STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

400 WILLOUGHBY AVENUE
JUNEAU, ALASKA 99801-1796
PHONE: (907) 465-2400
FAX: (907) 465-3886

550 WEST 7TH AVENUE, SUITE 1400
ANCHORAGE, ALASKA 99501-3650
PHONE: (907) 269-8431
FAX: (907) 269-8918

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December 22, 2005

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

Re: Recordable Disclaimer of Interest Application for Fish Lake

Dear Mr. Bisson:

Pursuant to 43 CFR §186, the State of Alaska files this application for a Recordable Disclaimer of Interest for the lands underlying Fish Lake.

I. DESCRIPTION OF WATERBODY

This application is submitted for all submerged lands lying below the ordinary high water line of Fish Lake within Townships 13 and 14 North, Range 19 East, Copper River Meridian, Alaska. A map highlighting the lake and a legal description of the townships and ranges underlying the lake are enclosed.

II. WAIVER REQUEST

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

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

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

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

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

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

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

V. Evidence of the Navigability of Fish Lake

The navigability of Fish Lake is confirmed by two Alaska Native Claims Appeal Board decisions dated August 5, 1981 and October 30, 1981. Copies of these decisions, navigability reports and other supporting documentation are attached to this application.

VI. Other Known Interested Parties

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

VII. Conclusion

As determined by the Alaska Native Claims Appeal Board decisions and supporting documentation, the State of Alaska determines there is sufficient information to conclude that Fish Lake is a navigable waterway and ownership of the submerged lands should be disclaimed by the Department of Interior.

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

Sincerely,

Michael Menge
Commissioner

Enclosures

CC:[1] McKie Campbell, Commissioner, Alaska Dept. of Fish & Game
Linda Hay, Special Asst. for Natural Resources, Office of the Governor
David W. Marquez, Attorney General for the State of Alaska
Cam Toohey, Special Asst. to the Secretary for Alaska
Dick Mylius, Acting Director, State of Alaska Division of Mining, Land and Water
Senator Gene Therriault, Chair, Legislative Budget & Audit Joint Committee
Public Information Center, Department of Natural Resources
Jim Stratton, Alaska Regional Director, National Parks Conservation Association
Chris Milles, Acting Regional Manager, Northern Region, State of Alaska Dept. of Natural Resources
Northway Traditional Council
Northway Village Council, Planning Commission
Northway Natives, Inc.
Georgianna Lincoln, Chairwoman, Doyon, Limited
Harold Brown, Tanana Chiefs Conference

[1] These recipients were provided only with a copy of the application filed with BLM. Copies of map(s) for the waterbodies and any historical documents referenced in support of this application can be obtained via DNR's website (http://www.dnr.state.ak.us/mlw/nav/rdi/) or the Bureau's website (http://www.ak.blm.gov/ak930/rdi/index.html). If you are unable to access these websites or are unable to download the information, please feel free to contact Jennifer A. Currie at (907) 269-6008 and we will provide you with the information through the mail.

Legal Description

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

All submerged lands encompassed by the ordinary high water line of Fish Lake, within the following townships and ranges as determined from USGS 1:63,360 series topographic map Nabesna (D-2) 1955 (minor revisions 1978); the precise location may be within other townships due to the ambulatory nature of water bodies:

Township 13, 14 North, Range 19 East, Copper River Meridian, Alaska.