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

March 10, 2006

BLM AK SO 954
ANCHORAGE, AK
2006 MAR 10 PM 2:

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 the Takotna River

Dear Mr. Bisson:

Pursuant to 43 CFR §1864, the State of Alaska files this application for a recordable disclaimer of interest for the lands underlying the Takotna River.

I. DESCRIPTION OF WATERWAY

This application is submitted for all submerged lands lying within the bed of the Takotna River, between the ordinary high water lines of the left and right banks from its origins at Moore Creek within Township 28 North, Range 41 West, Section 1, Seward Meridian, Alaska, downstream to its confluence with the Kuskokwim River within Township 33 North, Range 33 West, Section 7, Seward Meridian, Alaska. As a general rule, any sloughs, braids or channels which carry water from a navigable river are an integral part of the river and thus, are navigable as well. A map highlighting the river and a legal description of the townships and ranges underlying the river are enclosed.

II. WAIVER REQUEST

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.

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 1953; the Submerged Lands Act of 1988; the Alaska Statehood Act; or any other legally cognizable reason. BLM may disclaim interest in the submerged lands on any of the grounds that apply.

Because the Takotna River is navigable, Alaska owns the submerged lands underlying the Takotna River 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 the Takotna River, the State owns the bed of the River 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 shoreland owner unless the intent of the grantor is expressly stated to the contrary.

IV. REASON FOR THE STATE'S REQUEST FOR 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 THE TAKOTNA RIVER

In May of 1980, the Bureau published a report entitled Navigable and Nonnavigable Waters in the Upper Kuskokwim River Basin (hereinafter referred to as "Kuskokwim Report"). This report provided a detailed summary of the existing historic information available for certain waterbodies in the region. This report provides information regarding the use of certain waterways in the region, including the Takotna River, and details historic communities and activities such as exploration, mining, hunting, fishing, trapping, water transport and road and trail use. Based on this information, the Bureau deemed certain waterbodies navigable, specifically, the Takotna River to the mouth of Fourth of July Creek.

In summarizing its review of the historical information contained in the report regarding the Takotna River, the report states that:

> Until the construction of the Sterling Landing-Takotna Road in the late 1920's, all freight to the Innoko mining district went over the Takotna River to Takotna in steamboats and launches, and sometimes to Big Creek in launches and pole boats. The physical character of the river is such that launches and pole boats may be used to the site of the former Indian village at the mouth of Fourth of July Creek.

In 1983, subsequent to the Kuskokwim Report, the Bureau compiled a regional report detailing historical information and documents related to the Kuskokwim Region (hereinafter referred to as the "Regional Report"). This 800 page report provides an extensive description and summary of historic use of the waterways in the region, and includes additional information related to the use of the Takotna River for travel, trade and commerce at the time of Statehood. The historical information contained in this Regional Report further supports the navigability determination made by the Bureau in the Kuskokwim Report.

The Kuskokwim Report is affixed hereto as support for the State's application. The Regional Report is not affixed to this application due to its voluminous size. It can, however be accessed through the Alaska Resources Library & Information Services (ARLIS).

VI. OTHER KNOWN INTERESTED PARTIES

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

VII. CONCLUSION

As evidenced by the Bureau's Kuskokwim Report and Regional Report and the available historic information included therein, the State of Alaska determines there is sufficient information to conclude that the Takotna River is a navigable waterway and ownership of its submerged lands should be disclaimed by the Department of Interior based on the Equal Footing Doctrine; the Submerged Lands Act of 1953; the Submerged Lands Act of 1988; the Alaska Statehood Act; riparian law; or any other legally cognizable reason.

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 Richard Mylius, (907) 269-8600. The State hereby authorizes BLM to bill the State's account $100 for the application fee required by regulation.

Sincerely,

FOR

Michael L. Menge
Commissioner

Enclosures

cc:* 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
Special Asst. to the Secretary for Alaska
Dick Mylius, Acting Director, State of Alaska Dept. of Natural Resources, 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
Regional Manager of Southcentral Region, Division of Mining Land & Water, State of Alaska DNR
City of McGrath
MTNT Limited
McGrath Native Village Council
Takotna Community Association, Inc.
Takotna Village
Georgianna Lincoln, Chairwoman, Doyon, Limited
Harold Brown, Tanana Chiefs Conference

---

* 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 Scott Ogan at (907) 269-5515 and we will provide you with the information through the mail.

Legal Description

Takotna River within the State of Alaska, more particularly described as follows:

All submerged lands within the bed of the Takotna River, including all channels, braids and sloughs between the ordinary high water lines of the left and right banks of the Takotna River, beginning at Moore Creek within Township 28 North, Range 41 West, Section 1, Seward Meridian, Alaska, USGS 1:63,360 series topographic map Iditarod C-2 (1954). Thence generally northeasterly, to its confluence with the Kuskokwim River in Township 33 North, Range 33 West, Section 7, Seward Meridian, USGS 1:63,360 series topographic map McGrath D-6 (1954, minor revisions 1981). The Takotna River flows through the following Townships and Ranges:

Seward Meridian:
- Township 28 North, Ranges 40-41West
- Township 29 North, Ranges 39-40 West
- Township 30 North, Ranges 38-39 West
- Township 31 North, Ranges 38-39 West
- Township 32 North, Ranges 37-38 West
- Township 33 North, Ranges 33-37 West
- Township 34 North, Ranges 33-36 West

Kateel River Meridian:
- Township 29 South, Ranges 15-17 East
- Township 28 South, Ranges 16-17 East

The precise location may be within other townships due to the ambulatory nature of water bodies.