



United States Department of the Interior



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In Reply Refer To:
AKAK106657111
AKAA-93319 (1864)
(9414)

August 3, 2026

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RETURN RECEIPT REQUESTED

DECISION

State of Alaska	:	AKAK106657111
Department of Natural Resources	:	Application for a Recordable
Division of Mining, Land & Water	:	Disclaimer of Interest
Public Access Assertion and Defense Unit	:	Arolik River System (Arolik River, East
550 West Seventh Avenue, Suite 1070	:	Fork Arolik River, and Arolik Lake)
Anchorage, Alaska 99501-3579	:	

APPLICATION APPROVED

I. Summary

On November 2, 2017, the State of Alaska (State) finalized application AKAK106657111 with the Bureau of Land Management (BLM) for a Recordable Disclaimer of Interest (RDI) pursuant to section 315 of the Federal Land Policy and Management Act of 1976 (FLPMA) as amended (43 U.S.C. § 1745), and the regulations contained in 43 CFR Subpart 1864 for certain lands underlying the Arolik River System, located in Southwest Alaska.^{1, 2}

The Arolik River System is in the Yukon-Kuskokwim Delta region. Arolik Lake is located approximately 400 miles southwest of Anchorage and 100 miles south of Bethel, between the

¹ FLPMA of 1976, Disclaimer of interest in lands, 43 U.S. Code § 1745.

² James H. Walker, State of Alaska, Department of Natural Resources (DNR) Public Access and Defense Unit, to, to Angela Nichols, BLM, RDI Program Manager, (Nov. 2, 2017), (on file with Bureau of Land Management records, Anchorage, AK [hereinafter BLM Records]).

Kanektok and Goodnews river basins. Originating in the Ahklum Mountains, the 573-square-mile Arolik River watershed empties into Kuskokwim Bay.³ The village of Quinhagak is located about 4 miles north of where the Arolik River drains into Kuskokwim Bay (Map 1).

The RDI application for the Arolik River System was submitted for the submerged lands as follows:

1) The East Fork Arolik River including Arolik Lake: All submerged lands between the ordinary high-water lines of the left and right banks of the East Fork Arolik River beginning at the outlet of Arolik Lake within sec. 24, T. 8 S. R. 70 W., Seward Meridian, Alaska (S.M.), [RM 11.4,] downstream to the east boundary of sec. 10, T. 8 S., R. 71 W., S.M.; [RM 0.0.] All submerged lands below the ordinary high-water line of Arolik Lake within secs. 23, 24, and 25, T. 8 S., R. 70 W., S.M., and secs. 19, 30, and 31, T. 8 S., R. 69 W., S.M.;

2) Arolik River: All submerged lands between the ordinary high-water lines of the left and right banks of the Arolik River, within T. 7 S., R. 71 W., S.M. [from RM 31.4 to RM 34.9.]⁴

The State's application asserts that the above-described waterbodies were navigable in fact on the date of Alaska's statehood, January 3, 1959.⁵ As such, the application maintains that ownership of the submerged lands underlying the Arolik River System passed by operation of law from the United States to the State upon the date of statehood under the Alaska's statehood Act,⁶ the Equal Footing Doctrine,⁷ the Submerged Lands Act (SLA) of 1953,⁸ the SLA of 1988,⁹ and other title navigability laws.

The RDI application includes information for the Arolik River System. Specifically, it includes the *Arolik River Final Interim Summary Report*, Phase II-B Submission, dated Aug. 3, 2010,¹⁰ which has past BLM navigability findings, and a USFWS report titled *Arolik River Navigability Report*.¹¹ Additionally, it provided information on physical character, Alaska Native subsistence use, use by miners transporting supplies, Alaska Native use accessing their Native Allotments, and use of the river post-statehood (Jan. 3, 1959) by local users, federal and state governments, and guided and unguided recreational users floating downstream from Arolik Lake.

³ Kenneth T. Alt, *Inventory and Cataloging of Sport Fish and Sport Fish Waters of Western Alaska*, Volume 18, Jul. 1, 1976 – June 30, 1977, Juneau: Sport Fish Division, Alaska Department of Fish and Game, 1977, p. 47.

⁴ James H. Walker, DNR, Public Access and Defense Unit, to Bud Cribley, State Director, "(AK AA-093319) *Amended Recordable Disclaimer of Interest Application for the Arolik River System: Including the East Fork Arolik River and Arolik Lake, and a portion of the Arolik River*," file AKAK106657111 (AA-093319) (1864), Alaska State Office, (Sept. 15, 2016) BLM records

⁵ *Ibid*

⁶ Alaska Statehood 72 stat. 339.

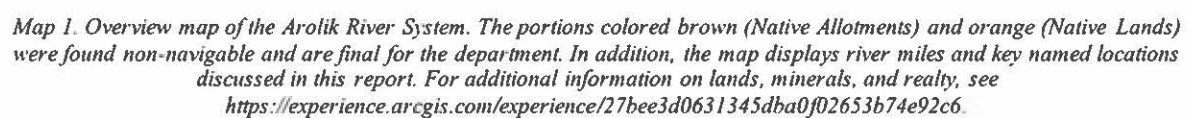
⁷ U.S. CONST. art. IV. § 3.c1.

⁸ SLA of 1953, 43 U.S.C. § 1301 et seq.

⁹ SLA of 1988, 43 U.S.C. § 1631.

¹⁰ Office of History and Archaeology, Department of Natural Resources, State of Alaska, "*Arolik River, HUC 30502, Zone 1, Kuskokwim River Region, Final Interim Summary Report*," p. 17 (Aug. 3, 2010), BLM records,

¹¹ USFWS "*Arolik River Navigability Report*," Warren Keogh, Water Resources Branch, Region 7, (Jan. 2000).



The BLM has determined that the information present in the record for the State's application demonstrates that the eligible subject waters of the Arolik River System in the application were navigable at the time of Alaska's statehood. The State's application is therefore **APPROVED** as described below.

II. Lands Review

The State's application primarily affects submerged lands managed by the U.S. Fish and Wildlife Service (USFWS) within the Yukon Delta National Wildlife Refuge.

