



United States Department of the Interior



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

DEPARTMENT OF
NATURAL RESOURCES

DEC - 7 2015

COMMISSIONER'S OFFICE
ANCHORAGE

In Reply Refer To:
AA-086371
1864 (AK94210)

DEC 08 2015

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

ADMINISTRATIVE WAIVER GRANTED APPLICATION DENIED, IN PART

On March 10, 2006, the State of Alaska (State) filed a disclaimer of interest application (AA-086371) 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.¹ The State's application described the lands applied for as being "all submerged lands lying within the Kuskokwim River, between the ordinary high water lines on the left and right banks from its origins at the confluence with the South Fork of Kuskokwim River and North Fork of Kuskokwim River within Township 28 South, Range 22 East, Kateel River Meridian, Alaska downstream to its confluence with the Kuskokwim Bay within Township 2 South, Range 77 West, Seward Meridian, Alaska."

The State contends that the Kuskokwim River was navigable at the time of statehood and therefore, title to the submerged lands vested in the State upon entry to the Union on January 3, 1959, the date of Alaska's statehood. The State's application identified the following sources of law as the basis for its request: the equal footing doctrine, the Submerged Lands Act

¹ Michael L. Menge, Commissioner, Alaska Department of Natural Resources, to Henri Bisson, BLM-Alaska State Director, March 10, 2006, file AA-086371 (1864), Alaska State Office, BLM records.

of 1953, the Alaska Statehood Act, the Submerged Lands Act of 1988, or “any other legally cognizable reason.”²

The Submerged Lands Act of 1953, 43 U.S.C. §1311(a), confirmed states’ title to the lands beneath inland navigable waters within their boundaries. It also gave the states authority to manage and administer these lands in accordance with state law. Section 6(m) of the Alaska Statehood Act, made the Submerged Lands Act applicable to Alaska.³

Section 315(a) of FLPMA authorizes the Secretary of the Interior:

[T]o issue a document of disclaimer of interest or interests in any lands in any form suitable for recordation, where the disclaimer will help remove a cloud on the title of such lands and where he determines [that] a record interest of the United States in lands has terminated by operation of law or is otherwise invalid.

This authority has been delegated to the BLM State Directors.⁴

BACKGROUND

The State submitted information in support of its application, including legal descriptions, maps, previous BLM navigability determinations, information extracted from the BLM’s regional report entitled, “Alaska’s Kuskokwim River Region: A History” (1985), and additional documentary material and land status records.

Notice of the State’s application was published in the *Federal Register* on September 3, 2010.⁵ Notice was also published in the *Anchorage Daily News* (October 7, 14, and 21, 2010), the *Tundra Drums* (October 7 and 21, 2010), and on the BLM-Alaska website. The notices invited review and comments and afforded the opportunity to provide additional information. The comment period was initially scheduled to end on December 2, 2010, but was extended until January 31, 2011. Along with the notices, the BLM prepared and circulated a draft summary report, “Federal Interest in Lands Underlying Kuskokwim River in the Kuskokwim Subregion, Alaska,” describing the State’s application and supporting evidence, history of riparian land status, previous navigability determinations, history of use, and evidence of commerce.

The BLM sent copies of its draft summary report to the following state and federal agencies with interests in the Kuskokwim River area: the State of Alaska (Departments of Natural Resources and Fish and Game); the U.S. Fish and Wildlife Service (USFWS); and the Office of the Staff Judge Advocate (U.S. Army). The BLM also sent copies of the report to the following Regional and Village Corporations with lands adjacent to or near the Kuskokwim River: Calista Corporation; Doyon, Limited; Akiakchak, Limited; Bethel Native Corporation; Iqfijouaq Company; Kokarmuit Corporation; The Kuskokwim Corporation (Successor in Interest to Aniak

² The State’s application also offers an alternative basis in support of its asserted ownership of submerged lands. The State asserts that if the water body was not navigable, it would have riparian ownership rights to the submerged lands where it owns the uplands on all sides of the water body.

³ 72 Stat. 339, 343

⁴ 209 DM 7; 235 DM 1; BLM Manual MS-1203, App. 1, p. 52.

⁵ 75 FR 54176

Limited); Kwethluk, Incorporated; MTNT, Limited; Napakiak Corporation; Napaskiak, Incorporated; Oscarville Native Corporation; and Tulkisarmute, Incorporated.

