the need to bypass a river segment may defeat navigability for title for that particular river segment, *id.* at 1231-32, the presence of rapids, sandbars, and other obstructions, which may make navigation difficult, but not impossible, does not destroy title navigability, see *Utah,* 283 U.S. at 86. In *Utah,* a case addressing navigability for title, the Supreme Court stated "the mere fact of the presence of ... sandbars causing impediments to navigation does not make a river nonnavigable." 283 U.S. at 86. Although "the presence of sandbars must be taken in connection with other factors making for navigability," the "essential point is whether the natural navigation of the river is such that it affords a channel for useful commerce." *Id;* see *also Oregon v. Riverfront Protection* Ass'n, 672 F.2d 792, 795 (9th Cir. 1982), (relying on the use of the McKenzie River in Oregon for log drives to determine the river navigable for title and stating that the "use of the river need not be without difficulty, extensive, or long and continuous."); *Doyon, Ltd.,* 86 Interior Dec. at 697 ("Although rapids, shallow waters, sweepers, and log jams make navigation difficult on both [the Kandik and Nation Rivers], the evidence shows that these impediments do not prevent navigation.").

Boat use is not the only method for proving a river or stream's ability to serve as a highway for useful commerce. In *Oregon v. Riverfront Protection Association,* the Ninth Circuit considered evidence of the transporting of logs on the McKenzie River relevant to determining the river's potential use for commerce. 672 F.2d at 794-96. The court further found that the seasonal and sometimes difficult nature of these log drives did not destroy navigability. *Id.* at 795-96 (holding that "notwithstanding [the] difficulties, thousands of logs and millions of board feet of timber were driven down the river" and this use was not "occasional" as it occurred over a three-month period for over seven teen years).

Applying these standards to Alaska, the courts and Department of the Interior have found waterways navigable for title based on their susceptibility to use for navigation by river boats, inflatable rafts, or canoes having a capacity for

"commercial" loads of about 1000 lbs. of supplies or recreationists. *Ahtna Inc.,* 891 F.2d 1401 (Gulkana River); *Appeal of Doyon,* 86 Interior Dec. 692 (Kandik and Nation Rivers); Feb. 25, 1980 Memorandum from Regional DOI Solicitor John ("Jack") Allen to BLM Alaska State Director re "Kandik, Nation Decision on Navigability." *See also Alaska v. United States,* 201 F.3d 1154 (9th Cir. 2000); August 18, 1983 Recommended Decision by DOI Administrative Law Judge Luoma in *Appeal of Alaska,* Interior Board of Land Appeals No. 82- 1133 (recommending that the Matanuska River be determined navigable) & July 19, 1990 Memorandum of BLM Alaska State Director E. Spang (Matanuska River is navigable), BLM Files AA-11153-23, -31; *Appeal of State of Alaska & Collier,* 168 IBLA 334 (2006) (noting navigability standards).

VI. Evidence of the Navigability of the Goodnews Lake and the Goodnews River System.

Historical documentation and reports regarding boat use, susceptibility of use, historical routes, and activities confirm and establish that the Goodnews River System rivers and lakes are navigable from the described lakes and/ or headwaters downstream to each river's confluence as described and then downstream to the tidewaters of Goodnews Bay. In addition to the water body's actual use, the materials attached to and referenced in this application document its physical characteristics. These characteristics also show the river and lake's susceptibility to navigable uses.

A. Use-in-Fact Demonstrating Navigability, including Use and Susceptibility to Use in Commerce

The State and BLM developed a cooperative agreement whereby historical reports were prepared for rivers in Alaska. Through this arrangement, the BLM and the Alaska Departments of Fish and Game (ADF&G) and Natural Resources (ADNR) supported ADNR's Office of History and Archeology (OHA) to prepare reports. The OHA produced the following reports attached to this request: The Goodnews River System Interim Summary Report dated June 8, 2011; Tivyagak Creek Final Interim Summary Report dated December 21, 2010 and Slate Creek Final Interim Summary Report dated October 19, 2010. These reports document historical uses of these water bodies and are hereby incorporated as evidence of the navigability of the Goodnews River system and are attached as Exhibit 2. The OHA reports contain substantial historical information describing the rivers and lakes in the Goodnews River System, which supports the State's assertion that these water bodies are navigable.

The Goodnews River System Summary Report included the following summary information. [2]

[2] Attachments 6, 8, &13, of the Goodnews River System Final Interim Summary Report dated January 15, 2010 address tidal influence for at least the two miles up the river(s) from the confluence with Goodnews Bay.

The BLM has determined the Goodnews River is navigable from its mouth through village selected and BLM managed lands, a distance of about 30 miles. The Goodnews River has not been evaluated for navigability upstream to the east. These lands are located in seven townships within the Togiak National Wildlife Refuge (NWR). The Middle and South Fork have been determined navigable from their mouths upstream through village conveyed lands, on the Middle Fork and South Forks. Lands upstream to the east on the Middle and South Fork are managed by BLM for a distance of about 7-10 miles. Further east are native village corporation lands for a distance of 2-3 miles along the two forks. The upper portion of the Middle Fork is located in eight townships on lands within the Togiak NWR. The upper portion of the South Fork is located in two townships within the Togiak NWR.

