STATE OF ALASKA

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DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

RECEIVED
SEP 28 2005
BY: BC

September 21, 2005

AK-930

Henri Bisson
Director, Alaska State Office
Bureau of Land Management
222 W. 7th Avenue, #13
Anchorage, Alaska 9913-7599

BLM AK SO 952
ANCHORAGE, AK
05 SEP 29 AM 8:

Re: Recordable Disclaimer of Interest Application for Lake Minchumina

Dear Mr. Bisson:

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

The application is submitted for the submerged lands encompassed by the ordinary high water line of Lake Minchumina within Township 11 South, Range 24 West, and Township 12 South, Ranges 23, 24, 25 West, Fairbanks Meridian, Alaska. A map highlighting the lake and a legal description of the townships and ranges underlying the lake are enclosed.

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

A recordable disclaimer of interest for this land will help lift the cloud on its title stemming from the lack of any permanent determination of ownership. Because Lake Minchumina is navigable, Alaska owns the submerged lands by virtue of the Equal Footing Doctrine. Under the Equal Footing Doctrine, new states created from federal territories are admitted to the Union with all the powers of sovereignty and jurisdiction that pertain to the original states. Upon admission of a state to the Union, the title to lands underlying navigable waters within its boundaries automatically passes to the state as a matter of constitutional grace. The lack of any title document or judgment creates a cloud on the state's title.

Where the state is the owner of the uplands adjacent to Lake Minchumina, the state owns the bed of Lake Minchumina even in the absence of a navigability

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determination. In such circumstance, the state took title under the Equal Footing Doctrine if the water is navigable, or if it is non-navigable, the state gained title as a result of the intent of the grantor and state law governing riparian rights. In Alaska, where the land bordering a non-navigable body of water is ceded, title to the submerged lands passes to the shoreland owner unless the intent of the grantor is expressly stated to the contrary.

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

The Bureau of Land Management's own formal determinations and conveyance documents confirm the navigability of Lake Minchumina. A December 13, 1982, BLM Navigability Report recommends that Lake Minchumina be determined navigable, and includes a list of boat traffic carrying persons and cargo between Lake Minchumina and other destinations (source: Ethnohistory of Four Interior Alaskan Waterbodies, by Dianne Gudgel-Holmes). A December 28, 1982 BLM memorandum made a final navigability determination for Lake Minchumina based on the BLM report dated December 13, 1982.

In addition to the Bureau's navigability determination, there is substantial historic information describing the navigability of Lake Minchumina. In one of the first published accounts, the 1917 book "In the Alaskan Wilderness"; G. Gordon details his boat trip up the Kantishna River, across Lake Minchumina and traversing the Minchumina portage to the Kuskokwim River. A summary of the references documenting historic use of Lake Minchumina as navigable water is attached.

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

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

The state agency responsible for this application is the Alaska Department of Natural Resources, Division of Mining, Land, and Water, 550 W. 7th Avenue,

Anchorage, Alaska 99501, Attention Robert Loeffler, (907) 269-8600. The State hereby authorizes BLM to bill the State's account $100 for the application fee required by regulation.

Sincerely,

Thomas E. Irwin
Commissioner

Enclosures

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

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Legal Description

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

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

Township 11 South, Range 24 West; Township 12 South, Ranges 23, 24, 25 West, Fairbanks Meridian, Alaska.

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