The BLM's draft summary report recommended approving the State's application except for those lands withdrawn by Public Land Order (PLO) 255 (December 15, 1944). The BLM report concluded that these lands were reserved at the time of statehood and therefore title did not transfer to the State of Alaska on January 3, 1959. On October 12, 2010, the U.S. Fish and Wildlife Service agreed with the BLM's conclusions.⁶

Several Native corporations that own lands along the Kuskokwim River commented on possible impacts to their communities that they believed could result from the State's application and posed questions about the disclaimer of interest process. The BLM, State, and several Village Corporation representatives met in Bethel on November 15, 2010, to share information about navigability, submerged land title, and disclaimers of interest, policies, impacts, and process.⁷ None of the comments received, either at the meeting or in writing, presented significant factual information or evidence to support or negate BLM's draft findings.

On April 28, 2011, the State submitted comments on the BLM's draft summary report. The BLM considered and analyzed the State's comments before finalizing the summary report. Those comments, where appropriate, were addressed in the final report.

On May 3, 2013, the BLM issued a decision approving in part the lands underlying the Kuskokwim River, excepting those lands within PLO 255, from its beginning at the confluences of its North and South Forks, presently located in Township 28 South, Range 22 East, Kateel River Meridian, Alaska downstream approximately 540 miles to its confluence with the Kuskokwim Bay presently located within Township 2 South, Range 77 West, Seward Meridian, Alaska. The decision suspended the portion of the application within PLO 255, so that the State and the BLM could continue to discuss the issue and determine how to best address those lands impacted by PLO 255. A disclaimer of interest for the above described lands was issued on June 10, 2013.

ADMINISTRATIVE WAIVER GRANTED

Pursuant to 43 C.F.R. § 1864.1-2 (c) (1), an application for a disclaimer must include a legal description of the lands for which a waiver is sought based on either an official United States public land survey or a metes and bounds survey tied to the nearest corner of an official public land survey. The BLM may waive this requirement if it is "not needed to properly adjudicate th[e] application." 43 C.F.R. § 1864.1-2(d). The State requested a waiver of the survey requirement under this provision in its application.

⁶ Regional Director, USFWS-Region 7, to BLM-Alaska State Director, Oct. 12, 2010. The Office of the Staff Judge Advocate (U.S. Army) did not provide written comments.

⁷ The following Village Corporations were represented: Bethel, Akiachak, Eek, Akiak, Kwethluk, McGrath, Napakiak, Napaskiak, Oscarville, Tuluksak, TKC, Nunapitchuk, Tuntutuliak, Kasigluk, and Atmautlluak. Copies of correspondence can be found in file AA-086371 (1864), Alaska State Office, BLM records, Anchorage. The concerns expressed primarily concerned sloughs and identifying boundaries through survey.

The Kuskokwim River is the second longest river in the State of Alaska. The river is formed by the confluence of the North and South Forks of the Kuskokwim rivers and flows approximately 540 miles to the tidewaters of Kuskokwim Bay. The Kuskokwim River is clearly depicted on U.S. Geological Survey quadrangle maps and its location is not in dispute. The ordinary high water mark of the Kuskokwim River is the legal boundary of the submerged lands. Since this is an ambulatory boundary, the location of which may change over time, it is determined that a survey description of the subject water body is not needed to adjudicate the State's application and the waiver is hereby granted. There is no need for a survey description in order to process this application.⁸

APPLICATION DENIED, IN PART

The BLM denies the State's application for 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. Those lands were reserved to the federal government to retain complete control of use and occupancy of all public lands within PLO 255.⁹ Therefore, title to the lands within PLO 255 did not pass to the State at the time of statehood. The BLM considered the evidence presented by the State, but our review confirmed that the lands within PLO 255 were reserved at the time of Alaska's statehood, January 3, 1959.

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.

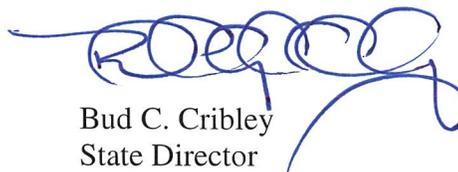
⁸ "Manual of Surveying Instructions 2009," U.S. Department of the Interior, Bureau of Land Management, Sections 3-162 to 3-166, pp. 81-82.

⁹ Copy of PLO 255 is enclosed.

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.



