



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
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<http://www.blm.gov/ak>

In Reply Refer To:
AA-85787 (1864)
~~9680~~ (927)
cm

DEC 27 2007

Callahan 12/13/07
A. S. Smith 12/13/07
J. Patton 12-14-07

Thomas E. Erwin, Commissioner
Department of Natural Resources
555 West 7th Avenue, Suite 1400
Anchorage, Alaska 99501-3650

Dear Commissioner Erwin:

This letter is in reference to the State of Alaska's (State) Recordable Disclaimer of Interest (RDI) application for the lands underlying in Stikine River, located within the Tongass National Forest. Due to the pending federal subsistence management litigation, the Bureau of Land Management (BLM) will not be able to continue processing your application at this time.

In its Opening Brief filed in the *Katie John* lawsuit, the State raised the Stikine River as an example of what it contends is the federal managers' improper assertion of federal reserved water rights to tidally influenced portions of the Stikine River beyond mean high tide. While raising the Stikine River in conjunction with marine water issues, the State's brief also alleges that the creation of the Tongass National Forest did not include any federal reserved water rights. The Forest Service filed objections to the State of Alaska's RDI application, contending that the Tongass National Forest withdrawal did include reserved federal water rights. The Supplemental Brief of Related Case Plaintiffs Peratrovich, filed in *Katie John*, contains extensive arguments that the creation of the Tongass National Forest included the submerged beds of inland navigable waters as well as federal reserved water rights in its marine waters.

On the advice of our attorneys and in consultation with the Department of Justice, the BLM will not continue processing your application until such matters are resolved. We will re-evaluate the situation when the *Katie John* briefing is completed; however, our attorneys have advised us that processing of the Stikine River application will most likely have to wait for the court's decision.

Sincerely,

(s) Thomas P. Lonnie

Thomas P. Lonnie
State Director

cc:

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