Additionally, the application affects lands managed by the BLM within secs. 1, 2, and 12, T. 8 S., R. 71 W., S.M., and State managed lands within sec. 11, T. 8 S., R. 71 W., S.M. Lands within 8 S., R. 71 W., S.M were determined to be non-navigable in 1988, 1989 and were Tentatively Approved (TA) for conveyance in 2006.^{12, 13, 14}

Two applications for the Alaska Native Vietnam-era Veterans Land Allotment Program (ANVLAP) of 2019 have been received by the BLM since the date of the State's application in 2017.¹⁵ Application AA-97192 is located within sec. 2, T. 8 S., R. 71 W., S.M., and application AA-97546 is located within secs. 1 and 2, T. 8 S., R. 71 W., S.M. There are no navigability findings for these allotment applications.

Administrative navigability findings were made in support of Alaska Native Claims Settlement Act (ANCSA) land conveyances for submerged lands of the subject waters of the East Fork Arolik River, between RM 0 and about RM 0.3, within sec. 10, T. 8 S., R. 71 W., S.M. ¹⁶ These lands are not part of the State's application and will not be adjudicated within this decision.

The submerged lands of the subject waters were researched to identify any valid withdrawals occurring prior to Alaska's statehood, January 3, 1959, that would defeat the State's claim of title. No valid withdrawals were identified that would impact a decision on this application.

III. Notice of the Application and Public Comments

Notice of the State's application was published in the *Federal Register* on January 7, 2026.¹⁷ The notice of the State's application was also published in the *Anchorage Daily News* and the *Tundra Drums* once a week for three consecutive weeks beginning on January 14, 2026, and January 16,

¹² Memorandum, From: Deputy State Director for Conveyance Management, To: Deputy State Director for Cadastral Survey "Navigable Waters in Group Survey 171", (Mar. 29, 1988). BLM records.

¹³ Memorandum, From: Deputy State Director for Conveyance Management, To: Deputy State Director for Cadastral Survey "Navigable Waters on or along Small Tracts in Quinhagak", (Feb. 21, 1989). BLM records

¹⁴ State of Alaska, TA No. 2006-0011, (Issued Jan. 27, 2006) BLM Records.

¹⁵ ANVLAP of 2019, 43 CFR § 2569.

¹⁶ The BLM's administrative navigability findings for ANCSA-conveyed lands are subject to legislative finality according to 43 U.S.C. 1631(c)(1).

¹⁷ Application for a Recordable Disclaimer of Interest for Lands Underlying Portions of East Fork of the Arolik River, the Arolik River, and Arolik Lake in Alaska, 91 Fed. Reg. 12606 (Jan. 7, 2026) (FR Doc. 2026-00034). <https://www.federalregister.gov/documents/2026/01/07/2026-00034/application-for-a-recordable-disclaimer-of-interest-for-lands-underlying-portions-of-the-east-fork>. (last accessed Jul. 29, 2026)

2026, respectively. Information about this application and supporting evidence was also posted on the BLM-Alaska website.¹⁸ The notice invited reviews and additional information to support BLM's processing of the application such as historical use and physical characteristics of the Arolik River System.

The USFWS was informed of the application via a notification memorandum sent to Division Chief of Resource Management, Alaska Regional Office, simultaneously with the publication of the *Federal Register* notice. The USFWS responded on February 6, 2026, providing hydrologic information on the Arolik River, the East Fork of the Arolik River and Faro Creek taken between 1998 and 2018. The USFWS also provided a field inspection report on the East Fork of the Arolik River, carried out in September of 2018, and a report on the surface area and volumetric calculations for 25 lakes within and near the Togiak National Wildlife Refuge carried out in 2012.¹⁹

The 30-day comment period ended on February 5, 2026. The BLM received comments during the published notice period. Many comments received addressed the process and navigability in general and were not specific to the RDI application or this decision. Responsive comments pertinent to this decision are addressed below in section VIII. Relevant Information.

IV. Administrative Waiver Granted

A legal description of the lands for which a waiver is sought must be based on either an official United States public land survey or a metes and bounds survey tied to the nearest corner of an official public land survey, unless a waiver is granted.²⁰ In the State's RDI application, the State requested a waiver of this requirement under 43 CFR 1864.1-2(d). The location of the Arolik River System is clearly depicted on the U.S. Geological Survey quadrangle maps and is not in dispute. The ordinary high-water marks of these waterbodies are the legal boundary of the submerged lands. Since the boundaries of these waterbodies are ambulatory, the location may change over time. The BLM, therefore, determines that a survey of the subject waterbodies is not needed to adjudicate the State's application. The waiver is hereby **granted**.

V. Applicable Legal Authority

The SLA of 1953 43 U.S.C. § 1301(a), granted and confirmed states' title to the lands beneath inland navigable waters within the boundaries of each respective state.²¹ It also gave the states the right and power to manage and administer these lands in accordance with state law. Due to

¹⁸ US Department of the Interior, Bureau of Land Management, *Recordable Disclaimer of Interest: Southeast*, <https://www.blm.gov/programs/lands-and-realty/regional-information/alaska/RDI/kuskokwim> (accessed Jul. 9, 2026).

¹⁹ Memorandum from Ryan Molnow USFWS Division Chief of Natural Resources, Alaska Region, to Bettie Shelby, BLM Branch Chief, Lands and Realty, Alaska Lands and Realty "State of Alaska's Application for a Recordable Disclaimer of Interest for Lands Underlying Portions of the East Fork of the Arolik River, the Arolik River, and Arolik Lake in Alaska". (Feb. 6, 2026). BLM records.

²⁰ 43 CFR § 1864.1-2(c)(1).