Bud C. Cribley
State Director

Enclosure
cc (w/o enclosure):
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UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF LAND MANAGEMENT

INFORMATION ON TAKING APPEALS TO THE INTERIOR BOARD OF LAND APPEALS

DO NOT APPEAL UNLESS

1. This decision is adverse to you,
AND
2. You believe it is incorrect

IF YOU APPEAL, THE FOLLOWING PROCEDURES MUST BE FOLLOWED

1. NOTICE OF APPEAL	A person who wishes to appeal to the Interior Board of Land Appeals must file in the office of the officer who made the decision (not the Interior Board of Land Appeals) a notice that he wishes to appeal. A person served with the decision being appealed must transmit the <i>Notice of Appeal</i> in time for it to be filed in the office where it is required to be filed within 30 days after the date of service. If a decision is published in the FEDERAL REGISTER, a person not served with the decision must transmit a <i>Notice of Appeal</i> in time for it to be filed within 30 days after the date of publication (43 CFR 4.411 and 4.413).
2. WHERE TO FILE	U.S. Department of the Interior Bureau of Land Management
NOTICE OF APPEAL.....	Alaska State Office 222 W. 7th Avenue, #13 Anchorage, Alaska 99513
WITH COPY TO SOLICITOR...	Regional Solicitor, Alaska Region 1430 University Drive, Suite 300 Anchorage, Alaska 99508-4626
3. STATEMENT OF REASONS	Within 30 days after filing the <i>Notice of Appeal</i> , file a complete statement of the reasons why you are appealing. This must be filed with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. If you fully stated your reasons for appealing when filing the <i>Notice of Appeal</i> , no additional statement is necessary (43 CFR 4.412 and 4.413).
WITH COPY TO SOLICITOR.....	Regional Solicitor, Alaska Region 1430 University Drive, Suite 300 Anchorage, Alaska 99508-4626
4. ADVERSE PARTIES	Within 15 days after each document is filed, each adverse party named in the decision and the Regional Solicitor or Field Solicitor having jurisdiction over the State in which the appeal arose must be served with a copy of: (a) the <i>Notice of Appeal</i> , (b) the Statement of Reasons, and (c) any other documents filed (43 CFR 4.413).
5. PROOF OF SERVICE	Within 15 days after any document is served on an adverse party, file proof of that service with the United States Department of the Interior, Office of Hearings and Appeals, Interior Board of Land Appeals, 801 N. Quincy Street, MS 300-QC, Arlington, Virginia 22203. This may consist of a certified or registered mail "Return Receipt Card" signed by the adverse party (43 CFR 4.401(c)).
6. REQUEST FOR STAY	Except where program-specific regulations place this decision in full force and effect or provide for an automatic stay, the decision becomes effective upon the expiration of the time allowed for filing an appeal unless a petition for a stay is timely filed together with a <i>Notice of Appeal</i> (43 CFR 4.21). If you wish to file a petition for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Interior Board of Land Appeals, the petition for a stay must accompany your <i>Notice of Appeal</i> (43 CFR 4.21 or 43 CFR 2801.10 or 43 CFR 2881.10). A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the <i>Notice of Appeal</i> 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 (43 CFR 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 regulations, 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.

Unless these procedures are followed, your appeal will be subject to dismissal (43 CFR 4.402). Be certain that **all** communications are identified by serial number of the case being appealed.

NOTE: A document is not filed until it is actually received in the proper office (43 CFR 4.401(a)). See 43 CFR Part 4, Subpart B for general rules relating to procedures and practice involving appeals.

43 CFR SUBPART 1821--GENERAL INFORMATION

Sec. 1821.10 Where are BLM offices located? (a) In addition to the Headquarters Office in Washington, D.C. and seven national level support and service centers, BLM operates 12 State Offices each having several subsidiary offices called Field Offices. The addresses of the State Offices can be found in the most recent edition of 43 CFR 1821.10. The State Office geographical areas of jurisdiction are as follows:

STATE OFFICES AND AREAS OF JURISDICTION:

Alaska State Office ----- Alaska
Arizona State Office ----- Arizona
California State Office ----- California
Colorado State Office ----- Colorado
Eastern States Office ----- Arkansas, Iowa, Louisiana, Minnesota, Missouri
and, all States east of the Mississippi River
Idaho State Office ----- Idaho
Montana State Office ----- Montana, North Dakota and South Dakota
Nevada State Office ----- Nevada
New Mexico State Office ---- New Mexico, Kansas, Oklahoma and Texas
Oregon State Office ----- Oregon and Washington
Utah State Office ----- Utah
Wyoming State Office ----- Wyoming and Nebraska

(b) A list of the names, addresses, and geographical areas of jurisdiction of all Field Offices of the Bureau of Land Management can be obtained at the above addresses or any office of the Bureau of Land Management, including the Washington Office, Bureau of Land Management, 1849 C Street, NW, Washington, DC 20240.

