STATE OF ALASKA

FRANK H. MURKOWSKI, GOVERNOR

DEPARTMENT OF NATURAL RESOURCES

OFFICE OF THE COMMISSIONER

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March 10, 2006

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Henry 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 Tanana 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 Tanana River.

I. DESCRIPTION OF WATERWAY

This application is submitted for all submerged lands lying within the bed of the Tanana River between the ordinary high water lines of the left and right banks from its origin at the confluence of the Chisana and Nabesna Rivers within Section 29 and 30, Township 15 North, Range 19 East, Copper River Meridian, Alaska flowing generally northwesterly to all points of confluence with the Yukon River in Section 23, Township 4 North, Range 22 West, Fairbanks Meridian, Alaska. As a general rule, any sloughs, braids or channels that 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 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-(c) (1) for the 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.

FF 94683
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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 Land 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 of the grounds that apply.

Because the Tanana River 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 State as the upland owner - Generally, where the State is the owner of the uplands adjacent to Tanana River, the State owns the bed of the Tanana 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 as a result of the intent of the grantor and state law governing riparian rights. In Alaska, where the land bordering the non-navigable body of water is ceded, title to the submerged land passes to the shore land 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 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 TANANA RIVER

The Bureau's own formal determinations confirm navigability of the Tanana River. Navigability determinations for all, or portions, of the Tanana River are available from May 13, 1974 through February 15, 2005. A summary of those determinations, decision documents and copies are attached to this application.

Historic information on boat use on the Tanana River adds to this navigability determination. The Tanana River has a long history of commercial navigation and was used extensively as a service route for freighting supplies to prospectors for early mining exploration, trading with Native villages, large and small steamboat traffic, barge lines and, more recently, a tourist sternwheeler. Information describing historic and current boat use on the Tanana has been

FF 94683

recorded in numerous documents, reports and books since the early 1800's. A summary of historic information describing navigability of the Tanana River is presented in a bibliography prepared by the Arctic Environmental Information and Data Center and is attached to this application. A listing of additional navigability documentation is included.

VI. OTHER KNOWN INTERESTED PARTIES

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

VII. CONCLUSION

As evidenced by navigability determinations and historic information, the State of Alaska determines that there is sufficient information to conclude that the Tanana River is a navigable waterway and ownership of its' submerged lands should be disclaimed by the Department of Interior.

The State agency responsible for this application is the Alaska Department of Natural Resources, Division of Mining, Land and Water. 55W. 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,

FOR

Michael L. Menge
Commissioner

Enclosures

FF 94683

cc:* Governor Frank H. Murkowski
David W. Marquez, Attorney General
McKie Campbell, Commissioner, Department of Fish and Game
Gale A. Norton, U.S. Secretary of the Interior
Drue Pearce, Senior Advisor to the Secretary for Alaskan Affairs
Special Assistant to the Secretary for Alaska
Dick Mylius, Acting Dir., Dept. of Natural Resources, State of AK, DMLW
Senator Gene Therriault, Chair, Legislative Budget & Audit Joint Comm.
Department of Natural Resources, Public Information Center
Jim Stratton, Alaska Regional Director, National Parks Conservation Assoc.
Chris Milles, Acting Regional Manager, Northern Region, Dept. of Natural Resources, State of Alaska DMLW
Tony Booth – Acting Manager, Tetlin National Wildlife Refuge
Warren Keogh, Water Rights Coordinator – NWRS Alaska
B.J. Baker, Environmental Paralegal, Office of SJA/JAG HQ USARAK
Colonel Donna G. Boltz, Garrison Commander, U.S. Army Garrison, Alaska
Major Suzette Seuell, Deputy Staff Judge Advocate, Eielson AFB
Scott Marchand, Chief of General Law, Elmendorf AFB
Lt Colonel Scott Risley, Deputy Staff Judge Advocate, Elmendorf AFB
Captain Jennifer Aaron, Deputy Staff Judge Advocate, Elmendorf AFB
Northway Traditional Council
Northway Village Council, Planning Commission
Northway Natives, Inc.
Georgianna Lincoln, Chairwoman, Doyon, Limited
Harold Brown, Tanana Chiefs Conference
Deltana Community Corporation
Mayor Roy Gilbertson, City of Delta Junction
Mayor Jim Whitaker, Fairbanks North Star Borough
Mayor Steve Tompson, City of Fairbanks
Manley Hot Springs Community Association
Manley Village Council
Bean Ridge Corporation
City of Nenana
Toghotthele Corporation
Nenana Native Village Association
Mayor Jeff Jacobson, City of North Pole
Tanacross, Incorporated

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* 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.