²¹ 43 U.S.C. § 1311(a).

the Equal Footing Doctrine, the SLA of 1953 was incorporated into the State's legal framework because the Alaska Statehood Act of 1958 made the SLA of 1953 applicable to Alaska.²²

Section 315(a) of FLPMA, 43 U.S.C. § 1745(a), authorizes the Secretary of the Interior to issue a document of disclaimer of interest in any lands in any form suitable for recordation,²³ where the disclaimer will help remove a cloud on the title of such lands and to determine whether a record interest of the United States in lands has terminated by operation of law or is otherwise invalid. This authority has been delegated to the BLM Alaska State Director.²⁴

VI. Standards of Navigability

The Federal test of navigability is found in *The Daniel Ball*, 77 U.S. 557 (1870). There, the U.S. Supreme Court stated: "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."²⁵

In assessing the navigability of inland waterbodies, the BLM relies upon this test as well as Federal statutes and case law. Relevant Federal statutes include the SLA of 1953 and the SLA of 1988. The Supreme Court's most recent decision on title navigability, *PPL Montana, LLC v. Montana*, 132 S. Ct. 1215 (2012), summarizes and explains the proper interpretation of The Daniel Ball criteria. Additional guidance is provided in *Alaska v. Ahtna, Inc.*, 891 F.2d 1401 (9th Cir. 1989); *Alaska v. United States*, 754 F.2d 851 (9th Cir. 1983); and Appeal of Doyon, Ltd., Alaska Native Claims Appeal Board RLS 76-2, 86 I.D. 692 (1979).

The navigation need not be open at all seasons of the year or at all stages of the water.²⁶ A river's use "need not be without difficulty, extensive, or long and continuous" for the river to be a highway for commerce.²⁷

The Supreme Court addressed present-day recreational use of waterways as evidence of navigability in *PPL Montana*. The Court provided: "In order for present-day use to have a bearing on navigability at statehood, (1) the watercraft must be meaningfully similar to those in customary use for trade and travel at the time of statehood; and (2) the river's post-statehood condition may not be materially different from its physical condition at statehood."²⁸

VII. Related BLM Navigability Findings

The BLM has made several navigability findings prior to conveyance involving submerged lands included within lands selected by and subsequently conveyed to Qanirtuuq, Inc., Calista

²² 72 Stat. 339, 343

²³ 43 U.S.C. § 1745(a).

²⁴ U.S. Dept. of the Interior, 209 DM 7; *id.*, 235 DM 1; BLM., U.S. Department of the Interior, BLM Manual MS-1203, App. I, at 52.

²⁵ *The Daniel Ball*, 77 U.S. 557, 563 (1870).

²⁶ *Id.* p.84.

²⁷ *Oregon v. Riverfront Protection Assoc.*, 672 F.2d 792, 795 (9th Cir. 1982).

²⁸ *PPL Montana* p. 578-79.

Corporation,²⁹ and Native Allotments, which are mostly located downstream, and a small portion upstream, located in secs. 3, 4, 10, T. 8 S., 71 W., S.M., of the State's application along the Arolik River (see Map 1).^{30, 31} The BLM found the lower 31 river miles of the Arolik River, and RM 35 to 37, within these selections to be non-navigable in the late 1970's.³²

These selections were found non-navigable and conveyed under ANCSA and the SLA of 1988 and are a legislatively final action. The BLM found that the Arolik River is tidally influenced in its lower reaches and that the associated submerged lands are therefore owned by the State pursuant to the Submerged Lands Act of 1953.³³

VIII. Relevant Information

A. Physical Character Summary

Arolik River and Arolik Lake

Beginning at Arolik Lake, the East Fork Arolik River flows approximately 11.4 miles before joining the Arolik River, which continues for approximately 36.8 miles. The Arolik River drains a watershed of about 573 square miles. The Arolik River splits at about RM 24.7 into the North Mouth Arolik River and South Mouth Arolik River before emptying into Kuskokwim Bay. The river mile designation for the Arolik River is counted starting at tidewater for RM 0.0 of the North Mouth Arolik River and then increases upstream ending at the confluence with the East Fork Arolik River (East Fork) and the South Fork Arolik River (South Fork) at RM 36.8. The East Fork is designated as RM 0.0 starting at the confluence of the Arolik River and South Fork and then increases upstream to RM 11.4 ending at the outlet of the Arolik Lake. Arolik Lake is 2.3 miles long by 0.4 miles wide, about 655 acres, capable of supporting float plane landings.³⁴ There is no evidence of human settlement on the lake, such as structures or Alaska Native Allotments.

The USFWS report,³⁵ provided by the State in their application, describes the topography and geology of the Arolik River System as:

The Arolik River begins at Arolik Lake, a remote glacially formed lake wedged between two high ridges. Downstream is extremely shallow with a bed of coarse gravel and small cobble. It flows through a high plateau area of tundra with alder and willows along its banks. Below the confluence of East Fork and South Fork Arolik rivers, its volume nearly

²⁹ Calista Corporation Land Patent No. 50-2008-0135, (issued Jan. 23, 2008).

³⁰Memorandum, From: Deputy State Director for Conveyance Management, To: Deputy State Director for Cadastral Survey "Navigable Waters in Group Survey 171", (Mar. 29, 1988). BLM records.

³¹ Memorandum, From: Deputy State Director for Conveyance Management, To: Deputy State Director for Cadastral Survey "Navigable Waters on or along Small Tracts in Quinhagak", (Feb. 21, 1989). BLM records

³² Office of History and Archaeology, Department of Natural Resources, State of Alaska, "Arolik River, HUC 30502, Zone 1, Kuskokwim River Region, Final Interim Summary Report", BLM records, p. 17 (Aug. 3, 2010).

³³ Alaska Native Claims Settlement Act 43 U.S.C. § 1601 et seq.

³⁴ Kenneth T. Alt, *Inventory and Cataloging of Sport Fish and Sport Fish Waters of Western Alaska*, Volume 18, Jul. 1, 1976 – June 30, 1977, Juneau: Sport Fish Division, Alaska Department of Fish and Game, , p. 50 (1977).

³⁵ Revised Togiak National Wildlife Refuge Comprehensive Conservation Plan, Togiak National Wildlife Refuge, , p. 3-78, (Aug. 2009).

doubles but remains a narrow shallow stream of large gravel and cobble. After passing through Arolik Gap, the river enters the coastal plain and gradually turns into a slow meandering stream with sharp cutbanks on either side. Approximately 10 miles from Kuskokwim Bay, the river divides into its North and South mouths.