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[Public Land Order 255]

ALASKA

WITHDRAWING PUBLIC LANDS FOR USE OF
THE WAR DEPARTMENT FOR MILITARY
PURPOSES

By virtue of the authority vested in the President and pursuant to Executive Order No. 9337 of April 24, 1943, it is ordered as follows:

Subject to valid existing rights, the public lands in the following-described areas are hereby withdrawn from all forms of appropriation under the public-land laws, including the mining and mineral-leasing laws, and reserved for the use of the War Department for military purposes:

BIG DELTA

Beginning at mile post 270 on the Richardson Highway, latitude 64°01'50" N., longitude 145°44'20" W.

From the point of beginning:

East, 2 miles;
South, 6 miles;
West, 5 miles;

North, 1.3 miles, to left bank of the Delta River;

Northeasterly, 5.3 miles, along the left bank of the Delta River to a point due west of the point of beginning;

East, 0.7 miles, to the point of beginning.
The area described aggregates 14,900 acres.

NAKNEK

Beginning at a point, latitude 58 39' N., longitude 156°52' W.

From the point of beginning:

East, 6 miles;
North, 6 miles;

West, 6 miles, to longitude 156° 52' W.;

South, 6 miles, to the point of beginning.
The area described aggregates 23,040 acres.

McGRATH

Beginning at the point of intersection of latitude 62°55' N., with the center line of the deep water channel of the Kuskokwim River, approximate longitude 155°33' 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 area described, including both public and nonpublic lands, aggregates 7,552 acres, more or less.

GULKANA

Beginning at the corner of secs. 18 and 19 on the west boundary of T. 4 N., R. 1 W., Copper River Meridian, Alaska.

From the point of beginning:

Easterly, 2 miles, between secs. 18 and 19, and 17 and 20, to the corner of secs. 16, 17, 20, and 21;

East, 3 miles;

North, 9 miles;

West, 6 miles;

South, 9 miles;

East, 1 mile, to the point of beginning.

The area described aggregates 34,560 acres.

NORTHWAY

Beginning at a point in latitude 63°00' N., longitude 142°00' W.

From the point of beginning:

South, 3.5 miles;

East, 3 miles;

North, 3.5 miles;

West, 3 miles, to the point of beginning.

The area described aggregates 6,720 acres.

GALENA

Beginning at a point from which corner No. 2, Survey No. 2023, Alaska, bears south 3.5 miles.

From the point of beginning:

East, 1.5 miles;

South, 3.7 miles, to middle of the Yukon River;

Northwesterly, 7.3 miles, along the middle of the Yukon River, to a point due west of the point of beginning;

East, 3 miles, to the point of beginning.

The area described aggregates 9,700 acres.

This order shall be subject to (1) the withdrawal of certain lands near Big Delta and Boundary (Northway, Nabesna), Alaska, for the use of the Department of Commerce in the maintenance of air navigation facilities, made by the order of the Secretary of the Interior of June 25, 1941, Air Navigation Site Withdrawal No. 162, (2) the withdrawal of certain lands in aid of definite location of the Trans-Canadian-Alaskan Railway, made by Public Land Order No. 32 of August 18, 1942, so far as such order affects the above-described lands at Big Delta, (3) the withdrawal of certain lands near Naknek, Alaska, for the use of the Department of Commerce in the maintenance of air navigation facilities, made by the orders of the Secretary of the Interior of October 15, 1941, and July 13, 1942, Air Navigation Site Withdrawal No. 169, (4) the withdrawal of certain lands near McGrath, Alaska, for headquarters site purposes, made by Executive Order No. 6973 of February 19, 1935, (5) the withdrawal of certain lands near McGrath, Alaska, for the use of the Department of Commerce in the maintenance of air navigation facilities, made by the orders of the Secretary of the Interior of October 1, 1940, and November 24, 1941, Air Naviga-

