United States Department of the Interior

BUREAU OF LAND MANAGEMENT
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In Reply Refer To:
AKAK106538743
AKAA-93604 (1864)
(9414)

August 3, 2026

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RETURN RECEIPT REQUESTED

DECISION

State of Alaska	:	AKAK106538743
Department of Natural Resources	:	Application for a Recordable
Division of Mining, Land, & Water	:	Disclaimer of Interest
Public Access Assertion and Defense Unit	:	Eek River System (Eek River, Middle Fork
550 West Seventh Avenue, Suite 1070	:	Eek River, and Ugaklik River)
Anchorage, Alaska 99501-3579	:	

APPLICATION APPROVED IN PART, DENIED IN PART

I. Summary

On January 4, 2018, the State of Alaska (State) finalized application AKAK106538743 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 Eek River System (Eek River, Middle Fork Eek River, and the Ugaklik River) (Map 1, Map 2, Map 3, Map 4 and Map 5).[1, 2, 3] The Eek River System is located within the Yukon Delta National Wildlife Refuge in southwestern Alaska about 50 miles southwest of Bethel, which is the nearest regional hub.

[1] FLPMA of 1976, Disclaimer of interest in lands, 43 U.S.C. § 1745.
[2] Letter from James H. Walker, DNR, Public Access and Defense Unit (PAAD) Manager, to Karen Mouritsen, BLM, Acting State Director, Jan. 4, 2018. BLM records, Anchorage, AK.
[3] Email from Wendy Steinberger, DNR, PAAD Natural Resource Specialist, to Jack Frost, BLM, Navigability Specialist, Oct. 15, 2020, BLM Records, Anchorage, AK.

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

A. Eek River

All submerged lands between the ordinary high-water marks (OHWMs) of the left and right banks of the Eek River from the confluence with Rainy Creek [about river mile (RM) 154.9] in sec. 1, T. 2 S., R. 64 W., Seward Meridian, Alaska (S.M.), downstream through sec. 8, T. 1 N., R. 72 W., S.M. [about RM 39.4];

B. Middle Fork Eek River

All submerged lands between the OHWMs of the left and right banks of the Middle Fork Eek River from the [eastern section line of sec. 13, T. 3 S., R. 69 W., S.M. about RM 47.5], downstream to river mile 0.3 near the confluence with the Eek River in sec. 34, T. 1 N., R. 71 W., S.M.;

C. Ugaklik River

All submerged lands between the OHWMs of the left and right banks of the Ugaklik River from the western section line of sec. 3, T. 3 S., R. 70 W., S.M. [about RM 36.9], downstream to the confluence with the Eek River in sec. 3, T. 1 S, R. 72 W., S.M. [RM 0].

The State's application asserts that the above-described waterbodies were navigable in fact on the date of Alaska's statehood, January 3, 1959.[4] As such, the application maintains that ownership of the submerged lands underlying the subject waters automatically passed from the United States to the State upon the date of statehood under the Alaska Statehood Act,[5] the Equal Footing Doctrine,[6] the Submerged Lands Act (SLA) of 1953,[7] the SLA of 1988,[8] and other title navigability laws.

In support of their application, the State submitted attachments, specifically the *Eek River System Final Interim Summary Report* (Eek River System Report) and the *Attachments for the Eek River System Final Interim Summary Report* (Attachments to the Eek River System Report).[9] Both of these attachments are available on Alaska's Department of Natural Resources website.[10]

The BLM has determined that the information present in the record for the State's application demonstrates that portions of the Eek River System in the application were **navigable** at the time of Alaska's statehood, except as otherwise detailed herein. The State's application is therefore **APPROVED IN PART** and **DENIED IN PART** as described below.

