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

July 18, 2003

BLM AK SO 952
ANCHORAGE, AK
03 JUL 18 AM 3: 39

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 Wood River and Lakes System
BLM casefile AA-085089

Dear Mr. Bisson,

The State of Alaska files this application pursuant to 43 CFR §1864 for a recordable disclaimer of interest for the lands underlying the Wood River lakes and river system, including Aleknagik, Nerka, Little Togiak, Beverley, Kulik and Mikchalk Lakes, and interconnecting rivers including the Wood, Agulowak, Agulukpak, Wind and Peace rivers.

This application is submitted for the submerged lands encompassed by the ordinary high water line of Lake Kulik, Mikchalk Lake, Lake Beverley, the Silver Horn and Golden Horn arms of Lake Beverley, Lake Nerka, the Amakuk Arm of Lake Nerka, Little Togiak Lake and its outlet, and Lake Aleknagik; and all submerged lands within the beds of the Wind, Peace, Agulukpak, Agulowak and Wood rivers between the ordinary high water lines on their banks, including all interconnecting sloughs of these rivers, beginning at the east end of Kulik Lake in T. 5 S., R. 54 W., Seward Meridian, Alaska, downstream through the Wood River lake and river system, finally ending at the mouth of the Wood River at its confluence with the Nushagak River within T. 13 S., R. 55 W., Seward Meridian, Alaska, near Dillingham. A map highlighting the rivers and lakes and a list of the townships and ranges underlying the Wood River lake and river system is 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 description included here clearly identifies the land subject to this application.

A federal 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 the Wood River, the Wood River lakes, and the interconnecting rivers are 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 of 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.

The Bureau of Land Management's own formal navigability determinations and other documents confirm the navigability of these waterways. On November 29, 1979, BLM issued a decision establishing that the Wood River, Lake Aleknagik, Lake Nerka and the Agulowak River are navigable. BLM issued a final navigability determination on November 25, 1983, finding Lake Kulik, Lake Beverley, the Silver Horn and Golden Horn arms of Lake Beverley, Lake Nerka, the Amakuk Arm of Lake Nerka, Mikchalk Lake and the Peace River to be navigable. This navigability determination made reference to an August 29, 1963 BLM memorandum which stated Lake Kulik, Lake Beverley, Lake Nerka, Mikchalk Lake and the Peace River were considered navigable by the BLM and the State of Alaska. The first page of a BLM memo dated December 31, 1975 said the BLM's Easement and Navigability Task Force identified the Wood River, Agulowak River, Lake Aleknagik, and Lake Nerka as navigable waters to be excluded from village selections. Finally, a BLM navigability determination dated December 12, 1983 affirmed previous federal determinations that "Lake Beverley, Lake Aleknagik, Little Togiak Lake and outlet, Lake Nerka, Amakuk Arm, Agulukpak River, and the bays included by lateral extent are navigable."

Because the Bureau of Land Management has found the Wood River, the Wood River lake system and interconnecting rivers to be navigable, it has meandered them in conveyances of the adjacent uplands and thus eliminated any possibility that others might claim an interest in the bed of the river. In any event, the state is unaware of any adverse claimant or occupant of these lands.

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. Enclosed is a check to cover costs identified in a June 11, 2003 payment request from BLM.

Sincerely,

Tom Irwin
Commissioner

Enclosures

Cc: Governor Frank H. Murkowski
Gregg Renkes, Attorney General
Kevin Duffy, Commissioner, Department of Fish and Game
Gale A. Norton, U.S. Secretary of the Interior, 1849 C Street NW, Room 6156, Washington, DC 20240
Drue Pearce, Senior Advisor to the Secretary for Alaskan Affairs, 1840 C Street NW, Washington DC 20240

Cam Toohey, Special Assistant to the Secretary for Alaska, 1689 C Street, Suite 100, Anchorage, AK 99501
Robert Loeffler, DNR, Division of Mining, Land, and Water
Bobby Andrew, President, Aleknagik Natives, Ltd., P.O. Box 1630, Dillingham, AK 99576
Lance Nunn, President, Choggiung, Ltd., P.O. Box 330, Dillingham, AK 99576
Hjalmar E. Olson, President/CEO, Bristol Bay Native Corporation, 800 Cordova Street, Suite 200, Anchorage, AK 99501
Curyung Tribal Council, P.O. Box 216, Dillingham, AK 99576

LEGAL DESCRIPTION

Wood River, Lake Kulik, Wind River, Mikchalk Lake, Peace River, Lake Beverley, the Silver Horn and Golden Horn arms of Lake Beverley, Agulukpak River, Lake Nerka, the Amakuk Arm of Lake Nerka, Little Togiak Lake, Agulowak River, and Lake Aleknagik, within the State of Alaska, commonly known as the Wood River Lakes system, more particularly described as follows:

All submerged lands encompassed by the ordinary high water line of Lake Kulik, Mikchalk Lake, Lake Beverley, the Silver Horn and Golden Horn arms of Lake Beverley, Lake Nerka, the Amakuk Arm of Lake Nerka, Little Togiak Lake and its outlet to Lake Nerka, and Lake Aleknagik and all submerged lands within the beds of the Wind, Peace, Agulukpak, Agulowak, and Wood rivers between the ordinary high water lines of the left and right banks, including all submerged lands between the ordinary high water lines of all named and unnamed interconnecting sloughs of the Wind, Peace, Agulukpak, Agulowak, and Wood Rivers beginning at Lake Kulik located in Township 5 South, Range 54 West, Seward Meridian, Alaska;

Thence westerly, southerly and easterly generally within the following townships of the Seward Meridian as determined from the USGS 1:250,000 quadrangles dated 1954 and 1951; the precise location may be within other townships due to the ambulatory nature of water bodies;

Township 4 South, Range 55, 56, 57 West;
Township 5 South, Range 54, 55, 56, 57 West;
Township 6 South, Range 54, 55, 56, 57, 58 West;
Township 7 South, Range 54, 55, 56, 57, 58 West;
Township 8 South, Range 55, 56, 57 West;
Township 9 South, Range 55, 56, 57, 58 West;
Township 10 South, Range 55, 56, 57 West;
Township 11 South, Range 55 West;
Township 12 South, Range 55 West; and
Township 13 South, Range 55 West;

To the terminus, being the confluence of the Wood River with the Nushagak River within Township 13 South, Range 55 West, Seward Meridian, Alaska.