tion Site Withdrawal No. 145, (6) the withdrawal of certain lands near Gul-kana, Alaska, for the use of the Department of Commerce in the maintenance of air navigation facilities, made by the orders of the Secretary of the Interior of September 15, 1941, and February 14, 1942, Air Navigation Site Withdrawal No. 167, (7) the withdrawal of certain lands in Northway for school and medical purposes, made by the order of the Secretary of the Interior of April 24, 1942, (8) the withdrawal of certain lands in Galena, Alaska, for a school and hospital site, made by the order of the Secretary of the Interior of February 23, 1942, and (9) the withdrawal of certain lands near Galena, Alaska, for the use of the Department of Commerce in the maintenance of air navigation facilities, made by the order of the Secretary of the Interior of December 31, 1941, Air Navigation Site Withdrawal No. 172.

This order is subject to the following conditions:

1. When the military situation permits, post commanders may allow native groups, and individual natives to fish, hunt, and trap on military reservations, providing a permit is obtained from the post commander beforehand.

2. Native villages within the areas shall not be disturbed unnecessarily and natives shall be permitted ingress and egress to and from their villages and camp sites.

3. The sale of liquor shall be prohibited within and about the native villages within any of the areas hereby reserved.

4. The Fish and Wildlife Service shall have the right to construct and operate weirs and other devices in the watersheds in order to facilitate continued scientific investigation of the salmon and other food fishes, so far as the exercise of such right shall not conflict with combat requirements, and provided approval is obtained from the local commanding officers prior to initiating construction.

5. No dams or barricades will be erected in the rivers or watersheds except when dictated by military necessity. This restriction does not apply to barricades customarily erected by resident natives in the pursuit of their customary fishing, subject to the prior approval by the commanding officer.

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6. A protective belt of at least 100 yards shall be established on the banks of all rivers, lakes, and streams in the areas. No construction shall be permitted in such belts, and the belts shall be allowed to remain in their present natural condition, except when military necessity requires the use of the protective strips: *Provided, That* the customary use of the protective belts by resident natives shall not be interfered with if prior approval by the local commanding officer has been obtained for such use.

7. A liaison officer from the Fish and Wildlife Service shall be assigned to the military headquarters to advise and consult with the commanding officer with a view to protecting the valuable fishery resources. The Indian Service teachers will serve as liaison officers to advise and consult with the commanding officers with a view to protecting the rights and interests of the native population, to insure the cooperation of natives with the military, and to safeguard the self-governing organizations of the natives.

8. Public use of the rivers, lakes, and streams in any of the areas for traffic purposes shall not be interfered with except as dictated by military necessity.

9. The present fence around the airfield at Big Delta will be maintained in order to keep the buffaloes off the field, and the commanding officer in charge of the Big Delta Area shall issue orders to the military personnel not to kill or molest the buffaloes in that area.

10. Public use of the roads traversing portions of the Big Delta and Gulkana areas will not be disturbed, and the Alaska Road Commission will be allowed sufficient right-of-way and access to the areas in order to improve and maintain the roads.

11. Fishing by civilians will be permitted within the Naknek area, but such civilians, resident natives excepted, must in person secure a permit, countersigned by the local commanding officer, to fish in designated areas and comply with the regulations of the Fish and Wildlife Service. The natives shall be allowed to continue to fish in the streams and coastal waters, and hunt and trap in this area on the basis of permits to be issued by the Indian Service teacher and countersigned by the commanding officer or his authorized subordinate.

12. Necessary haulage incident to the maintenance of experimental fisheries situated on Brooks Lake in the Naknek area may be maintained subject to any military necessity that may arise.

The jurisdiction granted by this order shall cease at the expiration of the six months' period following the termination of the unlimited national emergency declared by Proclamation No. 2487 of May 27, 1941 (55 Stat. 1647). Thereupon, jurisdiction over the lands hereby reserved shall be vested in the Department of the Interior, and any other Department or agency of the Federal Government, according to their respective interests then of record. The lands, however, shall remain withdrawn from appropriation as herein provided until otherwise ordered.

This order is confidential and shall not be filed in the Division of the Federal Register, or published in the FEDERAL REGISTER, or be given other publicity, until publication thereof has been expressly authorized by or at the direction of the Secretary of War.

NOTE: Confidential status released by letter of the Secretary of War dated June 27, 1946.

ABE FORTAS,
Acting Secretary of the Interior.

DECEMBER 15, 1944.