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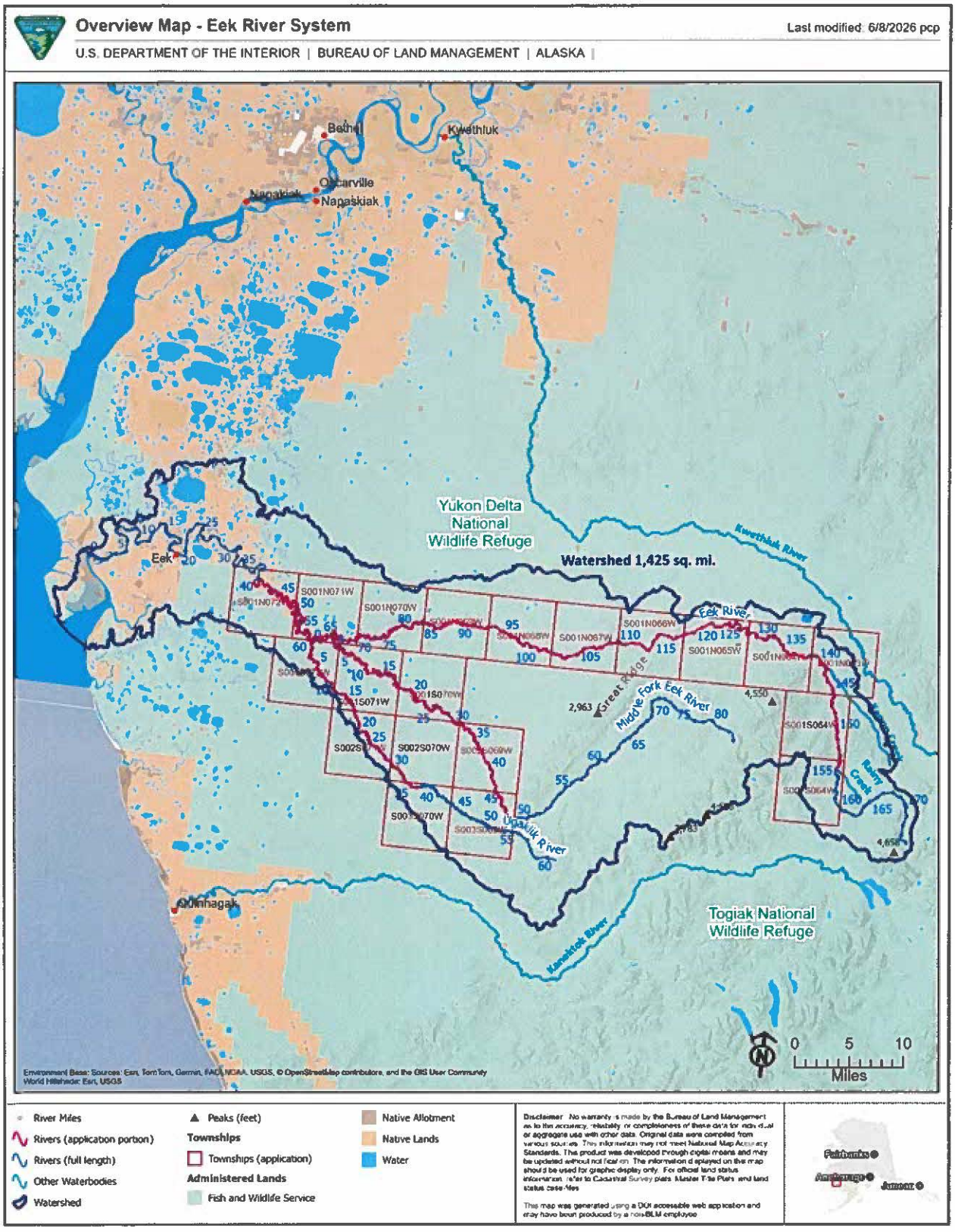
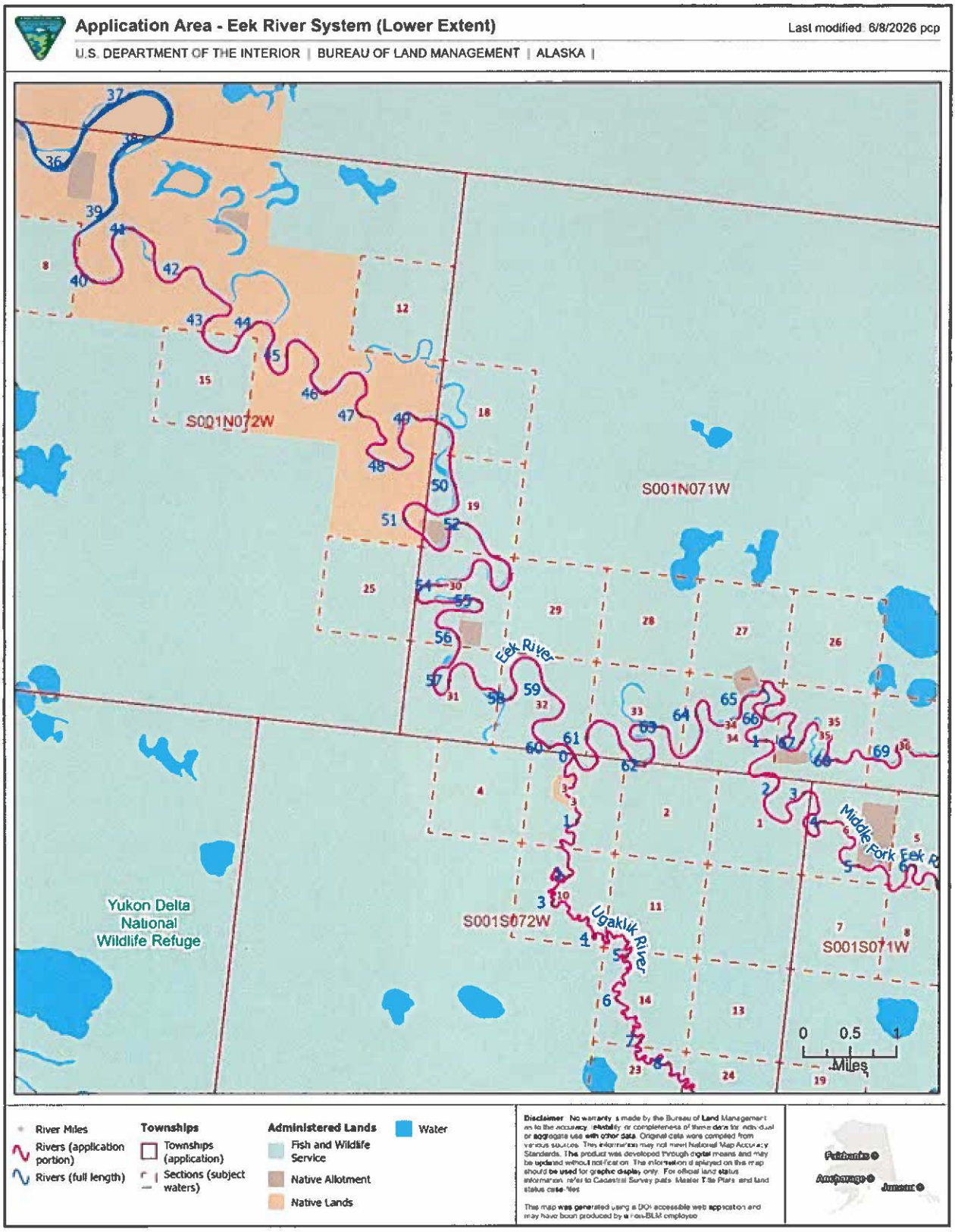
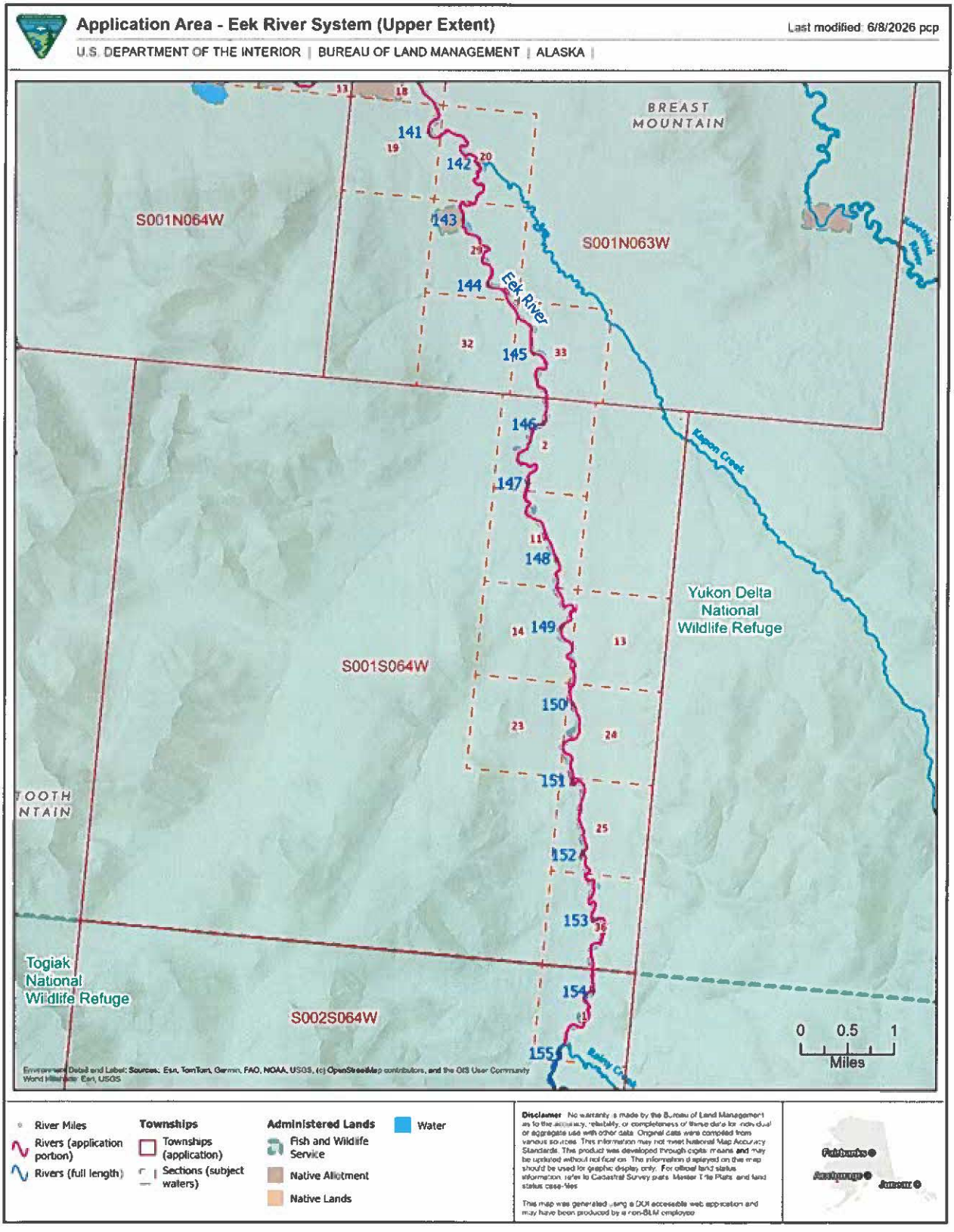
[4] Letter from James H. Walker, DNR, PAAD, Manager, to Karen Mouritsen, BLM, Acting State Director, Jan. 4, 2018, BLM records, Anchorage, AK.
[5] Alaska Statehood 72 stat. 339.
[6] U.S. CONST. Art IV. § 3.C1.3.
[7] SLA of 1953, 43 U.S.C. § 1301 et seq.
[8] SLA of 1988, 43 U.S.C. § 1631.
[9] Janine Dorsey, Historian I, Office of History and Archaeology, DNR, "Eek River System, Kuskokwim River Region, Final Interim Summary Report" dated Sept. 14, 2011, Alaska State Office, BLM records (State's application).
[10] State of Alaska, DNR, Navigability Project, RDI, (May 22, 2026, at 15:07 AKST), https://dnr.alaska.gov/mlw/paad/nav/rdi/#inprocess.