The USFWS also provided hydrologic inventory reports and daily mean period of record spreadsheets for three gaging stations in the Arolik River basin to the State and the BLM.³⁶ Additionally, USFWS hydrologists performed a field inspection September 19 to 22, 2018.³⁷

East Fork Arolik River

The hydrologic measurements reported by the USFWS show that the East Fork averages roughly one foot of depth at “run” habitat locations, where depths are naturally greater and more uniform. Because riffles are shallower than runs, the numerous riffles present throughout the East Fork are commonly 2–4 inches deep, limiting the ability of watercraft to remain afloat.

The 2018 USFWS field trip report described six separate reaches of the East Fork beginning at the outlet of Arolik Lake and ending at the downstream confluence of the East Fork and South Fork. The mainstem Arolik was categorized as its own segment for RM 31.5 to 37.9. The reaches were divided based on channel morphology which changed as the geology changed down the valley.³⁸

USFWS conducted a field survey in September 2018, and documented flows ranging from 17.6 cubic feet per second (cfs) at the lake outlet, to 80 cfs near the mouth. These flows were lower than normal for the East Fork Arolik (117 cfs on average for September) and lower than typical flows in May and June (215 and 134 cfs respectively)³⁹. The investigation documented repeated dragging on the East Fork even with lightly loaded modern packrafts. Dragging was required for the entire stretch of first reach of the East Fork (0.8 miles), and other reaches contained multiple unavoidable shallows and rock gardens. Photos gathered by the USFWS show shallow runs, braided channels, vegetated bars, and boulder-strewn segments (Figure 1. USFWS photograph at the shallow outlet of the Arolik Lake flowing into the East Fork, Sept. 2018).

Below is a brief description of the East Fork Arolik River between the lake outlet and the mouth as described in the USFWS field work report⁴⁰.

Beginning at the Arolik Lake outlet and traveling downstream the channel has irregular meanders with many channel splits and oxbows. The channel bed consists of gravel with some areas of sand and gravel. There are point bars, but they are not well developed and only a few inches to 1 foot above the water level at the time of the visit with the higher bars having grasses

³⁶ Email correspondence from Warren Keogh, Paralegal Specialist, USFWS, to Jack Frost, BLM Navigable Waters Specialist, et al, (Mar. 16, 2017), BLM records.

³⁷ USFWS Water Resources Branch, “*East Fork Arolik Field Trip Report*,” (Sept. 19-22, 2018), BLM Records. [Here after: USFWS 2018 Field Trip Report]

³⁸ *Ib.* 2018.

³⁹ Memorandum from Ryan Mollnow USFWS Division Chief of Natural Resources, Alaska Region, to Bettie Shelby, BLM Branch Chief, Lands and Realty, Alaska Lands and Realty “State of Alaska’s Application for a Recordable Disclaimer of Interest for Lands Underlying Portions of the East Fork of the Arolik River, the Arolik River, and Arolik Lake in Alaska” (Feb. 6, 2026) BLM records.

⁴⁰ USFWS 2018 Field Trip Report.

growing on the highest surface. The channel width ranges from 10 feet at a couple of bends with bars to 40 feet at the lake outlet and is very irregular. The depth ranged from 1 inch to 1 foot. Trip participants walked the boats they were using for the first 0.8 miles dragging over gravel most of the way.⁴¹ See Figure 1. USFWS photograph at the shallow outlet of the Arolik Lake flowing into the East Fork, Sept. 2018.



Figure 1. USFWS photograph at the shallow outlet of the Arolik Lake flowing into the East Fork, Sept. 2018.

As the river continues downstream, the stream becomes wider (up to 150 feet) and there are no channel banks, with the edge of the river transitioning to wetlands. The bed is fine grained with the majority of the depth greater than 1.5 feet with periodic need to walk rafts. Continuing downstream there are several small channels draining the wetlands to the stream, but water drains almost continuously into the channel along low points on the banks. The channel ranges from 25 to 60 feet wide, averaging 30 to 35 feet wide and is very irregular. The channel has

⁴¹ *Id.*, p. 7.

irregular meander bends but is a continuous run without pool-riffle sequences or point bar development. The few bars are low and vegetated. The channel bed is gravel; the banks are fine grained and vegetated. The depth was generally less than 6 inches. With a person in the boat, it was either scraping bottom or actually stuck when crossing small riffles.⁴²

The river transitions to a steeper gradient with lower sinuosity and the majority of the channel consists of runs, with some riffles and no true pools. The channel is adjacent to glacial drift hills periodically where there are boulders forming rock gardens that make boat passage difficult. The channel bed is large gravel with cobbles and occasional boulders.⁴³

There is a stretch of channel splitting where the bed consists of gravel and is generally less than 0.5 feet deep.⁴⁴

Further downstream, below the old USFWS East Fork Arolik stream gage, the channel is generally straight with a few short bends, small side channels and islands approximately every 0.5 miles. The channel bed consists of gravel and cobbles with some boulders. There are rock gardens where the channel is against the hills. At bends there are higher vegetated bars.⁴⁵

Near the confluence with the South Fork the river is the steepest and has a pool riffle sequence with well-developed, low and vegetated point bars. The channel bed is gravel. The deepest part of the channel was more than 1.5 feet deep except across the riffles. See Figure 2. The participants reported that the boats they were using bumped on most of the riffles and had to be dragged across one.⁴⁶

⁴² *Id.*, p. 8.

⁴³ *Id.*, p. 9.

⁴⁴ *Id.*, p. 10.

⁴⁵ *Id.*, p. 11.

⁴⁶ *Id.*, p. 12.