[F] R. Doc. 46-13349; Filed, July 31, 1946;
4:09 p. m.]

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PLO No. 2133

F-022686,

Part Affected: F-007195, F-023814

Date Signed: 6/23/60

**Title 43—PUBLIC LANDS:
INTERIOR****Chapter I—Bureau of Land Manage-
ment, Department of the Interior****APPENDIX—PUBLIC LAND ORDERS**

[Public Land Order 2133]

[1035566]

ALASKA**Withdrawing Lands for Use of the
Bureau of Land Management as
an Administrative Site; Withdrawing
Lands for Townsite Purposes;
Partially Revoking Public Land
Order No. 255 of December 15,
1944; Partially Revoking Air Navi-
gation Site Nos. 162 and 172**

By virtue of the authority vested in the President by Section 11 of the Act of March 3, 1891 (26 Stat. 1099; 48 U.S.C. 355), as amended, and otherwise, and pursuant to Executive Order No. 10356 of May 28, 1952, and by virtue of the authority contained in section 4 of the Act of May 24, 1928 (45 Stat. 729; 49 U.S.C. 214), it is ordered as follows:

1. Subject to valid existing rights and the provisions of existing withdrawals, the following-described public lands in Alaska are hereby withdrawn from all forms of appropriation under the public land laws, including the mining and mineral leasing laws but not disposals of materials under the Act of July 31, 1947 (61 Stat. 681; 30 U.S.C. 601-604), as amended, and reserved as follows:

(a) For use of the Bureau of Land Management as an administrative site:

(FAIRDANKS 022080)

MCGRATH AREA

Beginning on Line 2-3, U.S. Survey 1902 (Northern Commercial Company Land at McGrath, Alaska, leased by C.A.A.) where it intersects west ditch line of the road lying parallel to, and east of, the North South runway of the McGrath Airfield; thence east along Line 3-2 of U.S. Survey 1902, 1,300 feet to Corner No. 2, U.S. Survey 1902; thence South 330 feet; thence West 1,300 feet to west ditch line of said road; thence, North 330 feet to the Point of Beginning.
Containing 0.86 acres.

(b) For townsite purposes, to be hereafter disposed of under applicable townsite laws:

(FAIRDANKS 07105)

GALENA TOWNSITE AREA

Beginning at Meander Corner No. 2, U.S. Survey No. 2027, Air Navigation Site Withdrawal No. 172; thence by metes and bounds, following the meandered line 2-3, U.S. Survey 2027,

S. 88°55' W., 793.32 feet;
N. 82°15' W., 900.00 feet;
N. 74°45' W., 680.40 feet;
N. 73°30' W., 719.40 feet;
N. 70°30' W., 215.00 feet to the intersection of the toe of the Galena Dike Slope;
Following the toe of the Galena Dike Slope,
S. 83°53' E., 717.00 feet;
N. 89°30' E., 2,020.00 feet;
N. 55°50' E., 180.00 feet;
N. 89°30' E., 3,040.00 feet;
N. 71°23' E., 1,037.00 feet;
South, 230.00 feet to a point on the meandered line 8-9, U.S. Survey No. 2027;

Following the meandered line 8-9, U.S. Survey No. 2027,

S. 74°45' W., 358.00 feet;
S. 72°15' W., 435.60 feet;
S. 70°00' W., 772.20 feet;
S. 67°30' W., 336.60 feet;
S. 74°30' W., 588.00 feet;
S. 76°15' W., 217.80 feet;
S. 87°45' W., 1,200.00 feet approximately, to Meander Corner No. 2, U.S. Survey No. 2027 and the Point of Beginning.
Containing 65.91 acres.

2. The withdrawal made by Paragraph 1(a) of this order shall take precedence over but not otherwise affect the existing reservation of the lands as Air Navigation Site Withdrawal No. 145.

3. The Departmental order of December 31, 1941, which established Air Navigation Site Withdrawal No. 172, Alaska, is hereby revoked so far as it affects the lands described in Paragraph 1(b) hereof.

4. Public Land Order No. 255 of December 15, 1944, which withdrew lands for use of the War Department for military purposes is hereby revoked so far as it affects the following-described lands:

NAKNEK

Beginning at a point, latitude 58°30' N., longitude 150°52' W.
From the Point of Beginning,
East, 6 miles;
North, 6 miles;
West, 6 miles, to longitude 150°52' W.;
South, 6 miles, to the Point of Beginning.
Containing approximately 23,040 acres.