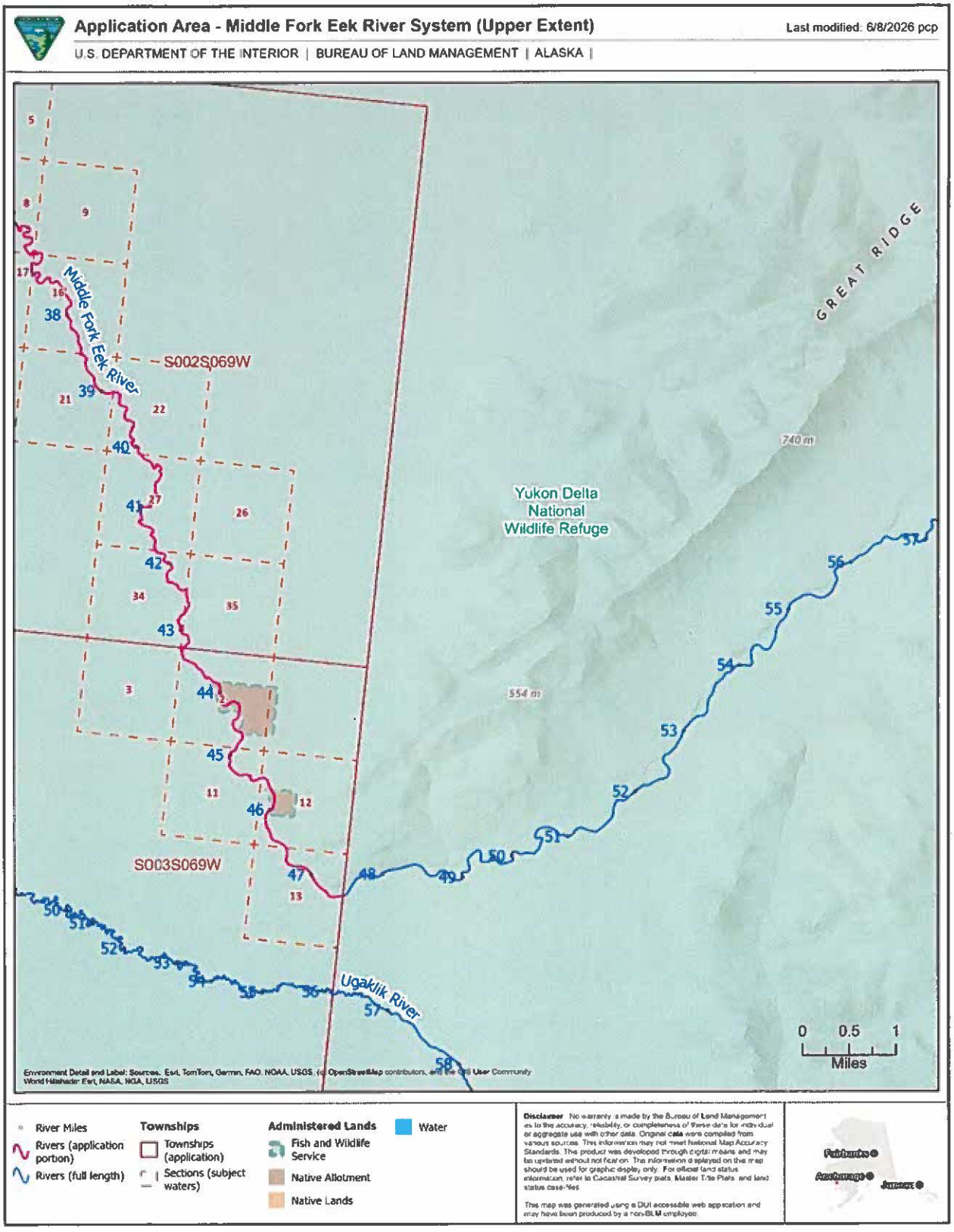
Map 1. Overview map of the Eek River System watershed and surrounding features. See also https://experience.arcgis.com/experience/27bee3d0631345dba0f02653b74e92c6.



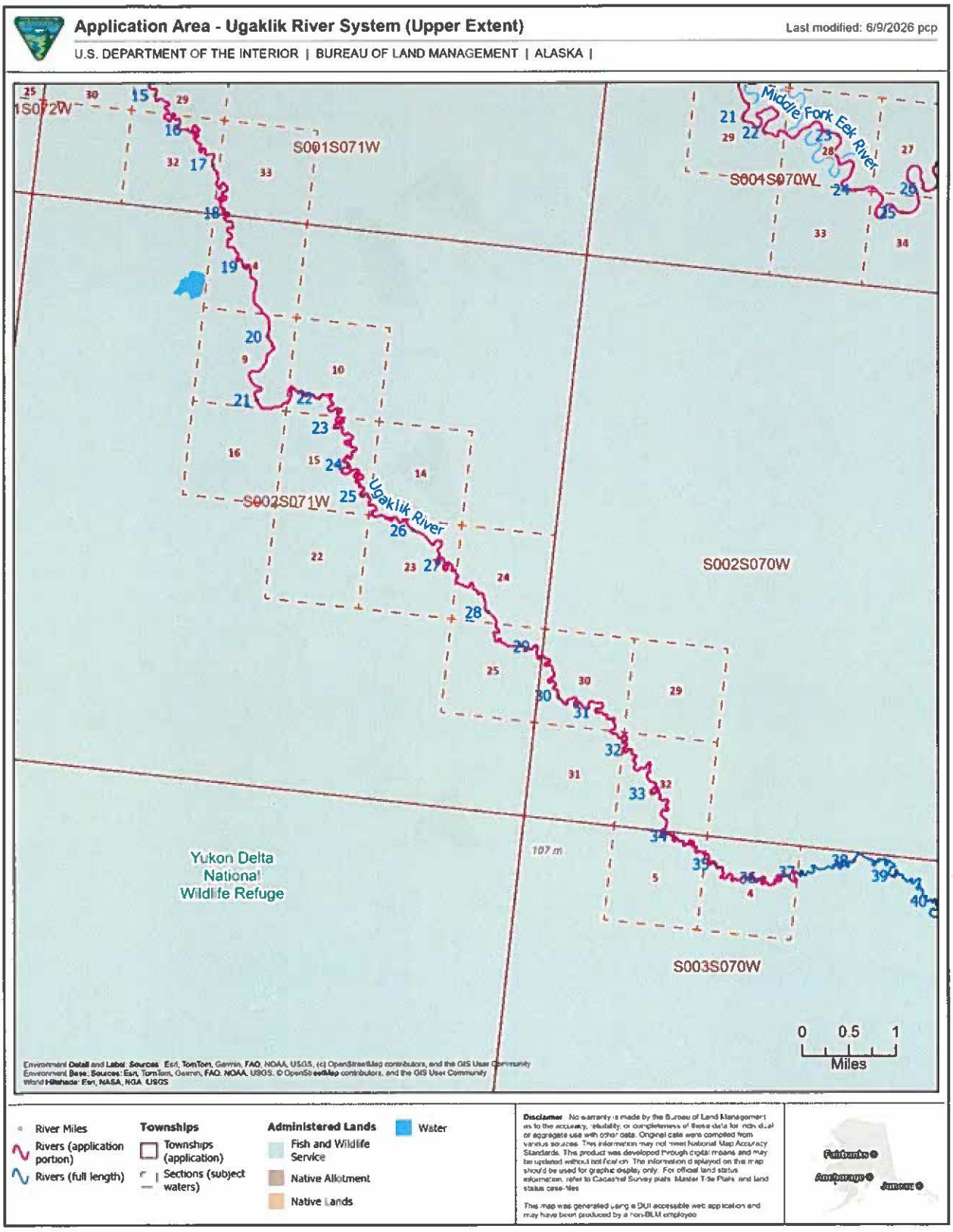
Map 2. Map of the lower extent of the application area and referenced features.