There is considerable documentation in BLM files that Natives, commercial fishing guides, state and federal employees, and private individuals have taken boats up the three rivers into the Togiak NWR. Numerous individuals have floated the Goodnews River starting from Goodnews Lake and the Middle Fork starting from Middle Fork Lake. Natives have taken boats with outboard motors up all three rivers to hunt, fish and pick berries in the refuge during the fall. Commercial guides have taken hundreds of clients up the three rivers to fish in the refuge and float down the rivers in rafts. There is considerable information on use of the river after the 1980s in the files and reports of the U.S. Fish and Wildlife Service (USFWS) and ADF&G that is not found in the 1985 Kuskokwim Regional Report and BLM files.

Further, there have been a number of documents prepared by or on behalf of the USFWS which describe the historical and current use of the rivers and lakes in the Goodnews River System. Most discussion centers on the increasing amount of river use, and plans to limit private, as well as commercial float trips. Additionally, there are numerous public documents and internet sites with information about the use and character of these lakes and rivers. The clear record of historical use and current commercial use on these rivers and lakes to Goodnews Bay is conclusive evidence that these rivers and lakes are navigable for title purposes. See additional documents and excerpts of documents related to the Goodnews River System water bodies attached as Exhibit 3. [3]

The Tivyagak Creek Interim Summary Report included the following information.[4]

The BLM collected documentation of use on Tivyagak Creek and the unnamed stream even though uplands along Tivyagak Creek were not ANCSA selected. The Hyde's owned a commercial guide operation in the Goodnews River System for many years. Their use of Tivyagak Creek and unnamed stream was first documented in 1982. The inland water route with portage between Tivyagik Creek via unnamed lakes to Osviak River was documented by BLM in their 1985

[3] See also Attachments 39 and 52 of the OHA Goodnews River Interim Report.
[4] Attachments 1, 2, 3, 5, 6.

Kuskokwim Regional Report. In 1986 the BLM interviewed Ron Hyde Jr. who described his use of Tivyagak Creek. ADNR, Historians interviewed Ron Hyde Jr again in 2010. Ron Hyde Sr. started Alaska River Safaris in 1971 guiding clients in the Goodnews River drainage until the mid 1990's; over 20 years of continuous guiding.

Wild River Guide Co., owned by Mark Rutherford provides guided trips leaving from Kukatlim Lake, floating down the Kukatlik River. The Wild River Guides website provides past trip reports of the seasons adventures.[5] Trip reports for 2011, 2012, 2013, 2015, 2016 and 2017 are attached. Mr. Rutherford was contacted by this office in December 2017; he was unwilling to provide additional information regarding use of the rivers as he was unwilling to compromise his relationship with USFWS and the local people.

B. Physical Characteristics Supporting Navigability

The courts and the BLM have also considered the physical characteristics of the river system in its natural and ordinary condition in their navigability determinations. *See, e.g., State of Alaska,* 891 F.2d at 1402, 1405; *State of Alaska v. United States,* 662 F. Supp. at 466-67; *Appeal of Doyon,* 86 Interior Dec. 692. The physical characteristics of the Goodnews River system compare favorably to the Gulkana, Kandik, and Nation rivers considered in those decisions.

1. River. Goodnews River; Variant name: Kwihcherak

Location at confluence with Goodnews Bay:

Latitude 59° 06' 40" N

Longitude 161 ° 34' 36" W

Lake: Major lakes include: Goodnews, Middle Fork, Kukaktlim, Nimgun, and Awayak Lakes

Basin area: 1051 square miles

Elevation at source: 750 feet

Main Channel Length: 83 miles

Average Channel Slope: 9 feet/mile

2. Climate. The Goodnews River system is within the transitional climate zone, which is between maritime and continental climatic zones. This transition zone

[5] http://wildriverfish.com

in the Yukon-Kuskokwim Delta area extends 100 to 150 miles inland.[6] No weather gathering stations are located within the Goodnews River watershed. The nearest station is located at Platinum which is approximately 11 miles west of the mouth of the river. The most up to date summary data from the Platinum weather station (Table 1) are provided below. [7]

	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Annual
Ave Max. Temp (F)	20.7	21.0	24.9	32.8	44.6	53.2	57.5	56.5	51.8	39.9	30.0	19.4	37.7
Ave Min. Temp (F)	7.2	7.2	10.8	20.2	32.9	40.9	45.7	46.8	40.4	29.0	19.2	6.7	25.6
Ave Total Precip (in.)	1.0	1.26	1.37	1.16	1.35	1.42	2.32	4.7	3.92	2.42	1.61	1.37	23.9
Ave Total Snowfall (in.)	6.2	8.4	10.7	2.9	.4	0	0.0	0.0	0.0	.8	3.9	5.3	38.6
Ave Snow Depth (in.)	4	5	7	5	1	0	0	0	0	0	0	2	2

Table 1. Platinum Weather Station Summary, 507365, Period of Record: 9/2/1949 to 6/30/1964.

[6] Harza Engineering Company, December 1982, Bethel Area Power Plan Feasibility Assessment, Appendix B.
[7] Navigable Waters Map; http://www.dnr.state.ak.us/mlw/nav/

3. General Basin Description. The headwaters of the Goodnews River lie north of Nigag Mountain at approximately 750 feet above sea level.[8] The Goodnews River drains an area of 1051 square miles. The Goodnews River flows southwesterly approximately 83 miles to where it empties into Goodnews Bay. A map of the watershed and USFWS gage locations are shown in Figure 1.