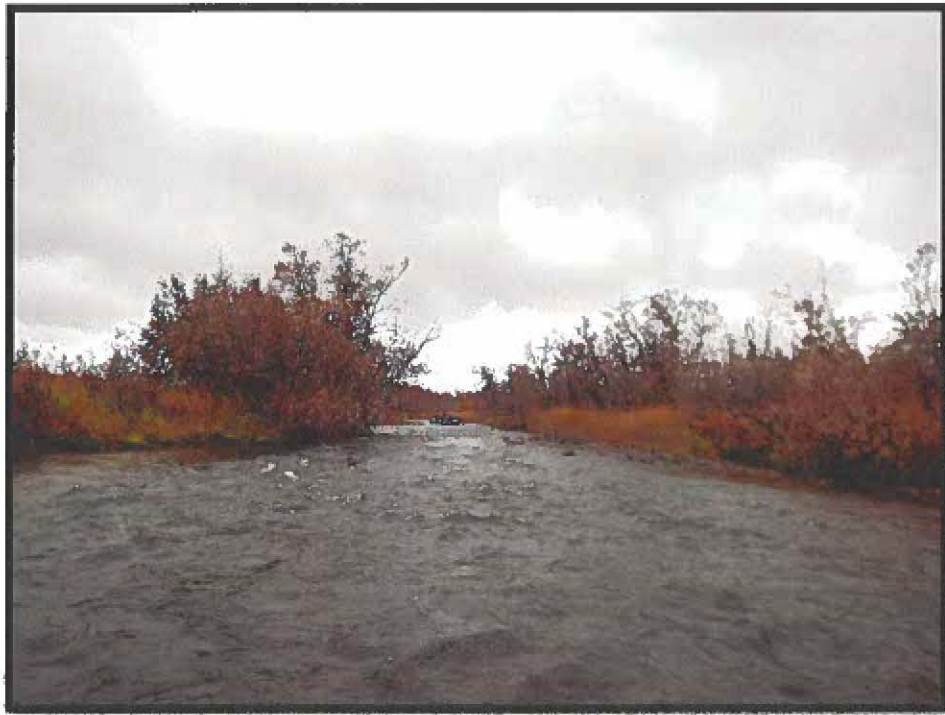


Figure 2. USFWS photograph of the East Fork Arolik River, September 2018.

Arolik River mainstem reach

The Arolik River mainstem is 6.4 miles long (RM 31.5 to 37.9) measured from the mouth of the north distributary channel and runs from the East Fork/South Fork confluence to 0.75 miles above Faro Creek. The channel has irregular, low sinuosity meanders with some large gravel bars and islands. The channel is 80 to 150 feet wide with islands (old, vegetated bars) and channel splits. The channel bed is large gravel with cobbles. The depth is generally over 1 foot, with wide and spilt channel sections shallower. See Figure 3.



Figure 3. USFWS photograph of the typical channel in the Arolik River mainstem reach, September 2018.

The State provided physical character information on the mainstem Arolik River in its application. It noted that the mainstem has been described as having “a relatively straight channel, swift current, willow band along the shore, clear water and a clean gravel bottom.” Its channel is reported to range from “one to three feet deep and deeper in pools.” There are some rocks and shallow spots.⁴⁷

The upper portion (RM 34 to 37) of the mainstem Arolik River is swift, with a bottom of large gravel and rocks. Three miles below the junction of the East Fork and South Fork, at approximately RM 34, the river enters a broad valley between low mountains. The average width and depth in this portion are 120 feet and 14 inches, respectively. The river bottom through the upper end of the main stem (RM 34 to 37) is composed mainly of coarse gravel.⁴⁸

On the Arolik River mainstem (RM 31.4 to 34.9), water depths are generally greater than the East Fork. The record of evidence describes depths of approximately 14 inches in some parts of the boatable channel, sufficient to float certain shallow-draft watercraft but also required walking in the several shallow sections. The mainstem reach is upstream of the previously determined non-navigable Arolik River.

A review of readily accessible modern imagery revealed no apparent modifications to the physical character of the subject waters. Likewise, the available historical record provides no indication of alteration or development affecting these waters. Accordingly, the subject waters

⁴⁷ State's application, p. 17.

⁴⁸ *Id.* p. 18.

are determined to retain the physical attributes consistent with their natural and ordinary condition at the time of Alaska's statehood.

B. Historic Use

Historical and ethnographic information indicates that upstream travel toward Arolik Lake was not accomplished by watercraft. Instead, travelers used overland routes, often towing kayaks on sleds. Only the downstream journey from the lake was undertaken by boat and only during high-water conditions. Local knowledge documents a historic upstream limit to boats travelling upstream, located near RM 12 to 13 (referred to as "Angyarairyaraq," meaning "where you leave your boat"), well downstream of the areas included in the State's application.⁴⁹

i. Subsistence

Locals historically harvested the Arctic ground squirrels (known locally as parka squirrels because of their use in parkas) in the mountains in the middle or upper reaches of the mainstem Arolik River. This use has declined since the 1950s but was reported to continue into the 1980s by Wolfe in 1984 and by Frank Matthew in 1988.⁵⁰ The farthest upstream Native Allotment in the upper reaches of the Arolik River is located at approximately RM 29 (see Figure 4) or near the confluence of Faro Creek and the Arolik River, about 2.5 miles downstream from the beginning of the State's application at RM 31.4.

Qanirtuuq, Inc., through its legal representation, Naomi Palosaari, Fortier & Mikko, P.C., emailed the BLM on Jul. 2, 2019, providing insight on historic Native use of the Arolik River. The email noted that:

Local knowledge teaches that historically, watercraft could not navigate upstream to the lake and could only traverse downstream in times of high flow. In times past, elders tell of traveling to Agalik [Arolik] Lake by foot to hunt squirrels because it was not possible to navigate upstream by boat:

She said they would leave on foot, using two kayaks, placing them on kayak sleds, and would tow those two kayaks on foot. They'd place their few belongings inside those two kayaks. They would leave heading down the coast along Agalik [Arolik] River, traveling along the shores of Agalik, heading up. . . when they reached the lake source of Agalik River, after staying there for a while . . . they placed their belongings inside and got inside the kayak and floated downriver with the current and return home. They'd move in April and return in May.⁵¹

⁴⁹ Application for a Recordable Disclaimer of Interest for Lands Underlying Portions of East Fork of the Arolik River, the Arolik River, and Arolik Lake in Alaska, 91 Fed. Reg. 12606 (Jan. 7, 2026) (FR Doc. 2026-00034). <https://www.federalregister.gov/documents/2026/01/07/2026-00034/application-for-a-recordable-disclaimer-of-interest-for-lands-underlying-portions-of-the-east-fork> (accessed: Jul. 29, 2026)

⁵⁰ State's application, p. 9.