Map 3. Map of the upper extent of the application area for the Eek River and referenced features.



Map 4. Map of the upper extent of the application area for the Middle Fork Eek River and referenced features.



Map 5. Map of the upper extent of the application area for the Ugaklik River and referenced features.

II. Lands Review

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

The BLM made navigability decisions in support of Alaska Native Claims Settlement Act (ANCSA) land conveyances for selections along the Eek River in secs. 3, 4, 5, 9, 10, 11, 13, 14, and 24, T. 1 N., R. 72 W., S.M.[11] Additionally, administrative navigability findings were made in support of various Alaska Native allotments and ANCSA Section 14(h)(1) land conveyances adjacent to small tracts along the Eek River to and through lot 4, sec. 28, T. 1 N., R. 67 W., S.M., the Middle Fork Eek River to and through T. 3 S., R. 69 W., S.M., and the Ugaklik River to and through the historical site in sec. 3, T. 1 S., R. 72 W., S.M.[12] Therefore, these sections are not addressed within this decision since those decisions were final actions for the Department and are subject to legislative finality.[13]

The submerged lands of the following Alaska Native allotment in the application area were conveyed as part of a non-navigability finding dated June 17, 1998.

- USS 12301, sec. 18, T. 1 N., R. 63 W., S.M., patent 50-2000-0156. Conveyed submerged lands of the Eek River from both sides of the centerline, from the left bank OHWM to the right bank OHWM.[14]

Therefore, the submerged lands of the Eek River within the allotment described above are not addressed in this decision. The non-navigability finding dated June 17, 1998, is unaffected by this decision as it relates to the identified allotment. The submerged lands within and adjacent to these allotments are not addressed in this decision since these findings are administratively final.[15]

To adjudicate this application, the submerged lands underlying the subject waters were researched to identify any valid withdrawals occurring prior to Alaska's statehood, January 3, 1959, that might defeat the State's title. No valid pre-statehood 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 March 16, 2026.[16] The notice of the application was published in the *Anchorage Daily News* and *Tundra Drums* once per week for three consecutive weeks beginning on March 22, 2026, and March 24, 2026,

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[11] Memorandum, Chief, Navigability Section (927), to Chief, Branch of Survey Planning and Preparation (927), "Navigable Waters within ANCSA-Selected and Interim-Conveyed lands in the Eek Village Project Area", Jan. 12, 2006, BLM records.

[12] Memorandum, Deputy State Director for Conveyance Management to Deputy State Director for Cadastral Survey, "Navigable Waters on or along Small Tracts in Quinhagak (Window 1562)", Feb. 21, 1989, BLM records.

[13] 43 U.S.C. 1631(c)(1).

[14] Memorandum, Chief, Branch of Mapping Services (AK924), to Chief, Branch of Survey Preparation and Policy Interpretation, "19 Additional Native Allotments in Survey Window 2700", Jun. 17, 1988, BLM records.

[15] The BLM's decisions regarding conveyance of Alaska Native Allotment Act allotments are subject to administrative finality. *See e.g., Heirs of Chaik George,* 192 IBLA 175, 188 (2018).

[16] 91 FR 12604 (Document Number 2026-04994).

respectively.[17] This application and supporting information was also posted on the BLM-Alaska website.[18]

To support BLM's processing of the application, the notices invited reviews and additional information such as historical use and physical characteristics of the waterbodies in the Eek River System. The 30-day comment period ended on April 15, 2026. The BLM received comments during the published notice period, including comments from the USFWS and Iqfijouaq Corporation. Other comments received addressed the process and navigability in general and were not specific to this RDI application or this decision.

The USFWS identified inaccuracies within the application, where, in three townships, the State's application didn't include lands which the State assumed were ANCSA-selected. This was remedied by BLM via emails in which the applicant was informed that those lands had been withdrawn from consideration for ANCSA conveyances, thus those lands are now eligible to be included in this decision. This is supported by the map USFWS submitted with their letter to show updated land status along the subject waterbodies. Additionally, USFWS provided a record of a telephone interview detailing a member of the public's fishing project on the Eek River.[19] However, the portion of the Eek River detailed in that interview is outside of the application area, so it did not impact the analysis herein or the subsequent decision.

Additionally, Iqfijouaq Corporation provided a map which identified sites of historical significance in the Eek River System to demonstrate use. This map as it pertains to the decision is 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 amended RDI application finalized on January 4, 2018, the State requested a waiver of this requirement under 43 CFR 1864.1-2(d).[21] The locations of the Eek River, Middle Fork Eek River, and Ugaklik River are clearly depicted on the U.S. Geological Survey quadrangle maps and are not in dispute. The OHWMs of these waterbodies are the legal boundary of the submerged lands. Since the boundaries of these waterbodies are ambulatory, their locations may change over time. The BLM therefore determines that survey descriptions of the subject waterbodies are not needed to adjudicate the State's application. The waiver is hereby **granted**.

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[17] U.S. Department of the Interior, BLM, "Application for a Recordable Disclaimer of Interest for Lands Underlying Portions of the Eek River, Middle Fork of the Eek River, and Ugaklik River in Alaska" (Jun. 16, 2026, at 10:14 AKST), https://www.federalregister.gov/documents/2026/03/16/2026-04994/application-for-a-recordable-disclaimer-of-interest-for-lands-underlying-portions-of-the-eek-river.

[18] U.S. Department of the Interior, BLM, *Recordable Disclaimers of Interest: Eek River System (Eek River, Middle Fork Eek River, and Ugaklik River)*, (Mar. 23, 2026, at 12:06 AKST), https://www.blm.gov/programs/lands-and-realty/regional-information/alaska/RDI/kuskokwim.

[19] Conversation record, Doug Molynoux, Alaska Department of Fish and Game, Dec. 1, 1994, BLM records, Anchorage, AK.

[20] 43 CFR 1864.1-2(c)(1).

[21] 43 CFR 1864.1-2(d).

V. Applicable Legal Authority

The SLA of 1953, 43 U.S.C. § 1301(a), granted and confirmed to the states title to the lands beneath the inland navigable waters within the boundaries of each respective state.[22] It also gave the states the right and power to manage and administer these lands in accordance with state law. Due to 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.[23]

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, 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, 25]

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."[26]

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 Submerged Lands Act of 1953 and the Submerged Lands Act 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 other cases, including but not limited to: *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).

VII. Related BLM Navigability Findings

A. Eek River

On July 22, 1983, BLM Deputy State Director for Conveyance Management, issued a Final Navigability Memorandum that determined the Eek River navigable through the entire Eek Village selection area.[27]

On September 29, 1983, BLM Section Chief, Branch of ANCSA Adjudication, issued a Decision for Interim Conveyance (DIC) to the Iqfijouaq Company for Eek Village. The DIC maps showed

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[22] SLA 43 U.S.C. § 1301(a).
[23] 72 Stat. 339, 343.S.
[24] 209 DM 7; 235 DM 1; BLM Manual MS-1203, App. I, p.52
[25] FLPMA of 1976, Disclaimer of interest in lands, 43 U.S. Code § 1745(a).
[26] *The Daniel Ball*, 77 U.S. 557, 563 (1870).
[27] Memorandum, Deputy State Director for Conveyance Management (960), to Assistant Deputy State Director for Conveyance Management (960), "Final Navigability Determination for the Village of Eek", Jul. 22, 1983, BLM records.

the Eek River to be navigable throughout the selection area from its mouth through T. 1 N., R. 72 W., S.M. (RM 0-48.6), except for gaps in sec. 36, T. 2 N., R. 74 W., S.M. (RM 16.8-17.2); sec. 33, T. 2 N., R. 72 W., S.M. (RM 34.5-36); sec. 8, T. 1 N., R. 72 W., S.M. (RM 37.4-37.7); sec. 15, T. 1 N., R. 72 W., S.M. (RM 41-41.7); and secs. 18-19, T. 1 N., R. 71 W., S.M. (RM 46.8-48).[28]