MCGRATH

Beginning at the point of intersection of latitude 62°55' N., with the center line of the deep water channel of the Kuskokwim River, approximate longitude 155°33' 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 area described, including both public and nonpublic lands, contains approximately 7,552 acres.

NORTHWAY

Beginning at a point in latitude 63°00' N., longitude 142°00' W.

From the Point of Beginning,
South, 3.5 miles;
East, 3 miles;
North, 3.5 miles;
West, 3 miles, to the Point of Beginning.

Containing approximately 6,720 acres.

GALENA

Beginning at a point from which corner No. 2, Survey No. 2023, Alaska, bears south 3.5 miles.

From the Point of Beginning,
East, 1.5 miles;
South, 3.7 miles, to middle of the Yukon River;
Northwesterly, 7.3 miles, along the middle of the Yukon River, to a point due west of the Point of Beginning;
East, 3 miles, to the Point of Beginning.

Containing approximately 9,700 acres.

5. The Departmental order of June 25, 1941, which established Air Navigation Site Withdrawal No. 162, is hereby revoked so far as it affects the following-described lands:

(FAIRDANKS 023814)

NORTHWAY AIRFIELD**Tract B**

Beginning at Corner No. 6 of U.S. Survey 2030, thence
N. 60°00' W., 7,400 feet;
N. 76°05' E., 3,600 feet;
S. 60°00' E., 4,658 feet;
S. 30°00' W., 2,040 feet to the point of beginning.
Containing approximately 305 acres.

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PLO No. 2133

F-022686,
Part Affected: F-007195, F-023814
Date Signed: 6/23/60

6. Portions of the lands released from withdrawal by Paragraph 4 of this order are included in other withdrawals, and 305 acres at Naknek is under application for withdrawal for use of the Federal Aviation Agency (Anchorage 046709). For detailed information concerning the status of any of the lands described in this order, inquiry should be made of the appropriate official of the Bureau of Land Management referred to in the final paragraph hereof.

7. Subject to any valid existing rights, to the provisions of existing withdrawals, and the requirements of applicable law, the lands released from withdrawal by this order and not rewithdrawn by Paragraph 1, are hereby opened to settlement and to filing of applications, selections, and locations in accordance with the following (the unsurveyed lands being opened to such applications, selections, and locations as may by law be made for unsurveyed lands):

a. Applications and selections under the nonmineral public land laws, and applications and offers under the mineral leasing laws may be presented to the Manager mentioned below, beginning on the date of this order. Such applications, selections, and offers will be considered as filed on the hour and respective dates shown for the various classes enumerated in the following paragraphs:

(1) Applications by persons having prior existing valid settlement rights, preference rights conferred by existing laws, or equitable claims subject to allowance and confirmation will be adjudicated on the facts presented in support of each claim or right. All applications other than those referred to in this paragraph will be subject to the applications and claims mentioned in this paragraph.

(2) Until 10:00 a.m. on September 22, 1960, the State of Alaska shall have a preferred right of application to select the lands in accordance with and subject to the provisions of the Act of July 28, 1956 (70 Stat. 709; 48 U.S.C. 46-3b), and Section 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339; Public Law 85-508).

(3) All valid applications and selections under the nonmineral public land laws, other than from the State of Alaska under Paragraph 7(a)(2), and applications and offers under the mineral leasing laws presented prior to 10:00 a.m. on July 29, 1960, will be considered as simultaneously filed at that hour. Rights under such applications, and selections and offers filed after that hour will be governed by the time of filing.

b. The lands will be open to settlement under the homestead and Alaska homestead laws, to applications and offers under the mineral leasing laws, and to location under the United States mining laws beginning at 10:00 a.m. on September 22, 1960.

Persons claiming preference rights based upon valid settlement, statutory preference, or equitable claims must enclose properly corroborated statements in support of their applications, setting forth all facts relevant to their claims. Detailed rules and regulations governing applications which may be filed pursuant to this notice can be found in Title 43 of the Code of Federal Regulations.

Inquiries concerning the lands should be addressed to the Manager, Land Office, Bureau of Land Management, Fairbanks, Alaska, except for lands at Naknek, with respect to which inquiries should be addressed to the Manager, Land Office, Bureau of Land Management, Anchorage, Alaska.

ROGER ERNST,
Assistant Secretary of the Interior.

JUNE 23, 1960

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