⁵¹ George Pleasant and Martha Mark, in Erinaput Unguvariarutut: So Our Voices Will Live (Alice Rearden transl., Ann Fienup-Riordan ed.) (2013), at 245-46.



Figure 4. View of the Arolik River at river mile 29, Jul. 23, 1984, at the site of Native Allotment AA-37771. The view is looking southeasterly. This is the farthest upstream Native Allotment on the Arolik River. Note: The black circle in the photograph marks the location of the BLM survey marker. Photograph by Stan Nevak taken from file AA-37771.

Another Quinhagak resident reported using his snowmachine to haul his boat up to spring camp on the Agalik River and used his boat to carry his snowmachine back down. *Frank Matthew Sr, in Erinaput Unguvaniarutut, at xli.*⁵²

Byron Phillips, Land Manager for Qanirtuuq, Inc., village corporation for the Native village of Kwinhagak, and Samuel Fortier, Fortier & Mikko, P.C., emailed the BLM during the 30-day *Federal Register* notice period. Both emailed their comments on the state's application and also provided a map (Map 1 for location) documenting the historical location where upstream boat travel ended. Based on the maps and longitude and latitude it appears that this location, named

⁵² Email correspondence from Naomi Palosaari, Fortier & Mikko, P.C., to Jack Frost, BLM Navigable Waters Specialist, et al, Note: The source does not state how far upstream this individual traveled (Jul. 2, 2019), BLM records.

“Angyarrairyaraq,” is far downstream of the state’s application between RM 12 to 13. The meaning of *“Angyarrairyaraq,”* is known locally as “where you leave your boat” because the river is so shallow. The map documents that “the only time we go up there is when you have a really tiny boat...only a flat-bottomed boat or tiny boat (will work).” Additionally, “it gets shallow across, so we don’t go up there...it’s been like that (for a long time).”⁵³

ii. Mining

The State provided mining information from the early 1900’s until World War II in its application. Mining waned after World War II, but there is still present interest as new landowners have touted the area’s potential for gold-bearing gravels and ease of access afforded by the Arolik River.⁵⁴

Pre-statehood placer mining activity within the region was centered around Faro Creek. There are records of some geologic fieldwork in the Faro Creek drainage of the Arolik River. USGS geologist George Harrington and USGS topographer R.A. Sargent conducted fieldwork in the Goodnews Bay region in 1919 and described it as “one of the most inaccessible in Alaska for a small expedition.”⁵⁵ Harrington described boat usage in the area, noting that “supplies for Arolik River basin miners and prospectors were brought from Kwinak [Quinhagak] either by poling boat in the summer or by dog sled in the winter and early spring.” Government mining engineer Irving Reed investigated mining activity in the Arolik River region during 1931 and described his unsuccessful boat ascent of the Arolik.⁵⁶

In general, the mining activity in the Arolik River region was located in the upper tributaries to Faro Creek (see Map 1). Faro Creek has its confluence with the Arolik River at approximately RM 29, while the State’s application begins approximately at RM 31.4 and continues upstream to RM 34.9. Therefore, it is apparent that these mining activities and any historical use of poling boats took place outside (downstream) of the area included in the State’s application.

iii. USFWS

In 1996, Rob MacDonald, a USFWS fisheries researcher, floated the Arolik River three times starting at Arolik Lake to study fish populations. These trips occurred June 21 to 26, July 24 to 29, and August 28 to September 1. The June trip proceeded without incident but during the July trip, MacDonald noted, “the water in the East Fork was very low, and the party had to drag over riffles and rocks the whole way.”⁵⁷

⁵³ Application for a Recordable Disclaimer of Interest for Lands Underlying Portions of East Fork of the Arolik River, the Arolik River, and Arolik Lake in Alaska, 91 Fed. Reg. 12606 (Jan. 7, 2026); (FR Doc. 2026-00034). <https://www.federalregister.gov/documents/2026/01/07/2026-00034/application-for-a-recordable-disclaimer-of-interest-for-lands-underlying-portions-of-the-east-fork91>

⁵⁴ Office of History and Archaeology, Department of Natural Resources, State of Alaska, “Arolik River, HUC 30502, Zone 1, Kuskokwim River Region, Final Interim Summary Report,” BLM records, pp. 33-34 (Aug. 3, 2010).

⁵⁵ *Id.*, p. 58.

⁵⁶ *Id.*, pp. 59-60.

⁵⁷ Office of History and Archaeology, Department of Natural Resources, State of Alaska, “Arolik River, HUC 30502, Zone 1, Kuskokwim River Region, Final Interim Summary Report,” Aug. 3, 2010, BLM records, p. 55.

iv. ADF&G

In 1976, Kenneth Alt, with the State of Alaska Department of Fish and Game (ADF&G), floated the Arolik River System from July 14 to 18, starting at Arolik Lake to inventory and catalog sport fish. Alt described the river as having “a gravel bottom over most of its course; has a moderate current; and because of its shallow depth, navigation with a propeller driven boat is difficult during most of the summer except for the lower few miles.”⁵⁸ Alt divided the river into four sections for the 1976 survey but only sections III and IV are encompassed by the State’s application. Section III includes the mainstem of the Arolik River and a portion of the State’s application. This section, RM 22 to 37, was described as “beginning at the North Mouth and South Mouth junction upstream to the East Fork-South Fork junction.”⁵⁹ Section III was also described as follows: “the average width of the stream three miles below the junction of the East Fork and South Fork, near Keno Creek [RM 34], was 120’ [feet] and average depth was 14 inches.”⁶⁰ The portion in Section III within the State’s application is approximately RM 31.5 to 35 of the Arolik River. Section IV, RM 0 to 11, included the entire East Fork covered in the report. Alt mentioned, “the flow at the outlet of Arolik Lake was only 19 cfs [cubic feet per second]” and for the upper six miles of Section IV [within the mainstem Arolik River], he stated “the bottom is covered with a thick mat of algae, and often the water was so shallow that a raft could not be floated through.”⁶¹