Tanacross Village Council
City of Tanana
Too'gha, Inc.
Tozitna, Limited
Native Village of Tanana
Tetlin Tribal Council (IRA)

Legal Description

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

All submerged lands within the bed of the Tanana River including all sloughs, braids and channels between the ordinary high water lines of the left and right banks of the Tanana River

Beginning at the confluence of the Chisana and Nabesna Rivers within Section 29 and 30, Township 15 North, Range 19 East, Copper River Meridian, Alaska;

Thence downstream, generally northwesterly within the following townships of the Copper River Meridian as determined from USGS 1:63,360 series topographic maps

Tanacross (A-2) 1955 (minor revisions 1972)
Tanacross (A-3) 1948 (minor revisions 1978)
Tanacross (A-4) 1948 (minor revisions 1973)
Tanacross (B-4) 1949 (minor revisions 1966)
Tanacross (B-5) 1948 (minor revisions 1963)
Tanacross (B-6) 1949 (minor revisions 1970)
Tanacross (C-6) 1955 (minor revisions 1982)
Mt. Hayes (C-1) 1955 (minor revisions 1979)
Mt. Hayes (C-2) 1955 (minor revisions 1973)

Copper River Meridian

Township 15 North, Range 18, 19 East;
Township 16 North, Range 16 East, excluding the area that lies within the boundary of US Survey 2547;
Township 16 North, Range 17, 18 East;
Township 18 North, Range 10, 11 East;
Township 18 North, Range 13 and 14 East, excluding the area that lies within the boundary of US Survey 2547;
Township 19 North, Range 8, 9, 10, 11, 12, 13 East;
Township 19 North, Range 14 East, excluding the area that lies within the boundary of US Survey 2547;
Township 20 North, Range 8, 9 East;
Township 21 North, Range 8 East;
Township 22 North, Range 5, 6, 7, 8 East;
Township 23 North, Range 5, 6, 7 East;

Continuing northwesterly, generally within the followings townships of the Fairbanks Meridian as determined from USGS 1:63,360 series topographic maps

Mt. Hayes (C-2) 1955 (minor revisions 1973);
Mt. Hayes (D-2) 1955 (minor revisions 1962);

Big Delta (A-2) 1955 (minor revision 1984;
Big Delta (A-3) 1955 (minor revisions 1975);
Big Delta (A-4) 1950 (minor revision 1991);
Big Delta (A-5) 1950 (photorevised 1975);
Big Delta (A-6) 1949 (minor revisions 1963);
Big Delta (B-5) 1949 (photorevised 1975);
Big Delta (B-6) 1949 (photorevised 1975, minor revision 1987);
Big Delta (C-6) 1949 (photorevised 1975, minor revision 1987);

Fairbanks (B-1) 1950 (photorevised 1972);
Fairbanks (C-1) 1950 (photorevised 1972 and 1975);
Fairbanks (C-2) 1949 (photorevised 1972);
Fairbanks (C-3) 1950 (photorevised 1972);
Fairbanks (C-4) 1950 (photorevised 1972);
Fairbanks (C-5) 1950 (minor revisions 1978);
Fairbanks (D-1) 1949 (photorevised 1972 and 1975);
Fairbanks (D-2) 1954 (photorevised 1972 and 1973, minor revision 1994);
Fairbanks (D-3) 1950 (photorevised 1972);
Fairbanks (D-5) 1950 (minor revision 1985);
Fairbanks (D-6) 1952 (minor revisions 1972);

Kantishna River (D-1) 1953 (minor revision 1965);
Kantishna River (D-2) 1952 (minor revisions 1971);
Kantishna River (D-3) 1952 (minor revisions 1967);
Kantishna River (D-4) 1953 (minor revision 1965);

Tanana (A-2) 1953 (minor revisions 1964);
Tanana (A-3) 1953 (minor revisions 1966);
Tanana (A-4) 1952 (minor revisions 1965);

Fairbanks Meridian:

Township 14 South, Range 16 East;
Township 13 South, Range 15, 16 East;
Township 12 South, Range 15 East;
Township 11 South, Range 14, 15 East;
Township 10 South, Range 11, 12, 13, 14, 15 East;
Township 9 South, Range 9, 10, 11, 12 East;
Township 8 South, Range 5, 6, 7, 8, 9, 10, 11 East;
Township 7 South, Range 4, 5, 6, 7, 8 East;

Township 6 South, Range 3, 4 East;
Township 5 South, Range 3, 4 East;
Township 4 South, Range 3, 4 East;
Township 3 South, Range 2, 3 East;
Township 2 South, Range 1 East, excluding the area that lies within the boundary of Fort Wainwright Military Reservation;
Township 2 South, Range 2 East;
Township 1 South, Range 1 East, excluding the area that lies within the boundary of Fort Wainwright Military Reservation;
Township 1 South, Range 1West, excluding the area that lies within the boundary of Fort Wainwright Military Reservation;
Township 1 South, Range 2, 8, 10, 11, 12, 13, 14, 19 West;
Township 2 South, Range 2, 3, 4, 8, 11, 12 West,
Township 3 South, Range 3, 4, 5, 6, 8 West;
Township 4 South, Range 5, 6, 7, 8 West,
Township 1 North, Range 8, 9, 10, 11, 14, 16, 17, 18, 19, 20 West;
Township 2 North, Range 14, 15, 16, 17, 19, 20 West,
Township 3 North, Range 20, 21 West,

Township 4 North, Range 21, 22 West.

To the terminus, being all points of confluence with the Yukon River within Section 23, Township 4 North, Range 22 West, Fairbanks Meridian.

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