On June 17, 1998, the Acting Chief for the Branch of Mapping Sciences, issued a memorandum to the Chief for the Branch of Survey Preparation and Policy Interpretation that found the Eek River to be non-navigable within Alaska Native allotment AKFF-017241 in sec. 18, T. 1 N., R. 63 W., S.M.[29]

On February 21, 1989, the Deputy State Director for Conveyance Management issued a memorandum to the Deputy State Director for Cadastral Survey that found the Eek River navigable within small tracts to and through lot 4, sec. 28, T. 1 N., R. 67 W., S.M.[30]

B. Middle Fork Eek River

The Middle Fork joins the Eek River at RM 62. All 83 miles of the Middle Fork are within the Yukon Delta NWR. There are no Alaska Native corporation lands along the Middle Fork Eek River within the application area. Seven certificated Alaska Native allotments are scattered along the lower 45.5 miles of the river. All seven have been certificated: six were certificated in the 1990s and one in 2010.[31]

On February 21, 1989, the Deputy State Director for Conveyance Management issued a memorandum to the Deputy State Director for Cadastral Survey that found the Middle Fork Eek River navigable within six small tracts within sec. 34, T. 1 N., R. 71 W., S.M., sec. 14, T. 1 S., R. 71 W., S.M., secs. 35 and 36, T. 1 S., R. 70 W., S.M., sec. 1, T. 2 S., R. 70 W., S.M., and secs. 2 and 12, T. 3 S., R. 69 W., S.M.[32, 33]

C. Ugaklik River

On February 21, 1989, the Deputy State Director for Conveyance Management issued a memorandum to the Deputy State Director for Cadastral Survey that found the Ugaklik River navigable within two small tracts within sec. 3, T. 1 S., R. 72 W., S.M., and sec. 32, T. 1 N., R.

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[28] Decision, Section Chief, Branch of ANCSA Adjudication, "Section 14(h)(1) Applications Rejected, Section 12(b) Application Rejected in Part, Lands Proper for Village Selection Approved for Interim Conveyance", Sep. 29, 1983, BLM records.

[29] Memorandum, Chief, Branch of Mapping Services (AK924), to Chief, Branch of Survey Preparation and Policy Interpretation, "19 Additional Native Allotments in Survey Window 2700", Jun. 17, 1988, BLM records.

[30] Memorandum, Deputy State Director for Conveyance Management to Deputy State Director for Cadastral Survey, "Navigable Waters on or along Small Tracts in Quinhagak (Window 1562)", Feb. 21, 1989, BLM records.

[31] *Eek River System Report*, p. 7.

[32] Memorandum, Deputy State Director for Conveyance Management to Deputy State Director for Cadastral Survey, "Navigable Waters on or along Small Tracts in Quinhagak (Window 1562)", Feb. 21, 1989, BLM records.

[33] Note: The Feb. 21, 1989, report references a small tract for Alaska Native allotment F-15686-A in sec. 6, T. 2 S., R. 69 W., S.M., which is an unsurveyed township. This allotment truly resides in sec. 1, T. 2 S., R. 70 W., S.M.

71 W., S.M. (about RM 0-0.8).[34, 35] Upstream of this conveyance, RM 0.8, the BLM has not made any navigability findings for the Ugaklik River.

VIII. Relevant Information

A. Eek River

i. Physical Character Summary

Aerial imagery, supported by measurements derived from a Geographic Information System (GIS), was used to estimate certain physical characteristics of the waterbody.[36, 37] While imagery can reveal shallow areas or exposed features such as rocks, logs, or gravel bars, it cannot definitively determine water depth, however, visible features, when present, can sometimes be used to assess relative differences in depth. At the readily available scale and quality of imagery and water clarity, not all obstructions may be discernable.

The Eek River extends approximately 174 miles and drains a watershed of about 1,425 square miles. The subject waters evaluated for this decision spanned from about RM 155, at the confluence with Rainy Creek, downstream to RM 39.4, where the last portion of the stream flows into ANCSA lands and remains in ANCSA lands to RM 0. The downstream portion of the subject waters, about RM 51.3 to RM 39.4, flows in and out of ANCSA lands several times (Map 1, Map 2, and Map 3). No water-depth measurements are available for the Eek 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 are determined to retain the physical attributes consistent with their natural and ordinary condition at the time of Alaska's statehood.

Headwaters to Rainy Creek (RM 174–155)

From the headwaters in the rugged Ouchklune Range at roughly 2,700 feet elevation, downstream to the confluence with Rainy Creek (about RM 155), the river flows within a confined valley and exhibits low sinuosity. The average channel width is about 23 feet with a steep gradient of approximately 78 feet per mile. Within this section of about 20 miles of river, there are numerous sand and gravel bars, shallow riffles, and extensive exposed boulders in the main channel.

Rainy Creek to Uppermost Native Allotment (RM 155-143)

From RM 155 to RM 143 (near Breast Mountain and the uppermost Native allotment), the river maintains low sinuosity, widens to around 65 feet, and decreases in gradient to a moderate

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[34] Memorandum, Deputy State Director for Conveyance Management to Deputy State Director for Cadastral Survey, "Navigable Waters on or along Small Tracts in Quinhagak (Window 1562)", Feb. 21, 1989, BLM records.
[35] Note: The Feb. 21, 1989, report using the one-person kayak standard is a legal precedent overturned by the Ninth Circuit Court in the Gulkana River case on Dec. 13, 1989.
[36] Esri. "Imagery". Scale Not Given. "World Imagery". Accessed Jun. 25, 2026. Esri World Imagery Basemap. https://www.arcgis.com/home/item.html?id=10df2279f9684e4a9f6a7f08febac2a9.
[37] State of Alaska. "Alaska High Resolution Imagery (AHRI)". Scale Not Given. Accessed Jun. 25, 2026. https://geoportal.alaska.gov/arcgis/rest/services/ahri_2020_cir_cache/MapServer.

gradient of roughly 21 feet per mile. The channel frequently divides into narrow side channels and includes several sand/gravel bars and reaches with exposed boulders in the main channel.

Uppermost Native Allotment to Great Ridge (RM 143–111)

From RM 143 to the point where the river passes through Great Ridge (about RM 111), the Eek River becomes more sinuous, widens to an average of about 95 feet, and decreases in gradient to roughly 15 feet per mile. Channel splitting occurs less often and resulting side channels are generally wider than those found upstream. This reach contains fewer sand/gravel bars and only occasional exposed boulders.

Great Ridge to RM 39.4 (RM 111–39.4)

After emerging from Great Ridge at approximately RM 111, the river enters open tundra uplands. Here the channel becomes more sinuous, widens further to an average of about 167 feet, and flattens to a gradient of roughly 6 feet per mile. Although the river continues to split, it maintains a wider and more prominent main channel. This reach contains some sand/gravel bars, fewer exposed boulders, and scattered downed trees.

ii. Use of waterbody[38]

The Eek River System Phase II-B Report documents a longstanding tradition in which Alaska Native residents traveled overland in late winter/early spring by either dog sled or snowmachines to access customary hunting grounds in the upper reaches of the Eek River near their Native allotments. One account in the record at RM 140 stated that this activity began in 1935 at an allotment located in the upper reaches of the Eek River.[39] After completing their hunts, Alaska Native residents constructed skin-boat rafts by stretching caribou hides over wooden frames. The boats carried people, supplies, and harvested resources and when considered together, these various items constituted a commercial size load. After spring breakup (ice-out), they floated downstream to the village of Eek. This practice occurred before statehood during the first half of the twentieth century, and likely even earlier.[40]

Additional information in the record includes water-based travel to varying locations in the upper extent of the Eek River. A resident of Eek stated in an interview conducted by the BLM in 1998 that the last time he boated to Breast Mountain, approximately RM 140-145, was in September of about 1993. His brother had an allotment at (about RM 140) and they used to go subsistence hunting every year during the second week of September in an 18-foot Lund with a 40-horsepower propeller motor. The boat carried the two men and their camping gear, which they transported in each year because supplies and equipment left at the site were susceptible to destruction by bears.[41] Upstream to about RM 143 is the upper-most allotment adjacent to the

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[38] Clarification: The Eek River, upstream of its confluence with the Middle Fork Eek River, is often referred to as the "North Fork" by local residents and others in the information the state provided in the application. The name "North Fork" is not identified on U.S.G.S. maps (Baird Inlet, Bethel, and Goodnews Bay) and is named the "Eek River," in its entirety, without any reference to the North Fork. If a reference used in this decision includes the name as North Fork, that will not be corrected and will remain as stated.