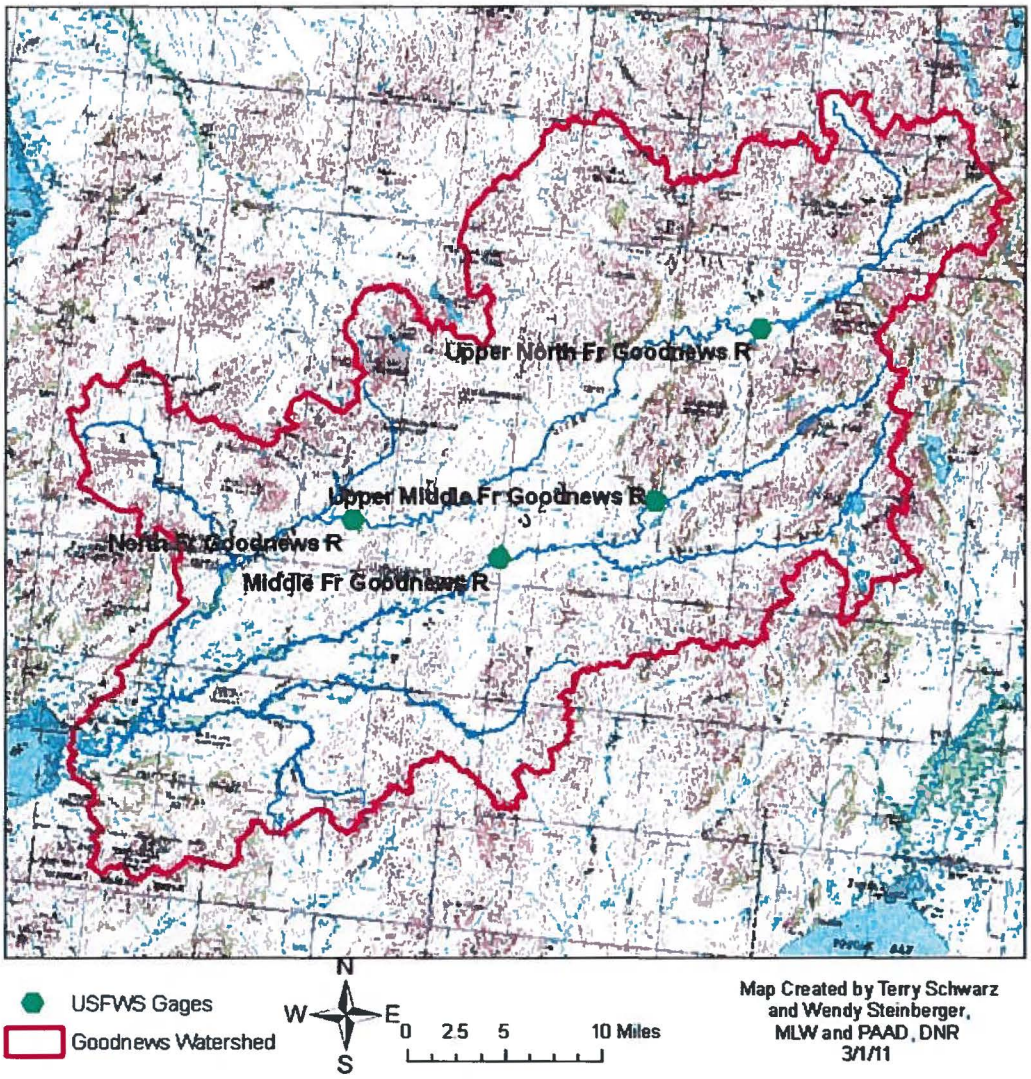


Figure 1. Map of the Kanektok Watershed and Location of USFWS stream gage.

4.Available Stream Flow Data. The U.S. Fish and Wildlife Service installed and maintained 4 stream gages within the Goodnews River watershed (Table 2). Currently, the only data available were from the North Fork Goodnews River stream gage. Figure 2 shows the daily average discharge and Figure 3 shows the

[8] Navigable Waters Map; http://www.dnr.state.ak.us/mlw/nav/

annual flow duration curve for the entire period of record (May 1st 1999 to October 16th 2009) for this gage. Table 3 shows the average monthly discharge values for this station and Table 4 shows the average annual discharge values from 1999 to 2009.

Table 2. List of USFWS stream gages within the Goodnews River watershed.

Name	Lat	Long	Area (mi^2)
Middle Fork Goodnews R	59°16.633'	160°69.083'	192
North Fork Goodnews R	59°17.667'	161°12.217'	415
Upper Middle Fork Goodnews R	59°19.94'	160°46.01'	67.1
Upper North Folk Goodnews R	59°29.03'	160°38.27'	84.9

