



United States Department of the Interior



BUREAU OF LAND MANAGEMENT
Alaska State Office
222 West Seventh Avenue, #13
Anchorage, Alaska 99513-7504
www.blm.gov/alaska

In Reply Refer To:
AA-086371
1864 (AK9414)

OCT 18 2021

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

DECISION

State of Alaska	:	AA-086371
Department of Natural Resources	:	Recordable Disclaimer of Interest
Division of Mining, Land & Water	:	Application
Public Access Assertion & Defense Unit	:	
550 West Seventh Avenue, Suite 1420	:	
Anchorage, Alaska 99501-3579	:	Kuskokwim River

APPLICATION APPROVED, IN PART

On Mar. 10, 2006, the State of Alaska (State) filed a disclaimer of interest application with the Bureau of Land Management (BLM) under the provisions of Section 315 of the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C. §1745, and the regulations contained in 43 C.F.R. Subpart 1864, for lands underlying the Kuskokwim River, located in southwestern Alaska.

On May 3, 2013, the BLM issued a decision approving in part the lands underlying the Kuskokwim River, excepting those lands within Public Land Order 255 (PLO 255).¹ The decision suspended the portion of the application within PLO 255. The BLM issued a disclaimer of interest for the lands underlying the Kuskokwim River, excepting those lands within PLO 255, on June 10, 2013.

On Dec. 8, 2015, the BLM issued a decision rejecting, in part, the lands within PLO 255. On Jan. 5, 2016, the State filed an appeal with the Interior Board of Land Appeals (IBLA) disputing the BLM's decision rejecting the portion of the lands located within PLO 255. On Sept. 1, 2021 the IBLA issued Order IBLA 2016-65, which reversed the BLM's decision rejecting the State's application for the lands underlying the Kuskokwim River within PLO 255 and remanded it to the BLM for action consistent with its order.

¹ PLO 255, 11 Fed. Reg. 8368 (Aug. 2, 1946).

Order IBLA 2016-65 reversed the BLM's December 8, 2015, decision because "there [wa]s no clear intent on the part of the United States to defeat Alaska's acquisition of title to the" submerged lands of the Kuskokwim River within the boundaries of PLO 255 (p. 12). Based on the foregoing, I have determined that the State's application for a recordable disclaimer of interest for the submerged lands within the boundary of PLO 255 is legally sufficient within the provisions of Section 315 of FLPMA and the regulations contained in 43 C.F.R. Subpart 1864.

The December 8, 2015, decision on the State's application for a recordable disclaimer of interest is modified, and this decision approves the State's application for a disclaimer to the following described lands:

Those lands lying within PLO 255 described as beginning at the point of intersection of Latitude 62 degrees 55 minutes N., with the center line of the deep water channel of the Kuskokwim River, approximate Longitude 155 degrees 33 minutes W. From the point of beginning: East, 2.25 miles; North, 3 miles; West, 1.12 miles; to the center line of the deep water channel of the Kuskokwim River; Southwesterly, 14.5 miles, downstream along center line of the deep water channel of the Kuskokwim River, to the point of beginning.

The May 3, 2010, decision approving the State's application for a recordable disclaimer of interest to lands outside the boundaries of PLO 255 is unchanged.

HOW TO APPEAL THIS DECISION

This decision may be appealed to the Interior Board of Land Appeals, Office of Hearings and Appeals, in accordance with the regulations contained in 43 C.F.R. Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in this office (at the above address) within 30 days from receipt of this decision. Notices of appeal transmitted by electronic means, such as facsimile or email, will not be accepted as timely filed. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulations contained in 43 C.F.R. § 4.21 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the appropriate Office of the Solicitor (see 43 C.F.R. § 4.413) at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) The relative harm to the parties if the stay is granted or denied,
- (2) The likelihood of the appellant's success on the merits,
- (3) The likelihood of immediate and irreparable harm if the stay is not granted, and
- (4) Whether the public interest favors granting the stay.

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Date: 2021.10.18
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Thomas Heinlein
Acting State Director

Enclosure
cc (w/o enclosure):

Navigability Subunit Manager
Public Access Assertion & Defense Unit
Division of Mining, Land and Water, DNR
550 W. 7th Avenue, Suite 1030
Anchorage, Alaska 99501

Wendy Steinberger
Public Access Assertion & Defense Unit
Division of Mining, Land and Water, DNR
550 W. 7th Avenue, Suite 1030
Anchorage, Alaska 99501

Dave Ryland
Alaska Department of Fish and Game
Division of Wildlife Conservation
333 Raspberry Road
Anchorage, Alaska 99518

Chief, Realty Services Section
State of Alaska
Department of Natural Resources
550 W. 7th Avenue, Suite 1050a
Anchorage, Alaska 99501-3579

Kris Hess
State of Alaska, DNR
Division of Mining, Land and Water
550 W. 7th Avenue, Suite 1070
Anchorage, Alaska 99501

Director, Region 7
U.S. Fish and Wildlife Service
1011 East Tudor Road
Anchorage, Alaska 99503

Chief, Branch of Water Resources
U.S. Fish and Wildlife Service, Region 7
1011 East Tudor Road
Anchorage, Alaska 99503

Refuge Manager
Yukon Delta National Wildlife Refuge
807 Chief Eddie Hoffman Highway
P.O. Box 346
Bethel, Alaska 99559

Office of the Staff Judge Advocate
673 ABW/JA
8517 20th Street, Suite 330
JBER, Alaska 99506-2401

Fairbanks District Manager (AKF000)

Anchorage District Manager (AKA000)