[39] *Eek River System Report*, pp. 68, 87.

[40] *Ibid*, pp. 38, 96

[41] *Ibid*, p. 68.

Eek River near Breast Mountain. The allottee mentioned that he used the site for fall hunting and trapping for mink.[42]

Upstream of the allotment at about RM 143 there is not any information of use in the record. Upstream of this location, the physical characteristics change significantly to the confluence with Rainy Creek at about RM 155.

Near the confluence of Eek River and Rainy Creek, about RM 155, there was mining activity in the Rainy Creek drainage. In a 1926 report on the quicksilver resources of the Kuskokwim River District, Frank W. Holzheimer (Alaska Territorial Department of Mines geologist) wrote that Rainy Creek could be reached overland (a distance of 90 miles over tundra with no trails) from the second fish camp on the Kwethluk River, at about river mile 70. He also stated that "Rainy Creek may be reached by poling boat on Eek River during high stages of water but, owing to slow progress, this method of travel is impractical."[43] By the 1940s, the miners on the Eek River had established a winter tractor trail, about 120 miles long, between Bethel and Rainy Creek. According to C. Michael Brown, miners "transported supplies and equipment to their placer ground" on Rainy Creek over the winter tractor trail from Bethel at rates averaging $40 per ton.[44] Additionally, above the allotment at RM 143 there is no information regarding skin boat usage, and there are not any Native allotments to indicate possible skin boat usage.

The BLM also found one modern account in 2021, of two recreational fishermen being flown into an unnamed lake, near RM 137 on the upper Eek River, to float downstream and try to find and fish specifically for rainbow trout.[45, 46] Based on this account, very little information was known about the availability of rainbow trout on the Eek River at that time. The account documented that the portage from the lake to Eek River to begin the float was difficult. No drag events were described for floating the Eek River downstream of their put-in location (estimated at about RM 137) except for a logjam that required getting out of the raft and pushing it through a narrow braid to continue.

B. Middle Fork Eek River

i. Physical Character Summary

Aerial imagery, supported by measurements derived from GIS, was used to estimate certain physical characteristics of the waterbody.[47, 48] Imagery can reveal shallow areas or exposed features such as rocks, logs, or gravel bars, it cannot definitively determine water depth, however, visible features, when present, can sometimes be used to assess relative differences in depth. At the readily available scale and quality of imagery and water clarity, not all obstructions may be discernable.

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[42] *Ibid,* p. 71.
[43] *Ibid,* p. 43.
[44] *Ibid,* p. 46.
[45] This lake was measured in the BLM's Navigability GIS viewer to be approximately 2000 feet long.
[46] Papa Bear Adventures, "The Eek River with Papa Bear Adventures," Eek River Float Trip with Papa Bear Adventures — Papa Bear Adventures, Jan. 26, 2021, BLM records.
[47] Esri. "Imagery". Scale Not Given. "World Imagery". Accessed Jun. 25, 2026. Esri World Imagery Basemap. https://www.arcgis.com/home/item.html?id=10df2279f9684e4a9f6a7f08febac2a9.
[48] State of Alaska. "Alaska High Resolution Imagery (AHRI)". Scale Not Given. Accessed Jun. 25, 2026. https://geoportal.alaska.gov/arcgis/rest/services/ahri_2020_cir_cache/MapServer.

The Middle Fork Eek River is approximately 83 miles long, draining a watershed of about 413 square miles. The subject waters evaluated for this decision spanned from about RM 47.5, near Great Ridge, downstream to RM 0.0, at its confluence with the Eek River. This reach flows through tundra uplands and portions of ANCSA lands (Map 1, Map 2, and Map 4). Water depth near RM 46 has been reported at approximately 2–3 feet.[49]

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

Headwaters to RM 47.5 (RM 83–47.5)

From the headwaters in the rugged Eek Mountains at roughly 2,400 feet elevation, downstream to the upper extent of the application area, the Middle Fork exhibits low sinuosity, an average width of about 35 feet, and a relatively steep gradient of approximately 58 feet per mile. The river flows within a confined valley and contains numerous beaver dams, dense vegetation encroaching on the channel in places, several sand/gravel bars, multiple shallow riffles, and occasional reaches containing exposed boulders in the main channel.

RM 47.5 to Uppermost Native Allotment (RM 47.5–46)

In the short 1.5-mile reach between RM 47.5 and RM 46, the channel maintains low sinuosity, widens downstream to an average of roughly 71 feet, and transitions to a gradient of about 17 feet per mile. This segment contains fewer sand/gravel bars and only occasional boulders.

Uppermost Native Allotment to Confluence with Eek River (RM 46–0)

Downstream of the uppermost Native allotment at RM 46 to the confluence with the Eek River, the Middle Fork becomes more sinuous, has an average channel width of about 85 feet, and flattens to a gradient near 6 feet per mile. The channel includes split channels and sand/gravel bars in the upper part of this reach, but is generally free of significant obstacles, particularly in its lower miles.

ii. Use of waterbody

The Eek River System Phase II-B report documents use by a Native allottee in the upper reaches of the Middle Fork Eek River gaining access to his two parcels by boat in the fall and snow machines in the winter to conduct subsistence activities. The earliest accounts of these waterborne boat trips began in 1955, which, on one account, took 6 or 7 hours to reach his allotment in secs. 1 and 2, T. 3 S., R. 69 W., S.M., about RM 44, of the upper reaches of the Middle Fork to hunt moose.[50] We assume this boat account was accomplished using an outboard propellor driven river boat because 1955 is generally before jet boats were available for use in Alaska. In addition, the record shows that the most upper Alaska Native allotment, about RM 46, was accessed by boat starting in 1965. Again, it is unlikely that the boat used in 1965 was powered by jet propulsion since these boats were uncommon at that time in Alaska. The BLM Realty Specialist who visited the property in 1984 stated that the Middle Fork was two to three

[49] *Eek River System Report*, p. 74.
[50] *Id* p. 74.

feet deep at the allotment (near RM 46) and certainly appeared to be suitable for raft or canoe navigation.[51]

There were documented accounts as early as 1958 of overland winter travel to Native allotments in the upper mountainous portions of the Middle Fork drainage to subsistence gather, similar to the overland activity in the Eek River drainage, but there was no documentation of using skin boats to travel by water back to the village of Eek.[52]

The information in the record for the Middle Fork Eek River demonstrates that the river appears to have the physical character which supports both skin boat use prior to statehood and motorboats with outboard motors with propellors. The upper extent of verified use based on the information in the State's application reveals that boat use has shown that the Middle Fork Eek River can be boated upstream to RM 46 on a seasonal basis.

The State's application extends upstream to RM 47.5 and there is not any information in the record of boat use for this short 1.5-mile portion. The physical character appears materially similar upstream of RM 46 to RM 47.5, based on GIS imagery. Therefore, it is likely that the same type of watercraft could be used up to RM 47.5.

C. Ugaklik River

i. Physical Character Summary

Aerial imagery, supported by measurements derived from GIS, was used to estimate certain physical characteristics of the waterbody.[53, 54] Imagery can reveal shallow areas or exposed features such as rocks, logs, or gravel bars, it cannot definitively determine water depth, however, visible features, when present, can sometimes be used to assess relative differences in depth. At the readily available scale and quality of imagery and water clarity, not all obstructions may be discernable.