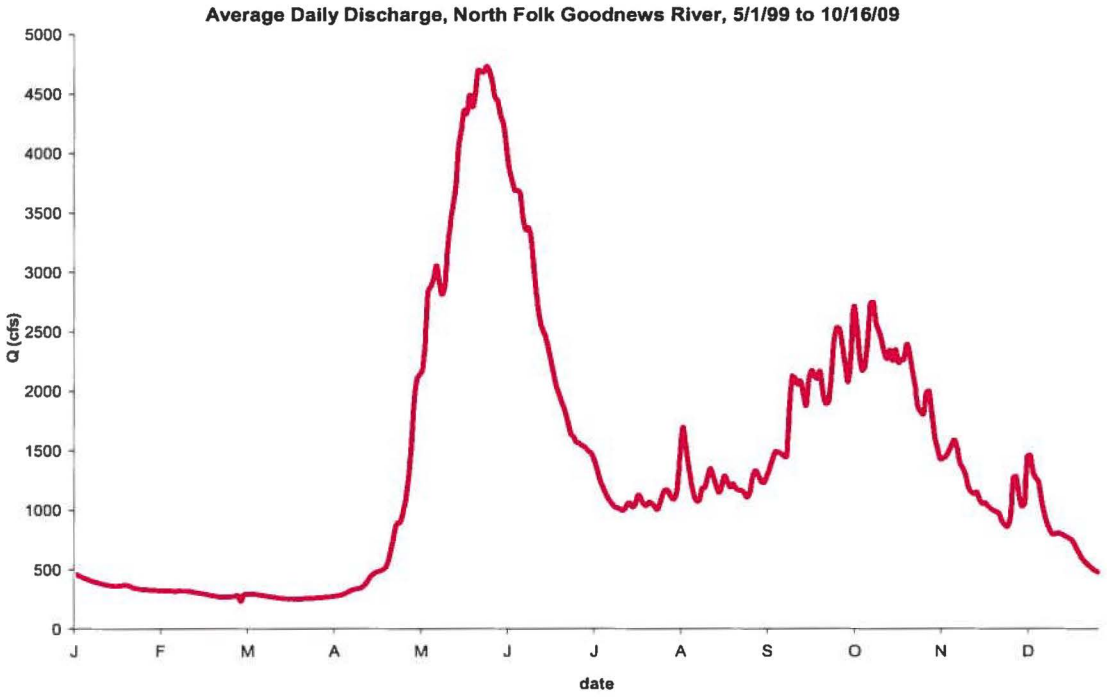


Figure 2. Average daily Discharge for the North Fork Goodnews River at the USFWS gage.

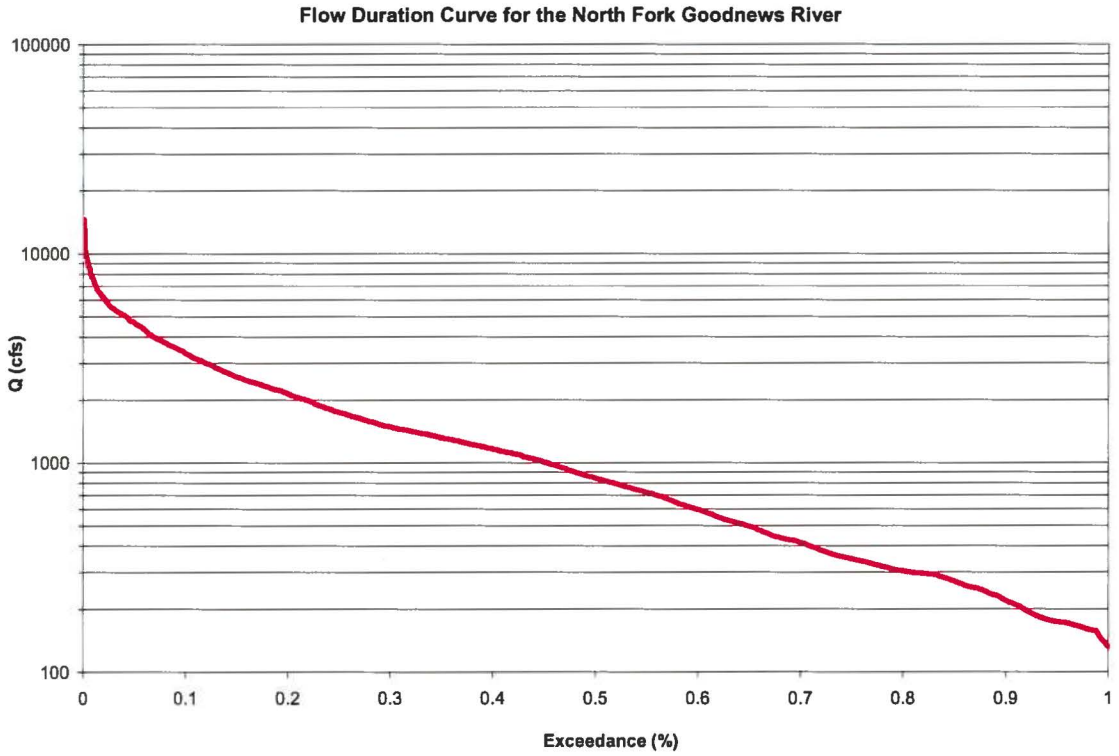


Figure 3. Flow Duration Curve for the North Fork Goodnews River, May 1, 1999 to October 16, 2009

Table 3. Histogram of average monthly discharge values for North Fork Goodnews River at USFWS Gage