C. Modern Use

The State reported that raft trips on the Arolik River began in 1975 and continue to present day during the summer and fall seasons.⁶² Rafters that want to access the East Fork are dropped off at Arolik Lake by floatplane near the outlet of the lake. The recreational rafters, either guided or unguided, then assemble their rafts and drag and float them downstream to a takeout location. Most rafts include two or more people, plus gear and supplies. Papa Bear Adventures mentions in its online advertisement for the Arolik River that the maximum weight allowed for transport for two to three people (weight of all people, gear, supplies, and food) is 1,200 pounds.⁶³

Several guide services have provided access to Arolik Lake since 1975. Guide service providers from the State’s Phase II-B report in 2010 include Papa Bear Adventures and Fresh Waters Adventures, Inc. In the “‘Piscatorial Pursuits’ Outdoor Forums,” a member inquired on Jan. 10, 2003, about floating the Arolik River. Another member, who states they guided for Alaska West and had four years of experience on the river, replied on Jan. 13, 2003, with “the river is a fantastic rainbow stream. Floating the river can be a frustrating affair especially in the first few

⁵⁸ Kenneth T. Alt, Completion Report: *Inventory and Cataloging of Sport Fish and Sport Fish Waters of Western Alaska*, Volume 18, Jul. 1, 1976 – June 30, 1977, Juneau: Sport Fish Division, Alaska Department of Fish and Game, p. 47. (1977)

⁵⁹ *Id.*, p. 49.

⁶⁰ *Id.*, p. 49.

⁶¹ *Id.*, p. 50.

⁶² James H. Walker, DNR, Public Access and Defense Unit, to Bud Cribley, BLM, State Director, “Recordable Disclaimer of Interest Application for the Arolik River System: Including the East Fork Arolik River and Arolik Lake, and a portion of the Arolik River,” p. 11, (Sep. 1, 2016) BLM records.

⁶³ Papa Bear Adventures “Arolik River”, accessed Nov. 13, 2017. <http://pbadventures.com/rivers/arolik>

miles of the float. If the water is low, you will be forced to drag your raft for at least two of the days.”⁶⁴

Papa Bear Adventures advertisement for the Arolik River states, “The Arolik River flows northwest from Arolik Lake through the Eek Mountains. The upper portion of the river is small and depending on the time of the year and current rainfall, can be fairly shallow. Rafters often find themselves having to get in and out of their rafts to walk them through the shallowest parts after starting at Arolik Lake. After the first ten miles, the river almost doubles in size and flow and this is where the fishing really turns on!!”⁶⁵ It is unclear if this refers to the East Fork, but it is consistent with other descriptions of that fork.

Another forum that caters to adventurers is the Alaska Outdoors Supersite. On Feb. 13, 2008, a member posted an inquiry for information regarding their upcoming float trip on the Arolik River. Another member responded on Feb. 28, 2008, about his or her experience on the East Fork section of the river. They stated, “if the water is low you will literally drag your rafts for half of the first eight miles...it cost us two knees the last time we did it (and our average age was 28).”⁶⁶ Finally, in an Outdoors International advertisement for Arolik River float trips, it mentions that “Depending on the starting point, the clients may need to get out and walk some, at least for the first seven miles. If the water is too low, we will start on a little gravel bar about ten miles below the lake.”⁶⁷

The USFWS report WRB-00-02 *Arolik River Navigability Report* reported on post-statehood rafting within the Arolik River basin, stating that guided and non-guided sport fishing is an activity that began after statehood. While desirable sportfish species are present, the diminutive physical characteristics of the river, lack of easy access, Native ownership of the uplands restricting land use, and adjacent, intensely used rivers has resulted in light use of the Arolik River for sport fishing.⁶⁸ Guided sport hunting was reported on by the BLM navigability specialist Susan DiPrete in a 1988 report which featured an interview with Chris Goll, a big game hunting guide who operated on the Arolik River in 1980.

Goll has been on the river more than half-dozen times in floatplanes, rafts, and power boats, taking both the North and South mouths at times. He has landed a floatplane on the lower five miles or so of the North Mouth, and on Arolik Lake and then floated the river from the lake outlet to tidewater during late fall while guiding bear hunts. He said the river will generally float a raft at that time of year when it is at its lowest, though it usually requires walking along much of the headwater portion. He does not consider this a problem however. Goll has also been well beyond the confluence of the North and South forks [mouths] in a fifteen-foot boat with a jet unit while fishing during summer. He said the river is

⁶⁴ “Piscatorial Pursuits’ Outdoor Forums”. accessed Nov. 13, 2017. <http://www.piscatorialpursuits.com/forum>.

⁶⁵ Papa Bear Adventures “Arolik River”, accessed Nov. 13, 2017. <http://pbadventures.com/rivers/arolik>

⁶⁶ Alaska Outdoor Supersite “Fishing and Floating the Arolik River”

<http://forums.outdoorsdirectory.com/showthread.php/25450-Fishing-and-Floating-the-Arolik-River>. The responder has a unique member name, not the actual name of the person, of “Catch It” and joined the forum on Jan. 11, 2007.

⁶⁷ “Outdoors International” <https://outdoors-international.com/raa2/#Arolik-River>.

⁶⁸ U.S. Fish and Wildlife Service, Water Resources Branch, Region 7, *Arolik River Navigability Report*, WRB 00-02, BLM records. p. 68. (Jan. 2000).

certainly navigable by, and even practical for such boats, rafts, and canoes, during ordinary high water.

According to Goll, the river changes substantially from its upper to its lower reaches. In late fall, there are stretches where it is only inches deep, barely deep enough to float a raft. At other times of the year, it can be deep enough for fifteen-foot powerboats which can draw several feet of water. Goll stated that he has observed a number of villagers with similar boats on the river during moose hunting season. In fact, he has seen as many as ten of these skiffs with outboard propeller motors on the lower fifteen miles of river at one time.⁶⁹

In 1976, an ADF&G survey team floated the Arolik River from Arolik Lake to the mouth of the river in a 12-foot rubber raft with a 4 hp motor. They described the six miles of the East Fork downstream of the Arolik River as very narrow with low flow and often too shallow to float a raft through. From 1991-1994, USFWS biologists conducted rainbow trout surveys on the Arolik River to establish baseline data for a stream that had “limited sport fishing effort” and presumed low impacted trout population. The Arolik River was accessed during these surveys from Arolik Lake via floatplane and floated using 9- to 13-foot-long inflatable rafts.⁷⁰

IX. Analysis and Rationale

The State’s application and available information were evaluated for information that demonstrates the subject waters of the Arolik River System were navigable at the time of Alaska’s statehood.