Table 1 (referenced on page 17) compares the physical characteristics of the Ugaklik River to the Eek River, the Middle Fork Eek River, and the Kwethluk River. The Kwethluk is included because it has documented use by skin boats up to its application boundary (approximately RM 135), beyond which such use does not occur. For the region, the characteristics of the Kwethluk may provide some insight regarding the upstream limit for watercraft of that type.

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[51] *Id* p. 74.
[52] *Id* p. 74.
[53] Esri. "Imagery". Scale Not Given. "World Imagery". Accessed Jun. 25, 2026. Esri World Imagery Basemap. https://www.arcgis.com/home/item.html?id=10df2279f9684e4a9f6a7f08febac2a9.
[54] State of Alaska. "Alaska High Resolution Imagery (AHRI)". Scale Not Given. Accessed Jun. 25, 2026. https://geoportal.alaska.gov/arcgis/rest/services/ahri_2020_cir_cache/MapServer.

General Characteristics				Application Area			
Waterbody Name	Total Length (RM)	Upper Elevation (feet)	Watershed Area (square miles)	Overall Sinuosity	Average Width (feet)	Average Gradient (feet/mile)	Reported Water Depth (feet)
Eek River	174.2	2,695	1,425	Sinuous	120	10	Unknown
Middle Fork Eek River	83.2	2,425	413	Sinuous	85	6	~2 – 3 @ RM 46
Ugaklik River	61.8	1,700	153	Tortuous	32	4	~2.5 @ RM 0
Kwethluk River	*162.6*	*2,650*	*1,343*	*Sinuous*	*135*	*12*	*~0.5 – 2 @ RM 90 – 163*

Table 1. Comparison of physical characteristics of the Ugaklik, Eek, and Middle Fork Eek Rivers, with the Kwethluk River included as a reference for known skin-boat use limits.

The Ugaklik River is approximately 62 miles long—roughly one-third the length of the Eek River—and drains a watershed of about 153 square miles, or roughly ten percent of the Eek River watershed. The subject waters evaluated for this decision spanned from about RM 37.0, at a section-line break, downstream to RM 0.0, at its confluence with the Eek River. This reach includes portions of tundra uplands and wetlands (Map 1, Map 2, and Map 5). Very limited physical character information is available and only at the confluence with the Eek River (RM 0.0), where the river was described as being about 75 feet wide, about 2.5 feet deep with a mud-covered bottom, slow-moving and silty.[55]

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

Headwaters to RM 37 (RM 62–37)

From the headwaters in the foothills of the Eek Mountains at approximately 1,700 feet elevation, downstream to the upper extent of the application area (about RM 37.0), the Ugaklik River is sinuous becoming highly sinuous (tortuous) downstream, averaging about 23 feet in width with a steep gradient near 62 feet per mile. The upper channel contains prevalent beaver dams and dense vegetation constricting the channel. As the channel transitions into lower elevations, it becomes unconfined with low banks and may include several submerged sand bars.

RM 37 to Confluence with the Eek River (RM 37–0)

From the application's upper extent at RM 37.0 downstream to the confluence with the Eek River at RM 0.0, the Ugaklik River remains highly sinuous (tortuous), widening to an average of about 32 feet as the gradient decreases to about 4 feet per mile. The channel has low banks, and shallow submerged sand bars are likely throughout this reach. Surrounding uplands consist largely of extensive wetlands.

[55] *Eek River System Report*, p. 34.

At its confluence with the Eek River (RM 0.0), the Ugaklik River was reported as being roughly 75 feet wide and about 2.5 feet deep, characterized by a slow-moving, silty channel with a mud bottom. [56] Because the Eek River is much larger, its water levels influence the levels at the mouth of the Ugaklik, increasing the water depth in this area. Immediately upstream, channel dimensions change: by RM 0.2 the Ugaklik narrows to approximately 40 feet. Depth measurements are not available for this upstream section, but the river is likely shallower there than at the mouth.

Summary Interpretation

The Ugaklik is substantially smaller and more sinuous than other rivers of the Eek River system. It drains a small fraction of the area of the others, and its widths are comparable only to the narrow upper headwater reaches of the Eek and Middle Fork Eek Rivers. The reported water depth at the mouth (RM 0.0) is approximately 2.5 feet, and water depths 37 miles farther upstream are likely to be shallower. These differences indicate more restrictive conditions for watercraft. When compared to the nearby Kwethluk River, where skin-boat travel is documented only to the upper extent of its application (about RM 135), the Ugaklik exhibits physical characteristics that fall outside the favorable range for such watercraft on that river.

ii. Use of waterbody

The State's application and the Phase II-B report did not contain any information on boat use or other information related to the potential use of the Ugaklik River. Additionally, in a letter dated June 30, 2026, the state informed the BLM that all of the information that they know about the Ugaklik River is provided in their original application, and "based on imagery analysis of width and depth and water color, the river appears navigable."[57] Finally, there are not any Native allotments located on the Ugaklik River.

The February 21, 1989, memorandum also addressed the navigability of the Ugaklik River within an ANCSA 14(h)(1) claim for two historical sites: 1) AA-10155 (USS 9887, Lots 1-2, 50-2007-0698). Lot 2 is located at the confluence with the Eek River and Lot 1 is located on the left bank of the river about a quarter of a mile above its confluence with the Eek River. The BLM's Wayne Boden determined the Ugaklik River navigable to and through AA-10155 using information from a Bureau of Indian Affairs (BIA) report.[58] He based his determination on a "photograph of the river at this historical site [which] clearly shows a river susceptible to canoe navigation at ordinary high-water stages."[59] Additionally, the BIA report refers to only winter trips to this historical site on the Ugaklik River.

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[56] *Ibid* p. 34.

[57] James Walker, State of Alaska DNR, Public Access and Defense Section, to Brent Ralston, BLM, Project Manager, "Re: Recordable Disclaimer of Interest (RDI) Questions received June 26, 2026," June 30, 2026, BLM records.

[58] Deputy State Director for Conveyance Management (960) to Deputy State Director for Cadastral Survey (923), "Navigable Waters on or along Small Tracts in Quinhagak (Window 1562), p. 5, Feb. 21, 1989.

[59] *Eek River System Report*, p. 16.

Due to the lack of information for the Ugaklik River, the BLM's contract Historian was requested to research available records in an attempt to find any use of the Ugaklik River by watercraft and was unsuccessful.[60]

On April 7, 2026, the BLM interviewed Papa Bear Adventures in Bethel, Alaska about the Ugaklik River and any information that they may have on it.[61] Papa Bear Adventures is a well-known outfitter for recreational enthusiasts in the region, often transporting people to nearby locations. They stated they did not have any information on the character or use of the Ugaklik River and that their floatplanes transporting rafters and gear would need at least 1,500 feet to land with a heavy load and takeoff with a light load. In addition, they stated that there should not be any trees obstructing the flight path on either end of a lake they might use which might diminish the length of available landing and take-offs. Looking at imagery near the state's upper extent in their application for the Ugaklik River, there are not any lakes that meet this length requirement for their floatplane to land and takeoff. The nearest and largest lake measured about 800 feet in length, well below the necessary distance required.

On June 3, 2026, the BLM received supplemental comments from legal representatives of Iqfijouaq Company that contained a map depicting historical sites in the Eek River region, including the Ugaklik River.[62] The only historical sites noted on the map for the Ugaklik River were the ANCSA Section 14(h)(1) sites located near the confluence with the Eek River, discussed previously. No other information about the Ugaklik River was included in the letter.

The complete absence of documented boat use on the Ugaklik River is notable, particularly given the well-established historical use of both the Eek River and the Middle Fork. Travelers moving upstream from the village of Eek would encounter the Ugaklik River first, before continuing farther up the Eek River or turning onto the Middle Fork.