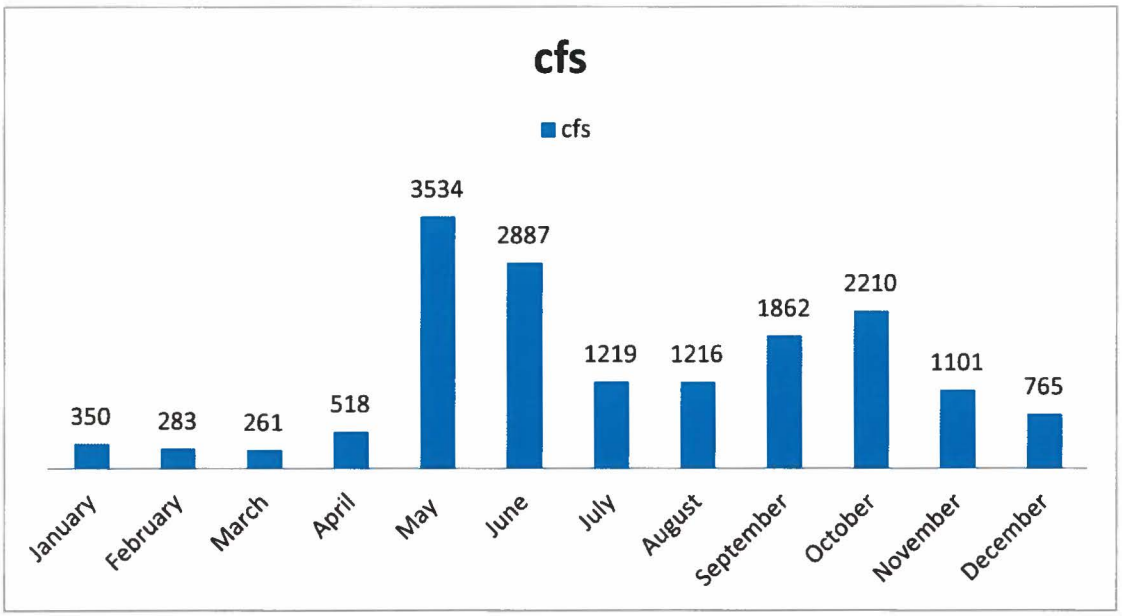
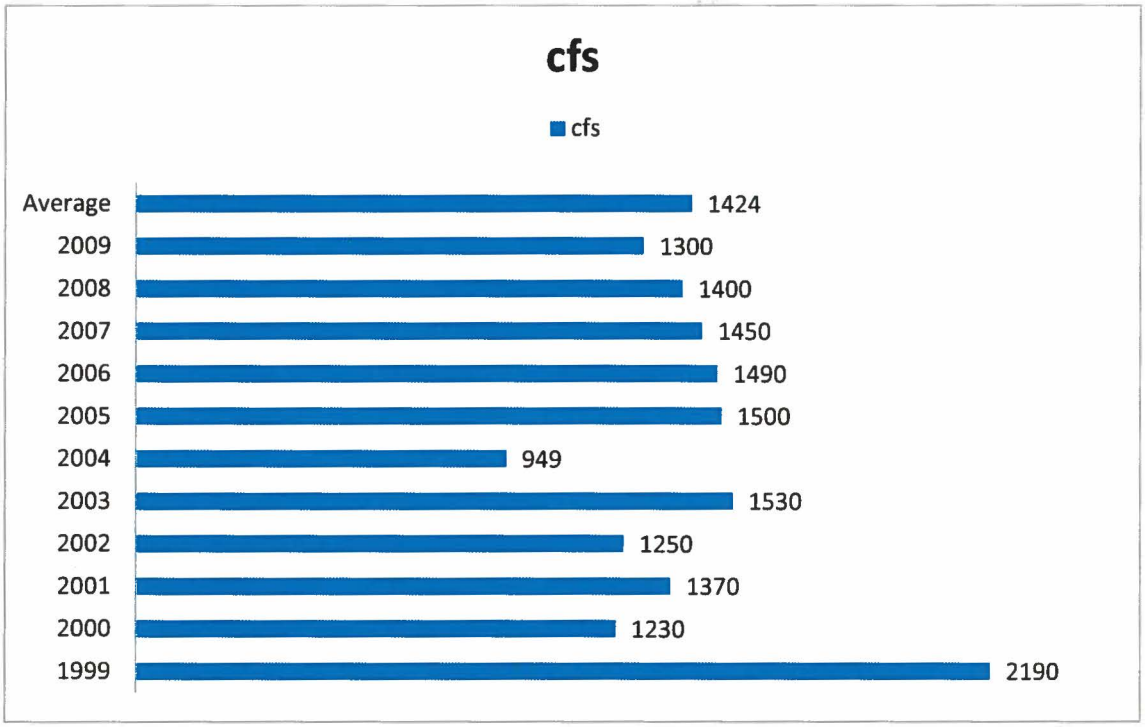


Table 4 Histogram of the annual discharge values for North Fork of the Goodnews River at USFWS Gage



Average annual discharge at the gage is 1424 cubic feet per second (cfs) with average peak flows during May reaching 3534 cfs for the last 11 years since the gage was in operation. Snow melt typically begins in May in this region of Alaska and continues through June. The gage data show a substantial increase in mean flow between April and May as snowmelt begins. The high flows of April and May decline in July and August, but there is a fall rainy season increase, which peaks in October at 2210 cfs. (Table 3)

5. Review of Existing Hydrologic and Onsite Studies.

The Goodnews River System is located in the Yukon-Kuskokwim Delta region, within Zone 1 of Hydrologic Unit Code (HUC) 30502 (Figure 4). The Goodnews River System includes the Goodnews River, the Middle and South Forks of the Goodnews River and numerous tributary rivers.

The Goodnews River (AKA North Fork) originates on the north side of the Ahklun Mountains of the Kilbuck-Kuskokwim Mountain Range in southwest Alaska. The Ahklun Mountains divide the drainage systems between Kuskokwim and Bristol Bays. Goodnews River heads at the 1,200-foot elevation in Sec. 20, T. 6 S., R. 65 W., S.M. and flows about 12 miles southwest to Goodnews Lake, a five-mile long water body located in Sec. 18, T. 8 S., R. 67 W., S.M. From the lake, the Goodnews River flows 60 miles in a southwesterly direction and drains

into Goodnews Bay in Sec. 27, T. 12 S., R. 73 W., SM on the north side of Cape Newenham.