The available information demonstrates:

- The physical characteristics indicate that all the subject waters in this application remain in substantially the same natural and ordinary condition that existed at the time of Alaska’s statehood.
- The physical characteristics information demonstrates that the Arolik River and Arolik Lake have adequate depths and physical features to support watercraft (kayaks, skiffs and inflatable rafts) common in Alaska at statehood for commerce.
- The physical characteristics information demonstrates the East Fork Arolik River has depths and conditions at low flow that require significant dragging; however, at spring and early season flow levels, the river is boatable by pre-statehood skiffs and kayaks.
- The actual use information demonstrates that the use of boats occurred for exploration, transportation, and travel in the support of subsistence and other uses on the Arolik River and East Fork Arolik River.
 - The actual use information also demonstrates a consistent pattern for both the Arolik River mainstem (RM 31.4 to 34.9) and the East Fork Arolik – they have

⁶⁹ *Id.*, p. 69.

⁷⁰ *Id.*, p. 76.

been floated by recreational rafts annually since at least the 1970's. The information demonstrates that during seasonally low flow dragging of rafts is typically required at least in the upper reaches of the East Fork Arolik, continuing periodically downstream to its confluence. The depths associated with these shallow areas would have required dragging of both statehood and modern inflatable rafts at similar flows. While modern inflatable rafts are typically more durable and resistant to puncture than statehood inflatable rafts⁷¹, the inflatable rafts at use in the 1970's more closely represent the qualities of statehood inflatable rafts in durability, size and capacity to statehood inflatable rafts due to the material used in their construction,⁷² and are therefore meaningfully similar to statehood inflatable rafts. The use of the East Fork and mainstem Arolik Rivers by inflatable rafts beginning in the 1970's demonstrates they were susceptible to use by statehood inflatable rafts.

- The record also indicates that Alaska Natives transported kayaks to the Arolik Lake region to subsist (hunt squirrels) and floated downstream at high water levels in the spring with those goods.

Based on these findings and rationale, BLM has determined that the Arolik River mainstem from RM 31.4 upstream to RM 34.9; the East Fork Arolik River from RM 0.0 upstream to RM 11.4; and Arolik Lake meet the federal test for navigability and are navigable in fact.

X. Decision

Accordingly, based on the foregoing and the documentation contained in the case record, I have determined that the State's RDI application is sufficient to demonstrate the navigability of the referenced portions of the Arolik River mainstem, East Fork Arolik River and Arolik Lake, at the time of statehood and in compliance with the applicable requirements of the provisions of Section 315 of FLPMA and the regulations contained in 43 CFR Subpart 1864. Portions of the Arolik conveyed under Patent 50-2008-0135 were determined to be non-navigable prior to conveyance and were not applied for under the States's application.

The State's application for an RDI is hereby **APPROVED** as follows:

- 1) Arolik River: all eligible submerged lands between the OHWMs of the left and right banks beginning where federal uplands begin, at about RM 34.9, and continuing downstream to the lower extent of the application at about RM 31.4, where federal uplands end, within the following:

Seward Meridian, Alaska

T. 7 S., R. 71 W., unsurveyed,
secs. 29, 30, 32, and 33.

⁷¹ Jason Marshall, Analysis of Military Surplus Raft Circa 1959 in Rebuttal to Opinions of Whittaker & Shelby at 11-12 (May 2021) (United States Expert Report, *Alaska v. United States*, No. 3:18-cv-00265 (D. Alaska)) p. 4.

⁷² Ibid, p. 17.

- 2) East Fork Arolik River: all eligible submerged lands between the OHWMs of the left and right banks beginning at the outlet of Arolik Lake at about RM 11.4, and continuing downstream to the lower extent of the application at about RM 0.3, where federal uplands end, within the following:

Seward Meridian, Alaska

T. 8 S., R. 70 W., unsurveyed,
secs. 7 thru 10, secs. 14 thru 17, and secs. 23 and 24.

T. 8 S., R. 71 W., partially surveyed,
secs. 1, 2, 11, and 12.

- 3) Arolik Lake: all eligible submerged lands up to and including the OHWMs of the shores within the following:

Seward Meridian, Alaska

T. 8 S., R. 69 W., unsurveyed,
secs. 19 and 30.

T. 8 S., R. 70 W., unsurveyed,
secs. 23, 24, and 25.

XI. Appeal Procedure

This decision may be appealed to the Interior Board of Land Appeals (IBLA), Office of Hearings and Appeals, in accordance with the regulations contained in 43 CFR Part 4. The notice of appeal must be timely filed pursuant to the provisions of 43 CFR 4.403(c). Any notice of appeal must be filed with the IBLA and must include a copy of the decision being appealed, a statement of standing, and a statement of timeliness.

You may file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the IBLA. A petition for a stay must demonstrate that issuance of a stay is warranted based on the following criteria: (i) The likelihood of immediate and irreparable harm if a stay is not granted; (ii) Whether the harm to the appellant absent a stay exceeds the harm to the United States or other parties from a stay being granted; (iii) The likelihood of the appellant's success on the merits; and (iv) Whether the public interest favors granting a stay.

The appellant must serve a copy of the notice of appeal and any accompanying documents on the office of the officer who made the decision, each person or entity named in the decision, and the appropriate Official of the Office of the Solicitor at the time of filing with IBLA (see 43 CFR 4.403(b); 4.407(b)). Parties must serve the Office of the Solicitor at the address shown on Form 1842-001 if service is not made through Bison File and Serve. Service on a party known to be represented by an attorney or other designated representative must be made on the representative.

Your statement of reasons for the appeal must be filed within 30 days after the record on appeal is filed with the IBLA. Failure to file a statement of reasons within the time required will subject the challenged decision to summary affirmance (see 43 CFR 4.412(a)).



Kevin J. Pendergast
Alaska State Director

Enclosures:

Form 1842-1
Appeal Regulations

Copy w/enclosures furnished to:

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