IX. Analysis and Rationale

The State's application and available information were evaluated for information that demonstrates the subject waters of the Eek 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 Eek River (RM 39.4 upstream to RM 143), the Middle Fork Eek River (RM 0.3 upstream to RM 47.5) have the physical character to support both skin boat use and motorboats with outboard motors

[60] Marley M. McLaughlin, "Documented Historic Water-Based Travel: Bristol Bay Hydrologic Region," Apr. 2026, p. 13, BLM records.
[61] Jason Post, BLM Navigable Water Specialist, email and attachment to file, "Interviews Regarding the Use of Kwethluk and Eek Rivers," Apr. 8, 20266, BLM records.
[62] Fortier & Mikko, on behalf of Iqfijouaq Company, to Betty J. Shelby, BLM, "Comments: RDI State Application (AKAL-106538743)," See Exhibit 2, June 3, 2026.

with propellors. The Ugaklik River (RM 0.0 upstream to RM 0.8) has the physical character to support skin boat and canoe use.

- 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:
    - Eek River beginning at the Alaska Native allotment near Breast Mountain (about RM 143) to the downstream extent of the application for Eek River (about RM 39.4).
    - Middle Fork Eek River beginning at the upper extent of the application at about RM 47.5 to the downstream extent of the application for Middle Fork Eek River at RM 0.0.

Based on these findings and rationale, BLM has determined that the Eek River from RM 39.4 upstream to RM 143, the Middle Fork of the Eek River from RM 0.0 upstream to RM 47.5, and the Ugaklik River from RM 0.0 upstream to RM 0.8 are navigable in fact. The remaining waters within the application lack sufficient information to support a navigability determination. Those portions of the application that are Approved and those that are Denied are described below.

X. Decision

A. APPROVED IN PART

Accordingly, based upon the foregoing and the documentation contained in the case record, I have determined that the State's RDI application AKAK106538743 is sufficient to demonstrate the navigability of the portions described below for the Eek River System at the time of statehood and in compliance with the applicable provisions and requirements of the provisions of section 315 of FLPMA and the regulations contained in 43 CFR Subpart 1864. The State's application for an RDI is hereby **APPROVED IN PART** as follows:[63, 64]

Eek River (partial)

Eek River: all eligible submerged lands between the OHWMs of the left and the right banks beginning at about RM 143.1 in sec. 29, T. 1 N., R. 63 W. (the upstream extent of Alaska Natie allotment USS 12347), and continuing downstream to the lower extent of the application at about RM 39.4 within the following:

Seward Meridian, Alaska

T. 1 N., R. 63 W.,
secs. 18, 19, 20, and 29.

T. 1 N., R. 64 W.,
secs. 6 thru 10, and secs. 13, 14, and 15.

[63] Administrative navigability findings were made in support of ANCSA land conveyances for submerged lands of the subject waters of the Eek River previously described in the "Lands Review" section and therefore will not be incorporated within this decision. The BLM's administrative navigability findings for ANCSA-conveyed lands are subject to legislative finality according to 43 U.S.C. 1631(c)(1).

[64] The BLM's decisions regarding conveyance of Alaska Native Allotment Act allotments are subject to administrative finality. *See e.g., Heirs of Chaik George,* 192 IBLA 175, 188 (2018).

T. 1 N., R. 65 W.,
secs. 1 thru 5, and secs. 7, 8, 9, 11 and 12.

T. 1 N., R. 66 W.,
secs. 10 thru 22.

T. 1 N., R. 67 W.,
secs. 21 thru 24, and secs. 26 thru 32.

T. 1 N., R. 68 W.,
secs. 17 thru 22, and secs. 25 thru 28.

T. 1 N., R. 69 W.,
secs. 13 thru 17, and secs. 19 thru 24.

T. 1 N., R. 70 W.,
secs. 13, secs. 22 thru 33.

T. 1 S., R. 71 W.,
secs. 6.

T. 1 N., R. 71 W.,
secs. 18, 19, and secs. 26 thru 36.

T. 1 S., R. 72 W.,
secs. 2, 3, and 4.

T. 1 N., R. 72 W.,
secs. 8, 12, 15, and 25.

Middle Fork Eek River

Middle Fork Eek River: all eligible submerged lands between the OHWMs of the left and right banks of the Middle Fork Eek River from about RM 47.5 in the eastern section line of sec. 13, T. 3 S., R. 69 W., S.M., downstream to about RM 0.0 at the confluence with the Eek River within the following:[65]

Seward Meridian, Alaska

T. 3 S., R. 69 W.,
secs. 2, 3, 11, 12, and 13.

T. 2 S., R. 69 W.,
secs. 5 thru 9, secs. 16, 17, 20, 21, 22, 27, 28, 34, and 35.

T. 2 S., R. 70 W.,
sec. 1.

[65] Based on a review of the land status at the confluence of the Eek River and Middle Fork Eek River, RM 0.0-0.3 of the Middle Fork were included in this decision, with the exception of submerged lands adjacent to the ANCSA parcel, in which the navigability of the overlying waters were determined in the previously-cited determination from Feb. 21, 1989.

T. 1 S., R. 70 W.,
secs. 19, 20, secs. 26 thru 29, and secs. 33 thru 36.

T. 1 S., R. 71 W.,
secs. 5 thru 16, and sec. 24.

T. 1 S., R. 72 W.,
sec. 1.

T. 1 N., R. 71 W.,
secs. 34 and 35.

Ugaklik River (partial)

Ugaklik River: all eligible submerged lands between the OHWMs of the left and right banks of the Ugaklik River from the southern boundary of the ANCSA parcel at about RM 0.8 in sec. 3, T. 1 S., R. 72 W., S.M, downstream to the confluence with the Eek River at RM 0.0 in sec. 3, T. 1 S., R. 72 W., S.M.

Seward Meridian, Alaska

T. 1 S., R. 72 W.,
sec. 3.

The United States affirms it has no interest in the lands described above because the federal interests passed to the State of Alaska at the time of statehood. Approving these portions of the State's application for an RDI will provide certainty about ownership of the submerged lands described above in application AKAK106538743 and remove a cloud on the title.

B. **DENIED IN PART**

Based on the foregoing and the documentation contained in the case record, I have determined that the State's RDI application AKAK106538743 is insufficient to demonstrate the navigability of the portions described below for the Eek River system at the time of statehood and in compliance with the applicable provisions and requirements of the provisions of section 315 of FLPMA and the regulations contained in 43 CFR Subpart 1864. The State may request reconsideration of this decision if they provide additional facts to support navigability of these portions. The State's application for an RDI is hereby **DENIED IN PART** as follows:

Eek River (partial)

Eek River: all eligible submerged lands between the OHWMs of the left and right banks beginning at the upper extent of the application at the confluence with Rainy Creek at about RM 154.9, and continuing downstream to about RM 143.1 within the following:

Seward Meridian, Alaska

T. 2 S., R. 64 W.,
sec. 1.

T. 1 S., R. 64 W.,
secs. 2, 11, 13, 14, 23, 24, 25, and 36.

T. 1 N., R. 63 W.,
secs. 29, 32, 33.

Ugaklik River (partial)

Ugaklik River: all eligible submerged lands between the OHWMs of the left and right banks of the Ugaklik River from the upper extent of the application at the eastern section line of sec. 4, T. 3 S., R. 69 W., S.M., about RM 36.9, downstream to about RM 0.8 at the southern boundary of lot 1, USS 9887 within the following:

Seward Meridian, Alaska

T. 3 S., R. 70 W.,
secs. 4, and 5.

T. 2 S., R. 70 W.,
secs. 29 thru 32.

T. 2 S., R. 71 W.,
secs. 3, 4, 9, 10, 14, 15, secs. 22 thru 25.

T. 1 S., R. 71 W.,
secs. 19, 29, 30, 32, and 33.

T. 1 S., R. 72 W.,
secs. 3, 10, 11, 13, 14, 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 Board. 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:

Access Defense Program Manager
Alaska Department of Fish and Game
333 Raspberry Road
Anchorage, Alaska 99518-1599

Division Chief of Natural Resources
Alaska Regional Office
U.S. Fish and Wildlife Service
1011 E. Tudor Road
Anchorage, Alaska 99503-6103

AK FM (AA)