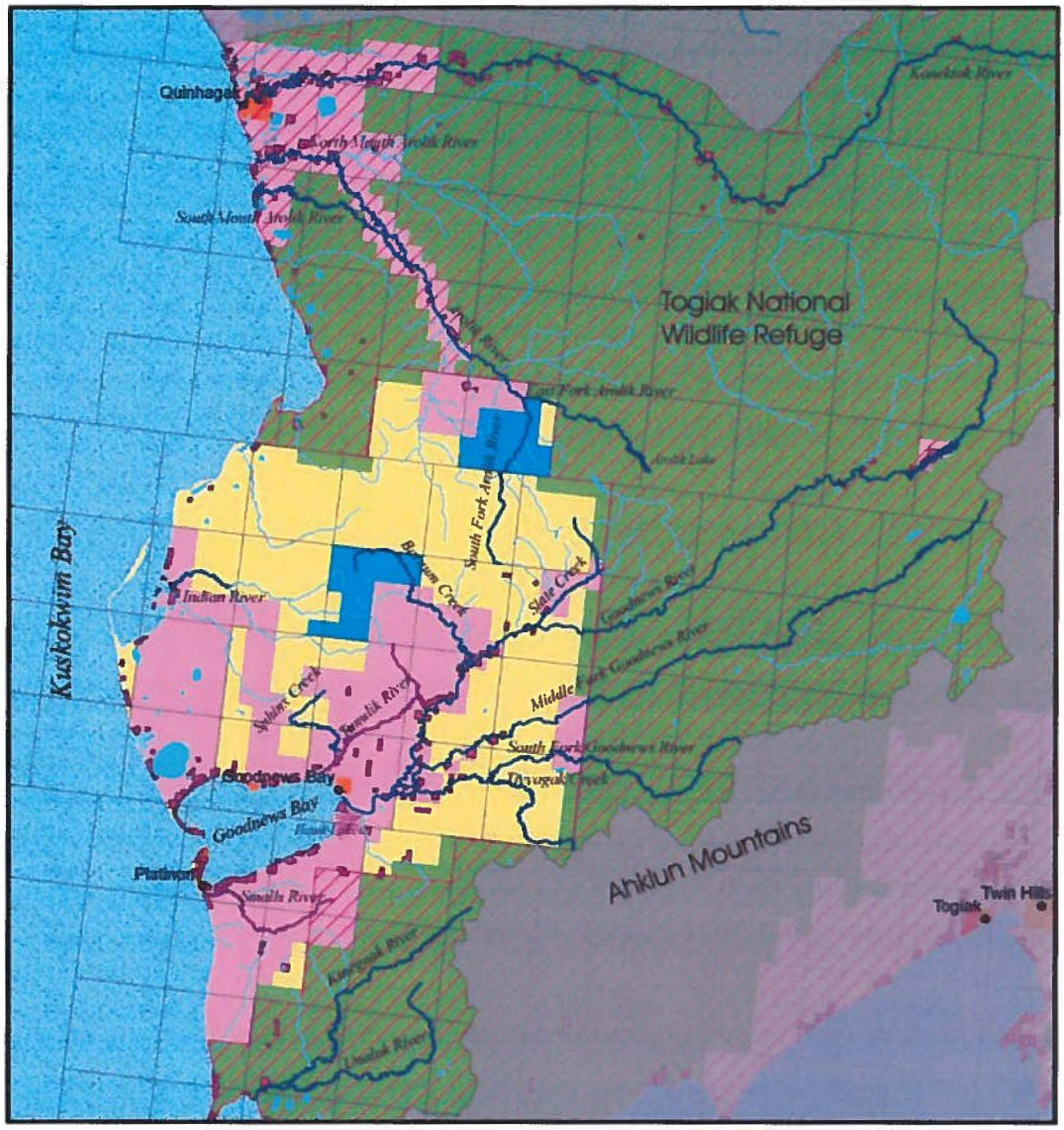


Figure 4. Map of Zone 1, HUC 30502, showing the location of the Goodnews River System.

The Middle Fork Goodnews River is a major tributary which parallels the Goodnews River for its entire length and joins it near the mouth. The Middle Fork is about 44 miles long and heads in Secs. 26-27, T. 8 S., R. 66 W., SM, at an elevation of 1,000 feet and flows southwest through Middle Fork Lake. The Middle Fork continues in a southwesterly direction to its confluence with the Goodnews River in Sec. 23, T. 12 W., R. 73 W., S.M.

The South Fork of the Goodnews River is a 24-mile long tributary of the Goodnews River. The South Fork heads at Sec. 23, T. 11 S., R. 69 W., SM, at an elevation of 750 feet. The South Fork flows in a southwesterly direction to its confluence with the Goodnews River in Sec. 25, T. 12 S., R. 73 W., S.M.

Tivyagak Creek is a tributary of the South Fork. The waterway is 17 river miles long originating in an unnamed mountain in the Togiak NWR. Tivyagak Creek heads at Sec. 5, T. 13 S., R. 71 W., SM, and flows in a generally northwest direction to its confluence with the South Fork of the Goodnews River in Sec 7, T. 12 S., R. 71 W., S.M.

The name Goodnews River was first published by P.S. Smith and A.G. Maddren of the U.S. Geological Survey (USGS) in 1915. The river derives its name from Goodnews Bay, which the U.S. Coast and Geodetic Survey translated in 1868 from the Russian name "Port Dobryskh Vestey" or Port Good News. G.L. Harrington of the USGS reported in 1919 that the Eskimo name for the Goodnews River was "Kwihcherak," meaning "little river."

The Goodnews River and the Middle and South Forks of the Goodnews are three of six rivers that drain the northeast side of the Ahklun Mountains and the southwest portion of the Togiak National Wildlife Refuge (NWR). The lower part of the Goodnews River System is located east of the Native villages of Goodnews Bay and Platinum. The upper portion of the Goodnews River System is northwest of Togiak and Twin Hills, which are located on the southeast side of the Kilbuck-Kuskok-wim Mountain Range. The nearest regional hub is Bethel, which is located about 70-80 miles to the north.

Alaska Department of Fish and Game describes the Goodnews River in the Inventory and Cataloging of Sport Fish and Sport Fish Waters of Western Alaska, (Alt).[9] The report notes that the Goodnews is the most southerly river in Kuskokwim Bay and forms part of the dividing line between Bristol Bay streams and the Arctic-Yukon-Kuskokwim region. It is a good producer of red salmon, and has other fish types as well. This report divides the river into 5 sections. Section 1 is from the Goodnews Bay upriver 10 miles to the confluence with the middle fork. This part of the river is subject to tidal influence. Section 2 is a 12 mile section to Barnum Creek. This part of the river is somewhat braided, approximately 120 feet wide, with a velocity of 2-3 mph. Section 3 is 7 miles, including the area from Barnum Creek to Canyon Creek. The river has bluffs and high gravel cut banks in this section. Section 4 is 13 miles long and includes the area from Canyon Creek to Awayak Creek. This area includes some canyon area below Nimgum Creek. Section 5 is from Awayak Creek to Goodnews Lake. It is around 80 feet wide and slow moving along this 6-mile stretch. Details regarding this river and lake including data regarding the fish and wildlife in and around the river are included in this report.

[9]Alt, Kenneth T, 1977, Inventory and Cataloging Western Alaska Waters, Alaska Department of Fish and Game, Sport Fish Division.

VII. Other Known Interested Parties

Parts of this river system are within the exterior boundaries of the Togiak NWR, which is managed by the USFWS. Kuitsarak Incorporated and the Calista Regional Corporation also own uplands within this area.

VIII. $100. 00 Application Fee

The State provided the $100.00 application fee on September 14, 2016, see receipt no. 3658989.

IX. Conclusion

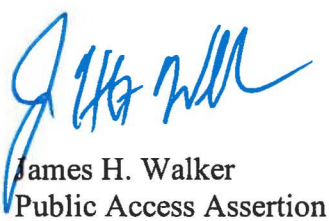
The State of Alaska has determined there is sufficient evidence to conclude the water bodies of the Goodnews River system, as described in section I of this application are navigable waterways. Therefore, the submerged lands and beds underlying these water bodies are owned by the State of Alaska and should be disclaimed by the BLM on behalf of the federal government.

The evidence of tidal influence near Goodnews Bay, extensive historical and present use information, which shows the river's use and susceptibility to use as a highway of commerce at the time of statehood as described in this application, OHA Interim Reports, and additional exhibits all support this conclusion.

Exhibits new to this application are attached. All Exhibits are available on the State Navigable Waters RDI homepage.[10] If bandwidth does not allow download an electronic copy of this application and all attachments will be provided by request to this office.

The state agency responsible for this application 1s the Alaska Department of Natural Resources, Division of Mining, Land and Water, 550 W. 7th Avenue, Suite 1070, Anchorage, Alaska 99501, Attention: Kevin Sorensen, (907) 269-6008 or Wendy Steinberger, (907)269-6018. Please start the application process for this river.

Sincerely,



James H. Walker
Public Access Assertion and Defense Unit

[10] http://www.dnr.state.ak.us/mlw/nav/rdi/

Attachments: Maps and Legal Description; Tivyagak Phase II B Report and Attachments; and guided use reports.

cc: Gregory Siekaniec, Regional Director, USFWS
Sam Cotton, Commissioner, Alaska Department of Fish and Game
Andrew J. Guy, President and CEO, Calista Corporation
George Bright, President, Kuitsarak Incorporated, PO Box 150, Goodnews Bay, AK 99589
Native Village of Goodnews Bay, PO Box 03, Goodnews Bay, AK 99589

Goodnews RDI Application: Legal Description

Goodnews Lake, Igmiumanik River, Middle Fork Goodnews River, Middle Fork Lake, Kukaktlim Lake, Goodnews River, South Fork Goodnews River, Kukaktik River, Tivyagik Creek, and unnamed tributary to Tivyagik Creek starting at the upstream locations noted and moving downstream to the location the river(s) enters Goodnews Bay within the State of Alaska, more particularly described as follows:

Goodnews River and Goodnews Lake:

All submerged lands between the ordinary high water lines of the left and right banks of the Goodnews River, starting at the confluence of an unnamed creek near river mile 78 within the Section 3, Township 7 South, Range 66 West, Seward Meridian including Goodnews Lake, downstream to the location where the river enters the Goodnews Bay within Township 12 South, Range 73 West, Seward Meridian, Alaska. The Goodnews River and Goodnews Lake is located within the following townships and ranges in the Seward Meridian as determined from Alaska USGS 1:63 360 series topographic map Goodnews Bay C-4, (1954, minor revisions 1981), Goodnews Bay C-5, (1979), Goodnews Bay B-5, (1979, minor revisions 1983); Goodnews Bay B-6, (1954); Goodnews Bay B-7, (1954, minor revisions 1984); and Goodnews Bay A-7, (1954, minor revisions 1984):

MTRS

S007S066W03	S008S067W22	S009S069W29
S007S066W02	S008S067W21	S009S069W32
S007S066W11	S008S067W28	S009S069W31
S007S066W14	S008S067W20	S010S069W06
S007S066W23	S008S067W29	S010S070W01
S007S066W26	S008S067W30	S010S070W02
S007S066W27	S008S067W19	S010S070W11
S007S066W34	S008S068W25	S010S070W14
S007S066W35	S008S068W26	S010S070W10
S008S066W03	S008S068W35	S010S070W15
S008S066W04	S008S068W34	S010S070W16
S008S066W09	S009S069W01	S010S070W21
S008S066W08	S009S069W02	S010S070W17
S008S066W07	S009S069W11	S010S070W20
S008S066W17	S009S069W12	S010S070W19
S008S066W18	S009S069W14	
S008S066W19	S009S069W15	
S008S067W24	S009S069W16	
S008S067W13	S009S069W22	
S008S067W23	S009S069W21	

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

Igmiumanik River:

All submerged lands between the ordinary high water lines of the left and right banks of the Igmiumanik River, within the NE¼NE¼ Section 19, Township 7 South, Range 65 West, Seward Meridian, within the following townships and ranges in the Seward Meridian as determined from Alaska USGS 1:63 360 series topographic map Goodnews Bay C-4, (1954, minor revisions 1981):

MTRS

S007S065W19	S007S066W24	S007S066W25	S007S066W26	S007S066W35

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

South Fork Goodnews River:

All submerged lands between the ordinary high water lines of the left and right banks of the South Fork Goodnews River, within the SW¼NW¼ Section 3, Township 12 South, Range 70 West, Seward Meridian, within the following townships and ranges in the Seward Meridian as determined from Alaska USGS 1:63 360 series topographic map Goodnews Bay A-5, (1979), Goodnews Bay A-6, (1954), and Goodnews Bay A-7, (1954, minor revisions 1984):

MTRS

S012S070W03	S011S070W31	S012S071W05	S012S071W18
S012S070W04	S012S070W06	S012S071W08	S012S072W13
S012S070W05	S012S071W03	S012S071W06	S012S072W22
S011S070W32	S012S071W04	S012S071W07	

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

Tivyagik Creek:

All submerged lands between the ordinary high water lines of the left and right banks of the Tivyagik Creek, within the NE¼NW¼ Section 28, Township 12 South, Range 71 West, Seward Meridian, within the following townships and ranges in the Seward Meridian as determined from Alaska USGS 1:63 360 series topographic map Goodnews Bay A-6, (1954), and Goodnews Bay A-7, (1954, minor revisions 1984):

MTRS

S012S071W28	S012S071W22	S012S071W16	S012S071W08	S012S071W07
S012S071W21	S012S071W15	S012S071W17	S012S071W18	

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

Unnamed Tributary of Tivyagik Creek:

All submerged lands between the ordinary high water lines of the left and right banks of the Unnamed Tributary of Tivyagik Cree, within the SE¼SE¼ Section 32, Township 12 South, Range 71 West, Seward Meridian, within the following townships and ranges in the Seward Meridian as determined from Alaska USGS 1:63 360 series topographic map Goodnews Bay A-7, (1954, minor revisions 1984):

MTRS

S012S071W32	S012S071W29	S012S071W28

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

Middle Fork Goodnews River:

All submerged lands between the ordinary high water lines of the left and right banks of the Middle Fork Goodnews River, starting at within the SE¼NE¼ Section 10, Township 9 South, Range 67 West, Seward Meridian including Middle Fork Lake, within the following townships and ranges in the Seward Meridian as determined from Alaska USGS 1:63 360 series topographic map Goodnews Bay B-5, (1979, minor revisions 1983); Goodnews Bay B-6, (1954); Goodnews Bay A-6, (1954), and Goodnews Bay A-7, (1954, minor revisions 1984):

MTRS

S009S067W10	S010S068W09	S010S069W29	S011S070W18
S009S067W15	S010S068W05	S010S069W30	
S009S067W16	S010S068W08	S010S070W25	
S009S067W21	S010S068W07	S010S070W36	
S009S067W20	S010S068W18	S010S070W35	
S009S067W29	S010S068W17	S011S070W02	
S009S067W30	S010S068W20	S011S070W03	
S009S067W31	S010S068W19	S011S070W04	
S009S068W36	S010S069W24	S011S070W10	
S009S068W35	S010S069W23	S011S070W09	
S009S068W34	S010S069W22	S011S070W08	
S010S068W03	S010S069W21	S011S070W17	
S010S068W04	S010S069W28	S011S070W07	

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

Kukaktlik River and Kukaklim Lake:

All submerged lands between the ordinary high water lines of the left and right banks of the Kukaktik River, within the NE¼SW¼ Section 1, Township 10 South, Range 67 West, Seward Meridian including Kukaktlim Lake, within the following townships and ranges in the Seward Meridian as determined from Alaska USGS 1:63 360 series topographic map Goodnews Bay B-4, (1979), Goodnews Bay B-5, (1979, minor revisions 1983):

MTRS

S009S066W31	S010S067W11	S010S067W18	S010S068W21	S010S069W26
S009S067W36	S010S067W14	S010S067W19	S010S068W28	S010S069W24
S010S066W06	S010S067W15	S010S068W24	S010S068W29	S010S069W23
S010S067W01	S010S067W16	S010S068W23	S010S068W30	
S010S067W12	S010S067W17	S010S068W22	S010S069W25	

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